

## BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU  
630 SOUTH BERETANIA STREET  
HONOLULU, HI 96843



March 15, 2013

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Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.  
Deputy Manager and Chief Engineer

The Honorable Cindy Evans, Chair  
and Members  
Committee on Water and Land

and

The Honorable Faye P. Hanohano, Chair  
and Members  
Committee on Ocean, Marine Resources,  
and Hawaiian Affairs  
House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs and Members:

Subject: Senate Bill 987, Senate Draft 1, Relating to Impact Fees

The Board of Water Supply, City and County of Honolulu (BWS), supports Senate Bill 987, Senate Draft 1, which authorizes the assessment and collection of impact fees for the allocation of water prior to the issuance of a water meter.

Currently, Section 46-146, HRS, conditions County impact fees to grading and building permits. However, we find the allocation of water resources can also occur without a building permit through an Application for Water Service. The proposed revision would make the statute consistent with current rules and practices. The amendment also provides greater planning flexibility.

Thank you for your consideration of our testimony on Senate Bill 987, Senate Draft 1.

Very truly yours,

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer



*Water has no substitute.....Conserve it*

Testimony of  
David R. Craddick, P.E., C.E.M.  
Manager and Chief Engineer

Before the House Committee on Water and Land  
and  
House Committee on Ocean, Marine Resources, & Hawaiian Affairs  
Friday, March 15, 2013  
8:30 am  
State Capitol, Conference Room 325

Honorable Representative Evans, Members of Water & Land, and Members of Ocean, Marine Resources, & Hawaiian Affairs,

I am writing to you in support of Senate Bill 987 which would require the assessment of impact fees prior to issuance of a water meter and requires that impact fees be collected in full before or upon issuance of the water meter.

The Kauai Board of Water Supply has had an impact fee in place since 1970. The laws related to impact fees were approved in 1992 and at this point I am guess that on Kauai it was felt that its rules were grandfathered. With new legal representation, review of State Laws, and the Water Board Rules and Regulations, it was found that when the fee is collected does not match current practice.

We would like to have the law changed to allow the current practice so we are in sync with the State requirements. The current practice is to collect the fee at subdivision time or at meter issuance time depending on when the need for water is identified by the Department Rules and Regulations and the developer or customer.

By allowing the impact fees to be collected no later than meter installation time either case can be accommodated. There may even be cases where the full fee is unknown at subdivision time or plans could change from subdivision time to meter installation time. This flexibility allows better planning and fees imposed that are more closely related to what is needed.

Your favorable consideration and support of SB 987 would be appreciated. Thank you for the opportunity to testify.

Sincerely,

David. R. Craddick, P.E., C.E.M.  
Manager and Chief Engineer



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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March 14, 2013

Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair  
House Committee on Water and Land

**Comments in Opposition to the Current Form, and proposed Amendments to SB 987, SD1, Relating to Impact Fees (Requires the assessment and collection of impact fees prior to the issuance of a water meter.)**

**Friday, March 15, 2013, 8:30 a.m., in CR 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in support of the intent of SB 987, SD1, comments in opposition to the current form of the bill, and to offer proposed amendments** for the consideration of this Committee.

**SB 987, SD1.** This bill proposes to revise §46-146. Hawaii Revised Statutes ("HRS") to require impact fees to be assessed and collected from a developer prior to the issuance of a water meter.

**Background and Intent.** LURF understands that this bill was proposed by the Kauai County Department of Water ("KDOW") which has had a water meter impact fee process, practice and KDOW Rules and Regulations in place since 1970. LURF commends the KDOW and the KDOW Board for taking this proactive step to address a potential hardship on homeowners, businesses, farmers and others who are required to pay impact fees for county water meters.

- **Current law.** In 1992, however, §46-146, HRS was adopted as law, and today, provides as follows:

**"§46-146 Time of assessment and collection of impact fees.**

Assessment of impact fees shall be a condition precedent to the issuance of a grading or building permit and shall be collected in full before or upon issuance of the permit."

- **KDOW's practice regarding water impact fees and purpose for proposing SB 987, SD1.** Notwithstanding the 1992 change in the law, it appears that since the 1970's, the KDOW had continued with its practice of

collecting water impact fees at any time between subdivision approval and the time of water meter installation. The KDOW's rules, regulations and practice allow the water impact fee to be collected at the time of water meter issuance and installation.

