

SB 1171

William Aila	DEPARTMENT OF LAND AND NATURAL RESOURCES	SUPPORT
Glenn Okimoto	DEPARTMENT OF TRANSPORTATION	SUPPORT
Walter Billinsley	CITY DEPARTMENT OF DESIGN AND CONSTRUCTION	SUPPORT
Bruce Tsuchida	TOWNSCAPE	SUPPORT
Troy Abraham		SUPPORT
	OFFICE OF HAWAIIAN AFFAIRS	OPPOSE
Kiersten Faulkner	HISTORIC HAWAII FOUNDATION	OPPOSE
Sara Collins	SOCIETY OF HAWAIIAN ARCHAEOLOGY	OPPOSE
MS Matson		OPPOSE

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committees on
TOURISM AND HAWAIIAN AFFAIRS
and
TECHNOLOGY AND THE ARTS**

**Friday, February 11, 2013
2:45 PM
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 1171
RELATING TO REVIEW OF HISTORIC PRESERVATION PROJECTS**

Senate Bill 1171 proposes to allow for the Department of Land and Natural Resources' (Department) State Historic Preservation Division (SHPD) to provide its approval on relevant state permits based on phased reviews of archaeological inventory surveys (AIS). The Department strongly supports this Administration measure.

The bill is in response to the Hawaii Supreme Court ruling in *Kaleikini v Yoshioka* which stated that SHPD improperly allowed for a phased review of the Honolulu Rapid Transit Corridor (rail) project based on federal regulations allowing for a phased review of linear projects in 36 CFR 800 ("Section 106"). SHPD rules are silent on phasing, but state that SHPD must review a "project" in its entirety. The Honolulu Rapid Transit Corridor is considered one project. Ultimately, approval of this bill will align state law with federal law.

The inability to phase review will negatively affect some projects, particularly those done by the Hawaii Department of Transportation (DOT), which regularly phases archaeological inventory surveys for their projects which can take upwards of ten years to complete. The crux of the problem for linear projects is that later stages of the project may change, and when they do, a supplemental AIS needs to be done. Sometime a supplemental AIS needs to be done just because the first AIS is so old the practices used are no longer accepted. In addition, requiring an AIS for an entire project up front may require unnecessary condemnation of property if the alignment changes over time.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Some small community projects may also be affected. Kaala Farms is doing a project at Waianae Valley Ranch which has a significant number of archaeological sites so they will have to do an AIS before they use any of that land. Ideally they would provide SHPD with a master plan for phasing the archaeological studies which may be used as a planning tool, and so would not necessarily be tied to a specific “project.” As it is, they will probably have to submit each project separately and do an AIS for single “projects.”

SHPD is not proposing to allow phasing for all projects, only specific types that are linear or lend themselves to doing an AIS over time.

Examples of impacted DOT projects include:

1. Queen Kaahumanu Highway Widening (Palani Street to Kawaihae) **\$580M total** (\$130M for Ph I & II + \$450M for Keahole to Kawaihae)
2. Keaau-Pahoa Road Widening, Keaau to Pahoa **\$140M total** (EIS preferred alternative)
3. Saddle Road, Hilo to Queen Kaahumanu Highway **\$249M total**
4. Lahaina By-Pass **\$210M total**
5. Paia By-Pass **\$110M total (excluding land acquisition)**
6. Leeward Bikeway (Pearl Harbor to Nanakuli) **\$32M total**
7. Kualakai Parkway (H-1 to Roosevelt Road) **\$141M total** (2004 FEA)
8. Kapolei Parkway, Makakilo to Ewa **\$20.4M total** (STIP figure)
9. Lydgate Bikeway **\$60M total** (Nawiliwili to Anahola)
10. Kapaa By-Pass (Lihue to Kapaa) **\$150M - \$310 range** (no alternative selected yet - 2006 DEA)

Thank you for this opportunity to testify in strong support of this Administration measure.



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 11, 2013
2:45 p.m.
State Capitol, Room 224

S.B. 1171
RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS

Senate Committee(s) on Technology and the Arts
& Tourism and Hawaiian Affairs

The Department of Transportation (DOT) understands the need to preserve the historic and cultural heritage of Hawaii, and recognizes that the Department of Land and Natural Resources' State Historic Preservation Division bears a heavy responsibility in ensuring its protection. For this reason, the DOT **strongly supports** S.B. 1171 because it would give the State Historic Preservation Division (SHPD) greater flexibility to address preservation plans and measures in alignment with federal laws.

