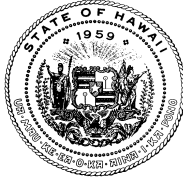


DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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

**Testimony in SUPPORT of SB0367 SD2  
RELATING TO WATER QUALITY**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR  
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

REPRESENTATIVE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON WATER & LAND

Hearing Date: 3/18/2021

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 House Committees on  
ENERGY & ENVIRONMENTAL PROTECTION  
AND  
WATER & LAND

Thursday, March 18, 2021  
10:31 AM

State Capitol, Via Videoconference, Rooms 325 & 430

In consideration of  
SENATE BILL 367, SENATE DRAFT 2  
RELATING TO WATER QUALITY

Senate Bill 367, Senate Draft 2 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 (Department). **The 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://oegc2.doh.hawaii.gov/EA\\_EIS\\_Library/2020-08-08-ST-FEA-Statewide-Small-Scale-Beach-Restoration-Program.pdf](http://oegc2.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.

Michael P. Victorino  
Mayor

Sananda K. Baz  
Managing Director



**OFFICE OF THE MAYOR**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

March 17, 2021

TESTIMONY OF MICHAEL P. VICTORINO  
MAYOR  
COUNTY OF MAUI

BEFORE THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION and  
THE HOUSE COMMITTEE ON WATER & LAND  
Thursday, March 18, 2021 10:31 a.m.  
Conference Room 325 & 430 & Videoconference

**SB367 RELATING TO WATER QUALITY**

Honorable Nicole E. Lowen, Chair  
Honorable Lisa Marten, Vice Chair  
Honorable members of the Committee on Energy & Environmental Protection  
Honorable David A. Tarnas, Chair  
Honorable Patrick Pihana Branco, Vice Chair  
Honorable members of the Committee on Water & Land

Thank you for this opportunity to testify in **STRONG SUPPORT** of **SB367**.

This bill waives the requirement for section 401 water quality certification for certain small scale beach restoration projects authorized by the Department of Land and Natural Resources.

In administering the coastal zone management program, the County of Maui prioritizes and encourages activities that focus on protecting and restoring coastal ecosystems. Maui is already experiencing impacts of sea level rise, including worsening coastal erosion and high wave inundation, and there are many examples of homes, buildings, roads, and critical infrastructure that are imminently threatened. Where appropriate and feasible, the County aims to enable beach and dune restoration as one of the more pro-active adaptive management strategies to mitigate the impacts of coastal hazards, and to preserve recreational, cultural, and ecosystem services.

Overly burdensome permit requirements for beach restoration and maintenance projects discourage and prevent individuals and government agencies from initiating beach restoration projects. 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.

**I strongly urge you to pass this measure, SB367.**



Testimony Presented Before the  
**HOUSE COMMITTEE ON  
ENERGY AND ENVIRONMENTAL PROTECTION AND  
HOUSE COMMITTEE ON  
WATER AND LAND**

**March 18, 2021 at 10:30am**  
Senate Capitol (via video conference)

**Waikīkī Beach Special Improvement District Association**

By  
Rick Egged, President

**SB367 SD2 – RELATING TO WATER QUALITY**

Chairs Lowen and Tarnas, Vice Chairs Marten and Branco and members of the committees:

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 billion<sup>1</sup> 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.

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

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 Product<sup>2</sup>. 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 economy<sup>3</sup>. 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 overcrowding<sup>2</sup>. 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/>

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<sup>2</sup> <http://www.waikikibid.org/>

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



Testimony Presented Before the  
HOUSE COMMITTEES ON  
ENERGY & ENVIRONMENTAL PROTECTION  
AND  
WATER & LAND

Thursday, March 18, 2021  
10:31 a.m.  
State Capitol Conference Room 325 & 430 (via videoconference)

By Andrew Wycklendt, President  
Hawaii Shore and Beach Preservation Association

In consideration of  
SENATE BILL 367 SD2 RELATING TO WATER QUALITY

Senate Bill 367 SD2 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 SD2.** Hawai'i'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 Hawai'i's beaches are eroding and more than 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 Hawai'i's \$16-billion (pre-pandemic) tourism industry and are central to Hawai'i's unique culture and lifestyle. With rising sea levels 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 naturally protect coastal development and infrastructure from the impacts of high waves and erosion. The HSBPA believes SB367 SD2 will help support the long-term preservation of Hawai'i's beaches and coastal resources by facilitating nature-based solutions to coastal erosion and sea level rise hazards while simultaneously restoring important 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 to 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 offer more appropriate nature-based 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 sand management, includes best management practices (BMPs) to ensure projects authorized under the SSBR program are conducted with adequate environmental controls to ensure that state water quality standards are upheld, and provides a process for agency and public review.

HSBPA supports SB367 SD2 in the effort to facilitate ecosystem-based beach management projects that help 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 SD2 will facilitate appropriate beach management and 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



**SB-367-SD-2**

Submitted on: 3/16/2021 3:03:41 AM

Testimony for EEP on 3/18/2021 10:31:00 AM

| <b>Submitted By</b>         | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------------|---------------------|---------------------------|---------------------------|
| Jennifer Azuma<br>Chrupalyk | Individual          | Comments                  | No                        |

Comments:

Preserve our natural resources.