With recent new legal representation and review, the KDOW has noted that their current impact fee process does not match §46-146, HRS. Thus KDOW proposed HB 1103, and in its testimony in support of this bill, it states, ***“We would like to have the law changed to allow the current practice so we are in sync with the State requirements. The current practice is to collect the fee at subdivision time, or at meter issuance time, depending on when the need for water is identified by the Department Rules and Regulations and the developer or customer.”***

- **County Approval Process.** Each county has its own process for approval of permits; LURF understands that the following is the general sequence of approvals for counties:
  - Submittal of water use report to the county water department and approval of water allocation.
  - Subdivision approval (for parcels which need to be subdivided)
  - Grading permit approval
  - Building permit approval
  - Installation of water meter
  
- **Uncertainties related to impact fees.** One major problem with the early imposition of impact fees is that in some cases, the basis for those fees may be uncertain, and allowing “flexibility” for the exact time of payment would also create uncertainty for developers. According to the prior testimony of the KDOW, its current practice is to collect the impact fee at subdivision time or at the time of the meter issuance and installation. Kauai DOW notes that, ***“There may even be cases where the full fee is unknown at subdivision time or plans could change from subdivision time to meter installation time.”***
  
- **Possibility of KDOW imposing over \$19,000 of water impact fees for one typical residence prior to subdivision, could create barriers to affordable housing and home ownership.** There is a possibility that KDOW could impose over \$19,000 in water meter impact fees for a typical single family residence. Potentially requiring payment of such substantial water impact fees at the time of subdivision (which is prior to the time a homeowner can obtain a mortgage), will create a severe hardship on new home buyers. LURF believes that the KDOW Board understands this potential hardship, and has proposed this measure to allow the impact fees to be paid at the time of issuance of the water meter.

LURF understands that according to a January 2013 KDOW-commissioned *“Needs Assessment Study and Facility Reserve Charge Update”*, the current water meter impact fees (facilities reserve charge) is **\$4,600** for a typical single family residential meter (5/8 “) and the KDOW Study includes a proposal for an updated, new water impact fee of **\$19,140** per typical single family residence (without any developer credits for building infrastructure, etc.). For larger residences and projects, the proposed updated water impact fees are even higher.

**Alternatives.** In the case of Kauai, a proposed increase in “up-front” costs, from \$4,600 to potentially \$19,140, could kill the hopes of many residents of buying a home. It would be a huge obstacle for a local family to come up with over \$19,000 before the lot is even subdivided, and before the family can even apply for a mortgage! **It is much more reasonable to collect the water impact fee at the time of installation of the water meter, where the cost can be covered by the mortgage.**

Another idea might be to follow the examples of other pending legislation that address huge “up-front” costs for homeowners, businesses, farmers, etc., such as SB 1087 and HB 856 (“Green Infrastructure loans), which create a” pay-as-you-go system” for installation of a photovoltaic system “PV”). Both, SB 1087 and HB 856 would allow homeowners to enjoy the benefits of PV renewable energy immediately, and pay for it over time through a charge on their utility bill, also known as “on-bill financing.”

**LURF’s Position.** Requiring the payment of impact fees upon issuance of the water meter is practical, fair and predictable. The successful development of housing, commercial, industrial and public works projects is dependent upon the fairness and certainty of the timing of expected costs and expenses, including the payment of water impact fees. While other counties might want to impose a water impact fee “sometime” much earlier than the time of installation of the water meter, Kauai DOW’s experience and practice have shown that payment upon the issuance of the water meter has been practical, fair and successful.

**Proposed Amendment.** Based on the above, LURF respectfully requests that §46-146, HRS, be amended to read as follows:

**"§46-146 Time of assessment and collection of impact fees.** Assessment of impact fees shall be a condition precedent to the issuance of a [grading or building permit] water meter and shall be collected in full [before or] upon issuance of the [permit-] water meter."

LURF believes that the proposed amendment will provide predictability and fairness for the county water departments, county water customers and developers.

For the reasons stated above, LURF is in **support of the proposed amendment of SB 987, SD1**, and respectfully urges your favorable consideration of this bill with the proposed amendment.

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Vice-Chair  
Robert Carroll

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Director of Council Services  
David M. Raatz, Jr., Esq.

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March 14, 2013

TO: Honorable Cindy Evans, Chair  
House Committee on Water and Land  
Honorable Faye P. Hanohano, Chair  
House Committee on Ocean, Marine Resources and Hawaiian Affairs

FROM: Robert Carroll  
Council Member, East Maui 

DATE: Hearing Date: Friday, March 15, 2013

SUBJECT: **SUPPORT OF SB 987 S.D. 1, RELATING TO IMPACT FEES**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to require the assessment of impact fees prior to issuance of a water meter and requires that impact fees be collected in full before or upon issuance of the water meter.

I support this measure for the following reasons:

1. Both the Counties of Maui and Kauai have established impact fees to help off-set improvements to infrastructure improvement and water meter installation.
2. The proposed legislation would allow counties to be flexible in the collection of fees and coordinate requirements with the State of Hawaii.
3. There is potential that when fees are collected at subdivision that changes may occur with fees by the time the water meter is installed. Therefore, the flexibility allows for better planning and fees imposed that are more closely related to what is required.

For the foregoing reasons, I support this measure.

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