S.B. 1171 would grant SHPD the option of fashioning customized and adaptable preservation plans and measures when dealing with complex multi-year, multi-phase projects. Having the authority to take this approach will allow for the effective use of resources and more precise protection protocols and standards. S.B. 1171 makes Hawaii's historic preservation law Section 6E-8 consistent with the federal historic preservation law, and minimizes conflicts and duplication when projects involve both State and federal reviews.

The inability to utilize phased review will negatively affect projects, particularly those done by the DOT, which are complex and span large distances and take upwards of ten years to complete. Requiring an AIS for an entire project done before construction can begin, creates significant delays, increased costs, and possibly unnecessary disturbance of potential burial sites and historic properties. As noted, our multi-year duration of the typical highway project, unanticipated changes can occur that can alter the alignment. Thus, AIS's conducted well before the start of the final design might be rendered unnecessary, and additional AIS's may be required. Whereas phasing allows AIS's to be conducted at the start of final design of a portion of the project that is intended to be built, thereby minimizing the amount of area disturbed. If burial sites are found, there is still opportunity to make changes to avoid the sites.

Examples of potential impacted DOT projects include:

1. Queen Kaahumanu Highway Widening (Palani Street to Kawaihae) **\$580M total** (\$130M for Ph I & II + \$450M for Keahole to Kawaihae)
2. Keaau-Pahoa Road Widening, Keaau to Pahoa **\$140M total** (EIS preferred alternative)
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This bill will provide SHPD the option of giving its written concurrence based on the phased review of the project and make state law consistent with federal law.

Thank you for the opportunity to provide testimony.



DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813

Phone: (808) 768-8480 • Fax: (808) 768-4567

Web site: www.honolulu.gov

KIRK CALDWELL
MAYOR

CHRIS T. TAKASHIGE, P.E., CCM
DIRECTOR DESIGNATE

DEPUTY DIRECTOR



February 8, 2013

The Honorable Glenn Wakai, Chair
and Members
Senate Committee on Technology and the Arts
State Capitol
Honolulu, Hawaii 96813

The Honorable Brickwood Galuteria, Chair
and Members
Senate Committee on Tourism and Hawaiian Affairs
State Capitol
Honolulu, Hawaii 96813

Dear Chair Wakai, Chair Galuteria, and Members:

Subject: Senate Bill No. 1171, Relating to the Review of Historic Preservation Projects

The Department of Design and Construction (DDC) respectfully **supports** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' (DLNR) State Historic Preservation Division to ensure consistency between State and federal law.

The existing requirement, based on a 2012 Hawaii Supreme Court ruling that a project must be evaluated for archaeology as a single project and not in phases, has adversely affected a major City and County of Honolulu (City) infrastructure project and has the potential to adversely affect many future City-designed and financed infrastructure projects, including streets, highways and utility lines. Such projects are often designed and constructed in phases to accommodate practical considerations, such as project funding, land acquisition, and minimizing service interruptions.

If this bill is not passed, significant delays and cost increases, which would negatively impact City taxpayers, are anticipated for many City infrastructure projects.

The Honorable Glenn Wakai, Chair
The Honorable Brickwood Galuteria, Chair
February 8, 2013
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The proposed amendment should have no detrimental impact on the State Department of Land and Natural Resource's and burial councils' oversight of the handling of burial remains and cultural artifacts or the treatment of such items with the proper care and respect.

For these reasons, DDC respectfully **supports** Senate Bill 1171.

Thank you for the opportunity to testify.

Very truly yours,



Chris Takashige, P.E., CCM
Director Designate

CT/WB:pt

TOWNSCAPE, INC.

Environmental and Community Planning

900 Fort Street Mall, Suite 1160, Honolulu, HI 96813
Telephone (808) 536-6999 Facsimile (808) 524-4998
email address: mail@townscapeinc.com

February 8, 2013

To: Senator Brickwood Galuteria
Senator Glenn Wakai

Re: SB 1171 . RELATING TO REVIEW OF HISTORIC PRESERVATION PROJECTS

Please accept this written testimony in support of SB1171.

The undersigned is an environmental planner with 40+ years of experience in the planning field.

The JUSTIFICATION SHEET for SB 1171 notes that a prohibition of phased review of archaeological information for a project could have a serious negative effect on highway projects and on other public projects that may need to be phased.

