

OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

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Statement of
LEO R. ASUNCION
Planning Program Administrator, Office of Planning
before the
**HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION &
WATER, LAND, AND HAWAIIAN AFFAIRS**

Tuesday, February 5, 2019
11:00 AM
State Capitol, Conference Room 325

in consideration of
HB 1564
RELATING TO COASTAL ZONE MANAGEMENT.

Chairs Lowen and Yamane, Vice Chairs Wildberger and Todd, and Members of the House Committees on Energy and Environmental Protection & Water, Land and Hawaiian Affairs.

The Office of Planning (OP) respectfully offers the following comments on HB 1564 as follows:

- 1) Related to the proposed contingent mortgage financing pilot program:
 - Such a program may inadvertently incentivize continued risk for property owners with shoreline properties by compensating them through having the State assume their mortgages when the owners relinquish their high value properties to the State and then also providing them with low interest loans backed by the State and administered by the State.
 - The complexities in the area of mortgages, title defects, liens on properties, etc., require specialized knowledge that may exceed the functional responsibilities and capabilities of any one Department/Division/Program at the State.
- 2) The following comment seeks clarification and consistency for terms used in the proposed measure:
 - **Page 5, lines 18 and 20, page 6, lines 11, 13, and 21, page 7, line 10**, the proposal from HB 1564 uses the term “shoreline property”, and **page 11, lines 9-10, and page 12, line 18**, the term “oceanfront property”, respectively. The

OP suggests HB 1564 consistently use one term, and provide the definition of “shoreline property” or “oceanfront property” for the purpose of this measure.

3) The following comments are specific to Part IV of the proposed measure:

- **Page 13, lines 14- 18**, to support continuity of services related to functions provided by public facilities, the OP recommends amending HRS §205A-43.5(a)(2) as follows:
 - (2) Protection of a legal structure [~~costing more than \$20,000;~~] or a public facility, which does not fix the shoreline, under an emergency authorization issued by the authority; provided that the structure or facility is at risk of immediate damage from shoreline erosion;

- **Page 15, lines 16-17**, to prohibit private property owners from taking sand for their own interest, the OP recommends amending HRS § 205A-44(a)(7) as follows:
 - (7) For the response to a public emergency or a state or local disaster in the public interest by public agencies or public utilities.

- **Page 16, lines 15-20, and page 17, lines 1-17**, the proposed amendments to HRS § 205A-44 from HB 1564 prohibit all shoreline hardening structures, and do not allow for repairs to any existing shoreline hardening structures. In some cases, there may be shoreline hardening structures for critical public infrastructure that cannot be moved mauka because geographic or functional constraints. The OP recommends amending HRS § 205A-44(b) and adding subsection 205A-44 (c) as follows:
 - (b) Except as provided in this section, structures are prohibited in the shoreline area without a variance pursuant to this part. Structures in the shoreline area shall not need a variance if:
 - (1) They were completed prior to June 22, 1970;
 - (2) They received either a building permit, board approval, or shoreline setback variance prior to June 16, 1989;
 - (3) They are outside the shoreline area when they receive either a building permit or board approval;
 - (4) They are necessary for or ancillary to continuation of existing agriculture or aquaculture in the shoreline area on June 16, 1989;
 - (5) They are minor structures permitted under rules adopted by the department [~~which~~] that do not affect beach processes or artificially fix the shoreline and do not interfere with public access or public views to and along the shoreline; or
 - (6) Work being done consists of maintenance, repair, reconstruction, and minor additions or alterations of legal boating, maritime, or

watersports recreational facilities, which are publicly owned, and which result in little or no interference with natural shoreline processes; provided that permitted structures, except the existing shoreline hardening structures, including seawalls and revetments, in front of a sand beach, may be repaired, but shall not be enlarged within the shoreline area without a variance.

(c) Except in the case of an imminent threat of a road or highway, or other critical public infrastructure failure, the existing shoreline hardening structures in front of a sand beach shall be removed or retreated when beach restoration or other non-shoreline hardening alternatives are available to allow for natural beach processes.

