

DAVID Y. IGE
GOVERNOR OF HAWAII



**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 8, 2016
9:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2059
RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
KEHALANI OFFSITE RETENTION BASIN**

House Bill 2059 proposes to authorize the issuance of special purpose revenue bonds to assist the owner of the Kehalani Offsite Retention Basin (Basin), make safety improvements to the facility which would benefit the public's health, safety and general welfare. **The Department of Land and Natural Resources (Department) supports this measure as it would assist the dam owner with an economic means to bring their facilities in compliance with current safety standards and reduce the risk of a dam failure to the surrounding community.**

Kehalani Offsite Retention Basin, is located in Central Maui and is a regulated dam under Hawaii Revised Statutes Chapter 179D, (Hawaii Dam Safety Act of 2007). Construction on the dam and retention basin began in 2003 and is still not completed. The Basin serves as a storm retention basin for the Kehalani Subdivision and does receive Mauka offsite flows in addition to those from the subdivision. The dam has a height of 30 feet and maximum storage area in excess of 490 acre feet (approx. 160 Million Gallons). Land use in the downstream drainage includes new residential construction and existing residential development in the town of Wailuku. Due to its location, the basin is classified as a high hazard structure. A high hazard structure is defined as a dam or reservoir whose failure will result in probable loss of human life.

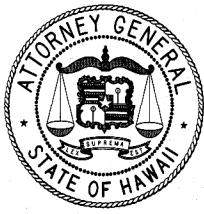
Thank you for the opportunity to testify on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

H.B. NO. 2059, RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR KEHALANI OFFSITE RETENTION BASIN.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

DATE: Monday, February 8, 2016

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Yamane and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill proposes to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$5,570,250 to provide financing to assist RCFC Kehalani, LLC, a Delaware limited liability company, for consultant work, permits, and construction for the Kehalani offsite retention basin.

We have two comments regarding this bill.

First, this bill references Act 147, Session Laws of Hawaii 2012 ("Act 147"), as the enabling statutory language for chapter 39A, Hawaii Revised Statutes, to issue special purpose revenue bonds to assist dam and reservoir owners. However, while Act 147 was enacted in 2012, we believe that it is void because the corresponding implementing constitutional amendment failed to be ratified in 2012. While the Hawaii State Constitution was successfully amended in 2014 to authorize the issuance of special purpose revenue bonds to assist dam and reservoir owners, no enabling statutory language to permit the issuance of special purpose revenue bonds to assist dam and reservoir owners was passed by the Legislature in 2014 to implement this constitutional provision.

We note that H.B. No. 2058, Relating to Special Purpose Revenue Bonds, provides the enabling statutory language to issue special purpose revenue bonds to assist dam and reservoir owners under chapter 39A.

Because we consider Act 147 to be void because the corresponding implementing constitutional amendment failed to be ratified in 2012, we suggest that the following references to Act 147 be replaced with H.B. No. 2058:

1. Section 2, page 1, lines 5-6;
2. Section 2, page 1, line 14; and
3. Section 3, page 2, lines 3-4.

Thank you for the opportunity to testify on this bill.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON WATER & LAND
ON
HOUSE BILL NO. 2059

February 8, 2016
9:00 A.M.

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS FOR
KEHALANI OFFSITE RETENTION BASIN

House Bill No. 2059 authorizes the issuance of Special Purpose Revenue Bonds (SPRB) up to \$5,570,250 to provide financing to assist RCFC Kehalani, LLC, with Kehalani offsite retention basin improvement work pursuant to Act 147, Session Laws of Hawaii 2012.

The Department is providing comments only to advise the Legislature and prospective SPRB parties that should the legislation be approved, approval of SPRB issuance will require further discussion and satisfactory credit underwriting review of the financing components with respect to any proposed financing.

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

RCFC KEHALANI, LLC

February 6, 2016

Representative Ryan I. Yamane, Chair
Committee on Water & Land
House of Representatives
The Twenty-Eight Legislature
Regular Session of 2016

Ref: **HB 2059** Relating to the Issuance of Special Purpose Revenue
Bonds for Kehalani Offsite Retention Basin

Dear Representative Yamane:

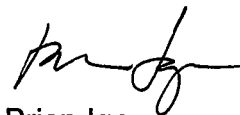
Thank you for the introduction of HB 2059. To provide some background on the Kehalani Offsite Retention Basin, it is a storm water retention basin that was constructed in conjunction with the 2,400 residential unit Kehalani Project District Development in Wailuku, Maui. The Project District received its initial entitlement approvals in 1991 and approximately 1,600 residential units have been completed to-date. The entitlement conditions required that fifty percent of the residential units be sold at affordable prices. The entitlement conditions further required the comprehensive development of infrastructure such as roadways, water and sewer systems, storm drainage systems and the development of multiple park facilities for the County of Maui and conveyance of school sites to the State DOE.

The development's significant infrastructure requirements coupled with the developments affordable housing requirements have and continue to be a struggle financially for the development. The issuance of a SPRB to complete the improvements for the Kehalani Retention Basin will provide another avenue for financing a critical component of the Kehalani infrastructure development.

Accordingly we strongly support HB 2059 and we ask that the Committee support the passage of this bill.

Thank you for your consideration in this matter.

Sincerely,



Brian Ige