I would like to share with you another example of a project for which a phased review of archaeological information would be appropriate. Our company, Townscape, Inc., is currently developing long-range plans for the 1,122-acre WAI`ANAE VALLEY RANCH, TMK 85006004. This parcel is State land currently managed by DLNR. Our client, KA`ALA FARM, INC. (KFI), a Wai`anae-based non-profit organization, has received conditional approval from the BLNR for a long-term lease for this property. KFI hopes to proceed with cultural/educational programs and resource restoration activities on this land after the plan has been completed. This parcel, and other neighboring parcels, contains many important cultural sites, including heiau, dryland field terraces, lo`i terraces, and house sites . many of which have not been surveyed or mapped.

If KFI is required to complete a full ARCHAEOLOGICAL INVENTORY SURVEY (AIS) for the entire 1,122-acre Ranch before initiating any of their planned programs or activities, this community-based land restoration program WILL NEVER BE ABLE TO EVEN BEGIN, as the cost of an AIS for the entire ranch would be prohibitively expensive.

We would like to suggest that there are other examples of community-based projects for cultural/educational programs and land restoration that face similar challenges if phased review of archaeological information is not permitted.

Thank you for accepting this testimony.

Sincerely yours,



Bruce Tsuchida
President

SB1171

Submitted on: 2/7/2013

Testimony for TEC/THA on Feb 11, 2013 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Troy Abraham	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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SB1171
RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS
Senate Committee on Technology and the Arts
Senate Committee on Tourism and Hawaiian Affairs

February 11, 2013

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB1171, which authorizes the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) to review and approve development projects in phases. **This bill would allow construction of development projects to start before an inventory of all archaeological resources has been completed, threatening iwi kūpuna and irreplaceable historic sites.**

Allowing phased review would undermine the spirit of current federal and state historic preservation laws and put valuable and irreplaceable historic sites – as well as iwi kupuna – great risk. **When burial sites and historic properties are not identified before fundamental planning decisions are made, many options that could protect those sites are effectively foreclosed** (including scope, size, location, design). The later in the development process that burials are identified, the more difficult and financial burdensome adjustments become. Developers have, on multiple occasions, insisted that they have no alternative but to disinter iwi discovered in the path of projects that have already expended significant costs.

OHA understands that developers may be frustrated by the significant delays in project completion and cost that comes with inadvertent burial discoveries, but the answer is not to sidestep the law at the expense of the iwi kūpuna. Instead the developer should identify likely burial locations **prior to** planning developments and beginning construction to avoid these situations. **The allowance of phased reviews will lead to increased inadvertent discoveries.** We must protect “our most cherished possession” and better plan development at the outset to avoid these problems.

Proponents of this bill may argue that its purpose is to ensure consistency with federal law. However, our current statute and our highest court agree with the Native Hawaiian community that our iwi kūpuna deserve a higher standard of protection than phased review can offer. **Moreover, with special regard to transportation projects, the federal Department of Transportation Act does not allow highway projects to commence until after all archaeological work is**

completed. Thus, federal funding and timelines should not be affected by our current statutory requirements.

Many expansive development projects have demonstrated that a full EIS and AIS can and should be completed prior to final planning phases and especially before construction. Full compliance with the current processes responsibly preserves options to protect iwi and other historic resources and ensure more timely and efficient completion of development projects. This bill would endanger our iwi kūpuna and irreplaceable historic sites and resources to save developers the time and expense required to do adequate archaeological pre-planning. We have an obligation to uphold our current law and continue to strive to protect the heritage of this land.

Therefore, OHA urges the committee to **HOLD** SB1171. Mahalo for the opportunity to testify on this important measure



To: Senator Brickwood Galuteria, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Committee on Tourism and Hawaiian Affairs

Senator Glenn Wakai, Chair
Senator Clarence K. Nishihara, Vice Chair
Committee on Technology and the Arts

From: Kiersten Faulkner
Executive Director, Historic Hawai'i Foundation

Committee Date: Monday, February 1, 2013
2:45 p.m.
Conference Room 225

Subject: **SB1171, Relating to Review of Historic Preservation Projects**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in opposition to SB1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' State Historic Preservation Division to ensure consistency between state and federal law. HHF offers considerations for amendments to the bill that could address some of the concerns.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

HISTORIC PRESERVATION REVIEWS

SB1171 would amend state law (HRS §6E-8), which currently requires that prior to any state, county or public project commencing, that the proposed project shall be referred to the State Historic Preservation Division (SHPD) for its review of the proposed project's potential effect on historic properties, aviation artifacts, or burial sites, especially those listed on the state register of historic places. The proposed project shall not commence until the department gives its written concurrence.

The bill would amend current statute to explicitly allow for the department's concurrence to be based on a phased review of the proposed project. The bill also deletes an obsolete reference to the "Hawai'i advisory council on historic preservation," which does not exist.

