

DAVID Y. IGE  
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ADMINISTRATOR  
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**STATE OF HAWAII  
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TESTIMONY  
OF  
SARAH ALLEN, ADMINISTRATOR  
STATE PROCUREMENT OFFICE  
  
TO THE SENATE COMMITTEES  
ON  
GOVERNMENT OPERATIONS  
AND  
AGRICULTURE AND ENVIRONMENT  
MARCH 19, 2018 1:15 PM  
  
HOUSE BILL 2026, HD2  
RELATING TO THE ENVIRONMENT

Chairs Kim, Gabbard, Vice Chairs Ruderman, Riviere and members of the committees, thank you for the opportunity to submit testimony on House Bill 2026, HD2. The State Procurement Office supports the intent of the bill but opposes the exemption language on page 4, Section 2, lines 13 to 14 set forth below.

“Any contract for services executed pursuant to this Act shall be exempt from Chapter 103D, Hawaii Revised Statutes;”

Contracts for services to update the study and assess the feasibility of implementing findings and recommendations of the environmental protection task force should be accomplished through a best value request for proposals (RFP) where desired attributes and competencies can be defined in weighted evaluation criteria and minimum standards required. Best value is defined as the outcome of any procurement that ensures customer needs are met in the most effective, timely, and economical manner. Finding the best value, then, should be the ultimate goal of every procurement. Further, full and open competition assists the state in pricing analysis and ensures transparency. Should the services not be procured, the agency should conduct in-depth cost analysis for negotiation purposes and to ensure the total price paid using taxpayers' monies are fair and reasonable.

The Hawaii Public Procurement Code (code) is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a

level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

Exemptions to the code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies, are removed from the state's procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.

Charlotte A. Carter-Yamauchi  
Director

Shawn K. Nakama  
First Assistant

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LEGISLATIVE REFERENCE BUREAU  
State of Hawaii  
State Capitol, Room 446  
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Honolulu, Hawaii 96813

## Written Comments

### **HB2026 HD2 RELATING TO THE ENVIRONMENT**

Charlotte A. Carter-Yamauchi, Director  
Legislative Reference Bureau

Presented to the Senate Committees on Government Operations and Agriculture and  
Environment

Monday, March 19, 2018, 1:15 p.m.  
Conference Room 224

Chairs Kim and Gabbard and Members of the Committees:

Good afternoon Chairs Kim and Gabbard and members of the Committees, my name is Charlotte Carter-Yamauchi and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 2026, H.D. 2, Relating to the Environment.

The purpose of this measure is to require the Legislative Reference Bureau to:

- (1) Update its 1985 study "The Feasibility of Environmental Reorganization for Hawaii" and assess the feasibility of implementing the findings and recommendations of the 1992 Department of Environmental Protection Task Force;
- (2) Appropriate an unspecified sum to the Bureau for the study and authorize the Bureau to execute a contract, exempt from Chapter 103D, Hawaii Revised Statutes, for the services of another entity to perform any related services that may be required pursuant to this measure; and
- (3) Submit the updated study to the Legislature no later than twenty days prior to the convening of the 2020 Regular Session.

The Bureau takes no position on this measure, but submits the following comments for your consideration.

While, as a general matter, the Bureau sees no obstacle to updating its 1985 study, "The Feasibility of Environmental Reorganization for Hawaii," the Bureau notes that the study contained many findings and recommendations that would need to be revisited and updated. In addition, there are a considerable number of new concepts that will need to be addressed. In the thirty-two years since the publication of the 1985 study, there have been numerous changes to Hawaii's policy goals, environmental laws, and administrative structures, not to mention changes to federal environmental protection laws, rules, and regulations. These all would need to be identified and evaluated to determine their relevance and role in the context of a reorganized environmental administrative structure. Considerable attention would also need to be paid to crafting recommendations for implementing any proposed organizational changes.

Furthermore, as the Committees are well aware, the environmental challenges faced by Hawaii have grown significantly since 1985. In addition to the ongoing concerns of the last century, Hawaii's current and future environmental policymakers and regulators must now consider strategies to:

- Mitigate the impacts of climate change and sea level rise;
- Continue the widespread adoption of clean energy resources to meet the State's clean energy goals;
- Address decaying wastewater infrastructure;
- Prevent the introduction and spread of invasive species; and
- Address the environmental strains of population growth in Hawaii.

A study of environmental regulatory reorganization would need to consider how the restructured administrative body would coordinate efforts to implement the diverse and wide-ranging policies related to these issues.

The Bureau would also point out that, given the breadth and diversity of issues to be examined, outside expertise will be able to present a more thorough and developed analysis. In the past, the Legislative Reference Bureau has contracted with the University of Hawaii to prepare such specialized studies. For example, in 2008, the Bureau contracted with the University to prepare a study recommending updates to the State's environmental impact statement laws (Section 10 of Act 1, Session Laws of Hawaii 2008). The product was a well-developed analysis that considered input from all stakeholders and which recommended multiple options for revising the State's environmental impact statement process. In that instance, two years were allowed for the preparation of the study and report. The Bureau provided considerable assistance to the study team with drafting the proposed amendments to statutory language. Furthermore, in 2008, Act 1 appropriated \$300,000 for that particular contracted study. Being that this review will likely be far more expansive than the study requested in 2008, it is unclear what the cost for this comprehensive study will be, especially when adjusted to 2018 dollars. Consequently, the Bureau is unsure regarding what amount

would need to be appropriated in order to sufficiently cover the costs of contracting for the services to the study envisioned under this measure.

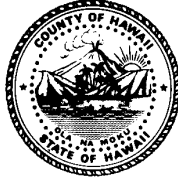
In summary, if the Committees decide to recommend passage of this measure, the Bureau requests that a sufficient amount be appropriated to cover the costs of the study envisioned under this measure.

If the measure is amended to address the concerns noted above, the Bureau believes that the services requested under this measure are manageable and that the Bureau will be able to provide the services in the time allotted; provided that the Bureau can find a contractor willing to undertake the study for the sum appropriated and within the timeframe specified.

Thank you again for your consideration.

**Harry Kim**  
*Mayor*

**Wilfred M. Okabe**  
*Managing Director*



**William A. Kucharski**  
*Director*

**Diane A. Noda**  
*Deputy Director*

# COUNTY OF HAWAII

## DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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March 16, 2018

Senator Donna Mercado Kim, Chair  
Committee on Government Operations  
and  
Senator Mike Gabbard, Chair  
Committee on Agriculture and Environment  
Hawai'i Senate  
State Capitol  
415 South Beretania Street, Room 224  
Honolulu, Hawai'i 96813

**Re: SUPPORT FOR HB 2026, HD 2 (Relating to the Environment)  
Hearing: March 19, 2018 (Monday), at 1:15 p.m.**

Dear Senator Mercado Kim, Senator Gabbard, and Committee Members:

The County of Hawai'i supports HB 2026, HD 2. The bill affirms the importance of environmental management in the State of Hawai'i.

Protecting our environment is more than passing laws or adopting regulations. Protecting our environment requires trained, professional employees and experienced managers. Establishing an environmental protection department will pave the way for progress towards greater protection of our 'aina.

Forty states, and Washington, D.C. and Puerto Rico, have a separate, unified department whose responsibilities are exclusively to provide environmental regulatory control/management for their state. The State of Hawai'i is one of five states that has environmental management within the Department of Health. Another five states have environmental management under their Department of Natural Resources.

Senator Donna Mercado Kim, Chair  
Senator Mike Gabbard, Chair  
March 16, 2018  
Page 2

Elevating the environmental division of the State Department of Health (DOH) to a department level would send a strong signal to the public and industries that Hawai'i is elevating protecting the environment to a more prominent place in the state hierarchy.

Thank you for your consideration of this testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. A. Kucharski', written in a cursive style.

William A. Kucharski, Director

**HB-2026-HD-2**

Submitted on: 3/16/2018 4:29:30 AM

Testimony for GVO on 3/19/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

Good afternoon. My name is Melodie Aduja. I serve as Chair of the Oahu County Committee (“OCC”) Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **HB2026 HD2** relating to an Environmental Reorganization; a LRB Study; and an appropriation.

The OCC Legislative Priorities Committee is in support of **HB2026 HD2** and is in favor of its passage.

**HB2026 HD2** is in a ccord with the Platform of the Democratic Party of Hawai’i (“DPH”), 2016, as it requires LRB to update its 1985 study on environmental reorganization for Hawaii and assess the feasibility of implementing the findings and recommendations of the 1991 Department of Environmental Protection Task Force and makes an appropriation.

Specifically, the DPH Platform provides that “[w]e believe in supporting best management practices in sustaining our environment and in increased citizen involvement. We support programs that encourage sustainable clean, efficient, creative and environmentally-friendly modes of transportation, recycling, and waste reduction.

The conservation, preservation, and restoration of Hawaii's natural resources are connected to the health and welfare of our people; therefore, we support the conservation and protection of our natural environment, which includes reducing our carbon footprint for the benefit of current and future generations.

We support the protection of our 'aina against destruction by corporate, government, or military usage and expect full restoration and reparation of environmental damage to handle current and future demands for water, we mu assess the current condition of our aquifer and take appropriate action to secure our freshwater resources.

We support the democratic participation of citizens and residents to protect (i) valuable coastal ecosystems and reefs from misuse and (ii) beaches for public use and recreation. The Hawai'i Coastal Zone Management (CZM) law, HRS Chapter 205A, currently provides for public participation in the management of coastal resources.

We believe in the vigorous enforcement of our environmental laws and increased public-private stewardships and citizen involvement in protecting our resources.

We know that climate change is a real threat to our islands and the world. We



strongly urge our candidates and elected officials to take immediate action to mitigate and adapt to the consequences of climate change. This includes funding adaptation measures including coastal retreat, effective participation of indigenous people in climate change governance, and recognition that indigenous, local, and traditional ecological knowledge is key in climate change adaptation solutions." (Platform of the DPH, P. 7, Lines 413-439 (2016)).

Given that **HB2026 HD2** requires LRB to update its 1985 study on environmental reorganization for Hawaii and assess the feasibility of implementing the findings and recommendations of the 1991 Department of Environmental Protection Task Force and makes an appropriation, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Text/Tel.: (808) 258-8889



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

**SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT**

Monday, March 19, 2018 1:15PM Conference Room 224

**In SUPPORT of HB 2026 HD2** Relating to the Environment

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Aloha Chairs Kim and Gabbard, Vice Chairs Ruderman and Riviere, and members of the Committees,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **strongly supports HB 2026 HD2**, directing the Legislative Reference Bureau (LRB) to study the reorganization of certain state agencies into an agency for the environment.

Good ideas always resurface, as is the case for this one to establish an agency focused on environmental protection. In 1976, LRB published possible frameworks for the Government Reorganization Commission to consider. While the report noted that environmental protect was an “emerging concern of government that might well be institutionalized with a single department embracing these programs.”<sup>1</sup>

In 1985, LRB published “The Feasibility of Environmental Reorganization for Hawai'i.” This report identified many problems with the current structure including failure to prioritize environmental policies, lack of statewide planning and coordination, and inadequate funding resources. The report concluded that:

a separate department should eventually be established, not because of coordination needs, but because the State must place greater emphasis on pollution control programs to be prepared for contamination problems of the future. ... A new department

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<sup>1</sup> “State Executive Branch: Government Reorganization Commission,” Legislative Reference Bureau, JK9340-O7-H38 (1976), addendum 1, page 3.

should help to develop this approach by bringing together the necessary expertise to examine problems from a total environmental perspective.<sup>2</sup>

In 1996, the Office of the Governor published “Restructuring State Government Services: Findings and Recommendations” in response to Act 297, SLH 1996. This report analyzed an overall reorganization of all state agencies for efficiency and effectiveness. Even in this report not focused on environmental concerns, the report authors identified the need to “restructure the State’s role in environmental protection and resource conservation and stewardship.”<sup>3</sup>

Most of the factors informing the various recommendations to centralize environmental protection efforts into one agency over the last 40 years remain true today, if only more intense. The challenges of the climate crisis and instability at the federal level executive branch makes the case for a re-alignment of agency mission and task to protect our environment all the more urgent.

For these reasons, **we strongly urge this committee to pass HB 2026 HD2.**

Thank you for the opportunity to submit testimony on this important issue.

Marti Townsend  
Chapter Director

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<sup>2</sup> “The Feasibility of Environmental Reorganization for Hawaii,” Legislative Reference Bureau, Report No. 1 (1985) page 80-81.

<sup>3</sup> “Restructuring State Government Services: Findings and Recommendations,” Office of the Governor, Act 297, SLH 1996, page 4-4.

**HB-2026-HD-2**

Submitted on: 3/16/2018 10:50:54 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Cassidy K Patmont	Individual	Support	No

Comments:

I support this bill. The Hawaiian archipelago is a small, isolated community, and our population feels the effects of a changing or damaged environment more than most. Caring for the world around us is ingrained in our very culture, present even in our state motto. We have a duty to care for the environment not only for cultural reasons, but also for our own well being. As an island chain, the effects of global climate change, litter, and pollution have a great impact on our lives, and so stewardship of the land must always be a priority. A study from 1985 cannot accurately evaluate our current reality, and thus it must be updated so that we may know what steps to take to ensure our islands and seas are cared for.

**HB-2026-HD-2**

Submitted on: 3/17/2018 12:32:26 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Reed Gach	Individual	Support	No

Comments:

I urge you to support HB 2026 for the environment.

thank you so much,

Michael Gach

**HB-2026-HD-2**

Submitted on: 3/17/2018 1:27:17 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michele Nihipali	Individual	Support	No

Comments:

Aloha Committee members,

We need to update the 1985 study on environmental reorganization and assess the 1991 implementations and findings of the environmental task force. Having multiple agencies, each with their own agendas have hampered effective environmental policies. I support this bill and funding for the task force.

Mahalo for reviewing my testimony,

Michele Nihipali

54-074 A Kam Hwy.

Hauula, HI 96717

**HB-2026-HD-2**

Submitted on: 3/17/2018 3:24:02 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
B.A. McClintock	Individual	Support	No

Comments:

Please support this important bill

**HB-2026-HD-2**

Submitted on: 3/17/2018 4:15:47 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laura Gray	Individual	Support	No

Comments:



**HB-2026-HD-2**

Submitted on: 3/18/2018 1:55:46 AM

Testimony for GVO on 3/19/2018 1:15:00 PM

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

Comments:

SUPPORT!

**HB-2026-HD-2**

Submitted on: 3/18/2018 2:48:29 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sandra Fujita	Individual	Support	No

Comments:

**HB-2026-HD-2**

Submitted on: 3/18/2018 6:59:16 PM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emily Garland	Individual	Support	No

Comments:

**HB-2026-HD-2**

Submitted on: 3/19/2018 8:44:01 AM

Testimony for GVO on 3/19/2018 1:15:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Lacques	Individual	Support	No

Comments: