

Testimony by:  
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IN REPLY REFER TO:

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

March 17, 2017  
2:50 pm  
State Capitol, Room 224



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

Senate Committee on Water and Land

The Department of Transportation (DOT) offers **comments** on this 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 seawater inundation or shoreline erosion and no reasonable alternatives exist.

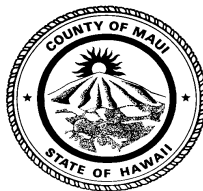
DOT seeks clarification on the revised processes in the bill. DOT already performs the processes the bill seeks to require throughout its environmental clearances for any shoreline protection process. DOT believes that these processes fulfill the intent of the public hearing requirement in this bill. 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 feasibility of alternatives. 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.

ALAN M. ARAKAWA  
MAYOR



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**OFFICE OF THE MAYOR**  
Ke`ena O Ka Meia  
COUNTY OF MAUI – Kalana O Maui

February 27, 2017



TESTIMONY OF ALAN M ARAKAWA  
MAYOR  
COUNTY OF MAUI

BEFORE THE SENATE COMMITTEE ON WATER AND LAND

Friday, March 17, 2017  
2:50 pm - Conference Room 224

HB 437, HD2 RELATING TO COASTAL ZONE MANAGEMENT.

Senator Karl Rhoads, Chair  
Honorable Senator Mike Gabbard, Vice Chair  
Honorable Members of the Senate Committee on Water and Land

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Thank you for this opportunity to **COMMENT** on HB437, HD2.

The Maui County Department of Planning and the Mayor's office agrees with the testimony submitted by DLNR Chairperson Suzanne D. Case.

Under (3)(d), we respectfully request that this bill should also require the applicant to recognize, examine, and document, as part of an environmental assessment (HRS Chapter 343) the likely environmental impacts of the proposed seawall or revetment to the immediate ecosystem (as defined by the regional beach cell) and to neighboring properties. Unfortunately, Maui County has many examples of seawalls and shoreline revetments that create environments that a) eliminate beaches and shoreline access, b) cause flanking-erosion end effects to neighboring properties which moves the problem to the next property, and c) encroach onto public trust conservation lands at the shoreline to protect at-risk development. . From our direct experience, we recommend the following language changes, in order to both clarify and strengthen Bill H. B. No. 437, in section 205A-46 Variances. (d):

- 1) Eliminate the term "groin" as type of shoreline hardening structure. From a coastal processes perspective, groins are shore perpendicular structures that provide erosion control. They are not "shoreline hardening" structures and do not fix the shoreline as do seawalls and revetments.
- 2) Eliminate the phrase "the authority shall consider" from the bill and replace with "the authority shall require the applicant to fully explore to the satisfaction of the authority". It is critical to change this language – Maui has direct negative experience with this conditional language where the applicant has "considered" the condition.

- 3) Add a new (d)(3) to read, “The likelihood and likely severity of environmental impacts to the ecosystem as well as to neighboring properties;”
- 4) Move the existing (d)(3) down as “(d)(4)”. Alter the new section (d)(4) from “The availability of alternate means to protect the relevant objects, structures, or activities” to now read, “The availability of alternate means to protect the relevant habitable structures, to include beach nourishment or beach restoration through the conduct of offshore sand surveys as part of the environmental assessment process.” (This language emphasizes beach nourishment as a required alternative to explore along with relocation);
- 5) From Maui’s planning experience, categorically including “objects and activities” along with structures is problematic in that the language allows for subjectivity from the developer’s/owner’s point of view to protect most anything at the shoreline, to the detriment of the coastal zone. Otherwise, included “structures, objects, and activities” must be clearly defined. The Department prefers that only “structures” be defined and limited to “habitable structures”, as opposed to other structures, objects, and activities such as cabanas, swimming pools, shuffle board courts, sidewalks, trees, landscaped lawns which may become eroded.

Finally, Maui’s planning direction for the future is to limit seawall construction as the last resort and prefer that applicants for seawalls or revetments fully explore, as part of an environmental assessment, both the relocation option as well as the beach nourishment option, to include exploration for available offshore sand sources as part of an environmental assessment. From our direct experience, seawalls are not the answer in this era of sea level rise. The County of Maui Planning Department is managing 21 failed seawalls, including four more documented seawall failures in January 2017 alone. In addition, environmental impacts of seawalls are significant and documented to neighboring properties, causing a domino effect to neighbors in the same beach cell where a beach exists as well as impactful to shoreline access. Maui’s west side alone has experienced 15 failed seawalls since 2009, including a recent tall seawall collapse onto a beach in Keonenui Bay, Napili --these seawall failures are accelerating. From Maui’s experience, sea level rise, combined with chronic coastal erosion and episodic storms, temporarily diminish existing beaches which become further degraded when shoreline development hardens the shoreline to protect their threatened investments, even with temporary engineered sandbag revetments. The environmental impacts of seawalls to the coastal ecosystems and shorelines of Maui are well documented. Maui has lost 4.2 miles of sandy shoreline over the past century according to the US Geological Survey and University of Hawaii School of Oceanography and Earth Science and Technology 2015 study, entitled, “National Assessment of Shoreline Change: Historical Shoreline Change in the Hawaiian Islands.” Maui is representative of all the Hawaiian Islands, where our few remaining beach cells are becoming even more overcrowded as we eliminate beaches by hardening shorelines to protect threatened development.

Sincerely,

Alan M. Arakawa  
Mayor, County of Maui

**LATE**



**MAUI TOMORROW**

Protecting Maui's Future

Testimony before the  
Senate Committee on Water and Land

March 17, 2017, 2:50 pm  
Conference Room 224  
H.B. No. 437, HD2 – Relating to Coastal Zone Management  
SUPPORT with AMENDMENTS

By Albert Perez  
Executive Director  
Maui Tomorrow Foundation, Inc.

Aloha Chair Rhodes, Vice-Chair Gabbard, and Members of the Committee:

The Maui Tomorrow Foundation SUPPORTS HB 437, HD2 WITH AMENDMENTS. This bill prohibits action on a variance application for a shoreline hardening structure without a public hearing, and requires a showing that a shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion, and that no reasonable alternatives exist.

Without this bill, we risk the continued hardening of our precious shorelines, with adverse impacts including loss of beaches, and the loss of shoreline and nearshore habitat for people and for endangered species such as the Hawaiian Monk Seal.

Once a shoreline is hardened, it is expensive to maintain. As the sea level rises, both the mean normal water level and the height of waves are increased. The heights of shoreline defense structures remain static, and so are unable to cope with these challenges. If not properly maintained, deteriorated shoreline hardening structures can become hazardous to shoreline users.

This bill aims to make shoreline hardening rare, and that is a step in the right direction.

However, the meaning of the current wording of Section 205-46(d)(4) of the proposed bill is somewhat difficult to determine as written.

Also, in practice, the requirement that the approving authority “consider” the factors listed under (d)(1) thru (6) may be easily met by decision makers who lack relevant qualifications, potentially

rendering this legislation ineffective. There should instead be an affirmative requirement for findings by independent professionals who do not have a direct financial interest in the outcome.

In order to address these issues, we recommend that subsection (d) be reworded to read as follows:

(d) . . . the authority shall consider the following:

- (1) The feasibility and cost of relocating the relevant structures, objects, or activities outside of the shoreline area, as determined by a licensed professional coastal engineer or coastal geologist;
- (2) The likelihood and severity of damage that will occur if the shoreline hardening structure is not constructed, as determined by a licensed professional coastal engineer;
- (3) The availability of alternative means to protect the relevant objects, structures, or activities;
- (4) Whether the shoreline hardening structure ~~as is~~ is the only reasonable alternative to protect relevant structures, objects, or activities from damage due to shoreline erosion, as determined by a licensed professional coastal engineer or coastal geologist;
- (5) The nature and scope of valued cultural and historical resources in the seaward areas that may be impacted by shoreline erosion resulting from the installation of a shoreline hardening structure, impact to any associated native Hawaiian traditional and customary practices, and the feasibility of action that may be taken to protect the resources and practices, as determined by a qualified cultural resources expert; and
- (6) The diminution of safe lateral public access and enjoyment of shoreline area resulting from the shoreline hardening structure, and conditions, including but not limited to public access easements, that may be required to mitigate any such diminution.

Thank you for the opportunity to comment on this important legislation.



**LATE**

THE SENATE  
THE TWENTY-NINTH LEGISLATURE  
REGULAR SESSION OF 2017

COMMITTEE ON WATER & LAND  
Senator Karl Rhoads, Chair

2/17/2017  
Rm. 224, 2:50 PM

HB 437 HD 2  
Relating to Coastal Zone Management

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

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.



**LATE**

March 16, 2017

Senator Karl Rhoads, Chair  
Senator Mike Gabbard, Vice Chair  
Senate Committee on Water and Land

**Comments and Concerns in Opposition to HB 437, HD2, RELATING TO COASTAL ZONE MANAGEMENT - 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 seawater inundation or shoreline erosion, and no reasonable alternative locations exist.)**

**WTL Hearing: Friday, March 17, 2017, 2:50 p.m., in Conference Room 224**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF **opposes** HB 437, HD2, which will apply to, and could affect thousands of miles of shoreline on each of the Hawaiian Islands and thousands of landowners, government agencies. Under the circumstances, LURF submits that the most prudent course would be for this Committee **defer this measure until the 2018 Legislative Session**, which would allow a Working Group of the proponents of this bill and other affected stakeholders to review the issues which gave rise to this bill; apply science and legal considerations, and if warranted, submit a report in December 2017, which could propose legislation, or otherwise address various shoreline variance issues.

**HB 437, HD2.** This measure would prohibit variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held; and the applicant will be forced to demonstrate 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 applicants for variances will be required

to satisfy, among other things, the following vague, and arbitrary and unreasonable requirements:

- the object, structure or activity that is the subject of the variance *“cannot reasonably be protected by relocating it outside of the shoreline area”* and
- *“the shoreline hardening structure is the only reasonable alternative to protect relevant structures, objects of activities from damage due to shoreline erosion.”*

**LURF’s Position.** While this bill may have been well-intended, LURF is **opposed** to HB 437, SD2, and respectfully requests that this Committee **defer this bill**, based on, among other things, the fact that this measure:

- **Lacks any background facts, purpose and intent clause;**
- **Has been hastily proposed without consideration, consultation, or discussion with key state-wide stakeholders** and those who would be most affected, including, but not limited to major shoreline land owners, the tourism industry, each of the counties, etc.);
- **Is unnecessary**, because the current law already requires notice to abutting owners and any persons who have requested notice of shoreline variances; requires a public hearing under Chapter 91, Hawaii Revised Statutes (HRS), and will only allow a waiver of the hearing requirement of certain criteria and conditions are satisfied;
- **Is not based on scientific considerations or data;**
- **Includes vague, subjective and arbitrary requirements which are unduly prescriptive, biased and intended to prohibit even reasonable variances;** and
- **Will result in unintended consequences which could delay or stop a number of shoreline projects planned by the Department of Land and Natural Resources’ (DLNR), Department of Transportation (DOT) and private parties**, including, among others, protection of fishponds, Waikiki Beach and other shoreline areas, harbors, roads and the reef runway at the Honolulu International Airport.

Given the above, LURF must respectfully **oppose HB 437. HD2**, and requests that this measure **be held in this Committee.**



**LATE**

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 16, 2017 5:48 PM  
**To:** WTL Testimony  
**Cc:** wahine96779@yahoo.com  
**Subject:** Submitted testimony for HB437 on Mar 17, 2017 14:50PM

**HB437**

Submitted on: 3/16/2017

Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amy Halas	Individual	Support	No

Comments: This bill will ensure and safeguard the health of our island shorelines from rampant, irresponsible development. Shoreline hardening has already caused significant, irreparable damage to our fragile beach and marine ecosystems. Please preserve our beaches and pass HB437. 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:** Thursday, March 16, 2017 10:23 PM  
**To:** WTL Testimony  
**Cc:** begoniabarry@gmail.com  
**Subject:** \*Submitted testimony for HB437 on Mar 17, 2017 14:50PM\*

**LATE**

**HB437**

Submitted on: 3/16/2017

Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Barry	Individual	Support	No

Comments:

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:** [Road Runner](#)  
**To:** [WTL Testimony](#)  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Testmony  
**Date:** Thursday, March 16, 2017 9:51:19 PM

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Aloha,

This email is in support of Bill HB437 that a hearing must be held before any concrete structure is used to create a sea wall. Let nature run its course, protect our reefs and the Aina. Buildings should never have been built so close to the ocean.

Mahalo,  
Audrey Kaneshiro

Sent from my iPad