

OFFICE OF PLANNING STATE OF HAWAII

NEIL ABERCROMBIE
GOVERNOR

JESSE K. SOUKI
DIRECTOR
OFFICE OF PLANNING

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON TRANSPORTATION
Wednesday, January 29, 2014
10:00 AM
State Capitol, Conference Room 309

in consideration of
HB 1586
RELATING TO TRANSPORTATION.

Chair Yamane, Vice Chair Takayama, and Members of the House Committee on Transportation.

The purpose of HB 1586 is to extend to the airports and highways division of the state department of transportation (DOT) the same exemptions from special management area permit (SMA) requirements that are provided to the harbors division. HB 1586 amends Hawaii Revised Statutes (HRS) §205A-22 to exclude the construction of airports and highways authorized by the state DOT from “development” defined in HRS §205A-22, in order to exempt these constructions from the SMA permit. The Office of Planning prefers carry over bills SB 1027 and HB 797, which were part of the governor’s package in the last legislative session.

The Office of Planning administers HRS Chapter 205A, the Coastal Zone Management (CZM) law. The Hawaii CZM implementation framework was designed by the legislature to build upon existing agency functions. Accordingly, HRS §205A-5 provides as follows:

- (a) All agencies shall ensure that their rules comply with the objectives and policies of this chapter and any guidelines enacted by the legislature.
- (b) All agencies shall enforce the objectives and policies of this chapter and any rules adopted pursuant to this chapter.

Under HRS §205A-1, “agency” means any agency, board, commission, department, or officer of a county government or the state government. The term “agency” includes the county planning departments and the state DOT.

If SB 1027 and HB 797 are not moved forward, we recommend the proposed amendments to HRS §205A-22 be removed from HB 1568, since it contradicts the implementation framework under HRS Chapter 205A, Part II. Under the existing HRS §266-2(b), the state DOT is authorized to plan, construct, operate, and maintain any commercial harbor facility in the state without the approval of county agencies. To be consistent with this existing provision and to avoid undermining the CZM framework, using similar language from HRS §266-2(b) may be appropriate, as follows:

Section 261-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Structures and improvements. [All] Notwithstanding any law or provision to the contrary, the department of transportation is authorized to plan, design, construct, operate, and maintain structures and improvements to state land, to be used for airport purposes, [may be planned, designed, and constructed by the department.] without the approval of county agencies.”

Section 264-7, Hawaii Revised Statutes, is amended by adding new subsection (c) to read as follows:

“(c) Notwithstanding any law or provision to the contrary, the department of transportation is authorized to plan, design, construct, operate, and maintain structures and improvements to state land, to be used for highway purposes, without the approval of county agencies.”

Thank you for the opportunity to provide testimony on this measure.

takayama2 -Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 11:17 AM
To: TRNtestimony
Cc: jesse.k.souki@dbedt.hawaii.gov
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: HB1586_BED-OP_01-29-14_TRN.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

HB1586

Submitted on: 1/27/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Jesse Souki	Individual	Comments Only	No

Comments: Please note: There was a typo in the 2nd page of the one I sent earlier. Please use this version. Thanks!

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COMMITTEE ON TRANSPORTATION

Rep. Ryan I. Yamane, Chair

Rep. Gregg Takayama, Vice Chair

Rep. Henry J.C. Aquino Rep. Mark M. Nakashima

Rep. Sharon E. Har Rep. Roy M. Takumi

Rep. Linda Ichiyama Rep. Kyle T. Yamashita

Rep. Kaniela Ing Rep. Beth Fukumoto

Wednesday, January 29, 2014

10:00 a.m., Conference Room 309

Opposition to HB 1586

Aloha, Chair Yamane and Committee members.

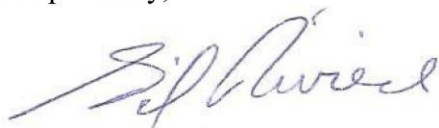
HB 1586 would exempt airport and highway projects from SMA permits and would consider them as something other than "Development." This is a terrible idea that keeps surfacing and should continue to be rejected by the Legislature.

Two years ago, I researched the proposed construction projects at the Kahului Airport and found several SMA permits had been approved three years earlier, yet the DOT had failed to move forward with millions of dollars of projects. They complain they cannot move forward because of environmental law, yet even after the environmental permitting was completed, they failed to proceed.

One SMA permit involving new fuel storage tanks required the tanks to be located outside of the tsunami inundation zone and that proper spill mitigation systems be installed. With exemptions that the DOT seeks, it is very likely that these two logical and vital requirements would have been left out.

