

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
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COMMISSION ON WATER RESOURCE MANAGEMENT

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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 Senate Committee on
JUDICIARY AND LABOR

Tuesday, April 4, 2017
9:45 AM
State Capitol, Conference Room 016

In consideration of
HOUSE BILL 437, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO COASTAL ZONE MANAGEMENT

House Bill 437, House Draft 2, Senate Draft 1 proposes to prohibit variances for installation of shoreline hardening (e.g., seawalls) without a public hearing and demonstrating that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion, and no reasonable alternatives exist. **The Department of Land and Natural Resources (Department) appreciates the amendments in Senate Draft 1 and offers the following comments.**

The Department believes that any amendments to Section 205A-46, Hawaii Revised Statutes (HRS), should strengthen and clarify the existing conditions for granting variances for installation of shoreline hardening to protect public beaches and shoreline access.

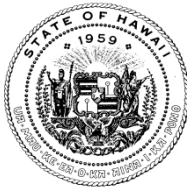
It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawai'i. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due to natural processes and human impacts, threatening coastal ecosystems, alongshore public access, and upland development. When shore-front property, homes, and infrastructure are threatened by coastal erosion and flooding, the Department often faces intense pressure from land owners to permit shoreline protection such as seawalls and rock revetments, even though shoreline armoring is discouraged by Chapter 205A, HRS, Department administrative rules, and county rules. The science is clear that installing coastal armoring on a chronically eroding beach leads to beach narrowing and loss and often leads to increased erosion to neighboring property.

The subject measure, in addition to requiring “the Authority” to hold a public hearing for shoreline structures under Chapter 91, HRS, sets standards (in addition to those already established in Chapter 205A-46, HRS) for determining when a shoreline hardening structure may receive a variance.

The Department went on record opposing the previous version of the measure because we felt that the bill, as formally written, potentially strengthened the case for building seawalls and weakened the case for protecting beaches.

The bill, as currently drafted, appears to consider both shoreline hardening structures and beach conservation, access, and native Hawaiian rights.

Thank you for the opportunity to comment on this measure.



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

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

April 4, 2017
9:45 p.m.
State Capitol, Room 16

**H.B. 437, H.D.2, S.D.1
RELATING TO COASTAL ZONE MANAGEMENT**

Senate Committee on Judiciary and Labor

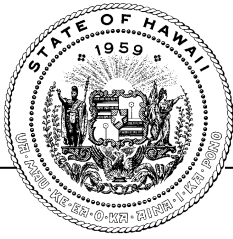
The Department of Transportation (DOT) **supports** the intent of the bill which prohibits construction of seawalls, revetments or groins in the shoreline areas without public hearing and a showing that the seawall is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion and no reasonable alternatives exist. DOT is concerned about the removal of seawater inundation as a natural activity that contributes to shoreline erosion.

DOT seeks clarification on the revised processes in the bill. DOT already performs the processes the bill seeks to require throughout its environmental clearances for any shoreline protection process. DOT believes that these processes fulfill the intent of the public hearing requirement in this bill. DOT believes that the public comment period held as part of the environmental process satisfy the requirement of this bill. DOT believes that additional hearings outside of the public comment process already required in the environmental process are not necessary as they would be duplicative, unnecessarily required the use of additional resources, and require increased time for project development.

DOT also seeks clarification on the likelihood and severity of adverse impacts to beach processes, adjoining shoreline areas, and the natural environment if the shoreline hardening structure is constructed. DOT already performs feasibility studies as part of the environmental process. Through these processes, DOT determines feasible alternatives and the preferred alternative, based on the project purpose and need, environmental impacts, public comment, available resources, and mission priorities. DOT believes that the feasibility analysis and preferred alternative selection required in the environmental process satisfy the requirement of this bill. DOT believes that additional feasibility analysis outside of those already required in the environmental process are not necessary as they would be duplicative, unnecessarily required the use of additional resources, and require increased time for project development.

In emergency events, we assume that these requirements can be waived to allow DOT to perform timely roadway restoration and protection actions to ensure that connectivity is maintained for the people of Hawaii, and preserving public health and safety.

Thank you for the opportunity to provide testimony.



OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
SENATE COMMITTEE ON JUDICIARY AND LABOR
Tuesday, April 4, 2017
9:45 AM
State Capitol, Conference Room 016

in consideration of
HB 437 HD2, SD1
RELATING TO COASTAL ZONE MANAGEMENT.

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Senate Committee on Judiciary and Labor.

The Office of Planning (OP) supports the intent of HB 437 HD2, SD1 and offers the following comments.

