

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



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

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STATE PARKS

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

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

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

**Friday, February 12, 2021  
1:15 PM**

**State Capitol, Via Videoconference, Room 229**

**In consideration of  
SENATE BILL 367  
RELATING TO WATER QUALITY**

Senate Bill 367 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.

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.

However, 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.

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](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 Programmatic Environmental Assessment contains in-depth discussions about water quality and necessary best management practices to protect water quality during sand placement activities. The Programmatic Environmental Assessment contains strict requirements on sand quality and quantity such that water quality should be protected when small scale beach restoration projects are implemented.

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 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.

Thank you for the opportunity to comment on this measure.



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

Friday, February 12, 2021  
1:15 p.m.  
State Capitol (via videoconference)

By Andrew Wycklendt, President  
Hawaii Shore and Beach Preservation Association

In consideration of  
SENATE BILL 367 RELATING TO BEACHES

Senate Bill 367 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)\* strongly supports Senate Bill 367.** 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 13 miles of beach have been lost over the last century. Beach erosion affects shoreline access, major transportation assets, 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 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 will help support the long-term preservation of Hawai'i's coastal resources by facilitating nature-based solutions to Hawai'i'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 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 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.

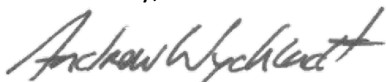
The Department of Land and Natural Resources (DLNR) through its Office of Conservation and Coastal Lands recently completed a statewide programmatic environmental assessment (PEA) for small scale beach restoration (SSBR) projects. The PEA, intended to update the Department's permitting programs, provides 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 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 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.

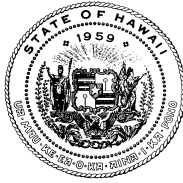
Thank you for considering our testimony on the bill.

Sincerely,



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

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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

SENATOR LORRAINE R. INOUE, CHAIR  
SENATE COMMITTEE ON WATER AND LAND

SENATOR MIKE GABBARD, CHAIR  
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Hearing Date: 2/12/2021

Room Number: Video

- 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.