- **Page 18, lines 17-20, and page 19, lines 1-10**, the OP recommends amending HRS §§ 205A-46(a)(8) and (9) as follows:

(8) Private facilities or improvements ~~[which]~~ that will neither adversely affect beach processes, result in flanking shoreline erosion nor artificially fix the shoreline; provided that the authority also finds that ~~hardship will result to~~ the applicant will be deprived of reasonable use of the land if the facilities or improvements are not allowed within the shoreline area;

(9) Private facilities or improvements that may artificially fix the shoreline in front which no beach exists; provided that the authority ~~[also]~~ finds that ~~[shoreline erosion is likely to cause hardship to]~~ the applicant will be deprived of reasonable use of the land if the facilities or improvements are not allowed within the shoreline area, ~~[and the authority imposes conditions to prohibit any structure seaward of the existing shoreline]~~ and the action will neither affect beach processes nor curtail public access unless it is clearly in the public interest[;] for example, in the case of an imminent threat of a road or highway, or other critical public infrastructure failure; or

- Given that “hardship” was deleted from the amendments to HRS §§ 205A-46(a)(8) and (9), the OP recommends deleting HRS § 205A-46(b) as follows:

~~(b) — Hardship shall be defined in rules adopted by the authority under chapter 91. Hardship shall not be determined as a result of county zoning changes, planned development permits, cluster permits, or subdivision approvals after June 16, 1989, or as a result of any other permit or approval listed in rules adopted by the authority.~~

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
ENERGY & ENVIRONMENTAL PROTECTION
and
WATER, LAND, & HAWAIIAN AFFAIRS**

**Tuesday, February 5, 2019
11:00 am
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1564
RELATING TO COASTAL ZONE MANAGEMENT**

House Bill 1564 proposes to establish the Hawaii Beach Preservation Revolving Fund within the State Treasury, establishes a low-interest contingent mortgage financing pilot program to encourage certain property owners to relocate mauka of expected sea level rise and erosion hazard zones. The bill proposes to increase the Conveyance Tax rates for oceanfront properties with a value of \$10,000,000 or higher and for which the purchaser is ineligible for a county homeowner's exemption on property tax. The bill also proposes to allocate for deposit into the Hawaii Beach Preservation Revolving Fund 100% of conveyance tax revenues collected on oceanfront property that is not owner-occupied and amends coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. **The Department of Land and Natural Resources (Department) acknowledges the intent of this measure and offers the following comments.**

As you know, one of the primary missions of the Department is to protect Hawaii's beaches for present and future generations. However, with the onset of sea level rise, it will be very challenging to simultaneously protect beaches and existing shoreline development, so the Department greatly appreciates a measure such as this, which is intended to provide opportunities for shoreline retreat through non-regulatory financing mechanisms. This measure also introduces regulatory mechanisms such as prohibiting shoreline armoring, which would have the effect of compelling all shoreline development that is impacted by sea level rise to eventually be moved inland.

However, the Department has several concerns with this measure. First, the Department believes that more investigation into financing mechanisms is required to better understand the use of this tool to

support managed retreat. Secondly, this measure establishes a mortgage loan program in the Department, but the Department has no expertise or interest in getting into the mortgage loan business. The Department therefore recommends that the Hawaii Climate Change Mitigation and Adaptation Commission (the Climate Commission), which was established by Act 32, Session Laws of Hawaii 2017, do a thorough investigation of potential financing mechanisms to support managed retreat. The Climate Commission has identified adaptation to sea level rise as a focus area for its work and would be the best multi-jurisdictional body to deal with the complexities of this issue.

Further, the Department questions whether this measure would provide a coastal homeowner with enough of an incentive to relinquish their property to the state in exchange for a low interest loan to invest in property somewhere else.

