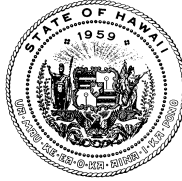


DAVID Y. IGE
GOVERNOR OF HAWAII



KEITH KAWAOKA
ACTING DIRECTOR

ELIZABETH A. CHAR, Ph.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
235 SOUTH BERETANIA STREET, SUITE 702
HONOLULU, HAWAII 96813
oeqchawaii@doh.hawaii.gov

Testimony COMMENTING on SB1055
RELATING TO ENVIRONMENTAL IMPACT STATEMENT

COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON TRANSPORTATION
Senator Chris Lee, Chair
Senator Lorraine R. Inouye, Vice Chair

Testimony of Keith Kawaoka
Acting Director, Office of Environmental Quality Control
Attached Agency to the Department of Health

Hearing Date: February 10, 2021
1 p.m.

Room Number: 325
Via Videoconference

- 1 **OEQC's Position:** The Office of Environmental Quality Control (OEQC), an agency attached to the
- 2 Department of Health and which administers Chapter 343, Environmental Impact Statements, Hawai'i
- 3 Revised Statutes (HRS) provides these comments on SB1055.
- 4 **Purpose and Justification:** While this bill attempts to streamline the development process, it would do
- 5 so by terminating a longstanding and accepted practice of comprehensively analyzing major development
- 6 projects in their entirety when the triggering component of the project are uses of an adjoining public
- 7 Right-of-Way, such as necessary improvements to an intersection at a public highway or modification of
- 8 sewer or drainage infrastructure. This is a substantial change from the practice of reviewing proposed
- 9 large-scale projects, and deserves substantial consideration and attention prior to implementation.

1 Further, the bill would have the unintended effect of improperly segmenting actions when there is a
2 “primary action” component on private lands that triggers HRS Chapter 343 (due to needing a general
3 plan amendment or being situated in the Conservation District, in Waikiki, or on a historic site, for
4 example), along with a “secondary action” component involving infrastructure in a public Right-of-Way
5 that currently also triggers review but that would be exempted from the requirements of HRS Chapter 343
6 pursuant to this bill. In this scenario, the primary action component would have to undergo
7 environmental review, while the secondary action component would not. Longstanding policy and the
8 administrative rules that govern the environmental review process (HAR Section 11-200.1-10) have
9 consistently prohibited the “segmenting” of projects into multiple components that are not considered
10 comprehensively. We encourage very thoughtful consideration of the significant implications of this bill.
11 Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

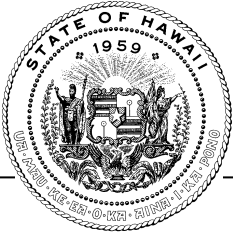
February 10, 2021
1:00 P.M.
State Capitol, Teleconference

S. B. 1055
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Senate Committees on Agriculture and Environment and Transportation

The Department of Transportation (DOT) **supports** S. B. 1055 which amends Chapter 343, Hawaii Revised Statutes, to exempt secondary actions from the need to obtain an Environmental Impact Statement (EIS) when the secondary action is limited to installation, renovation, construction, or development of infrastructure within the existing public right-of-way or highway. An exemption would streamline the development approval process, save time, and reduce costs.

Thank you for the opportunity to provide testimony.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
AND
SENATE COMMITTEE ON TRANSPORTATION**

Wednesday, February 10, 2021

1:00 PM

Via Videoconference

in consideration of

SB 1055

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

Chairs Gabbard and Lee, Vice Chairs Nishihara and Inouye, and Members of the Senate Committees on Agriculture and Environment and Transportation:

The Office of Planning **strongly supports** Administration Bill, HB 901, which would amend Hawaii Revised Statutes (HRS) § 343-5.5 to delete reference to discretionary permits in allowing infrastructure improvements within a highway or public right-of-way to be exempt from environmental assessment requirements. The bill would exempt development projects involving discretionary approvals from the need to prepare an Environmental Assessment (“EA”) or an Environmental Impact Statement (“EIS”) if the only trigger is a relatively minor infrastructure improvement such as a water line or sewer line connection or driveway improvements to a highway or public right-of-way.