SHPD's review of proposed projects under the jurisdiction of state and county agencies is an important safeguard to ensure that historic properties are identified and appropriate treatment measures are in place during planning and design work, which also then limits surprises or delays during construction. The review and compliance process outlined in state law is substantially parallel to a similar process in federal law, which provides for the identification, review and agreement on

treatment of historic properties in cases where federal funding, land, permits or other approvals apply.

SUBSTANTIVE DIFFERENCES IN STATE AND FEDERAL REVIEW PROCESSES

Despite the parallels between the state and federal review systems, there are differences:

- The federal process allows for phased review of projects (see 36 CFR 800.4(b)(2) – phased identification and evaluation of historic properties; 36 CFR 800.5(a)(3) – phased application of the criteria of adverse effect and 36 CFR 800.14(b) – federal agency program alternatives which allow for development of Programmatic Agreements), while state law currently does not.
- Federal law requires the agency or department consult with other parties, including preservation organizations; other individuals or organizations those with an interest in the historic resource or the proposed project; and Native Hawaiian Organizations that ascribe religious or cultural significance to the historic property. State law does not contain a similar duty to consult outside of the department.
- Federal law also requires that review of projects include not only direct effects within the footprint of the project, both also indirect and cumulative effects, in which the entirety of the effect is identified and evaluated, and appropriate measures are taken. State law is primarily concerned only with direct effects and seldom looks beyond the immediate consequences to a larger picture.
- Another significant difference between state and federal regulations as they apply to historic resources is that state law is explicitly concerned with protection of Native Hawaiian burials, whereas federal law is much less direct. Early identification of other types of historic properties—buildings, structures, archaeological sites—is relatively simple in that they can almost always be seen. Only underground or submerged historic properties are usually not previously identified.

IMPACTS TO CULTURAL RESOURCES

The federal regulations related to phased review of proposed projects make it clear that the key to all of these provisions is that a conscious decision is made to phase the consultation, and the decision is made in coordination with the other consulting parties.

Without such a deliberative and inclusive process, the ability to offer phased approvals may lead to circumvention of the intent of completing an adequate investigation that well informs a project's impact prior to issuance of any permit/approval that allows a project to proceed.

HHF believes that the greatest concern regarding a phased approach is the impact to Native Hawaiian burials, which are a unique and distinct cultural resource. Decisions for effectual treatment and long-term care of burials is dictated by two distinct processes that are defined by whether or not a burial is identified as either previously identified (PI) or inadvertently discovered (IAD).

One concern regarding a phased approach is in a scenario in which the extent of a project's area of potential effect/footprint lies in highly sensitive cultural areas, creating direct and possibly indirect impacts to known and unknown cultural resources, including burials. A phased approach in said scenario would lead to the likely scenarios that latter-phased initiated studies and their role/relevance to the issuance of permits and approvals under HRS 6E will invariably and minimally limit the decision options for burial treatment, or, at worst, simply "force" the option of burial relocation as the only "feasible" option, especially when construction of a project enters a latter-phased portion of the project footprint. So this would apply to rail and highway projects, utility projects, or mass urban renewal projects in sensitive core cultural areas.

Another concern is the justification within the professional archaeological community that under a phased approach, the testing and sampling strategy within the overall project area only needs to meet a certain affected area of coverage, typically within 3-5% typically. This has direct relevance to how burials will be mitigated as burial encounters outside of being identified under an Archaeology Inventory Survey, or where known through oral or written testimony are treated as IAD. Who makes the decisions under PI and IAD and the level of involvement of lineal/cultural descendants all comes into play.

RECOMMENDATIONS

Therefore, HHF feels that a blanket proviso allowing for a phased review of projects could introduce unintended consequences that could lead to the detriment of historic properties and cultural resources. HHF's preference would be to know the entire potential impact and then derive appropriate solutions to avoid, minimize or mitigate the effect, including those that may require design modifications or alteration prior to final approvals.

Alternatively, if a phased approval is needed, then we recommend that SB1171 also include a section that requires state law to be consistent with the related sections of the relevant federal regulations, especially those that address consultation with other parties and that include analysis and treatment for direct, indirect and cumulative effects.

Thank you for the opportunity to comment.