House Bill 1564 also proposes to amend Section 205A-44, Hawaii Revised Statutes (HRS), of the Coastal Zone Management Act to prohibit all forms of shoreline hardening structures. A more incremental approach would be to improve language in Chapter 205A, HRS, of the Coastal Zone Management Act to ensure that shoreline armoring does not impact beach processes and public beach access, rather than instituting a total ban on shoreline armoring. The Department does not believe it is prudent to create an absolute prohibition on all forms of shoreline hardening structures. In some situations, these are required to be maintained and improved to protect public infrastructure such as roads, harbors and airports. In addition, groins can be used responsibly to stabilize public beaches (such as in Waikiki) and navigation groins are needed to provide protection for marine and harbor facilities.

While the Department agrees with the intent of the measure to prohibit shoreline armoring, the Department is primarily interested in the avoidance of shoreline hardening projects that impact beaches and public access to beaches, not necessarily with shoreline hardening structures that protect critical infrastructure –provided that infrastructure does not impact beach processes and lateral public shoreline access. While such infrastructure will likely have to be relocated in the future due to the anticipated acceleration in sea level rise, we believe that it would be unwise, premature, and impossible to require all infrastructure to be moved today.

Finally, we reiterate that with increasing sea level rise, it may be almost impossible to simultaneously protect beaches and existing shoreline development. To address this, the Department is recommending a “triage” approach in which we identify areas along Hawaii’s coastline where there are beach resources (e.g., North Shore, Oahu) that can be saved utilizing a multi-pronged approach of non-regulatory (financing) and regulatory (zoning) mechanisms. While arguably a short-term solution, areas in which there are no beaches or lateral shoreline access it may be acceptable to consider a combination of shoreline retreat, and engineering solutions. Identifying the components of a statewide approach is recommended before we move ahead on making specific decisions such as those proposed in this measure.

Thank you for the opportunity to comment on this measure.



STATE OF HAWAII
DEPARTMENT OF TAXATION
830 PUNCHBOWL STREET, ROOM 221
HONOLULU, HAWAII 96813
<http://tax.hawaii.gov/>
Phone: (808) 587-1540 / Fax: (808) 587-1560
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To: The Honorable Nicole E. Lowen, Chair
and Members of the House Committee on Energy and Environmental Protection;

The Honorable Ryan I. Yamane, Chair
and Members of the House Committee on Water, Land, and Hawaiian Affairs

Date: Tuesday, February 5, 2019
Time: 11:00 A.M.
Place: Conference Room 325, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 1564, Relating to Coastal Zone Management

The Department of Taxation (Department) offers the following comments on H.B. 1564 for the Committee's consideration.

H.B. 1564 establishes the Hawaii beach preservation revolving fund and the contingent mortgage financing pilot program, raises conveyance tax rates for certain non-owner-occupied oceanfront properties, and allocates 100% of the revenue from the raised conveyance tax rate to the Hawaii beach preservation revolving fund. A summary of key provisions is as follows:

- Adds two new sections to chapter 171, part VIII, Hawaii Revised Statutes (HRS), establishing the Hawaii beach preservation revolving fund and the contingent mortgage financing pilot program, which will function in tandem to provide low-interest mortgage loans to any owner of a qualifying private resident shoreline property in an expected sea level rise hazard zone or erosion hazard zone who relinquishes the property to the State and uses the loan to acquire or build a residential property mauka of expected sea level rise and erosion hazard zones;
- Makes the contingent mortgage financing pilot program available for up to one hundred qualified single-family residences and up to ten qualified condominium property regimes;
- Requires the Department of Land and Natural Resources (DLNR), or another agency as determined by the Governor, to manage all lands and property acquired by the program;
- Appropriates undetermined sums for fiscal year 2019-2020 and 2020-2021 for the Hawaii beach preservation revolving fund, to be used for the contingent mortgage financing pilot program;
- Amends section 247-2, HRS, to increase the conveyance tax rate for oceanfront properties with a value of \$10,000,000 or higher, and for which the purchaser is ineligible for a county

- homeowner's exemption on property tax, to one dollar and fifty cents per \$100;
- Amends section 247-7, HRS, to require one hundred per cent of the taxes collected on the sale of oceanfront property under the increased conveyance tax rate to be paid into the Hawaii beach preservation revolving fund;
 - Amends section 205A-55, HRS, to prohibit the construction or repair of any shoreline hardening structures, including seawalls and revetments, that would impede the natural landward movement of public trust lands;
 - Effective July 1, 2019; and
 - Sections 2 and 3 repeal on June 30, 2024, repealing the Hawaii beach preservation revolving fund and the contingent mortgage financing pilot program, with all unencumbered balances remaining in the Hawaii beach preservation revolving fund on that date lapsing to the credit of the general fund.