This bill streamlines the environmental review process by deleting the reference to discretionary consents and allowing the infrastructure exemption for all development projects. There is no impact on public review since discretionary permits are already required to undergo public hearings. The bill would also reduce the time to process major projects which otherwise would not require the preparation of an EA or EIS.

Thank you for this opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE
GOVERNOR

MIKE MCCARTNEY
DIRECTOR

CHUNG I. CHANG
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
MIKE MCCARTNEY
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
AND
SENATE COMMITTEE ON TRANSPORTATION**

Wednesday, February 10, 2021
1:00 PM
Via Videoconference

In consideration of
SENATE BILL NO 1055
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS.

Chairs Gabbard and Lee, Vice Chairs Nishihara and Inouye, and members of the Senate Committees on Agriculture and Environment and Transportation.

The Department of Business, Economic Development and Tourism (DBEDT) **strongly supports** Administration Bill, SB 1055.

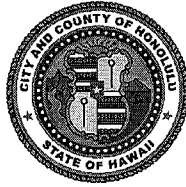
This bill would amend Hawaii Revised Statutes (HRS) § 343-5.5 to delete reference to discretionary permits in allowing infrastructure improvements within a highway or public right-of-way to be exempt from environmental assessment requirements. If approved, the bill would streamline the environmental review process by exempting all development projects from the need to prepare an Environmental Assessment ("EA") or an Environmental Impact Statement ("EIS") for relatively minor improvements within or to a highway or public right-of-way.

Thank you for this opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

RICK BLANGIARDI
MAYOR



DEAN UCHIDA
DIRECTOR DESIGNATE
DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR
EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

February 10, 2021

The Honorable Mike Gabbard, Chair
and Members of the Committee on
Agriculture and Environment
The Honorable Chris Lee, Chair
and Members of the Committee on Transportation
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Gabbard, Lee, and Committee Members:

**Subject: Senate Bill No. 1055
Relating to Environmental Impact Statements**

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 1055, which proposes to amend the environmental impact statement law to no longer require minor, secondary actions of infrastructure improvements within a highway or public right-of-way that are ancillary to a primary action to prepare an Environmental Assessment (EA) or Environmental Impact Statement (EIS).

A secondary action, such as connecting a water or sewer line to a highway, or making a roadway connection to a public right-of-way, should not be the sole basis for triggering an EA, which can add considerable time and cost to projects as well as additional reviews by county agencies. Primary actions that require discretionary permits are already required to undergo public hearings and reviews by county agencies. This Bill can help streamline the process and reduce the time to develop projects.

Thank you for this opportunity to provide testimony.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dean Uchida".

Dean Uchida
Director Designate



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

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Clarence K. Nishihara, Vice Chair

COMMITTEE ON TRANSPORTATION

Senator Chris Lee, Chair

Senator Lorraine R. Inouye, Vice Chair

DATE: Wednesday, February 10, 2021

TIME: 1:00 p.m.

SB 1055 RELATING TO EIS

STRONG OPPOSITION

Aloha Chairs Gabbard and Lee, Vice Chairs Nishihara and Inouye, 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 51 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.

HRS Chapter 343 has several triggers that require initiation of the environmental impact statement processes.

One giant loophole is using private funds for a project on privately-owned agricultural land. Large wind farms, cemeteries, golf courses, resorts, shopping centers, and can all escape the EIS process.

There is a massive fossil fuel power plant in Honoka`a on Hawai'i Island that was built without an EIS. A law was passed to prevent new fossil fuel power plants from escaping the EIS process.

There is a hook that captures some of these massive projects. If they require modification to a road or other public system, then an EIS is required. **HB 901 would eliminate this hook, initiating good and bad development without proper review.**

Mahalo

Henry Curtis, Executive Director

SB-1055

Submitted on: 2/10/2021 8:14:11 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
jaerick medeiros-garcia	Testifying for makahanaloa fishing association	Oppose	No

Comments:

I oppose SB1055, another stupid law maker idea.

SB-1055

Submitted on: 2/10/2021 9:03:13 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT DUERR	Testifying for Wailoa River and Reeds Bay Boating and Users Association	Oppose	No

Comments:

The Wailoa River and Reeds Bay Boating and Users Association, a boating and ocean users non profit in Hilo, is against SB 1055. Contested Cases are important for citizens and groups to have government agencies release non transparent communications and documents. Our organization was incorrectly denied a contested case in the matter of fee increases and priviitization of all Hawaii Small Boat Harbors by the actions of BLNR, DLNR, Div of Boating and Ocean Recreation and Governor Ige. We are now forced to seek legal coussel. We are strongly opposed to SB 1055 and need help. Contact savehawaiiwaters@gmail.com

SB-1055

Submitted on: 2/10/2021 9:08:56 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Isaac Moriwake	Testifying for Earthjustice	Oppose	No

Comments:

Aloha Chairs Gabbard and Lee, Vice Chairs Nishihara and Inouye, and Committee Members,

Earthjustice strongly opposes SB1055. Initially, it is not clear from the face of the bill what issue it seeks to address, or what purpose it seeks to achieve. This makes informed and transparent discussion of this bill difficult or impossible; at minimum, it will create confusion and spawn litigation if passed.

It **appears** that the bill may be attempting to overturn long-standing Hawaii Supreme Court precedent that use of state or county lands for infrastructure improvements, as part of a larger development project, triggers the requirement for the larger project to comply with the state EIS law, HRS chapter 343. If this is SB1055's purpose, then all the more Earthjustice objects to and opposes this bill. This precedent has been established for **more than two decades**, and reversing it would severely gut the scope of the EIS law and subvert its fundamental purposes of enabling informed government decisionmaking and public disclosure and participation.

The bill does not explain or justify the need for any reversal of established precedent. Indeed, the existing section that the bill seeks to amend (HRS section 343-5.5) was enacted years ago at the Department of Transportation's request, to address DOT's concerns about its responsibilities in the EIS process. It is not clear why this further amendment is needed, or what purpose it serves in the first place.

In sum, for the reasons stated above, we oppose SB1055 and respectfully request that it be held. Please do not hesitate to contact us with any questions or for further information. Mahalo nui for this opportunity to testify.

Isaac Moriwake, Esq.

Managing Attorney, Earthjustice

SB-1055

Submitted on: 2/5/2021 12:45:57 PM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Oppose	No

Comments:

Please do not support exceptions to needing EIS.

SB-1055

Submitted on: 2/6/2021 12:02:50 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Individual	Oppose	No

Comments:

To: The Honorable Michael Gabbard, Chair,

The Honorable Clarence Nishihara, Vice Chair, and Members of the

Senate Committee on Agriculture and Environment and

The Honorable Chris Lee, Chair, The Honorable Lorraine Inouye, Vice Chair,

and Members of the Senate Committee on Transportation

From: Ted Bohlen

Re: Hearing on SB1055 RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Wednesday February 10, 2021, 1:00 p.m., by videoconference

Position: **OPPOSE!**

I am very familiar with the Environmental Impact Statement law because, from 2006 through 2020, I represented the State Office of Environmental Quality Control and the Environmental Council.

This bill would exempt from environmental reviews infrastructure improvements in State or county rights of way, even when the improvements are part of a major project that has pending discretionary permits and may have substantial environmental impacts. The environmental review statute is designed to provide the public information on environmental impacts of proposed actions. This bill would deprive the public of that information for certain projects that require infrastructure improvements on State or county land, and so should be deferred.

Thank you for the opportunity to testify.

SB-1055

Submitted on: 2/8/2021 12:30:37 PM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members,

Please support SB1055.

Thank you,

Andrea Quinn

SB-1055

Submitted on: 2/10/2021 7:45:35 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark A. Koppel	Individual	Oppose	No

Comments:

TESTIMONY IN STRONG OPPOSITION TO SB1055

Mark Koppel

Umauma, HI

Aloha Honorable Senators,

This bill is so bad it sounds like another one from ALEC. The problem in Hawaii is that there is not enough oversight on these matters. We need MORE, not less.

This bill is an outrageous attack on democracy.

Please vote "NO" on this bill.

Mahalo

SB-1055

Submitted on: 2/10/2021 7:50:36 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Hunt	Individual	Oppose	No

Comments:

SB1055 and HB344 are an arrogant attack seeking to prevent effected individuals from exercising their right to request a contested case hearing withOUT expensive (unobtainable for most of us) lawyers and litigation. It is anti-democratic and unacceptable. SHAME on those pushing this nonsense!!!

SB-1055

Submitted on: 2/10/2021 8:04:48 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Koohan Paik	Individual	Oppose	No

Comments:

This bill is an expression of the regressive anti-democratic erosion of public participation in government. KILL THIS BILL, PLEASE!

SB-1055

Submitted on: 2/10/2021 8:14:22 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nako'olani Warrington	Individual	Oppose	No

Comments:

Vote NO on SB1055.

SB-1055

Submitted on: 2/10/2021 8:25:52 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Elizabeth Hansen	Individual	Oppose	No

Comments:

Aloha -- Please oppose this bill.

This bill's proposal to eliminate contested cases is not appropriate. Fundamental due process under the Hawaii (and US) Constitutions requires agencies to hold a hearing **before** they make a decision that affects individual rights and privileges. Eliminating this right to an agency hearing, and substituting a court action instead -- **after** the agency makes its decision -- violates constitutional due process.

Mahalo,
Elizabeth Hansen, Hakalau HI 96710

SB-1055

Submitted on: 2/10/2021 8:27:49 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rodger Hansen	Individual	Oppose	No

Comments:

Dear Legislators:

This bill's proposal to eliminate contested cases is not appropriate. Fundamental due process under the Hawaii (and US) Constitutions requires agencies to hold a hearing **before** they make a decision that affects individual rights and privileges. Eliminating this right to an agency hearing, and substituting a court action instead -- **after** the agency makes its decision -- violates constitutional due process.

Please oppose this bill. Mahalo

Rodger Hansen, Hakalau HI 96710

SB-1055

Submitted on: 2/10/2021 8:29:36 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Phaethon Keeney	Individual	Oppose	No

Comments:

Please OPPOSE SB1055. Taking away the public's right to due process thru removal of the contested case procedure exposes public trust resources to manhandling and abuse by private entities who do not have the public interest in mind. Such maneuvering is unconstitutional and will likely be challenged, meanwhile tarnishing Hawaii's reputation in protection of public trust resources.

Please OPPOSE SB1055.

Mahalo, Phaethon Keeney

Honokaa Hawaii 96727

SB-1055

Submitted on: 2/10/2021 8:58:15 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bianca Isaki	Individual	Oppose	No

Comments:

Aloha Senators,

Please oppose SB 1055. Exempting infrastructural development, even secondary such development, from environmental review is unnecessary and dangerous. If the development is truly benign, the work could be exempted from requirements for an EIS. However, this bill purposes to remove all such development from the scope of environmental review. Many times the secondary infrastructure is related to significant actions or, due to changes circumstances, further environmental review is warranted. Passing this bill removes an important tool that communities can use to protect our environment and meeting HRS chapter 343 as it is would not overly burden benign actions.

SB-1055

Submitted on: 2/10/2021 9:57:31 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rhonda	Individual	Oppose	No

Comments:

I oppose SB1055

LATE

SB-1055

Submitted on: 2/10/2021 10:00:20 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Deborah Ward	Individual	Oppose	No

Comments:

Aloha, Senators,

Please do not allow a weakening of environmental laws by passing this bill. We need to inform decisionmakers about the impacts of actions that might otherwise impact our fragile ecosystems in the nearshore caostal enviroment.

Thank you,

Deborah Ward

SB-1055

Submitted on: 2/10/2021 10:02:21 AM

Testimony for AEN on 2/10/2021 1:00:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Oppose	No

Comments:

OPPOSE

We should be strengthening the use of EIS to protect our island' lands not finding ways to not use them. We all know that the EIS is often ignored here on major projects. Need to be better.

SB-1055

Submitted on: 2/10/2021 10:03:34 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Noelani Ahia	Individual	Oppose	No

Comments:

I strongly oppose this bill.

SB-1055

Submitted on: 2/10/2021 10:55:08 AM

Testimony for AEN on 2/10/2021 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Nana-Honua Manuel	Individual	Oppose	No

Comments:

A'ole weakening environmental protections.

SB-1055

Submitted on: 2/10/2021 12:19:24 PM

Testimony for AEN on 2/10/2021 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Chassidy Reis-Moniz	Individual	Oppose	No

Comments:

Strongly oppose. Mahalo

SB-1055

Submitted on: 2/10/2021 12:20:47 PM

Testimony for AEN on 2/10/2021 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Charmaine Nee	Individual	Oppose	No

Comments:

I strongly oppose SB 1055.