TO: Senator Brickwood Galuteria, Chair
Senate Committee on Tourism & Hawaiian Affairs,
And
Senator Glenn Wakai, Chair
Senate Committee on Technology & The Arts

FROM: Sara L. Collins, Ph.D., Legislative Chair
Society for Hawaiian Archaeology
sara.l.collins.sha@gmail.com

HEARING: February 11, 2013, 2:45 PM, Conference Room 224

SUBJECT: Testimony in OPPOSITION to SB 1171, Relating to the Review of Historic Preservation Projects

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in opposition to SB 1171, which amends Chapters 6E-8 and 6E-42, Hawaii Revised Statutes (HRS) to clarify that the Department of Land and Natural Resources (Department) can issue its written concurrence to proceed (i.e., under §6E-8, HRS) or its review and comments (i.e., under §6E-42, HRS) based on a phased review of a project. The amendment is a response to the Hawaii Supreme Court ruling in *Kalekini v. Yoshioka* in which the court said the State Historic Preservation Division (SHPD), acting on behalf of the Department, had violated its own rules when it allowed the Honolulu Rapid Transit Corridor project to commence prior to completion of a full archaeological inventory survey.

Our major concern is that the issue of a phased project review should be addressed in administrative rules and not in statute. We note that there is nothing currently in Chapter 6E, HRS, that prevents the Department from giving its written concurrence or its review and comment based on a phased project. Under the law, those actions are up to the discretion of the Department. The constraints on when concurrence or review and comment can be issued by the SHPD, on behalf of the Department, are in Hawaii Administrative Rules (HAR) Chapters 13-275 and 13-284 which implement Sections 6E-8 and 6E-42, HRS. This is where the issues should be clarified as suggested by the Court.

It is particularly critical that this issue be addressed within the context of the administrative rules because it is the rules that establish the project review process and provide the context for when certain kinds of information are needed and when decisions are appropriately made. If this process is to be phased, it is critical to define, within the context of existing process, when it is appropriate and on what basis a phased review should be considered. To amend the law without a full consideration of this overarching context is risky and unnecessary.

A stated purpose of these amendments is to create consistency between the State and Federal historic preservation project review process. Please note that the Federal provision for a phased reviewed of projects is in regulations and not in statute. The proposed amendments would not establish the equivalency between the state and federal process the measure's proponents seek. The Federal regulations implement the **statute** Section 106, the National Historic Preservation Act, as amended, 16 U.S.C. 470 et seq. The relevant section of the Section 106 **regulations** -- §800.4(b)(2) -- reads as follows:

(2) Phased identification and evaluation. Where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted, the agency official may use a phased process to conduct identification and evaluation efforts. The agency official may also defer final identification and evaluation of historic properties if it is specifically provided for in a memorandum of agreement executed pursuant to § 800.6,

a programmatic agreement executed pursuant to § 800.14 (b), or the documents used by an agency official to comply with the National Environmental Policy Act pursuant to § 800.8. The process should establish the likely presence of historic properties within the area of potential effects for each alternative or inaccessible area through background research, consultation and an appropriate level of field investigation, taking into account the number of alternatives under consideration, the magnitude of the undertaking and its likely effects, and the views of the SHPO/THPO and any other consulting parties. As specific aspects or locations of an alternative are refined or access is gained, the agency official shall proceed with the identification and evaluation of historic properties in accordance with paragraphs (b)(1) and (c) of this section.

Note this provision in the Federal regulations specifically states the following:

1. Which steps in the project review process are involved in a phased review;
2. The requirements that need to be met for a phased review; and
3. The circumstances in which a phased review may be appropriate.

Similar stipulations should be included in any revisions of State regulations that seek to authorize phased reviews.

In view of the foregoing facts, therefore, the proper way for the State to address the perceived issue of consistency is to amend the relevant sections of the Hawaii Administrative Rules (HAR), which implement §§6E-8, and -42; these HAR are found at §§13-275 and -284, respectively. The procedural safeguards contained in the established regulations are critical to the protection of historic properties and cultural resources.

We do concur with the proposed amendment §6E-8(a) that would delete reference to the “Hawaii advisory council of historic preservation.” This is a largely mythic entity that has never met or has been asked to meet. In fact, to our knowledge, it does not exist except for the reference to it in the subject statute. It would probably be a good idea to remove mention of it altogether.

Consequently, in view of the above points, we respectfully urge that the subject bill not be passed. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

SB1171

Submitted on: 2/11/2013

Testimony for TEC/THA on Feb 11, 2013 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
MS Matson	Individual	Oppose	No

Comments: This proposed legislation does not state the purpose or need for "phasing," nor does it define "phasing" for legal clarification. This appears to be an attempt to segment projects and review thereof - which the court has ruled against.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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