

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

KALEO MANUEL
DEPUTY DIRECTOR - WATER

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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
AGRICULTURE AND ENVIRONMENT**

**Friday, February 7, 2020
1:35 pm
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 2756
RELATING TO WATER QUALITY**

Senate Bill 2756 proposes to amend Section 342D-6 Hawai'i Revised Statutes (HRS), to waive the requirement to obtain a Section 401 water quality certification for certain small scale beach restoration projects authorized by the Department of Land and Natural Resources (Department). **The Department strongly supports this measure and offers the following comments.**

It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion, sea level rise, and beach loss in Hawai'i. Beaches are central to our culture and economy and provide natural defense from the impacts of storms and high waves, yet our beaches are being lost at alarming rates due to natural processes and human impacts, threatening coastal ecosystems, alongshore public access, and upland development.

Following the Department's Coastal Erosion Management Plan, staff is actively working with county governments and private landowners to facilitate nature-based solutions to erosion management instead of coastal armoring (e.g., seawalls), which is a practice known to have deleterious effects on beaches. These nature-based solutions include beach and dune restoration, sand back-passing or bypassing, and stream mouth clearing using clean carbonate sand from the local beach and marine environment.

The Department is in the final stages of re-authorizing and extending a Small Scale Beach Restoration (SSBR) permitting program under a programmatic statewide conservation district use permit and programmatic environmental assessment, working closely with state, county, and federal agencies. The SSBR program is intended to streamline the permitting and regulatory process for beach nourishment and sediment management projects as a viable ecosystem-based alternative to shoreline hardening.

Overly burdensome permit requirement for beach restoration and maintenance projects discourage and prevent individuals and government agencies from initiating beach restoration projects. For example, some best management practices (such as complete dewatering of sand sourced from directly offshore) require double or triple handling of material, which drives up project costs to a point that is prohibitively expensive. Not requiring a Section 401 Water Quality Certification for SSBR projects administered by the Department would result in a considerable reduction in project costs, would allow more efficient project delivery, and more effective administration of water pollution controls without jeopardizing environmental quality.

It is not the intent of the Department or this bill to undermine the provisions of the Federal Clean Water Act. The Department recognizes the vulnerability of and is working to protect our nearshore marine resources. With SSBR, the Department will enforce permit conditions that are consistent with Section 401 of the Federal Clean Water Act pertaining to beach restoration and water quality protection.

The Department has discussed this bill with the Department of Health, reviewed draft comments from them, and agrees with the intent of the comments and suggested amendments in their testimony.

The Department has demonstrated its willingness and ability to administer provisions of the Federal Clean Water Act on a similar program through State Act 230, Session Laws of Hawaii 2015, which waived the requirement for a Section 401 water quality certification under Section 342D-6.5, HRS, for projects permitted under the Department's Ho'āla Loko I'a (fishpond repair) streamlined permitting program.

Thank you for the opportunity to testify on this measure.



DEPARTMENT OF LAND AND NATURAL RESOURCES

DAVID Y. IGE
GOVERNOR

SUZANNE D. CASE
CHAIRPERSON

FOR IMMEDIATE RELEASE

Sept. 5, 2018

STATE CLIMATE COMMISSION ADOPTS RECOMMENDATIONS FOR COUNTERING IMPACTS OF SEA LEVEL RISE

(Honolulu) – The Hawai'i Climate Change Mitigation and Adaptation Commission (Climate Commission) at its regular quarterly meeting yesterday adopted a series of recommendations and finalized a mission statement to help guide Hawai'i's response to the impacts of climate change.

The Climate Commission is led by the DLNR Chair and the Director of the State Office of Planning and includes members from key state and county agencies. The group's mission statement formalized and approved at the meeting is as follows:

"Hawaii's Climate Commission recognizes the urgency of climate threats and the need to act quickly. It promotes ambitious, climate-neutral, culturally responsive strategies for climate change adaptation and mitigation in a manner that is Clean, Equitable & Resilient."

The recommended strategies or steps agreed upon by the Climate Commission include:

- Support legislation for disclosure for private property and public offerings located in areas with potential exposure to sea level rise.
- Request all new development, redevelopment and modifications be directed away from beach areas.
- Urge counties to incorporate the 3.2 ft. sea level rise exposure area (SLR-XA) into their general and development plans.
- Encourage agencies and non-governmental utility providers to identify and prioritize assets within the 3.2 ft SLR-XA or more as described in the State's Sea Level Rise report, identify adaptation measures, and to provide a status update on this activity annually to the Climate Commission.
- Support legislation that funds State programs to meet mitigation goals, and to bring resources to assist in planning and implementation for sea level rise and other climate related impacts.

The next quarterly meeting of the Climate Commission is scheduled for Tuesday, Nov. 27, 2018 from 1:00 – 4:00 p.m. at the Board of Land and Natural Resources meeting room, Kalanimoku Building, 1151 Punchbowl Street in Honolulu. All meetings are open to the public.

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RESOURCES

(All video/images courtesy: DLNR)

Hawai'i Climate Change Portal:

<http://climate.hawaii.gov/>

Rising Seas in Hawai'i television special:

<https://vimeo.com/249760017>

HD video-Sea level rise adaptation media clips:

<https://vimeo.com/197533871>

Media Contact:

Dan Dennison

Senior Communications Manager

(808) 587-0396



**STATE OF HAWAII
DEPARTMENT OF HEALTH**

P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of SB2756
RELATING TO WATER QUALITY**

SENATOR KAIALI'I KAHELE, CHAIR
SENATE COMMITTEE ON WATER AND LAND

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Hearing Date: 02/07/2020 Room Number: 224

1 **Fiscal Implications:** None.

2 **Department Testimony:** The Department of Health (Department) supports this measure with
3 comments. The bill proposes to add a subsection to Hawaii Revised Statutes (HRS) §342D-6 to
4 waive a Section 401 Water Quality Certification (WQC) for any applicant that has received
5 notice of authorization to proceed from the Department of Land and Natural Resources (DLNR),
6 Office of Conservation and Coastal Lands under its small scale beach restoration streamlined
7 general permit program.

8 The phrase “waive the requirement to obtain” in the proposed HRS §342D-6(i) should be
9 replaced with “not require a” to avoid confusion or conflict with the terminology in Hawaii
10 Administrative Rules, Chapter 11-54, which requires an application and filing fee before the
11 Department can consider waiving the Section 401 WQC. The proposed amendment will make it
12 clear that the application and filing fee are not necessary.

13 As stated in the bill, through the use of statewide programmatic conservation district use
14 permits, the DLNR will enforce new permit conditions that are consistent with those provisions
15 of Section 401 of the Federal Clean Water Act pertaining to beach restoration and water quality
16 protection measures. The Department believes that enforcement of the permit conditions is
17 necessary to control water pollution during beach conservation and restoration projects.

1 **Offered Amendments:** The suggested proposed amendments to HRS §342D-6(i) are provided
2 below.

3 “(i) The department shall not require a section 401 water quality certification under this
4 chapter for any applicant that has received notice of authorization to proceed from the
5 department of land and natural resources, office of conservation and coastal lands under
6 the small scale beach restoration program.”

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



**Testimony Presented Before the
Joint Senate Committee on Water and Land
and
on Agriculture and Environment**

**February 7, 2020 at 1:35 PM
Senate Conference Room 224**

**By
Andrew Wycklendt
President
Hawai'i Shore and Beach Preservation Association**

SUPPORT FOR SB2756 – RELATING TO WATER QUALITY

Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman, and members of the committee:

The Hawai'i Shore and Beach Preservation Association (HSBPA) strongly supports Senate Bill 2756. Senate Bill 2756 proposes to amend Hawai'i Revised Statutes Chapter 342D-6 to waive the requirement to obtain a Section 401 Water Quality Certification for projects authorized by the Department of Land and Natural Resources (DLNR) under the Small Scale Beach Restoration (SSBR) program.

Hawaii's beaches have become increasingly threatened by coastal erosion. According to the United States Geological Survey (USGS) *National Assessment of Shoreline Change for the Hawaiian Islands*, 70% of our beaches are chronically eroding and more than 13 miles of our beaches have been lost over the last century. Furthermore, sea level rise is increasing the extent and severity of erosion and loss of beach environments in Hawai'i. As referenced in the *Hawai'i Sea Level Rise Vulnerability and Adaptation Report*, shoreline recession (erosion) rates along our sandy beaches are expected to double by mid-century when considering the projected increase in the rate of sea level rise.

The loss of Hawaii's beaches is a major social, economic, and environmental problem. Beach erosion affects shoreline access, major transportation assets, recreation, cultural activities, coastal habitat, and our economy. Beaches are a critical component of Hawaii's \$15-billion tourism industry and are central to Hawaii's unique culture and lifestyle. When considering sea level rise and chronic coastal erosion, we are challenged to find effective and efficient ways to conserve our naturally occurring sandy beaches.

The HSBPA believes Senate Bill 2756 will help support the long-term preservation of Hawaii's coastal resources by allowing nature-based solutions to be efficiently implemented along our eroding shorelines. Efficient implementation of beach management, maintenance, and restoration projects is critical when considering the scarcity of our limited sand resource and the protection that it provides. For example, beaches and dunes in a "healthy" state naturally protect backshore infrastructure and cultural resources from the impacts of large waves and erosion. Moreover, restoration and maintenance of this recreationally and culturally significant region of the ahupua'a can maintain and improve habitat for a wide range of species, improve water quality by providing a natural buffer between waves and exposed soil deposits along eroded shorelines, and can help preserve cultural resources in the backshore.

Hawai'i Shore & Beach Preservation Association

Offering flexibility to place or relocate clean marine sand along the shoreline is an essential part of beach management that is routinely performed around the world. However, this practice is especially complex in Hawai'i due to our State's unique Water Quality Certification requirements. Waiving the State's Water Quality Certification requirements for projects authorized by the DLNR under the SSBR program will result in improved State administration efficiencies by avoiding duplicative efforts to regulate water quality. For example, site-specific water quality control measures are Best Management Practices (BMPs) defined and approved before a project is authorized by the DLNR under the SSBR program.

Senate Bill 2756 notes that *“Additionally, the department [DLNR] will enforce new permit conditions that are consistent with those provisions of section 401 of the federal Clean Water Act pertaining to beach restoration and water quality protection measures...It is not the intent of this Act to limit or impede state environmental controls on water pollution.”* The HSBPA is in agreement that waiving the 401 Water Quality Certification for projects authorized by the DLNR under the SSBR program is not expected or anticipated to cause a decline in nearshore marine water quality and will likely result in a significant reduction of project costs due to improved regulatory environment control efficiency. The HSBPA believes Senate Bill 2756 offers a more practical, realistic, and balanced approach that will help streamline the permitting of ecosystem-based management options to address coastal erosion while promoting the preservation and restoration of our limited beach resource. It is our hope that this bill will help encourage the selection of erosion mitigation options that conserve beaches and discourage pursuit of erosion control options that harden sandy shorelines.

The HSBPA supports Senate Bill 2756 in the effort to facilitate ecosystem-based management approaches to help to preserve the beaches of Hawai'i. The HSBPA has considerable professional experience mitigating coastal hazards through the implementation of beach management, maintenance, and restoration projects. Supporting the preservation and restoration of natural beaches on our coasts is an appropriate response to the significant coastal threats Hawai'i faces today. Senate Bill 2756 will facilitate appropriate beach management efforts and supports the conservation of Hawaii's beaches while encouraging nature-based solutions to protect backshore resources.

Thank you for considering our testimony on this bill.

Aloha,

Andrew Wycklendt
President, Hawai'i Shore and Beach Preservation Association

*The Hawai'i Shore and Beach Preservation Association (HSBPA, <http://asbpa.org/hawaii/>) is an organization of private sector, academic, and government professionals, students and local community members dedicated to the preservation and restoration of Hawaii's beaches and coastal environments. The HSBPA aims to bring together various members of the coastal community to foster dialogue and cooperation on beach and coastal resource conservation, management, and regulation; supporting professional development of chapter members; and providing education to students and community members on Hawaii's beaches and coastal environments.

Hawai'i Shore & Beach Preservation Association



Testimony Presented Before the
SENATE
COMMITTEE ON WATER AND LAND
AND
AGRICULTURE AND ENVIRONMENT

February 07, 2020 at 1:35pm
Senate Conference Room 224

Waikīkī Beach Special Improvement District Association

By
Rick Egged, President

SB2756 – RELATING TO WATER QUALITY

Chairs Kahele and Gabbard, Vice Chairs Keith-Agaran and Ruderman and members of the committee:

The Waikīkī Beach Special Improvement District Association (WBSIDA) **supports Senate Bill 2756**. Senate Bill 2756 proposes to amend Hawai‘i Revised Statutes (HRS) Chapter 342D-6 to waive the requirement to obtain a Section 401 water quality certification for projects authorized by the Department of Land and Natural Resources (DLNR).

Hawaii’s beaches have become increasingly threatened by coastal erosion. According to the United States Geological Service (USGS) *National Assessment of Shoreline Change for the Hawaiian Islands*, 70% of Hawaii’s beaches are eroding and 13 miles of beach have been lost over the last century. Beach erosion affects shoreline access, recreation and cultural activities, coastal ecosystems and environments, and our economy. Beaches are the backbone of Hawaii’s \$15 billion tourism industry and are central to Hawaii’s unique culture and lifestyle. Statewide, sea-level rise threatens major infrastructure and chronic coastal erosion is destroying beaches, in response the state is challenged to find effective and efficient ways to preserve and maintain our naturally occurring sand beaches. The proposed legislation will support and encourage small-scale beach maintenance projects throughout Hawai‘i and result in improved management and preservation of Hawai‘i’s possibly most important natural resource.

Waikīkī Beach is a globally recognized icon of Hawai‘i and is the state’s largest tourist destination. Waikīkī generates approximately 42% of the state’s visitor industry revenue and is responsible for 8% (\$5 billion) of the Gross State Product¹. Beaches are a primary attraction for visitors to Waikīkī. It has been estimated that Waikīkī Beach accounts for over \$2 billion in annual income for the local economy². However, a 2008 survey found that up to 60% of westbound visitors would

¹ <http://www.waikikibid.org/>

² Waikīkī Improvement Association (2018) *Economic Impact Analysis of the Potential Erosion of Waikīkī Beach, Final Report*.

not return to Waikīkī due, in part, to limited beach area and resulting overcrowding². Waikīkī Beach also has tremendous cultural significance as a former playground of Hawaiian royalty and the birthplace of the sport and culture of surfing. The beaches and myriad of world-renown surf breaks and reef ecosystem located offshore are valuable natural resources that support the environment, culture and lifestyle of Hawai‘i, and the idyllic image of Waikīkī.

The current regulatory requirements for placement or maintenance of beach sand are unnecessarily arduous and do not allow for discretionary environmental controls that are best suited to each project. Offering flexibility to place or relocate clean marine sands along the shoreline is an essential part of beach management practices around the world but has become especially complex in Hawai‘i due to rigorous and unique Water Quality Certification Section 401 (WQC) regulatory requirements. Waiving the Section 401 WQC requirement for projects approved and regulated by the DLNR will result in the State more efficiently administering site-specific water pollution control during beach management and restoration projects.

The 2019 Hawai‘i state legislature appropriated \$10 million to the Department of Land and Natural Resources for Waikīkī Beach Improvements of which the WBSIDA is identified as a cost-share partner for \$3 million. The WBSIDA is also a project partner with the state on several other beach improvement projects in Waikīkī. The current water quality best management practices and monitoring requirements administered through the Section 401 WQC, add a disproportionate cost to beach improvement projects with very little benefit to nearshore water quality as a result. The WBSIDA supports SB2756 in the effort to reduce the regulatory complexity and bureaucracy. This effort will also reduce the direct project cost, facilitate ecosystem-based beach management projects and help to conserve the beaches of Hawai‘i. SB2756 will facilitate appropriate beach maintenance projects when approved by the DLNR and support the conservation, preservation and maintenance of Hawai‘i’s beaches while encouraging “softer” measures to protect the shoreline where hard engineered structures are not appropriate. Thank you for the opportunity to testify.

The Waikiki Beach Special Improvement District Association (WBSIDA) is dedicated to enhancing the resilience of Waikīkī by ensuring the coordinated management and long-term sustainability of Waikiki Beach and nearshore waters.

<https://www.wbsida.org/>

SB-2756

Submitted on: 2/4/2020 6:25:46 PM

Testimony for WTL on 2/7/2020 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

SB-2756

Submitted on: 2/4/2020 10:57:37 AM

Testimony for WTL on 2/7/2020 1:35:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jimmy Gomes	Individual	Support	No

Comments: