

SB919

Allows the land use commission to establish a transfer of development rights program. Specifies certain requirements for transfer of development rights. Allows the creation of a transfer of development rights credit bank. Establishes the conservation stewardship fund. Requires the commission to adopt rules. Appropriates funds from the environmental response revolving fund

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT,
GOVERNMENT OPERATIONS AND HOUSING**

SENATE COMMITTEE ON WATER AND LAND

S.B. No. 919, Relating to Transfer of Development Rights

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

**February 11, 2013
2:50 p.m.**

1 **Department's Position:** The Department of Health **OPPOSES** this bill.

2 **Fiscal Implications:** This bill establishes a conservation stewardship fund to include appropriations
3 from the environmental response revolving fund, among other sources. For fiscal year 2013-2014, the
4 bill proposes an appropriation of \$160,000 from the environmental response revolving fund.

5 **Purpose and Justification:** The purpose of this bill is to authorize the land use commission to establish
6 a transfer of development rights program, which would provide a process by which development rights
7 are transferred from one lot, parcel, or area of land in any sending district to another lot, parcel, or area
8 of land in one or more receiving districts. The department appreciates the aim of the program, which is
9 to protect open lands, to enhance sites and areas of special character, and to enable and encourage
10 management of land as a valuable natural resource. However, the department opposes this bill because
11 it would divert funds away from the current barrel tax allocations designated for the environmental
12 response revolving fund, and because the transfer of development rights program would not directly
13 accomplish the goals of the environmental response revolving fund.

1 The department must follow mandatory requirements under the environmental response
2 revolving fund to use it for oil spill planning, prevention, preparedness, education, research, training,
3 removal, and remediation; and for direct support for county used oil recycling program. The
4 environmental response revolving fund may also be used to support environmental protection and
5 natural resource protection programs, including energy conservation and alternative energy
6 development; and to address concerns related to air quality, global warming, clean water, polluted
7 runoff, solid and hazardous waste, drinking water, and underground storage tanks.

8 The department uses the environmental response revolving fund to respond to and cleanup
9 hazardous material releases to the environment, which may also affect public health. There has been a
10 steady decrease in environmental response revolving fund revenues due to various factors such as the
11 global recession, an increase in more fuel efficient and hybrid vehicles, and the trend towards alternative
12 non-petroleum based energy sources. The current 5 cents per barrel that goes to the environmental
13 response revolving fund will not provide sufficient funding to support the department's statutorily
14 mandated tasks, let alone the recommended uses.

15 For these reasons, the department opposes the proposed appropriation of the environmental
16 response revolving fund. Moreover, this bill conflicts with the department's support of an additional 5
17 cents per barrel increase to the environmental response revolving fund as introduced through S.B. No.
18 1088, Relating to the Environmental Response, Energy, and Food Security Tax.

19 Thank you for the opportunity to testify.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT,
GOVERNMENT OPERATIONS AND HOUSING, AND
WATER AND LAND
ON
SENATE BILL NO. 919

February 11, 2013

RELATING TO TRANSFER OF DEVELOPMENT RIGHTS

Senate Bill No. 919 authorizes the Land Use Commission (LUC) to establish a Transfer of Development Rights Program; specifies certain requirements for the transfer of development rights; and allows the creation of a Development Rights Bank in which development rights may be retained or sold. The bill also establishes the Conservation Stewardship Special Fund into which are deposited appropriations by the Legislature, appropriations from the Environmental Response Revolving Fund, and other monies received by the LUC. The funds may be used for the administration of the Transfer of Development Rights Program.

The Department of Budget and Finance (B&F) recognizes that development rights offer significant value creation that could help develop public facilities and deliver enhanced public-private partnerships. The Department is not involved in the development or entitlement process so therefore defers to the LUC regarding the technical issues and merits of the bill. However as a matter of general policy, B&F **does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the HRS.** Special or revolving funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the

users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 919, it is difficult to determine whether there is a clear nexus between the benefits sought and the source of funding, and whether the fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, HRS.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.gov • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



JIRO A. SUMADA
ACTING DIRECTOR

February 11, 2013

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Economic Development,
Government Operations and Housing
The Honorable Malama Solomon, Chair
and Members of the Committee on Water and Land
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Dela Cruz, Solomon and Committee Members:

**Subject: Senate Bill No. 919
Relating to Transfer of Development Rights**

The Department of Planning and Permitting **strongly opposes** Senate Bill 919, which would allow the State Land Use Commission to establish a transfer of development rights (TDR) program. This would be a violation of homerule, and obstruct the counties' deliberate and comprehensive long range planning and zoning programs.

We support multiple strategies to maintain a healthy agricultural industry, but we question whether Senate Bill No. 919 reflects a meaningful strategy. The administration of a TDR program, creation of a TDR credit bank, and establishment of a conservation stewardship fund will result in a significant administrative cost that may be rarely used, if at all.

The City is currently in the process of establishing Important Agricultural Lands (IAL) for Oahu in accordance with Chapter 205, Hawaii Revised Statutes (HRS). We believe that the designation of IAL, once established statewide, can be a significant step in addressing the State constitution mandate, and will help the State Agricultural District to focus on just agriculture; they will not have to deal with remnant or residual lands.

We note that while the bill calls for a "well-considered plan", there is no provision for public comment on specific transfers. It is important that neighbors who are expected to host additional development have a voice in the decision. The bill makes due acknowledgement that the counties can already establish their own TDR programs,

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Economic Development,
Government Operations and Housing
The Honorable Malama Solomon, Chair
and Members of the Committee on Water and Land
State Senate
Re: Senate Bill No. 919
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which would seem to inherently create more confusion over basic development rights in the affected receiving and sending districts.

Lastly, there is no market for additional density on Oahu. Development is hampered more by the lack of supportive infrastructure and other development challenges than the need for more floor area. If the intent of the bill is to reduce urbanization pressures on agricultural lands, there are other more effective strategies. If the intent is to direct development as urban infill, there are likewise other more effective strategies.

In summary, we do not believe this bill is necessary and we request this bill be held in Committee. Thank you for the opportunity to testify.

Very truly yours,



Jiro A. Sumada, Acting Director
Department of Planning and Permitting

JAS:jmf
sb919TransferDevelopmentRights-t

Dane Wicker

From: Piikea Tomczyk
Sent: Monday, February 11, 2013 8:39 AM
To: EGHTestimony
Subject: FW: *Submitted testimony for SB919 on Feb 11, 2013 14:50PM*

From: mailinglist@capitol.hawaii.gov [<mailto:mailinglist@capitol.hawaii.gov>]
Sent: Monday, February 11, 2013 8:36 AM
To: WTLTestimony
Cc: MSMatson@hawaii.rr.com
Subject: *Submitted testimony for SB919 on Feb 11, 2013 14:50PM*

SB919

Submitted on: 2/11/2013

Testimony for WTL/EGH on Feb 11, 2013 14:50PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
MS Matson	Individual	Oppose	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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