

HOUSE COMMITTEE ON FINANCE  
The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair

**H.B. NO. 2027 (H.D. 1), RELATING TO WATER QUALITY CERTIFICATION**

Hearing: Friday, February 16, 2018, 2:00 p.m.

The Office of the Auditor has **no position** regarding H.B. No. 2027 (H.D. 1), which requires us to review the water quality certification process of the Department of Health, Clean Water Branch under section 401 of the federal Clean Water Act. **However, we have concerns about our ability to conduct the work required by H.B. No. 2027 (H.D. 1).**

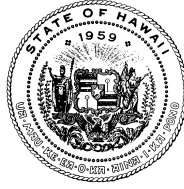
H.B. No. 2027 (H.D. 1) requires us to “conduct a review of the water quality certification process of the department of health clean water branch under section 401 of the federal Clean Water Act.” This review is to include an analysis of:

- (1) Whether the efficiency of water quality certification process would improve through the implementation of tiers reflecting the potential environmental impact and complexity of each activity and if so, recommendations on how those tiers should be structured and recommended fees for each tier; and*
- (2) How the water quality certification process in Hawaii differs from approaches taken by other states and recommendations on how approaches used in other states may be incorporated into the policies of the department of health to increase efficiency without sacrificing water quality protection.*

We can review and assess the Department of Health, Clean Water Branch’s water quality certification process, which may identify areas in the process where the branch can improve. That type of review and assessment is part of the typical performance audit that we perform.

However, we generally do not conduct the level of research into other jurisdictions’ approaches that the bill seems to require and likely do not possess the substantive expertise regarding water quality certification that may be needed to assess whether a tiered approach would improve program efficiency. We request an appropriation of no less than \$50,000 for the purpose of retaining a subject matter consultant to assist us on the substantive issues should the bill be passed by the committee.

Thank you for considering our testimony related to H.B. No. 2027 (H.D. 1).



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

WRITTEN  
TESTIMONY ONLY

**Testimony COMMENTING on HB 2027 HD1  
RELATING TO WATER QUALITY CERTIFICATION**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: February 16, 2018  
Time: 2:00 pm

Room Number: 308

1 **Fiscal Implications:** The Department of Health (DOH) is concerned that an audit may divert  
2 limited existing resources.

3 **Department Testimony:** The DOH respectfully submits comments with  
4 reservation/suggestions on this bill. The purpose of this bill is to require the state auditor to  
5 review the Section 401 Water Quality Certification process and to recommend how the process  
6 can be improved without decreasing the ability of the DOH, Clean Water Branch (CWB) to  
7 protect Hawaii's water.

8 A Section 401 Water Quality Certification is required if a project/activity: 1) requires a  
9 federal permit or license, and 2) may result in a water pollutant discharge into State waters. On  
10 average, the DOH-CWB receives 25 new Section 401 Water Quality Certification applications  
11 per year.

12 The DOH-CWB has already taken two significant actions to streamline its Section 401  
13 Water Quality Certification process. On August 31, 2015, DOH issued a blanket conditional  
14 Section 401 Water Quality Certification for the most commonly utilized Department of the Army  
15 2012 Nationwide Permits for the State of Hawaii. (The blanket expired March 18, 2017.) This  
16 blanket approval was created to effectively streamline, facilitate, and shorten the application

1 process with a total turn-around time matching the Department of the Army's processing  
2 deadlines.

3 The DOH-CWB is in the process of issuing another blanket Section 401 Water Quality  
4 Certification for the most commonly utilized Department of the Army 2017 Nationwide  
5 Permits. It is expected that more projects (approximately 85%) can be covered under this  
6 blanket Section 401 Water Quality Certification. The new blanket Section 401 Water Quality  
7 Certification is expected to be issued in February or March 2018.

8 Second, the DOH held a Kaizen event in 2015 to improve and streamline the Section 401  
9 Water Quality Certification program by collaborating with county, state, and federal agencies to  
10 develop a streamlining strategy. The strategy would require frequent Section 401 Water Quality  
11 Certification applicants to coordinate with their design, construction, and contract staff to create  
12 standardized Best Management Practices or pollution control measures for all their specific  
13 activities. Several state and county agencies are currently working on their standardized Best  
14 Management Practices. The Department of Transportation, Highways Division and Federal  
15 Highways Administration have standardized Best Management Practices that have been accepted  
16 by DOH. These standardized Best Management Practices have been used on 7 projects requiring  
17 Section 401 Water Quality Certifications. The average processing time from receipt of a  
18 complete application was 9 days.

19 Participating in an audit would take DOH staff away from their efforts to expedite  
20 Section 401 WQC decisions. Also, an audit is not necessary because the DOH has already taken  
21 significant steps to streamline its decision-making.

22 Thank you for the opportunity to testify on this measure.

**HB-2027-HD-1**

Submitted on: 2/15/2018 9:23:46 AM

Testimony for FIN on 2/16/2018 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>  | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|--|---------------------------|---------------------------|
| Melodie Aduja       | OCC Legislative Priorities Committee, Democratic Party of Hawaii | Support                   | No                        |

Comments:

**PRESENTATION OF THE  
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES**

**DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON FINANCE

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Friday, February 16, 2018

2:00 p.m.

Hawaii State Capitol, Conference Room 308

**RE: Testimony in Support of HB 2027 HD1 RELATING TO WATER  
QUALITY CERTIFICATION**

To the Honorable Sylvia Luke, Chair; the Honorable Ty J.K. Cullen, Vice-Chair and the Members of the Committee on Judiciary:

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 House Bill No. 2027 HD1 relating to the Clean Water Act; Water Quality Certification; and an Audit of the DOH Clean Water Branch.

The OCC Legislative Priorities Committee is in favor of House Bill No.2027 HD1 and supports its passage.

House Bill No.2027 HD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the Auditor to review the water quality certification process of the Department of Health's Clean Water Branch.

The DPH Platform states that "[w]e 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 must assess the current condition of our aquifers and take appropriate actions to secure our freshwater resources. (Platform of the DPH, P. 8, Lines 422-425 (2016)).

Given that House Bill No. 2027 HD1 requires the Auditor to review the water quality certification process of the Department of Health's Clean Water Branch, 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](mailto:legislativepriorities@gmail.com), Tel.: (808) 258-8889