HB 437 HD2, SD1 prohibits variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held, the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion, and the object, structure, or activity cannot reasonably be protected by relocating it outside the shoreline area.

1. Page 2, lines 8-11, amends Hawaii Revised Statutes (HRS) § 205A-43.5(a) by adding a condition that a public hearing shall not be waived for action on a variance application for a shoreline hardening structure. The Office of Planning (OP) supports this provision.
2. Page 6, line 17 to Page 8, line 12 amends HRS § 205A-46 to add the requirements to approve a variance application for a shoreline hardening structure by adding subsection (d). OP offers the following comments:
 - a) Pursuant to HRS § 205A-2(c)(9), the purpose of shoreline setbacks is to locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion. A shoreline setback variance is an exception to the prohibition of structures or activities within the shoreline area under HRS Chapter 205A. No variance application for a shoreline hardening structure, even when the applicant demonstrates it is necessary, shall guarantee an approval. Therefore OP

recommends deleting the following proposed language on page 6, lines 17-21, and page 7, lines 1-3:

~~(d) No variance shall be granted to allow for the construction of a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment, or groin, unless the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion and the object, structure, or activity cannot reasonably be protected by relocating it outside of the shoreline area.~~

b) Page 7, line 8 to Page 8, line 12 describes factors that the authority shall consider in determining whether a variance for a shoreline hardening structure may be approved. OP provides the following comments:

- (i) Any use within the shoreline area as defined in HRS § 205A-41 will trigger the requirements of HRS Chapter 343 for an environmental assessment. OP believes that adverse impacts of a proposed shoreline hardening structure on “beach processes, adjoining shoreline areas, and the natural environment,” (Page 7, lines 14-17) shall be assessed and disclosed through the procedures under HRS Chapter 343 before the county authorities accept the variance application for a shoreline hardening structure. Therefore OP finds that it is redundant for HRS Chapter 205A to add the requirements of environmental assessment to a variance application.
- (ii) Not all shorelines are located in front of a beach. The phrase of “including but not limited to beach nourishment” (Page 7, lines 18-19) requires a beach nourishment alternative for all proposed shoreline hardening structures. OP agrees that a beach nourishment alternative should be encouraged, but may not be necessarily required for areas unsuitable for this alternative, such as the areas not fronting a beach. In addition, beach nourishment occurs seaward of the shoreline, and is beyond the county authority to grant a shoreline setback variance under HRS Chapter 205A.
- (iii) OP agrees that cultural and historical resources, and shoreline public access, as proposed from HB 437 HD2, SD1 (Page 8, lines 1-12) for a shoreline hardening structure, should be considered, however these factors are already found in HRS § 205A-2 Coastal Zone Management Program; objectives and policies which apply to variance application for a shoreline hardening structure. Pursuant to HRS § 205A-5, all agencies shall enforce the coastal zone management objectives and policies. HRS § 205A-46(c) requires that no variance shall be granted unless appropriate conditions are imposed, which include “to maintain safe lateral access to and along the shoreline or adequately compensate for its loss.”

As the lead agency of Hawaii Coastal Zone Management Program, OP believes the proposed added requirements from HB 437 HD2, SD1 to approve a variance application for a shoreline hardening structure are already covered in HRS §§ 205A-46(a), (b) and (c). Hardship standard will help the county authorities to determine whether a variance application for a shoreline hardening structure may be approved.

Therefore, OP recommends amending the proposed language in section 3 of HB 437 HD2, SD1, by adding a new subsection (d) to HRS § 205A-46, if the Committee decides to pass the measure, to read as follows:

(d) In determining whether a variance may be granted for a shoreline hardening structure that will artificially fix the shoreline, the authority shall consider the conditions as provided in subsection (c), and find in writing, based on the record presented, the following:

- (1) The feasibility and cost of relocating the relevant structures, objects, or activities outside of the shoreline area;
- (2) The likelihood and severity of damage that will occur if the shoreline hardening structure is not constructed;
- (3) The feasibility and cost of alternative means to shoreline hardening to protect the relevant structures, objects, or activities; and
- (4) Whether the shoreline hardening structure is the reasonable and practical alternative which best conforms to the purpose of this chapter.

Thank you for the opportunity to testify on this measure.



HB437 HD2 SD1
RELATING TO COASTAL ZONE MANAGEMENT
Senate Committee on Judiciary and Labor

April 4, 2017

9:45 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB437 HD2 SD1. **This bill would provide a layer of public accountability and regulatory oversight over seawall proposals that may unnecessarily erode away our culturally, economically, and socially invaluable beaches and shoreline areas.**

Hawai'i's beaches and shoreline areas provide numerous benefits to the Native Hawaiian community and the public that are critical to our cultural values and kama'āina way of life. Access to the shoreline and the resources in the nearshore environment is critical to Native Hawaiian cultural perpetuation and constitutionally-protected traditional and customary gathering practices. Moreover, our beaches and shoreline areas provide a place to bond with 'ohana and friends, help to foster positive youth development and an early appreciation for our natural resources, and provide for a variety of recreational activities, such as surfing and fishing, that have been staples of local life for generations. Our beaches are also a driving force for our economy, as a key attraction for tourists visiting our islands. Accordingly, our laws have repeatedly recognized the public nature of our shoreline areas and the right of the public to access the shoreline, and OHA has also always been a strong advocate for shoreline access in Hawai'i.

Unfortunately, poor planning has resulted in the proliferation of seawalls that have and continue to erode away much of our beaches and shoreline areas, cutting off lateral shoreline access, and undermining a cultural and socioeconomic foundation of our islands. While at times necessary to protect property and infrastructure, seawalls are notorious for their documented contribution to the loss of beaches throughout the State. For example, an estimated 25% of the length of beaches on O'ahu has been permanently lost due to seawalls and shoreline hardening, along with many miles of shoreline on Maui.¹ In many areas, such beach loss has completely precluded safe lateral access along the shoreline, eliminating any opportunity for cultural or public use. Notwithstanding the clear impact of seawalls on our shoreline areas, however, the threat of sea level rise and adjacent shoreline loss due to existing seawalls may motivate coastal landowners to seek

¹ Charles Fletcher, et. al., *Chapter 9: Beach Erosion 16*, in ON THE SHORES OF PARADISE (2010), available at <http://www.soest.hawaii.edu/coasts/publications/shores/>.

the installation of new seawalls for their own properties, particularly where buildings or infrastructure have been placed too close to the ocean.

This measure will provide an increased level of public accountability and regulatory oversight in the proposed installation of new seawalls. OHA understands that the public hearing and variance approval standards and findings mandated in this measure will help to ensure that seawalls are only used when absolutely necessary, to protect a legally-installed structure that cannot be moved further inland. OHA also understands that this measure would allow for conditions to be placed on the construction of any new seawalls, to mitigate the impacts of resulting shoreline loss to safe lateral shoreline access and Native Hawaiian traditional and customary practices. Accordingly, OHA appreciates and supports this measure, as a proactive means to mitigate any further loss of our culturally and socioeconomically invaluable beach and shoreline areas.

Therefore, OHA urges the Committee to **PASS** HB437 HD2 SD1. Mahalo nui loa for the opportunity to testify on this measure.



THE SENATE
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2017

COMMITTEE ON JUDICIARY & LABOR
Senator Gilbert S C Keith-Agaran, Chair

4/4/2017
Rm. 016, 9:45 AM

HB 437 HD 2
Relating to Coastal Zone Management

Chair Keith-Agaran & Members of this Committee, my name is Max Sword, here on behalf of Outrigger Hotels & Resorts in opposition to HB 437 HD 2 SD 1.

Outrigger is concerned that given the close proximity of the hotels in Waikiki to the beach, this bill will make it even harder for us to obtain any type of permit to either renovate or remove & replace a structure on the property.

Under the current Coastal Zone Management (CZM) rules, there is ample opportunity for an individual or community to provide input to proposed structures in a CZM.

We are currently going thru this process for the upcoming renovations of the Outrigger Reef Hotel and the process is not a cakewalk.

We urge you to hold this bill!

Thank you again for the opportunity to submit this testimony.



Senate Committee on Judiciary & Labor

Board of Directors:

Hawai'i Alliance for Progressive Action strongly supports: HB 437

Gary L. Hooser
President

Dear Chair Keith-Agaran, Vice Chair Chair Rhoads and members of the Committee,

Andrea N. Brower
Joshua D. I. Mori
Co-Vice Presidents

My name is Anne Frederick and I am the Executive Director for the Hawai'i Alliance for Progressive Action (HAPA). HAPA is a statewide environmental, social and economic justice organization. HAPA engages over 10,000 local residents annually through our work.

Ikaika M. Hussey
Treasurer

Our organization supports HB437. Some types of shoreline hardening structures are more damaging than others, and every coastal location has different dynamics. In addition, there are many different types of shoreline hardening structures, including gabions, groins, steep- and shallow-sloped revetments, and rock armoring, that may be more or less appropriate in a given location. From a "cost" perspective, one could argue that a living shoreline, allowed to retreat naturally, provides continuous, sustainable revenue in the form of beaches, reefs and shoreline access, and shoreline protection (from the reef) worth billions (tourism), not to mention the sustenance, cultural and biological benefits. Hard engineering kills a living shoreline benefitting ONLY the property owner. The billions lost in revenue fall onto the rest of the community and more importantly, on future generations.

Bianca K. Isaki
Secretary

Paul Achitoff

Malia K. Chun

Bart E. Dame

Laura Harrelson

HB437 is an important measure for the future of our coastlines and marine environment. I urge you to support HB437. Thank you kindly for considering HAPA's testimony in strong support of the measure.

Kim Coco Iwamoto

Katie McMillan

Respectfully,

Walter Ritte Jr.

Karen Shishido

Anne Frederick, Executive Director
Hawai'i Alliance for Progressive Action

Leslie Malu Shizue Miki

Kekaulike Prosper Tomich

Cade Watanabe

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: wao-hsl@WeAreOne.cc
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 2:42:43 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Kohn MD	We Are One, Inc. - www.WeAreOne.cc - WAO	Support	No

Comments: www.WeAreOne.cc

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 12:57:18 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Arianna Feinberg	Individual	Support	No

Comments: As a lifelong Maui resident and ocean advocate, I strongly urge you to support HB437! Seawalls are exacerbate erosion and destroy coral.

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Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 2:15:47 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Arielle Simon	Individual	Support	No

Comments: seawalls hurt our shorelines

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: doelang@yahoo.com
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 3:00:53 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Doris Lang	Individual	Comments Only	No

Comments: I am testifying against any more seawalls being built. They are detrimental to the health of our ocean and reefs.

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Subject: *Submitted testimony for HB437 on Apr 4, 2017 09:45AM*
Date: Monday, April 3, 2017 1:58:11 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Neil Vonhof	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: shanealbritton@gmail.com
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 2:56:39 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Shane Albritton	Individual	Support	No

Comments: Aloha Chair Keith-Agaran, Vice Chair Rhoads and Senate Judiciary Committee members, My name is Shane Albritton, I'm a teacher at Baldwin High School on Maui and I am writing to support HB437. As you well know, seawalls have been proven to have detrimental effects on shorelines on either side of where they are constructed. My favorite beach on Maui, Baldwin Beach in Paia, has been suffering from the effects of the seawall on the Eastern side of the beach for decades. Recently, the shoreline has receded so significantly that the second shower in 10 years has fallen into the ocean, and the pavilion is set to crumble into the ocean in the near future. Across the street from my grandparents house in south Kihei, the beach used to be wide. Due to all of the seawalls built to protect beachfront properties, the beach is now completely gone. I urge the committee to think about the long-term welfare of our coastlines and do whatever you can to avoid building seawalls in the future. Mahalo, Shane Albritton

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: shannonkona@gmail.com
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 2:29:46 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

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

Comments: Strongly Support!

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Tiare Lawrence

April 3, 2017

SUPPORT HB437

Aloha Chair Agaran and committee members,

Mahalo for scheduling HB437. I am in strong support of HB437. Seawalls destroy our beaches and kill precious marine eco-systems. DLNR and NOAA recently came out with studies that indicate the SLR (sea level rise) for Maui is estimated to be 3.5 to 7 ft during this century. Seawalls and all coastal hardening projects at this point will only accelerate coastal erosion.

From a "cost" perspective, I would argue that a living shoreline, allowed to retreat naturally, provides continuous, sustainable revenue in the form of beaches, reefs and shoreline access, and shoreline protection (from the reef) worth billions in tourism revenue, not to mention the sustenance, cultural and biological benefits. Hard engineering kills a living shoreline benefitting ONLY the property owner. The billions lost in revenue fall onto the rest of the community and more importantly, on future generations.

I urge you to pass this bill out of committee.

Tiare Lawrence

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: Submitted testimony for HB437 on Apr 4, 2017 09:45AM
Date: Monday, April 3, 2017 1:03:06 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Tulsi Greenlee	Individual	Support	No

Comments: Aloha, Please protect our reef by supporting this bill. Thank you Tulsi

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From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: sistaval@kpoa.com
Subject: *Submitted testimony for HB437 on Apr 4, 2017 09:45AM*
Date: Monday, April 3, 2017 2:38:50 PM

HB437

Submitted on: 4/3/2017

Testimony for JDL on Apr 4, 2017 09:45AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Valerie Toro	Individual	Support	No

Comments:

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