

SB 2245

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GOVERNOR OF
HAWAII



SUZANNE D. CASE
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COMMISSION ON WATER RESOURCE MANAGEMENT

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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committees on
WATER, LAND, AND AGRICULTURE
and
ECONOMIC DEVELOPMENT, ENVIRONMENT, AND TECHNOLOGY

Friday, February 12, 2016
2:15 P.M
State Capitol, Conference Room 414

In consideration of
SENATE BILL 2245
RELATING TO BEACHES

Senate Bill 2245 proposes to amend the definition of “water pollutant” as used in Chapter 342D Hawaii Revised Statutes (HRS), to exclude locally sourced beach sand. **The Department of Land and Natural Resources (Department) supports this measure and offers these comments.**

As you know, it is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawai‘i. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due natural processes and human impacts, threatening alongshore public access and upland development.

Following the Department’s Coastal Erosion Management Plan, staff is actively working with county governments and private landowners to facilitate “soft” solutions to erosion management instead of coastal armoring, which has been shown to have deleterious effects on beaches. These soft solutions include dune restoration, sand back-passing or bypassing, and stream mouth clearing. These sediment management projects utilize clean sand from a section of beach with a surplus of sand to restore a nearby eroded section of beach or dune, with careful consideration of seasonal variability and the beach and marine environment. These types of sediment management projects are currently inhibited from placing clean, locally-sourced sand below the high water line because it would be considered a discharge of a “water pollutant” triggering the lengthy Clean Water Act Section 401 Water Quality Certification (401 WQC) process. In many

cases, proper restoration of a beach requires placing sand along the entire active beach profile, above and below the high water line.

There are plentiful examples in the State of projects that re-distribute or bypass sand without adverse water quality impacts: Kīkīaola Small Boat Harbor near Waimea, Kaua‘i and Kailua, Waikīkī, Mākaha, and North Shore beaches, O‘ahu, and other beaches throughout the State. These efforts are all potentially subject to State Water Quality permitting because natural beach sand is considered a “water pollutant” based on the definitions in Section 342D-1, HRS.

These types of sediment management projects are needed on beaches around the State. Often a dune restoration or sand back-passing project needs to be implemented in a matter of days or weeks in response to a sudden erosion event to restore a beach environment and protect public safety and infrastructure. It can be challenging or impossible to initiate a project in this rapid time frame because clean beach sand is considered a “water pollutant” when moved along the same beach and discharged in or near the water.

It is not the intent of the Department or this bill to undermine the provisions of the Federal Clean Water Act. In fact, sand used from an upland source or dredged from deeper off shore sand fields would continue to be regulated under the Section 401 Water Quality Certification (401 WQC) process.

The Department recognizes the vulnerability of our nearshore marine resources. In fact, the Department maintains its own environmental guidelines on sand compatibility for beach restoration projects through our Small Scale Beach Nourishment application program. We feel the State’s general interpretation of sand as a “water pollutant” in the definition in Section 342D-1, HRS, for “minor” or “non-controversial” beach management projects as described above is unjustified. A revision to the Statute through this bill will be very helpful in clarifying this interpretation and facilitating the State’s efforts to maintain and protect beach environments.

There may be alternatives to amending the definition for “water pollutant” in Section 342D-1, HRS, if the Committee has concerns. One alternative may be to allow for a waiver for minor and non-controversial projects.

The Department offers the following suggestion to the proposed statutory language for the definition of “Water pollutant” in SECTION 2 of this measure. Suggested material for removal is bracketed and stricken. Suggested material for inclusion is double underscored.

- (2) Utilized on the [adjacent] adjoining beach or littoral cell for the purposes of beach erosion mitigation, sediment management, beach restoration, erosion control, or dune restoration.

Thank you for the opportunity to testify on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Water, Land, and Agriculture
and
Senate Committee on Economic Development, Environment, and Technology
February 12, 2016 at 2:00pm
By
Robert Bley-Vroman, Chancellor
and
Darren T. Lerner, Director
Dolan Eversole, Extension Agent
Sea Grant College Program
University of Hawai'i at Mānoa

SB2245 – RELATING TO BEACHES

Chairs Gabbard and Wakai, Vice Chairs Nishihara and Slom, and members of the committees:

The University of Hawai'i Sea Grant College Program (Hawai'i Sea Grant) supports the intent of Senate Bill 2245 provided that its passage does not replace or adversely impact priorities as indicated in the University's Board of Regents approved executive biennium budget. This legislation amends the definition of "water pollutant" as used in chapter 342D, HRS, to exclude locally sourced beach sand.

Hawai'i's beaches have become increasingly threatened by coastal erosion. According to the United States Geological Service (USGS) National Assessment of Shoreline Change for the Hawaiian Islands, 70% of Hawai'i's beaches are eroding and 13 miles of beach have been lost over the last century. Beach erosion effects shoreline access, recreation and cultural activities, coastal ecosystems and environments, and our economy. Beaches are the backbone of Hawai'i's \$15 Billion tourism industry and are central to Hawai'i's unique culture and lifestyle. With sea-level rise and chronic coastal erosion, the state is challenged to find effective and efficient ways to preserve and maintain our naturally occurring sand beaches. We believe the proposed legislation will support small-scale beach maintenance projects that attempt to address this issue.

SB 2245 proposes to amend the definition of "water pollutant" as used in Chapter 342D HRS, to exclude locally sourced, natural beach sand. Senate Bill 2245 provides that naturally occurring beach sand shall not be considered a "water pollutant" if used for beach erosion mitigation and certain related purposes. The bill proposes to amend Section 342D-1, HRS, to exclude beach sand from the Definition of "water pollutant," provided that it is 1) Naturally occurring beach sand sourced from a beach stream mouth, or channel that is located in the State and 2) Is utilized on the adjacent beach for the purposes of beach erosion mitigation sediment management, beach restoration,

erosion control or dune restoration. Excluding clean beach sand from the Definition of “water pollutant,” as described above, will support proactive government and stakeholder efforts to effectively preserve and restore degraded beaches as an alternative to shoreline armoring.

This bill will not lessen the intentions or effectiveness of the Federal Clean Water Act. Beach nourishment projects using sand from an outside source would still be subject to a 401 Water Quality Certification, thus ensuring adequate environmental safeguards and balances. The amendments in this bill are intended to address smaller restoration and sediment management projects such as stream mouth clearing using clean, naturally occurring and locally-sourced sand from the active beach that often have no substantial impact on marine water quality since they already exist in the near shore system. We understand these type of beach maintenance projects already adhere to standardized sand compatibility and quality guidelines and best management practices provided by the Department of Land and Natural Resources.

Hawai'i Sea Grant supports SB 2245. Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: mjellings@hawaii.rr.com
Subject: Submitted testimony for SB2245 on Feb 12, 2016 14:00PM
Date: Thursday, February 04, 2016 10:50:21 PM

SB2245

Submitted on: 2/4/2016

Testimony for WLA/EET on Feb 12, 2016 14:00PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Carl M Jellings Sr	Individual	Support	No

Comments: Comments: Most people look at sand and only see a beach, But sand is so important to Our nearshore ecosystem's. sand at deeper depth's especially where sand meets hard bottom this section of sea floor provide's a primary habitat for krill the lowest in the food web and an important building block for many of our oceans resources. Akule weke etc. Every yard of sand removed from shallow inshore areas. beaches, harbor mouths, river inlets, etc. will by forces of nature be replenished by sand pushed in by waves currents and surges to level and settle robbing and degrading deeper sand habitat's.

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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