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HAWAII



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LAND
STATE PARKS

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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

**Monday, February 1, 2016
10:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2036
RELATING TO CONSERVATION DISTRICTS**

House Bill 2036 proposes to extend the one hundred and eighty day processing period for Conservation District Use Applications an additional ninety days beyond the time necessary to complete the requirements of Chapter 343 or Chapter 91, Hawaii Revised Statutes. **The Department of Land and Natural Resources supports this measure.**

Thank you for the opportunity to testify on this measure.

Testimony In Support of HB 2036 – Relating to Conservation Districts

Please accept this testimony in support of HB 2036, which would require a 90-day extension of the conservation district permit decision deadline beyond the time necessary to complete an environmental impact statement or contested case hearing.

It's about time that limitations be placed on the process so that all parties can be aware of them at the start of a contested case or EIS and not dragged out for years. It is too costly and inefficient to allow contested cases to take years to complete. It's not fair to any of the parties involved.

In light of recent events regarding BLNR granting the Thirty Meter Telescope a conditional permit before the appropriate contested case hearings, it is obvious there should be a fair limitation on the amount of time necessary to complete an environmental impact survey or contested case hearing.

It is for these reasons that I support the efforts of the legislature to improve the process and timely decision making for all.

Mahalo.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 31, 2016 8:15 AM
To: waltestimony
Cc: cstark@gemini.edu
Subject: Submitted testimony for HB2036 on Feb 1, 2016 10:00AM

HB2036

Submitted on: 1/31/2016

Testimony for WAL on Feb 1, 2016 10:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Chris Stark | Individual | Support | No |

Comments: Testimony In Support of HB 2036 – Relating to Conservation Districts Please accept this testimony in support of HB 2036, which would require a 90-day extension of the conservation district permit decision deadline beyond the time necessary to complete an environmental impact statement or contested case hearing. In the last several years, the mass media has portrayed the State of Hawaii in a far-from-favorable light with regard to its business environment and the perceived hostility toward investment in our future. Some of this is surely due to the pattern of lengthy, costly, and inefficient legal proceedings that accompany virtually every innovative venture that attempts to launch in our state. I believe that in order to thwart this pattern, it is high time that limitations be placed on the process so that ALL parties can be aware of them at the start of a contested case or EIS and not dragged out for years. The current process is costly and inefficient, and it enables contested cases to take years to complete. This is not fair to any of the parties involved, it is harmful to the economy, and if allowed to continue will only serve to validate the media reports on our State's economic climate. It is for these reasons that I support the efforts of the legislature to improve the process and timely decision making for all. Mahalo.

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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From: mailinglist@capitol.hawaii.gov
Sent: Saturday, January 30, 2016 1:48 PM
To: waltestimony
Cc: ross@current-events.com
Subject: Submitted testimony for HB2036 on Feb 1, 2016 10:00AM

HB2036

Submitted on: 1/30/2016

Testimony for WAL on Feb 1, 2016 10:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ross Wilson Jr. | Individual | Support | No |

Comments: I'm a member of the Hawaii Island Chamber of Commerce, Japanese Chamber of Commerce and Kona Kohala Chamber of Commerce and providing supportive testimony as an individual. While I understand the need for the permit process to be fair it also needs to be efficient. Approving House Bill 2036 will improve the current process and support timely decision making. Please kokua and pass HB 2036.

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Testimony In Support of HB 2036 – Relating to Conservation Districts

I would like to offer testimony in support of HB 2036, which would mandate a 90-day extension of a conservation district use permit decision deadline beyond the time necessary to complete an environmental impact statement or contested case hearing.

The bill introduces a minor but common sense modification of Section 183C-6 of the Hawaii Revised Statutes on Conservation Districts. The current statute law nominally does mandate a “decision on a completed application for permit” within 180 days “of its acceptance. However, when either an environmental impact statement or contested case hearing is required, the current law is murkier, stating only that an extension “may” be extended for 90 days in these two cases “at the request of the applicant”. The bill thus streamlines and provides clarity for this statute law where it is currently lacking.

