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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
ENERGY & ENVIRONMENTAL PROTECTION
FEBRUARY 8, 2018 8:30 AM

HOUSE BILL 2026
RELATING TO THE ENVIRONMENT

Chair Lee, Vice Chair Lowen and members of the committee, thank you for the opportunity to submit testimony on House Bill 2026. The State Procurement Office supports the intent of the bill but opposes the exemption language on page 4, SECTION 2, lines 10 to 12 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

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Written Comments

HB2026 **RELATING TO THE ENVIRONMENT**

Charlotte A. Carter-Yamauchi, Director
Legislative Reference Bureau

Presented to the House Committee on Energy and Environmental Protection

Thursday, February 8, 2018, 8:30 a.m.
Conference Room 325

Chair Lee and Members of the Committee:

Good morning Chair Lee and members of the Committee, 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, 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 2019 Regular Session.

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

While the Bureau sees no obstacle to updating its 1985 study, "The Feasibility of Environmental Reorganization for Hawaii," the Bureau would like to note that the study contained many findings and recommendations that would need to be revisited and updated. In addition, there are considerable new concepts that will need to be addressed. 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 Committee is 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 policies related to these issues.

House Bill No. 2026 provides for only one year to prepare the study. However, given the scope of the issues to be considered, and the fact that the Bureau does not retain research staff with such specialized expertise, it would be difficult to complete such an expansive study within the amount of time allotted by this measure. Accordingly, the Bureau would request that more time be allotted for completion of the study.

The Bureau would also point out that, given the breadth and diversity of issues to be examined, outside expertise may 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. The Committee may wish to consider a similar approach for the study described in this measure.

In summary, if the Committee decides to recommend passage of this measure, the Bureau requests that it be amended by:

- (1) Changing the date for the report to be submitted to the Legislature from 2019 to 2020, thus allowing two years for the preparation of the study instead of one year; and
- (2) Directing the Bureau to contract with another entity to study the feasibility of environmental reorganization and providing adequate funding for such a contract.

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.

Thank you again for your consideration.

HB-2026

Submitted on: 2/7/2018 9:02:39 AM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
William Kucharski		Support	No

Comments:

Dear Chairperson Lee and Members of the Committee on Energy & Environmental Protection:

1. The County of Hawaii (COH) supports HB2026.
2. The Bill is a start at upgrading the importance of environmental management in the State of Hawaii. Most States, plus DC and Puerto Rico, forty-two (42) in total, have a separate, unified Department whose responsibilities are exclusively to provide environmental regulatory control/management for the State. The State of Hawaii is one of five (5) States that have the environment within the Department of Health, another five (5) states have the environmental management under their Department of Natural Resources.
3. The elevation of the environmental division of the Hawaii Department of Health (HDOH) to a Department level would send a strong signal to the public and industries that Hawaii is elevating protecting the Environment to a more prominent place in the State hierarchy.
4. The COH believes that protecting our environment is more than passing laws or adopting regulations. Protecting our environment requires trained professional employees and experienced managers. Making the environmental division a department will open the way for progress towards greater protection of our Aina.

Thank you for your consideration of this testimony.

Sincerely,

William A. Kucharski, Director, Department Environmental Management, COH

HB-2026

Submitted on: 2/7/2018 2:54:31 AM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON ENERGY & ENVIRONMENTAL
PROTECTION THE HOUSE OF
REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Thursday, February 8, 2018

8:30 a.m.

Hawaii State Capitol, Conference Room 325

RE: Testimony in Support of HB 2026, RELATING TO THE ENVIRONMENT

To the Honorable Chris Lee, Chair; the Honorable Nicole E. Lowen, Vice-Chair, and Members of the Committee on Energy & Environmental Protection:

Good morning. 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 House Bill No. 2026 relating to an updated LRB Study on Environmental Reorganization.

The OCC Legislative Priorities Committee is in support of House Bill No. 2026 and is in favor of its passage.

House Bill No.2026 is in accord 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.

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 House Bill No. 2026 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, 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, Tel.: (808) 258-8889

HB-2026

Submitted on: 2/6/2018 8:49:05 PM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Cuddle Party	Support	No

Comments:

HB-2026

Submitted on: 2/6/2018 10:13:58 AM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez		Support	No

Comments:

HB-2026

Submitted on: 2/7/2018 12:53:19 PM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Maupin		Support	No

Comments:

HB-2026

Submitted on: 2/7/2018 2:23:34 PM

Testimony for EEP on 2/8/2018 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
pat gegen		Support	No

Comments:

Do the right thing and protect our keiki, families and communities



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

LATE

HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Thursday, February 8, 2018 8:30AM Conference Room 325

In **SUPPORT** of **HB2026** Relating to the Environment

Aloha Chairman Lee, Vice Chair Lowen, and members of the EEP Committee,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i, a member of the Common Good Coalition, **strongly supports HB2026**, 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."¹

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

¹ "State Executive Branch: Government Reorganization Commission," Legislative Reference Bureau, JK9340-O7-H38 (1976), addendum 1, page 3.

² "The Feasibility of Environmental Reorganization for Hawaii," Legislative Reference Bureau, Report No. 1 (1985) page 80-81.

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.”³

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 HB2026.

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

Marti Townsend
Chapter Director

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