Please do not remove important design and environmental oversight from airport and highway projects. Please defer or vote down this measure.

Respectfully,



Gil Riviere
65-137 Hukilau Loop
Waialua, HI 96791

takayama2 -Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 10:32 PM
To: TRNtestimony
Cc: Gil@GilRiviere.com
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: HB1586 Opposition.pdf

HB1586

Submitted on: 1/27/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Gil Riviere	Individual	Oppose	No

Comments:

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takayama2 -Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 6:59 AM
To: TRNtestimony
Cc: henry.lifeoftheland@gmail.com
Subject: *Submitted testimony for HB1586 on Jan 29, 2014 10:00AM*

HB1586

Submitted on: 1/28/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Oppose	No

Comments:

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takayama2 -Brandon

From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 3:08 PM
To: TRNtestimony
Cc: sherrianwitt@aol.com
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM

HB1586

Submitted on: 1/27/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Oppose	No

Comments: I oppose this HB1586

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, January 27, 2014 2:15 PM
To: TRNtestimony
Cc: shannonkona@gmail.com
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM

HB1586

Submitted on: 1/27/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Oppose. Why waste everyone's time making laws if we're just going to exempt everything? Our environmental laws were fought for, for decades and it's sickening to just let a small cabal throw them out. This is NOT what Hawai'i residents want - we want our environment protected! No exemptions! Mahalo.

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NEIL ABERCROMBIE
GOVERNOR



LATE

Testimony of
GLENN M. OKIMOTO
DIRECTOR

Deputy Directors
FORD N. FUCHIGAMI
RANDY GRUNE
AUDREY HIDANO
JADINE URASAKI

IN REPLY REFER TO:

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

January 29, 2014
10:00 a.m.
State Capitol, Room 309

H.B. 1586
RELATING TO TRANSPORTATION

House Committee on Transportation

The Department of Transportation (DOT) **supports** the intent of this bill, which proposes to exempt DOT Highways and Airports projects from County Special Management Area (SMA) permitting requirements by removing Airports and Highways division projects from the definition of development per the construction industry task force's recommendation.

By exempting airport and highway projects from County SMA permit requirements, it removes one more layer of permitting for State construction projects. This will allow us to accelerate the delivery of projects. This will not preclude us from coordinating our efforts with the Office of Planning and other appropriate agencies to ensure that our construction projects are consistent with the SMA program.

Also, we recommend that Section 3 (c) (2) and Section 4 (c) (2) be deleted. Exemption from the SMA permitting process alone will be sufficient to enable us to expedite project delivery.

Thank you for the opportunity to provide testimony.

takayama2 -Brandon

From: David.J.Rodriguez@hawaii.gov
Sent: Tuesday, January 28, 2014 1:12 PM
To: TRNtestimony
Cc: Janice.F.Arakaki@hawaii.gov; Coleen.F.Yoshina@hawaii.gov; charlene.ito@hawaii.gov; sheri.yoshizawa@hawaii.gov; Lynette.H.Marushige@hawaii.gov; Veronica.AM.Cheong@hawaii.gov; Galen.Wong@hawaii.gov; Jean.Oshita@hawaii.gov; jon.k.matsuo@hawaii.gov; CherylAnn.A.Cantere@hawaii.gov; Dean.Nakagawa@hawaii.gov
Subject: TRN Jan 29 @ 10am
Attachments: HB1811 ACT46.pdf; HB2147 Concessions.pdf; HB1702 Kapalama.pdf; HB1610 2014 Roads in Limbo.pdf; HB1509 Mobile Device.pdf; HB1706 Bikeways.pdf; HB1771 Civil Air Patrol.pdf; HB1667 Veterans Exemption.pdf; HB1586 SMA.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

The DOT submits testimony for the following agenda:

http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING_TRN_01-29-14_.HTM

Thank you for the opportunity to provide testimony.

David J. Rodriguez
Special Assistant
Department of Transportation
869 Punchbowl Street, Suite 504
Honolulu, Hawaii 96813
(808) 587-2165



LATE

HB1586
RELATING TO TRANSPORTATION
House Committee on Transportation

January 29, 2014

10:00 a.m.

Room 309

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position of “**OPPOSE**” for HB1586, which will remove important regulatory safeguards and mechanisms for public review and input, including opportunities for Native Hawaiians to identify and protect their constitutionally-recognized rights, with regards to nearly any project carried out by the Department of Transportation (DOT).

Appropriate development of Hawai‘i’s lands requires comprehensive planning safeguards and meaningful opportunities for community input. Many of the safeguards provided by county regulatory responsibilities, such as zoning variances, land use district boundary amendments, and special management area (SMA) permits, also provide opportunities for local community review, input, and accountability, including opportunities for Native Hawaiians to identify and protect their constitutionally-recognized rights.¹ OHA notes that many of these planning laws arose after the post-statehood development boom, in which unprecedented levels of development had devastating and costly long-term impacts to Native Hawaiian and local communities, as well as to Hawai‘i’s natural environment.

Exempting all DOT highways and airports projects from county planning safeguards may result in significant, avoidable impacts to health, safety, and the environment, and limit public participation in the development of our lands and its natural and cultural resources. The broad county permitting and approval exemptions within this bill raise significant concerns as to whether and how the aforementioned county-level safeguards will be replicated or replaced, particularly by an agency without the necessary expertise to ensure appropriate standards for health, safety, and the environment. In addition, this bill would eliminate important public transparency and accountability mechanisms, including public hearings and agency decisions that are subject to state Sunshine Law requirements. Such public hearings provide important opportunities for local community input, including testimony and evidence identifying Native Hawaiian traditional and customary practices that state and county agencies are obligated to protect and enforce. Notably, the DOT is not governed by a public board or

¹ See, e.g., *Ka Pa‘akai o ka ‘Āina v. Land Use Comm’n*, 94 Hawai‘i 31 (2000); *Public Access Shoreline Hawai‘i v. Hawai‘i County Planning Commission*, 79 Haw. 430 (1995); *Pele Defense Fund v. Paty*, 73 Haw. 578 (1992).

commission, and would therefore not be subject to most Sunshine Law requirements in its administrative decision-making processes. Accordingly, the county exemptions under this bill may risk unnecessary or inadvertent impacts to health, safety, and the environment, and prevent important information from being considered in DOT project planning.

Similarly, exempting an untold number of DOT airports and highways projects from the SMA permitting process significantly raises the risk of inappropriate, inadvertent, or otherwise avoidable impacts to the natural and cultural resources of our beaches and coastal areas, which contain significant Native Hawaiian cultural resources. Significantly, SMA permits require projects to minimize dredging and other adverse impacts to our culturally, socially, and economically significant shoreline areas, including impacts to public shoreline access. County administration of these permits also facilitates local, county-level community input as to what may be considered “reasonable” uses and protective measures for their beaches and coastal areas. Such input may again include highly localized information as to what and how place-specific Native Hawaiian traditional and customary practices may be affected by proposed shoreline development projects. The SMA permit exemption for DOT construction projects within this bill therefore raises particular concerns as to whether and how the environmental, cultural, and socioeconomic safeguards embodied in our CZMA, as implemented through the shoreline area management permitting process, will be replicated or replaced.

OHA defers to the state Office of Planning with respect to concerns regarding the potential loss of federal funding due to the passage of the SMA permit exemption under this bill; however, OHA notes that such a loss may substantially impact the state’s ability to manage and protect its fragile and environmentally-, economically-, and culturally-significant coastal resources.²

Accordingly, the OHA Administration urges the committee to **HOLD** HB1586. Mahalo for the opportunity to testify on this measure.

² See 16 U.S.C.A. §1455(e)(3)(A).

takayama2 -Brandon

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 11:48 AM
To: TRNtestimony
Cc: publicpolicy@oha.org
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: HB1586 DOT Exemption Testimony TRN 012914 FINAL.pdf

HB1586

Submitted on: 1/28/2014

Testimony for TRN on Jan 29, 2014 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:

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Michael Watanabe

JW, Inc.

Ryan Engle

Bays Lung Rose & Holma

Stephen Hanson

simplicityHR by ALTRES

Testimony to the House Committee on Transportation

Wednesday, January 29, 2014

10:00 a.m.

State Capitol - Conference Room 309

RE: HOUSE BILL NO. 1586, RELATING TO TRANSPORTATION

Dear Chair Yamane and Vice Chair Takayama, 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, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** H.B. 1586, which proposes to exempt improvements to land to be used for airport purposes, authorized by the department of transportation, and for state and county highways, authorized by the appropriate state or county agency, from county approval and permitting requirements and from the definition of "development" for special management area permitting purposes.

The proposed bill is one of several recommendations from the Construction Industry Task Force created in 2009. While the proposed exemption would allow State Airports and Highway projects to proceed without the need for SMA or any county permits, **projects would still be required to comply with Chapter 343, HRS**, and other State or Federal permits/approvals that may be required based on the location, providing a certain level of oversight and review of the project.

Based on the foregoing reasons, BIA-Hawaii **supports** H.B. 1586.