The Department notes that if the intent of the measure is to preserve the new conveyance tax imposition on oceanfront properties and have the revenue from this imposition go to the general fund after June 30, 2024, the Department suggests repealing Section 5 of the measure along with Section 2 and 3 on June 30, 2024.

The Department is able to administer the changes proposed by this bill, but requests that the effective date of the changes to tax rates and tax disposition made by Sections 4 and 5 be amended to January 1, 2020, in order to allow the Department sufficient time to update the relevant forms and instructions.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION
AND WATER, LAND, AND HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 1564

**February 5, 2019
11:00 a.m.
Room 325**

LATE

RELATING TO COASTAL ZONE MANAGEMENT

House Bill (H.B.) No. 1564: establishes the Contingent Mortgage Financing Pilot Program, under the Department of Land and Natural Resources, to encourage qualifying shoreline property owners to relocate mauka of anticipated sea level rise and erosion hazard zones; increases the conveyance tax rates for oceanfront properties valued at \$10,000,000 or more, and for which the purchaser is ineligible for a county homeowner's exemption on property tax; creates the Hawaii Beach Preservation Revolving Fund for the loan program that would generate revenues through legislative appropriations, reimbursements of loan repayments, fees, gifts, donations, grants, moneys from other sources, and interest earnings; and appropriates an unspecified sum of general funds for FY 20 and FY 21 for the pilot loan program.

The department, as a matter of general policy, does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4, HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under

the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to H.B. No. 1564, it is difficult to determine whether the proposed revolving fund would be self-sustaining.

Thank you for your consideration of our comments.

**TESTIMONY BEFORE THE JOINT HOUSE COMMITTEES ON
ENERGY AND ENVIRONMENTAL PROTECTION
AND
WATER, LAND & HAWAIIAN AFFAIRS**

**H.B. 1564
Relating to Coastal Zone Management**

Tuesday, February 5, 2019
11:00 a.m., Agenda Item #1
State Capitol, Conference Room 325

Kerstan J. Wong
Director, Engineering Division
Hawaiian Electric Company, Inc.

Dear Chair Lowen and Chair Yamane, Vice Chair Wildberger and Vice Chair Todd and Members of the Committees,

My name is Kerstan Wong and I am testifying on behalf of Hawaiian Electric Company, Inc. and its subsidiaries, Hawaii Electric Light Company and Maui Electric Company (collectively, "the Companies"). Hawaiian Electric is in **opposition** to H.B. 1564, Relating to Coastal Zone Management.

The Bill prohibits the construction of shoreline hardening structures within the shoreline setback area. It also states no existing shoreline hardening structure shall be altered, repaired, or replaced. Hawaiian Electric has facilities within the shoreline setback areas. This Bill would restrict repair of those existing facilities and thus pose a threat to provide electricity.

As an example, our Kahe Generation Facility on Oahu, which is in the shoreline setback area, produces the most firm and reliable electricity on the island. This facility is especially critical at night when the electrical load on Oahu is at its peak and all photovoltaic generation shuts down.

Accordingly, the Hawaiian Electric Companies oppose H.B. 1564. Thank you for this opportunity to testify.

HB-1564

Submitted on: 2/2/2019 10:32:32 AM

Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Regina Gregory	EcoTipping Points Project	Comments	No

Comments:

Suggest you include a coral reef improvement program because such reefs (a) produce sand and (b) protect the shoreline.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

LATE

Testimony Presented Before the
House Committees on Energy & Environmental Protection and
Water, Land, & Hawaiian Affairs
February 5, 2019 at 11:00 a.m.

By

Charles (Chip) Fletcher
Professor and Associate Dean
School of Ocean and Earth Science and Technology
Vice-Chair, Honolulu Climate Change Commission

And

Makena Coffman
Professor, Urban and Regional Planning
Director, Institute for Sustainability and Resilience
Chair, Honolulu Climate Change Commission

And

Michael Bruno, PhD
Vice Chancellor for Research
Interim Vice Chancellor for Academic Affairs

HB 1564 – RELATING TO COASTAL ZONE MANAGEMENT.

Chairs Lowen and Yamane, Vice Chairs Wildberger and Todd, and members of the committees:

The University of Hawai'i supports key aspects of this legislation provided that its passage does not replace or adversely impact priorities as indicated in our BOR Approved Supplemental Budget.

This bill addresses the problem of strategically re-aligning our land use along the coast, in a time of accelerating sea level rise.

Regarding the prohibition of shoreline hardening, we support an amendment consistent with that suggested by the Sierra Club for HB 549 – retain a hardship test as a necessary condition in addition to, and not overruling, other requirements including neither adversely affecting beach processes, resulting in flanking of adjacent properties, nor curtailing public access.

Additionally, this bill raises the important question of how to strategically re-align land use along the coast through a mortgage mechanism for existing coastal homeowners. It is unclear, however, how the mortgage mechanism proposed would be provided or guaranteed; whether the additional conveyance tax revenues would be sufficient to cover such a program; and whether this is an appropriate/adequate incentive for existing coastal homeowners within vulnerable properties such that it would maintain the public trust asset of the beach. We also encourage that any such program be means-tested. Thus we request these aspects of the financing mechanism be further analyzed and the bill revised accordingly.



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COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Representative Nicole Lowen, Chair
Representative Tina Wildberger, Vice Chair

Tuesday, February 5, 2019, 11:00 a.m., Conference Room 325

HB1564 – Relating to Coastal Zone Management

TESTIMONY

Nancy Davlantes, Legislative Committee Member, League of Women Voters of Hawaii

Chair Lowen, Vice-Chair Wildberger, committee members:

The League of Women Voters of Hawaii supports the intent of HB1564 that, among other objectives, would create incentives to some shoreline property owners to relocate mauka of expected sea level rise and erosion hazard zones.

As with HB549, a bill the League has testified in support of, this bill would also amend the coastal zone management laws to further protect against impacts of sea level rise and coastal erosion. Studies have shown that 70% of beaches in Hawaii are experiencing chronic sand loss and shoreline retreat and that more than 13 miles of beach have been completely lost to erosion fronting seawalls and revetments.

Unlike HB549, this bill requires significant funding to establish a beach preservation fund and establish a low-interest mortgage financing pilot program to encourage eligible shoreline property owners to relocate. The mechanisms to accomplish this will surely be debated, but not the goals of beach preservation and protection against sea level rise and coastal erosion.

The League agrees with the legislature's finding that state coastal zone management policies must be strengthened while also reducing shoreline communities' exposure to hazards.

The League has long had a position that the interrelationships of air, water, and land resources should be recognized in designing environmental safeguards.

Taken together, HB549 and HB1564 address a crisis we cannot afford to ignore.

Thank you for the opportunity to submit testimony.



LATE

Feb. 4, 2019

In Support of HB1564 Relating to Coastal Zone Management
House Committees on Energy & Environmental Protection (EEP) and Water, Land & Health (WLH)
Feb. 5, 2019, 11:00am, Room 325

Aloha, Chairs Lowen & Yamane, Vice Chairs Wildberger & Todd and Members of the Committees:

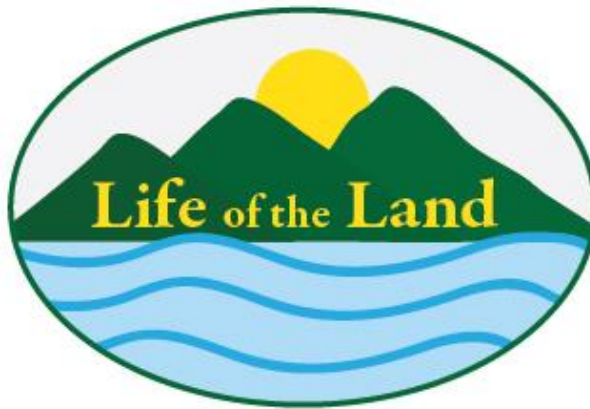
The Surfrider Foundation's Hawaii Chapters strongly support HB1564 to establish the Hawaii Beach Preservation Revolving Fund to help deal with the consequences of climate change and sea level rise. Volunteer leaders from Surfrider's five Hawaii Chapters have played an active role in educating the public about the effects of climate change and sea level rise, and we are working with scientists from the UH Sea Grant Program and environmental groups like Sierra Club and Maui Tomorrow to help mitigate the effects and come up with practical solutions.

As you all know, sea levels are rising, and our beaches are disappearing at an alarming rate. But in the face of increasing erosion rates, many county officials are pressured to give out seawall permits, which only worsen and accelerate the rate of erosion. This policy is disastrous for the community because vainly trying to protect one person's home only makes it worse for their neighbors. Beaches are part of the public trust, protected by the Hawaii Constitution, and they need to be protected. Years of scientific study have proven that sea walls should not be built, but we do need ways to help homeowners.

This bill prohibits the seawalls and other shoreline hardening structures, but it offers a better solution. HB1564 allows for the temporary, non-hardened protection of highways and other public infrastructures, yet it requires that they be moved inland as soon as possible. The bill also taxes the sale of expensive shoreline properties and uses the proceeds to create a revolving fund to help homeowners move back from the ocean and preserve our beaches by allowing them to move inland as they erode. Our beaches are the best defense against climate change, sea level rise and the increasing threat from major storms and hurricanes.

Mahalo for your consideration of this bill and leadership in helping Hawaii to prepare for the effects of climate change and sea level rise.

Aloha,
Stuart Coleman
Stuart H. Coleman, Hawaii Manager



P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709 henry.lifeoftheland@gmail.com

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Nicole E. Lowen, Chair
Rep. Tina Wildberger, Vice Chair

COMMITTEE ON WATER, LAND, & HAWAIIAN AFFAIRS

Rep. Ryan I. Yamane, Chair
Rep. Chris Todd, Vice Chair

DATE: Tuesday, February 5, 2019

TIME: 11:00 AM

PLACE: Conference Room 325

HB 1564 RELATING TO COASTAL ZONE MANAGEMENT.

STRONG SUPPORT

Aloha Chairs Lowen and Yamane, Vice Chairs Wildberger and Todd, and Members of the Committees

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 49 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 1564 proposes a new chapter. "§171-B(a) "There is established the contingent mortgage financing pilot program, to be administered by the department, to provide a low-interest mortgage loan to any owner of a qualifying private residential shoreline property in an expected sea level rise hazard zone or erosion hazard zone...with rules adopted by the department pursuant to chapter 91"

The loans may be made to "qualifying private residential shoreline property" and "private condominium property regime."

With limited funds, the department should be able to reject low-cost loans to those who knew of the danger and chose to acquire or build a residential or condominium unit.

HB-1564

Submitted on: 2/1/2019 6:49:56 PM

Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Winslow	Hawaii Farmers Union	Support	No

Comments:

HB-1564

Submitted on: 2/4/2019 11:02:49 AM

Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacqueline S. Ambrose	Individual	Support	No

Comments:

Save Maui's beaches is imperative for future generations.

LATE

HB-1564

Submitted on: 2/4/2019 1:57:16 PM

Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
marta greenleaf	Individual	Support	No

Comments:

This bill supports helping people who will need to relocate due to sea level rise. At the same time, it protects our shorelines by not building sea walls.

LATE

HB-1564

Submitted on: 2/4/2019 1:01:16 PM

Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Cadiz	Individual	Oppose	No

Comments:

I thank the committee and the sponsors of this bill for seeking solutions for beach preservation. I have two issues with this bill though.

First, the bill erroneously assumes that allowing erosion will restore beaches. There is not necessarily an infinite supply of upland sand on all beaches in Hawaii. Hawaii's beaches are sourced by sand from our reefs and therefore, especially on the younger islands like Maui and the Big Island, erosion of sandy beaches will result in the loss of the narrow ribbons of sand that cover the clay and rock substrate. I am afraid that passage of this measure will inadvertently harm Maui's north shore beach preservation efforts.

Rather than allowing sandy beaches to erode, we should be focusing on preservation and restoration of the sand on the sandy beaches.

Second, the bill prohibits all shore structures which ignores the successes of engineering solutions to shore and beach preservation. Hawaii has numerous examples of successful shore structures that have restored and enhanced its beaches. Sugar Cove on Maui has an engineered, 600' rock revetment fronted by placed sand which has restored a severely eroding beach with no safe access to a wide, beautiful, sandy beach enjoyed by locals and visitors alike. Another example of successful shoreline structures in Hawaii is the T-head groins at Iroquois Point. And most recently a hui of homeowners on Maui's north shore gained permits for shore perpendicular rock groins that have restored a beach that was undermining homes and is now 50 to 75' wide.

While the intentions of this bill are admirable, it needs amendments to actually achieve its goal of protecting and preserving all beaches in Hawaii.

LATE

HB-1564

Submitted on: 2/5/2019 8:15:52 AM
Testimony for EEP on 2/5/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

LATE



MAUI TOMORROW

Protecting Maui's Future

Testimony before the
House Committees on:

- Energy & Environmental Protection
- Water, Land & Hawaiian Affairs

February 5, 2019

H.B. No. 1564 – Relating to Coastal Zone Management

STRONG SUPPORT
with **COMMENTS** and
PROPOSED AMENDMENTS

By Albert Perez
Executive Director
Maui Tomorrow Foundation, Inc.

Aloha Chairs Lowen and Yamane, Vice Chairs Wildberger and Todd, and members of the committees:

The Maui Tomorrow Foundation **SUPPORTS** HB 1564, with **COMMENTS** and **PROPOSED AMENDMENTS**.

- The sea level is rising. Our beaches are disappearing.
- Government agencies keep giving out seawall permits, making beaches disappear faster.
- Sea level rise ultimately makes seawalls ineffective due to undermining, and the raising of the water table behind them.
- Shoreline property owners should not be allowed to build seawalls, but they need a way out of their situation.
- This bill helps owners to move out of harm's way by offering low-interest mortgage financing to acquire property outside erosion and sea level rise hazard areas.

WHAT WILL HAWAII BE LIKE WITHOUT BEACHES?

I was at a home in Lanikai a few years ago, and mentioned to the owner that there used to be a beach in front of his property. His response was that his seawall had preserved his yard, had caused the loss of the dry beach, and had created a “wet beach” – in other words, a beach that

existed only at low tide. He liked it this way because it reduced the number of people walking in front of his home.

This is exactly what we need to prevent. The public's right to lateral access along our shorelines is rapidly being lost, along with opportunities for recreation, fishing, cultural practices, and habitat for federally endangered Hawaiian Monk Seals.



Please support House Bill 1564, which:

- prohibits seawalls and other shoreline hardening structures
- allows temporary, non-hardened protection of highways and other public infrastructure, but requires that they be moved inland as soon as possible
- taxes the sale of expensive shoreline properties, and uses the proceeds to create a fund to help owners move back from the ocean
- preserves our beaches by allowing them to move inland as they erode

Article XI, Section 1 of the state constitution clearly states that "[a]ll public natural resources are held in trust by the State for the benefit of the people"; this includes marine resources. HRS 205A-44(b) prohibits structures in the shoreline area without a variance. Unfortunately, too many of these variances are being issued, and we are losing our beaches to shoreline hardening, and the state constitution's guarantee that these resources will be protected is not being enforced. It is time for this practice to end.

Decision makers, when faced with the choice between protecting our public trust beaches, or allowing property owners to protect their land, are issuing variances and leases that allow shoreline hardening all too often. This bill provides an alternative that will give property owners a way out of their situation– to do the right thing and retreat from an unstable area that should never have been built on in the first place. In return for agreeing to move out of the way of the advancing shoreline, the state can help them out by providing or underwriting low-interest mortgages. The details of that arrangement should be left to a department chosen by the governor. The interest rate chosen should always be lower than that obtainable on the open market, in order to provide a true incentive that homeowners will take advantage of.

Without seawalls, public trust beaches will continue to exist, as they should. Under the proposed bill, property owners would be able to obtain a mortgage – up to the current value of their property – that could be used to acquire another property mauka of the erosion hazard and sea level hazard zones.

If seawalls continue to be an option, property owners will have little reason to take advantage of the proposed mortgage financing program, and we will continue to lose our public trust beaches.

As sometime happens now, structures that are undermined collapse on the beach, leaving broken concrete and rusting metal, thus presenting a public hazard. Rather than incur legal costs and delays in getting property owners to remove these materials, the state could instead agree to provide funds to demolish and remove the structures before they collapse. Assisting owners who agree to relinquish their property in this way would be a fair tradeoff in order to achieve protection of the public beach. The proposed bill should be amended to make it clear that demolition and removal costs will be borne by the state, and will be paid for by the Hawaii Beach Preservation Revolving Fund that is created.

The Hawaii Sea Level Rise Vulnerability and Adaptation Report offers a conservative estimate of likely damages, based on the best available science, and offers "recommendations to reduce our exposure and sensitivity to sea level rise and increase our capacity to adapt". These recommendations include the managed retreat of public infrastructure and private property.

Seawalls adversely affect beach processes almost without exception. They impede the natural mauka movement of the beach, preventing these lands from entering into the public trust, and sea level rise ultimately makes them ineffective, due to undermining and the raising of the water table behind them. Seawalls also make it more difficult and eventually impossible for Hawaii residents to access their public trust beaches. The Hawaii Sea Level Rise Vulnerability and Adaptation Report details beaches on each of the islands that would be lost if structures such as seawalls impede the landward migration of the beach.

With an appropriation and conveyance tax revenues, the Hawaii Beach Preservation Revolving Fund created by this bill will have enough money to begin purchasing homes. The goal is not to purchase all shoreline properties in the state at once, but to start moving the most at-risk homes out of the way, so the State may rehabilitate the land to ensure public beach access. This will be less costly than if the State were to wait until the homes were abandoned due to chronic

inundation. Additionally, as property owners who participate in the program will be making principal and interest payments, the fund will replenish itself and actually increase as the program continues to receive new monies from the conveyance tax.

When seawalls on private property are no longer allowed, the availability of a low-interest mortgage for the current value of their property will become an attractive option. Without a seawall to hold back the ocean, the public trust beach will gradually replace their property; Eventually, the land and structures will experience increased and/or chronic flooding, resulting in a significant decrease in the value of the property. The proposed bill gives owners the opportunity to relocate to a property of comparable value mauka of the hazard zone.

Although harbors and other coastal-dependent infrastructure cannot be moved mauka, the State should start planning now for the eventuality of moving upwards of 38 miles of roads, several wastewater treatment plants, airports, power lines, etc. The Hawaii Sea Level Rise Vulnerability Adaptation Report indicates that Hawaii could see 3.2 feet of sea level rise as early as 2060.

Hawaii's beaches are disappearing at an alarming rate due to sea level rise, and more intense coastal processes. This process is being exacerbated by seawalls. The time to take action is now, while the State has the opportunity to protect its public trust lands. Our beaches can't wait for another study, or for the perfect management framework. This bill provides a tool that we can use to begin helping property owners move out of the danger zone now, when their structures are still above water, while also continuing to develop a comprehensive, statewide approach.

I urge you to support this bill with the following amendments:

1. All references to "the department" should be changed to "the department, or appropriate agency as chosen by the governor."
2. In order to prevent public hazards and pollution resulting from the undermining of structures, the cost of moving structures, or the cost of demolition and removal, should be borne by the state. These monies should come out of the revolving fund.

Mahalo for the opportunity to comment on this important legislation.

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