As a resident of Hawai'i, I am deeply concerned about the state's poor reputation for being receptive to business investment and its ability to provide future generations with brighter employment prospects. No doubt a major contributor to Hawai's seemingly hostile business climate is the highly inefficient and protracted legal process that any innovator faces. To many investors, Hawai'i is just not worth the effort.

Residents of Hawai'i, regardless of whether they are for or against a particular project, deserve a fair permitting process with clear expectations for when a decision will be handed down IN ALL CASES. Absent this bill, some permit decisions could in principle take years to reach.

As HB 2036 sets a clear timeline for permit decisions when an environmental impact statement or contested case hearing is required, I strongly support it.

Thank you for considering my testimony.

CHRISTOPHER J. YUEN
P.O. Box 5
Ninole, Hawai'i 96773
Telephone: (808) 963-6966
e-mail: chrisyuenz@hotmail.com

January 31, 2016

Testimony Supporting HB2036

Rep. Brian Yamane and members of the House Water and Land Committee:

I'm a member of the Board of Land and Natural Resources, and was also a member from 1990-1998. I urge the committee to pass HB2036 to correct a major problem with the current law on conservation district use permits.

HRS sec. 183C-6 says that unless the BLNR makes a final decision on a conservation district use permit within 180 days of the application being received and accepted as complete, the applicant may "automatically" put the land to the use requested, unless the applicant requests a time extension. Normally, the BLNR's staff has been very good at bringing such applications to the board for a decision at a meeting a month or two before the 180-day deadline. Because of other requirements, it's difficult to get it to the board much earlier than that.

But a contested case hearing can be requested at that meeting, typically by an opponent of the permit, and then no decision can be made until a number of procedures have been completed. These usually include:

- determination of whether the requestor has standing
- meeting of the board to authorize hiring a hearing officer
- hearing officer selection
- pre-hearing conference
- hearing officer holds the hearing, which can span many days of testimony
- parties submit proposed findings of fact and conclusions of law
- hearing officer writes and submits proposed decision
- parties argue for and against proposed decision before board
- board adopts final decision

Normally, it is impossible to complete these procedures within the time remaining on the 180-day limit. There is no real incentive for the applicant to request the time extension because they can automatically get what they want if they don't.

Decisions involving our conservation lands should be made on the merits, not because of an arbitrary deadline. We should have laws that require administrative agencies to promptly process permit applications for a timely decision, but in this case, the procedures required by Chap. 91 for contested cases make it impossible to meet the deadline.

The current law is an accident waiting to happen. The Legislature can fix the problem by adopting HB2036.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 31, 2016 2:50 PM
To: waltestimony
Cc: rickvidgen@gmail.com
Subject: Submitted testimony for HB2036 on Feb 1, 2016 10:00AM

HB2036

Submitted on: 1/31/2016

Testimony for WAL on Feb 1, 2016 10:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Rick Vidgen | Individual | Support | No |

Comments: Process needs to be fair and efficient and is not either in its present form and can be strung out for no effective purpose except to delay action delaying action on permit applications and similar simply stops any sensible action and prevents progress and ensures potential investors are dissuaded from any action at all. This alone is a significant cause of the present homeless situation by preventing any/most efforts to solve it. This Bill will move somewhat in the right direction to achieve progress.

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Sunday, January 31, 2016

HB 2036

Dear Chair Yamane and Members of the Water and Land Committee,

As a member of Hawaii's business community for the past 40 years, I have personally witnessed excessive delays by state agencies in rendering decisions needed to advance economic development. HB 2036 seeks to improve this process.

Hawaii has a reputation for uncertainty, decisions that take years and process faults that put entrepreneurs at risk. All too often capital walks away by the time a new venture is ready to launch. If we want new opportunities for a modern, more diverse economy then we need to act fairly, efficiently and at a reasonable pace as detailed in HB 2036.

Mahalo,

Deborah L Baker



**KONA-KOHALA
CHAMBER
OF COMMERCE**

75-5737 Kuakini Hwy. Ste. #208

Kailua-Kona, HI 96740

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LATE

January 31, 2016

RE: Support for HB 2036

Dear Chair Yamane and members of the Water and Land Committee,

As a member of Hawaii's business community, I am writing in support of HB 2036.

Time is often the key to successful business and community development in Hawaii and all too often you see Hawaii miss out on tremendous economic opportunities because of the lengthy permitting process.

While I understand that the permit process needs to be fair, it also needs to be efficient. HB 2036 would improve the process and timely decision making at the start of a contested case or an environmental impact statement instead of allowing decision making to potentially go on for years. Businesses need to have a structured timeline in order to financially prepare for this process.

It is unfair to expect an organization to invest unlimited time and money without understanding the overall time limitations. This bill will help improve the unknowns of Hawaii's permitting process and will hopefully attract more businesses to Hawaii. This bill will have a positive economic impact in our state and improve our status as the worst place to do business in the United States.

The positive outcomes of this bill, besides attracting more business and community development are the following:

- More jobs equals the ability for citizens to be able to afford to live in our state
- Increased GE Tax revenue
- Potential to attract more sustainable industries outside of tourism

On behalf of over 540 businesses on the Hawaii Island, I urge you to pass HB 2036.

Sincerely,

Kirstin Kahaloa
Executive Director
Kona-Kohala Chamber of Commerce



SIERRA CLUB OF HAWAII
MĀLAMA I KA HONUA. *Cherish the Earth.*

HOUSE COMMITTEE ON WATER AND LAND

Monday February 1, 2016 19:00AM Room 325

In Opposition HB2036 Relating to Conservation District Use Permits

LATE

Aloha Chairman Yamane and members of the WAL Committee,

On behalf of our 12,000 members and supporters, the Sierra Club of Hawaii strongly opposes HB2036 relating to conservation district use permits. This bill proposes to cut in half the time allowed to evaluate a conservation district use permit application before it is automatically approved.

As an entity that participates in a lot of conservation district use permit applications processes, the Sierra Club can attest that a shorter window of time for a decision will not result in better, faster decisions.

A conservation district use permit application that is hastily approved is more likely to be marred in litigation than a permit application that is thoughtfully evaluated and tailored to address the concerns of all involved.

More time spent well early in the application process results in quicker, more durable decisions. For this reason, we urge this Committee to defer HB2036.

Thank you for the opportunity to testify on this measure.

Mahalo,

A handwritten signature in black ink, appearing to read 'M. Townsend'.

Martha Townsend
Director



Testimony to the House Committee on Water & Land
Monday, February 1, 2016 at 10:00 A.M.
Conference Room 325, State Capitol

LATE

RE: HOUSE BILL 2036 RELATING TO CONSERVATION DISTRICTS

Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 2036, which requires a ninety day extension of the conservation district permit decision deadline beyond the time necessary to complete an environmental impact statement or contested case hearing.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 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 members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber supports this bill as it provides the applicant time to complete requirements of HRS Chapter 341 and 91 and continue its use. We believe that this is helpful both for the applicant and the department in the management of conservations areas.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 01, 2016 7:42 AM
To: waltestimony
Cc: mary@marybegier.com
Subject: Submitted testimony for HB2036 on Feb 1, 2016 10:00AM



HB2036

Submitted on: 2/1/2016

Testimony for WAL on Feb 1, 2016 10:00AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mary | Individual | Support | No |

Comments: I am writing as a individual who has followed many public hearings where Environmental Impact Statements are merited. I speak in support of HB 2036. Please pass this bill out as being a step in the right direction for the owner of conservation zoned land to have clearer understanding of their responsibilities relative to environmental impact statements. Thank you for the opportunity to testify.

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