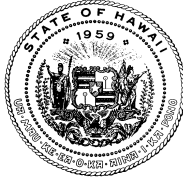


DAVID Y. IGE
GOVERNOR OF HAWAII



ELIZABETH A. CHAR, M.D.
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WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of SB0367 SD1
RELATING TO WATER QUALITY**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 3/2/2021

Room Number: Videoconference

- 1 **Fiscal Implications:** None.
- 2 **Department Testimony:** The Department of Health (Department) supports this measure. The
- 3 bill proposes to add a subsection to Hawaii Revised Statutes §342D-6 to not require a Section
- 4 401 Water Quality Certification for any applicant that has received notice of authorization to
- 5 proceed from the Department of Land and Natural Resources, Office of Conservation and
- 6 Coastal Lands under its small scale beach restoration program.
- 7 **Offered Amendments:** None.
- 8 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

OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
JUDICIARY**

**Tuesday, March 2, 2021
9:35 AM
State Capitol, Via Videoconference**

**In consideration of
SENATE BILL 367, SENATE DRAFT 1
RELATING TO WATER QUALITY**

Senate Bill 367, Senate Draft 1 proposes to waive the requirement for Section 401 water quality certification for certain small scale beach restoration projects authorized by the Department of Land and Natural Resources. **The Department of Land and Natural Resources (Department) supports this measure.**

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.

The Department is actively working with state and 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.

However, certain permit requirements for beach restoration and sand maintenance projects discourage and prevent individuals and government agencies from initiating beach restoration projects or placing carbonate beach sand back on the beach that was removed from stream mouths, boat launches, and canals that trap such material. For example, some standard best management

practices (such as complete dewatering of sand sourced from directly offshore) require double or triple handling of material (this practice would not be necessary where the sand source is clean Hawaiian beach sand), which drives up project costs to a point that is prohibitively expensive. Thus, not requiring a Section 401 Water Quality Certification for SSBR projects would result in a considerable reduction in project costs, would allow more efficient project delivery, and more effective/efficient administration of water pollution controls; but most importantly, it would keep beach sand where it belongs, which is on our beaches. As discussed below, the Department has a plan to ensure that water quality is protected.

The Department recently published a Programmatic Environmental Assessment http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2020-08-08-ST-FEA-Statewide-Small-Scale-Beach-Restoration-Program.pdf to support its Small Scale Beach Restoration (SSBR) program. The Department would essentially implement and enforce all water quality best management practices through the issuance of Small Scale Beach Restoration permits for the classes of beach restoration projects identified in the Programmatic Environmental Assessment, which contains in-depth discussions about water quality and necessary best management practices to protect water quality during sand placement activities. Any beach restoration project(s) falling outside the scope of the Programmatic Environmental Assessment and SSBR permit framework would be subject to an individual permit process including an individual 401 Water Quality Certification.

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 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, Hawaii Revised Statutes, for projects permitted under the Department's Ho'āla Loko I'a (fishpond repair) streamlined permitting program. The Ho'āla Loko I'a program has revolutionized fishpond revitalization in the Hawaiian Islands. With the passage of Senate Bill 367, Senate Draft 1, the Department hopes to improve our capacity to keep Hawaiian beach sand on our beaches and provide an environmentally sound alternative to address the impacts of sea level rise on our beaches and coastal communities.

Thank you for the opportunity to comment on this measure.



Testimony Presented Before the
SENATE COMMITTEE ON
JUDICIARY

Tuesday, March 2, 2021
9:35 a.m.
State Capitol (via videoconference)

By Andrew Wycklendt, President
Hawaii Shore and Beach Preservation Association

In consideration of
SENATE BILL 367 SD1 RELATING TO BEACHES

Senate Bill 367 SD1 proposes to amend Hawai'i Revised Statutes (HRS) Chapter 342D-6 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 (DLNR).

The Hawai'i Shore and Beach Preservation Association (HSBPA)* supports Senate Bill 367. 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 Hawaii's beaches are eroding and 13 miles of beach have been lost over the last century. Beach erosion affects shoreline access, coastal highways, recreation, cultural activities, coastal environments, and our economy. Beaches are a critical component of Hawaii's \$16-billion (pre-pandemic) tourism industry and are central to Hawaii's unique culture and lifestyle. With sea level rise and chronic coastal erosion, the state is challenged to find effective and efficient ways to conserve and restore our naturally occurring sand beaches. In a "healthy" state, beaches and dunes provide effective natural protection for beachfront development from the impacts of high waves and erosion. The HSBPA believes SB367 SD1 will help support the long-term preservation of Hawaii's coastal resources by facilitating nature-based solutions to Hawaii's coastal erosion and coastal hazards and restoring important coastal ecosystems and habitats.

Current regulatory requirements for placement or maintenance of beach sand are unnecessarily arduous and do not allow for 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 uniquely stringent Section 401 Water Quality Certification regulatory requirements. Waiving the Section 401 Water Quality Certification requirement for certain small scale beach restoration 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 and offering more practical and realistic erosion control alternatives to the past practice of coastal armoring.

The Department of Land and Natural Resources (DLNR) through its Office of Conservation and Coastal Lands recently completed a statewide programmatic environmental assessment (PEA) for small scale beach restoration (SSBR) projects. The PEA, intended to update the Department's permitting programs, provides best management practices including sand and water quality monitoring guidelines based on best-available science and environmentally sound engineering practices. The DLNR's PEA for the SSBR program identifies potential environmental impacts and water quality concerns related to sediment management to ensure projects authorized under the SSBR are conducted with adequate environmental controls to ensure that state nearshore water quality standards are upheld.

HSBPA supports SB367 SD1 in the effort to facilitate ecosystem-based beach management projects and help to conserve the beaches of Hawai'i. The HSBPA has considerable professional experience working with mitigation responses to coastal hazards including beach management and maintenance projects. Supporting the protection of natural beaches on our coasts is a very appropriate response to the significant coastal threats Hawai'i faces today. SB367 SD1 will facilitate appropriate beach maintenance projects and support the conservation, preservation, and maintenance of Hawai'i's beaches while encouraging "softer" nature-based measures to protect the shoreline where hard engineered structures are not appropriate.

*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.

Thank you for considering our testimony on the bill.

Sincerely,



Andrew Wycklendt

President, Hawai'i Shore and Beach Preservation Association



Testimony Presented Before the
**SENATE COMMITTEE ON
JUDICIARY**

March 02, 2021 at 9:35am
Senate Capitol (aia Video conference)

Waikīkī Beach Special Improvement District Association

By
Rick Egged, President

SB367 SD1 – RELATING TO WATER QUALITY

Chair Rhoads and Vice Chair Keohokalole and members of the committee:

The Waikīkī Beach Special Improvement District Association (WBSIDA) **supports Senate Bill 367**. Senate Bill 367 proposes 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 \$17 billion¹ 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. Beaches and dunes provide effective natural “soft” protection for beachfront development from the impacts of high waves and erosion. The proposed legislation will support the long-term preservation of Hawaii’s coastal resources by facilitating nature-based solutions to Hawaii’s coastal erosion and coastal hazards and restoring important coastal ecosystems and habitats by encouraging 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 Product². Beaches are a primary attraction for visitors to

¹ Hawai‘i Tourism Authority (2019). <https://www.hawaiitourismauthority.org/media/4167/hta-tourism-econ-impact-fact-sheet-december-2019.pdf>

² <http://www.waikikibid.org/>

Waikīkī. It has been estimated that Waikīkī Beach accounts for over \$2 billion in annual income for the local economy³. However, a 2008 survey found that up to 60% of westbound visitors would 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. It is critically important we facilitate the ability to maintain these important natural resources for the inherent economic, social, cultural and environmental value they provide to residents and visitors alike.

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 without compromising or limiting the ability to effectively regulate and manage these type of 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 the effort to reduce the regulatory complexity and bureaucracy and provide more consistency in the regulatory process. This effort will also reduce the direct project cost, facilitate ecosystem-based beach management projects and help to conserve the beaches of Hawai‘i. This measure 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/>

³ Waikīkī Improvement Association (2018) *Economic Impact Analysis of the Potential Erosion of Waikiki Beach, Final Report.*

LATE

SB-367-SD-1

Submitted on: 3/1/2021 4:10:18 PM

Testimony for JDC on 3/2/2021 9:35:00 AM

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

Comments:

Dear Honorable Committee Members,

Please support SB376.

Thank you,

Andrea Quinn