

DAVID Y. IGE  
GOVERNOR



RODERICK K. BECKER  
Comptroller  
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Deputy Comptroller

**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**  
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF  
RODERICK K. BECKER, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEE ON FINANCE  
ON  
WEDNESDAY APRIL 4, 2018  
2:30 P.M.  
CONFERENCE ROOM 308

S.B. 2337, S.D.2, H.D.1

RELATING TO WASTE MANAGEMENT

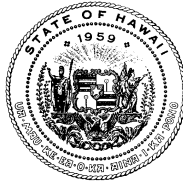
Chair Luke, Vice Chair Cullen and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 2337, S.D. 2, H.D. 1

While the Department of Accounting and General Services (DAGS) support the intent of the bill to prevent illegal dumping of liquid or solid wastes, DAGS opposes S.B. 2337, S.D. 2, H.D. 1 for the following reasons:

1. Requiring any agency of the State or any county to receive a statement for services performed which includes a receipt from a licensed waste management facility, farm lot with an approved soil and water conservation plan, or construction site with a permit to grade and fill the site or stockpile fill on the site that verifies that the waste was properly received and lawfully disposed of in order to make full payment, will not ensure all waste from the project site was properly and lawfully disposed of.
2. The proper and lawful disposal for construction waste from the construction site is solely the contractor's responsibility. This bill will bring unintended consequences to the contracting agency and the State of Hawaii.

3. The bill implies that the contracting agency is able to verify that the receipt for proper and lawful disposal is for all of the waste generated from the construction site. The Department does not have the resources to identify and verify all waste leaving a construction site.

Thank you for the opportunity to testify on this matter.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
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WRITTEN  
TESTIMONY ONLY

**Testimony in OPPOSITION to S.B. 2337 SD1 HD1  
RELATING TO WASTE MANAGEMENT**

REPRESENTATIVE SYLVIA LUKE, CHAIR  
HOUSE COMMITTEE ON FINANCE

Hearing Date: April 4, 2018  
Time: 2:30 PM

Room Number: 308

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health opposes the amendments made in the HD1 version  
3 of this bill.

4 This measure proposes to require all state and county agency contractors, that include disposal of  
5 liquid or solid waste, to provide a receipt as proof that the waste was received and disposed of at a  
6 licensed facility. Additionally, it proposes to allow the disposal of liquid or solid waste on farm lots with  
7 an approved soil and water conservation plan and construction sites with a permit to grade and fill the site  
8 or stockpile fill on site.

9 While the proposed receipt tracking system would help state and county contracting agencies  
10 comply with Hawaii Revised Statutes (HRS) Ch. 340H-30, which prohibits the disposal of waste  
11 anywhere other than a permitted solid waste management facility; the proposed amendment to allow  
12 disposal of waste on farm lots and construction sites violates the same section of statute.

13 HRS Ch. 342H-1 defines "Inert fill material" as: "...earth, soil, rocks, rock-like material such as  
14 cured asphalt, brick, and clean concrete less than eight inches in diameter, except as specified by a  
15 licensed soils engineer with no exposed steel reinforcing rod. The fill material shall not contain  
16 vegetation or organic material, or other solid waste." The department has developed policies and  
17 procedures for testing to determine whether or not material is inert. Inert fill material does not fall under  
18 the department's regulation, as a waste, as it does not threaten human or environmental health. The

1 amendment in the current version of the bill is problematic because it conflates the terms “waste” and  
2 “fill” which, in turn, redefines “solid waste” as “inert fill material”. In otherwords, this bill would allow  
3 for a waste, such as contaminated soil, be used at construction sites and farm lots. It is for this reason that  
4 we cannot support this measure as currently written.

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

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**GCA of Hawaii**

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded to Capitol Website

March 15, 2018

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE TY CULLEN, VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON FINANCE

SUBJECT: **COMMENTS & CONCERNS REGARDING S.B. 2337, SD1, HD1, RELATING TO WASTE MANAGEMENT.** Requires that all state and county agency contractors that dispose of liquid or solid waste provide a receipt that the waste was received and disposed of at a licensed facility or an appropriate farm or construction site before full payment is made for those contractual services. Allows for partial payment to be made without a receipt and prior to any dumping of waste. Prohibits alteration or falsification of receipts. (SB2337 HD1)

HEARING

DATE: Wednesday, April 4, 2018  
TIME: 2:30 p.m.  
PLACE: Conference Room 308

Dear Chair Luke, Vice Chair Cullen and Members of the Committee

**The General Contractors Association of Hawaii (GCA) is writing to express grave concerns regarding S.B. 2337, SD1, HD1, Relating to Waste Management, which is very similar to S.B. 2358, Relating to Waste Management introduced in 2016, which GCA opposed.**

The GCA is an organization comprised of over approximately 500 general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

S.B. 2337, SD1, HD1 proposes to require that state and county agencies require proof of a dump receipt for liquid or solid waste from a permitted waste facility is made for those contractual services in public works construction, but allows partial payment without a receipt. Additionally, S.B. 2337 makes it a criminal misdemeanor under Section 708-872, Hawaii Revised Statutes for falsifying business records for any receipts that may be altered or falsified.

While GCA understands the intent of this measure, GCA questions whether enforcement of this proposal could further deter illegal dumping. Contractors on state or county projects are required to follow all contractual language that routinely includes a provision to lawfully dispose of any construction waste. Additionally, many public works projects are required to recycle construction waste. Penalties for non-compliance can result in losing one's contractor's license or being banned from doing public works construction in the future. This bill may still have some issues and the potential to: (1) infringe on contracts; (2) not resolve the issue of illegal

dumping; and (3) interrupt receipt of lawful contractual payments for public works. The more appropriate and proper way to address such activity may be to impose some type of penalty to hold those illegally dumping waste accountable. Several years ago the Honolulu City Council worked on a bill that would increase fines for illegal stockpiling and grading of material not properly permitted. The penalty approach is the type of deterrent that may address the problem directly, rather than this approach.

Mandating contractors to submit a disposal of construction waste receipt may not deter such illegal dumping, particularly because (1) receipts from a permitted waste facility may be altered and used to satisfy an agency's receipt requirement; (2) there is no way to enforce such receipt mechanism by the agency as it would have no way to confirm the materials were from the claimed project, especially if a contractor has multiple projects ongoing at the same time; and (3) the interruption of waste disposal process, may disrupt contractual payment schedules.

Thank you for the opportunity to share our grave concerns regarding this measure.



ALEXANDER & BALDWIN  
PARTNERS FOR HAWAII

**SB 2337 HD1  
RELATING TO WASTE MANAGEMENT**

**PAUL T. OSHIRO  
DIRECTOR – GOVERNMENT AFFAIRS  
ALEXANDER & BALDWIN, INC.**

**APRIL 4, 2018**

Chair Luke and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin and its subsidiary Grace Pacific LLC on SB 2337 HD1, “A BILL FOR AN ACT RELATING TO WASTE MANAGEMENT.”

Grace Pacific is the largest asphalt paving contractor in Hawaii. Grace generates reclaimed asphalt pavement (RAP) on a daily basis through the process of milling the existing roads prior to resurfacing. A great deal of this material is brought back to our manufacturing facilities to be processed and recycled, either as unbound aggregates such as base course, select borrow, general fill, etc., or as a component of new hot-mix asphalt for ongoing paving projects.

Despite our best efforts, the amount of recycled material represents only a modest portion of the RAP that we generate on an annual basis. As a result, Grace has been partnering with farmers and other entities, in a win-win solution, providing the comingled RAP material (RAP mixed with aggregate) for roadway and other uses. Many covet this material since it reduces dust during dry conditions, and reduces erosion and stabilizes roads during rainy conditions. For some farmers, the comingled RAP enables them to

harvest during rainy conditions when they wouldn't otherwise be able to access their fields due to mud.

Grace has implemented a policy to ensure that those to whom we provide comingled RAP have the proper permits/authorities in place to accept and utilize this material. If the cubic yard volume of the comingled RAP is above the amount which triggers County permit requirements, recipients must either have a valid grading permit or have their land managed in accordance with the applicable Soil & Water Conservation District. The Soil & Water Conservation District requirement means that the farmer must be signed on as a Cooperator with their regional Soil and Water Conservation District and have an approved Conservation Plan, complete with best management practices.

This bill requires State and County contractors with contracts that include the disposal of liquid or solid waste, including but not limited to construction waste, to provide a receipt from a licensed waste management facility, farm lot with an approved Soil & Water Conservation Plan, or construction site with a permit to grade and fill the site or stockpile fill on the site showing that the waste was properly received and lawfully disposed of in order for full payment to be made on the contract.

A&B greatly appreciates efforts by the Chairs and members of the House Energy & Environmental Protection and Labor & Public Employment Committees to incorporate amendments proposed by others into the HD1 version of this bill intended to address the continued recycling and use of comingled RAP. Upon further review, however, there are issues of continuing concern with this bill.

Comingled RAP presently falls under the statutory definition of inert fill material in HRS Section 342H-1, provided that it meets statutory conditions. While construction waste,



which is a term that is not statutorily defined, may be interpreted to include comingled RAP/inert fill material, comingled RAP/inert fill material is not considered solid, liquid, or hazardous waste pursuant to the Hawaii Revised Statutes.

Section 1 of this bill cites various statutes and actual incidents pertaining to the illegal disposal of solid waste and other hazardous waste materials. In that comingled RAP/inert fill material is not statutorily considered as solid, liquid, or hazardous waste, there is concern that the inclusion of comingled RAP/inert fill material under the purview of this bill may blur the statutory distinction between comingled RAP/inert fill material and solid, liquid, or hazardous waste. This may unnecessarily raise concern that comingled RAP/inert fill material is akin to solid, liquid, or hazardous waste, which may discourage use of comingled RAP/inert fill material and negatively impact future recycling and use of this valued material going forward.

We also understand that certain Counties presently have ordinances which allow the delivery and use of comingled RAP/inert fill material without additional grading or stockpiling permits or other authorizations provided that the cubic yard volume of the comingled RAP/inert fill material is below the amount which triggers County permit requirements. Provisions in this bill may prohibit the recycling and use of smaller amounts of comingled RAP/inert fill material as presently authorized by County ordinances.

In addition, we understand that there may be other areas of concern relating to this issue beyond the recycling and use of comingled RAP/inert fill material which may warrant further assessment and review.

Thus, in lieu of passing this bill, we respectfully request your consideration to enable a collaborative discussion and thorough assessment of this matter by appropriate regulatory entities and affected stakeholders.

Thank you for the opportunity to testify.

**LARRY JEFTS FARMS, LLC  
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SB2337sd1, hd1 Relating to Waste Management  
House FIN Hearing  
Wednesday, April 4, 2018 – Agenda 2  
2:30 pm  
Room 308

Written Testimony by: Larry Jeffs  
Position: Support

Chair Luke and Members of the House FIN Committee:

I am Larry Jeffs, owner and operator of Larry Jeffs Farms, LLC, which is part of our family-run business of farms on Oahu and Molokai, under the administrative umbrella of Sugarland Growers, Inc. We have more than 35 years of Hawaii farm experience on Molokai and Oahu. I am also a volunteer director for the West Oahu Soil and Water Conservation District (SWCD).

SB2337sd1,hd1 requires contractors with all state and county agencies to show a receipt from a licensed waste management facility that verifies that the waste was properly received and lawfully disposed in an appropriate, licensed waste facility. This is applicable to liquid or solid waste, including but not limited to construction waste. Full payment or partial payment to the contractor shall not be made until a receipt from the licensed waste facility is submitted.

This should curtail the problem of illegal dumping of liquid or solid wastes. The illegal disposal of liquid or solid waste is a problem for protection of Hawaii's soil and water resources.

Appreciation is expressed for the consideration of farms as amended in this measure:

- (1) Including farm lots with an approved soil and water conservation plan and construction sites with a permit to grade and fill the site or stockpile fill on site as places a state or county agency contractor may dispose of liquid or solid waste; and
- (2) Specifying content to be included in the receipt from the licensed waste management facility, farm lot, or construction site;

This provides flexibility to the use of cold plane material for farm-use based on a pre-approved recycling plan that is part of the farmer's approved soil and water conservation plan. Construction and maintenance companies generate cold plane material through the controlled removal of existing pavement surfaces to restore the pavement surface to the specified grade and cross-slope. It is good fill-material on farms, and such use reduces landfill.

Thank you for the opportunity to present testimony.

**LATE**

**SB-2337-HD-1**

Submitted on: 4/3/2018 2:32:51 PM

Testimony for FIN on 4/4/2018 2:30:00 PM

| <b>Submitted By</b> | <b>Organization</b>  | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|--|---------------------------|---------------------------|
| Melodie Aduja       | the Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i | Support                   | No                        |

Comments: