

JAN 24 2013

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 266, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§266- Exemption from conservation district permitting
5 and site plan approval requirements. Notwithstanding any law to
6 the contrary, all work involving submerged lands used for state
7 commercial harbor purposes shall be exempt from any permitting
8 and site plan approval requirements established for lands in a
9 conservation district."

10 SECTION 2. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

12
13 INTRODUCED BY:



14 BY REQUEST

S.B. NO. 1207

Report Title:

Submerged lands; Department of Transportation Exemption

Description:

Amends chapter 266, Hawaii Revised Statutes, to exempt the Department of Transportation, Harbors Division, from the permit and site plan approvals requirements relating to submerged lands within the conservation district.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Transportation

TITLE: A BILL FOR AN ACT RELATING TO TRANSPORTATION.

PURPOSE: To exempt the Department of Transportation, Harbors Division from the permit and site plan approvals requirements relating to submerged lands within the conservation district under chapter 183C, Hawaii Revised Statutes.

MEANS: Add a new section to chapter 266, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Chapter 183C applies to activities in, on, or under submerged lands comprising the commercial harbors system within the conservation district. By statute, the Department of Land and Natural Resources manages the conservation district and has oversight over marine waters and submerged lands.

The bill proposes to exempt submerged lands within the State commercial harbors system from the provisions of chapter 183C relating to permits and site plan approvals. The Harbors Division would be able to more efficiently implement needed maritime projects if such exemption is provided.

Sufficient oversight already exists for submerged lands within the State commercial harbors system for the preservation of the ecosystem, flora and fauna as the Department of Transportation will continue to be subject to the requirements of chapter 343, HRS, as well as the permit requirements by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and oversight by the State Department of Health for federal programs such as the Clean Water Act.

SB. NO. 1207

This exemption will allow the Harbors Division to plan and more effectively and efficiently implement projects in a timely manner to meet the growing needs of the maritime industry.

The "just in time" cargo system for Hawaii is dependent upon the State commercial harbors system as 98 percent of imported goods passes through its harbors. Significant impacts to facility operations and delivery of goods can occur if necessary capital projects are not completed or harbor facilities are not maintained and/or rehabilitated in a timely manner due to unnecessary permit delays.

Impact on the public: The public interest is better served with more timely implementation of harbor improvement projects.

Impact on the department and other agencies: The exemption will allow the department to plan and more effectively implement projects in a timely manner. As sufficient oversight already exists to address environmental concerns, there are no negative impacts to the Department of Land and Natural Resources in providing this exemption.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: TRN 395.

OTHER AFFECTED AGENCIES: Department of Land and Natural Resources.

EFFECTIVE DATE: Upon approval.

NEIL ABERCROMBIE
GOVERNOR



Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
JADE BUTAY
FORD N. FUCHIGAMI
RANDY GRUNE
JADINE URASAKI

IN REPLY REFER TO:
(808) 586-2165

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

March 20, 2013
10:00 a.m.
State Capitol, Room 309

S.B. 1207
RELATING TO TRANSPORTATION

House Committee on Transportation

The Department of Transportation (DOT) strongly **supports** this administration bill to amend Chapter 266, Hawaii Revised Statutes, to provide an exemption from the permit and site plan approvals requirements relating to submerged lands within the conservation district. The bill proposes to exempt submerged lands within the State's commercial harbors system from the provisions of Chapter 183C, Hawaii Revised Statutes, relating to permits and site plan approvals. This exemption will enable the Harbors Division to more efficiently implement needed projects to meet the growing needs of the maritime industry.

Sufficient oversight already exists for submerged lands within the State's commercial harbors system for the preservation of the ecosystem, flora and fauna as the DOT will continue to be subject to the requirements of Chapter 343, Hawaii Revised Statutes, as well as the permit requirements by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and oversight by the State Department of Health for federal programs such as the Clean Water Act. We believe this proposal eliminates the delay for obtaining permit and site plan approvals that through other review processes are in place to address environmental concerns and the public interest. This proposal will allow the DOT Harbors Division to more timely and efficiently implement harbor projects.

Thank you for the opportunity to provide testimony.



ichiyama1 - Tate

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 1:48 PM
To: TRNtestimony
Cc: publicpolicy@oha.org
Subject: *Submitted testimony for SB1207 on Mar 20, 2013 10:00AM*

SB1207

Submitted on: 3/18/2013

Testimony for TRN on Mar 20, 2013 10:00AM in Conference Room 309

| Submitted By | Organization | Testifier Position | Present at Hearing |
|----------------------------|----------------------------|---------------------------|---------------------------|
| Office of Hawaiian Affairs | Office of Hawaiian Affairs | Oppose | Yes |

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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**Testimony to the Senate Committee on Transportation
March 20, 2013
10:00 a.m.
State Capitol - Conference Room 309**

RE: SENATE BILL NO. 1207 RELATING TO TRANSPORTATION

Chair Yamane, Vice Chair Ichiyama, and members of the committee:

The Chamber of Commerce of Hawaii respectfully provides the following testimony on S.B. 1207. The bill proposes to amend Chapter 266, Hawaii Revised Statutes, to exempt the Department of Transportation, Harbors Division, from the permit and site plan approvals requirements relating to submerged lands within the conservation district.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

We understand that the DOT Director testified that the bill proposes to exempt submerged lands within the State's commercial harbors system from the provisions of Chapter 183C, Hawaii Revised Statutes, relating to permits and site plans approvals. This exemption will enable the Harbors Division to more efficiently implement needed projects to meet the growing needs of the maritime industry.

However, the language in the bill does not appear to limit the exemption to “existing commercial harbor system,” but to “. . . all work involving submerged lands used for state commercial harbor purposes. . . .”

If the intent is to exempt existing commercial harbors from the CDUA process, then the language in the bill should be revised to make it clear that the exemption is for existing harbors and not a new commercial harbor or expansion of an existing commercial harbor.

Thank you for this opportunity to express our views.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

"Building Better Communities"

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Complete Construction Services Corp.

President-Elect

Brian Adachi
BKA Builders, Inc.

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Sunny Walsh
Hunt Building Company, Ltd.

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Graham Builders, Inc.

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Honolulu Wood Treating

Mark Kennedy

HASEKO Construction Kamakana, LLC

Marshall Hickox

Homeworks Construction, Inc.

Michael Watanabe

JW, Inc.

Ryan Engle

Bays Lung Rose & Holma

Scotty Anderson

Pacific Rim Partners

W. Bruce Barrett

Castle & Cooke Homes Hawaii, Inc.

Testimony to the House Committee on Transportation

Wednesday, March 20, 2013

10:00 a.m.

State Capitol - Conference Room 309

RE: S.B. 1207, Relating to Transportation

Dear Chair Yamane, Vice-Chair Ichiyama, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the voice of the construction industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, affiliated with the National Association of Home Builders.

BIA-Hawaii respectfully provides the following **comments** on S.B. 1207. The bill proposes to amend Chapter 266, Hawaii Revised Statutes, to exempt the Department of Transportation (DOT), Harbors Division, from the permit and site plan approvals requirements relating to submerged lands within the conservation district.

We understand that the Director of the DOT testified that this bill proposes to exempt submerged lands within the State's commercial harbors system from the provisions of Chapter 183C, Hawaii Revised Statutes, relating to permits and site plans approvals. This exemption will enable the Harbors Division to more efficiently implement needed projects to meet the growing needs of the maritime industry.

However, the language in the bill does not appear to limit the exemption to "existing commercial harbor system," but to ". . . all work involving submerged lands used for state commercial harbor purposes. . . "

If the intent is to exempt existing commercial harbors from the Conservation District Use Application process, then the language in the bill should be revised to make it clear that the exemption is for existing harbors and not a new commercial harbor or expansion of an existing commercial harbor.

Thank you for this opportunity to express our views.

Kyle Sleppy

March 20, 2013 @ 1000 hours

Committee On Transportation Room 209

SB1207

SB1207 reads "**5266- Exemption from conservation district permitting and site plan approval requirements.** Notwithstanding any law to the contrary, all work involving submerged lands used for state commercial harbor purposes shall be exempt from any permitting and site plan approval requirements established for lands in a conservation district."

This bill is proposing an exemption for permitting and approval requirements for submerged lands used for commercial harbor purposes. This is allowing the State of Hawaii to do as they please while others have to follow the requirements for such things being proposed to be exempted in this bill.

Equality; If the rules are in place, even the people/organizations/departments, etc that put them in place must follow them. What example is being set when the rule makers themselves don't have to follow the rules they put on everyone else? This is a question you must ask yourself, and the one hundred per cent correct answer is; a horrible example.

I am in complete opposition of this bill and I propose this bill be opposed and shot down by all Representatives/Senators for equality and fairness between the state and the state and the state and the People of the State of Hawaii.

Sincerely,

Kyle Sleppy

ichiyama1 - Tate

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 18, 2013 8:49 PM
To: TRNtestimony
Cc: MSMatson@hawaii.rr.com
Subject: Submitted testimony for SB1207 on Mar 20, 2013 10:00AM

SB1207

Submitted on: 3/18/2013

Testimony for TRN on Mar 20, 2013 10:00AM in Conference Room 309

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

Comments: Strongly oppose. This ill-conceived measure will lead to conflicts with the Army Corps of Engineers, the federal Environmental Protection Agency, and national and local environmental protection organizations.

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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**Testimony of
Kimberly K. Tiger Mills
General Public**

**Before the House Committee on
TRANSPORTATION**

**Wednesday, March 20, 2013
10:00am**

State Capitol, Conference Room 309

**In consideration of
SENATE BILL 1207
RELATING TO TRANSPORTATION**

My name is Kimberly Tiger Mills; I am a resident of Kalauao on the island of Oahu. I am also Senior Planner in the State Office of Conservation and Coastal Lands at DLNR that processes the Conservation District Use Application (CDUA) and Site Plan Approvals. However I am testifying in my personal capacity. **I oppose Senate Bill 1207.**

Regarding the Conservation District, there currently exists a system in place to efficiently dispose of projects within existing established areas such as Commercial Harbors. Harbor improvements are exempt from County SMA requirements therefore the Conservation District Use Application process may be the only local opportunity in which traditional, cultural and customary uses may be vetted. The Department of the Army (DOA), a federal agency, would be the only reviewing agency for improvements under this Bill. The DOA is under no obligation to uphold the Hawaii State Constitution.

For newly designated areas or harbor expansion within the Conservation District, DOT Harbors **should not be exempt** from the CDUA process. Submerged, unencumbered public trust lands are utilized for fishing, gathering, canoe paddling, ocean recreation and other activities. I believe there needs to be oversight for sustainable use of the natural resources. Thank you.