We appreciate the opportunity to share with you our views.

takayama2 -Brandon

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 5:08 PM
To: TRNtestimony
Cc: gqm@biahawaii.org
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: 140129_HB 1586_permit process.pdf

HB1586

Submitted on: 1/28/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Gladys Quinto Marrone	BIA-Hawaii	Support	No

Comments: Thank you.

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HOUSE COMMITTEE ON TRANSPORTATION

January 29, 2014, 10:00 A.M.
(*Testimony is 2 pages long*)

TESTIMONY IN OPPOSITION TO HB 1586

Aloha Chair Yamane and Members of the Committees:

The Sierra Club of Hawai'i, with over 12,000 members and supporters, ***strongly opposes*** HB 1586, which would allow the Department of Transportation to ignore the Coastal Zone Management act/special management area guidelines and requirements. It would also exempt DOT from most county approval.

This is a perennial bill. It is disappointing DOT consistently focuses on getting around environmental regulations, rather than attempting to improve its environmental stewardship. The wrong lessons are being learned from situations like the molasses spill at Honolulu Harbor, the failure to conduct an EIS when trying to expand the Maui Airport, and the failure to properly remove asbestos from the Honolulu International Airport. For example, the Department of Transportation attempted to issue a series of "finding of no significant impacts" with the Kahului Airport until the environmental community successfully sued. It's frankly ludicrous that any agency would contend that the construction or expansion of an airport would have no significant environmental impacts . . . but DOT did, and now this bill proposes to avoid these types of bothersome regulations in the future.

Because of the fear that agencies would fail to objectively analyze all relevant factors, our legal system created a series of checks and balances (state and county approval) and public notification requirements. This measure proposes to eliminate this balance. It would eliminate public hearings and participation. It would remove regulations that ensure:

- the public is well informed of projects before they are authorized;
- that community members -- your constituents -- are able to participate in the planning process;
- that the public and the counties can suggest ways to improve projects to save money, protect natural resources, or satisfy community concerns; and
- save money in the long-term by preventing fool-hardy and short-sighted decisions.

Do we really want to encourage the development of highways and airports without examining the particularized impacts on the neighborhood or the marine environment? The economic benefit -- if any -- is not worth the destruction of our democratic process and the resulting risks to our natural environment.

We hope you will defer this measure indefinitely. Thank you for the opportunity to testify.

takayama2 -Brandon

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 4:22 PM
To: TRNtestimony
Cc: robert.harris@sierraclub.org
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: HB 1586 - DOT Exempt from CZMA.pdf

HB1586

Submitted on: 1/28/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Harris	Sierra Club of Hawai'i	Oppose	Yes

Comments:

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1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

LATE

January 29, 2014

TO: HONORABLE RYAN YAMANE, CHAIR, HONORABLE GREGG TAKAYAMA,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON
TRANSPORTATION

SUBJECT: **SUPPORT OF H.B. 1586. RELATING TO TRANSPORTATION.** Exempts
improvements to land to be used for airport purposes, authorized by the
department of transportation, and for state and county highways, authorized by
the appropriate state or county agency, from county approval and permitting
requirements and from the definition of "development" for special management
area permitting purposes.

HEARING

DATE: Wednesday January 29, 2014

TIME: 10:00 a.m.

PLACE: Conference Room 309

Dear Chair Yamane, Vice Chair Takayama and Members of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over six hundred general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

The GCA is **in support** of H.B. 1586, which would exempt certain improvements for department of transportation, and for state and county highways, from county approval and permitting requirements from the definition of development for special management area permitting purposes.

H.B. 1586 would permit the airports and highway SMA approval process to follow the harbors approval process. H.B. 1586 would allow necessary infrastructure projects for airports on all islands and certain state and county highway projects to be delivered in compliance with related laws and regulations and in a timely fashion.

In 2009, the legislature passed Senate Concurrent Resolution No. 132, S.D.1 which established the Construction Industry Task Force. The Task Force was tasked to develop and propose state actions, for the purpose of preserving and creating new jobs in the local construction industry. One of the main areas of concern was expediting the delivery of necessary infrastructure projects, including main entry points into the state, like our airports.

GCA supports H.B. 1586 and thanks the Committee hearing this measure.

takayama2 -Brandon



From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 29, 2014 3:42 AM
To: TRNtestimony
Cc: shannon@gcahawaii.org
Subject: Submitted testimony for HB1586 on Jan 29, 2014 10:00AM
Attachments: HB 1586 SMA exemptions (TRN) 1 29 14.pdf

HB1586

Submitted on: 1/29/2014

Testimony for TRN on Jan 29, 2014 10:00AM in Conference Room 309

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Alivado	General Contractors Association of Hawaii	Support	No

Comments:

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