



TESTIMONY BY:
EDWIN H. SNIFFEN
DIRECTOR

Deputy Directors
DREANALEE K. KALILI
TAMMY L. LEE
ROBIN K. SHISHIDO
JAMES KUNANE TOKIOKA

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

February 9, 2023
9:30 AM
State Capitol, Room 430

H.B. 1101
RELATING TO STORMWATER FEES

House Committee on Water & Land

The Department of Transportation (DOT) is in strong **support** of this measure. This bill was included in the Governor's Package at the request of DOT and seeks to clarify the authority of the counties to establish and charge user fees to create and maintain any stormwater system.

Like the City and County of Honolulu and the County of Maui, DOT also manages its own Municipal Separate Storm Sewer System (MS4) and National Pollutant Discharge Elimination System (NPDES) permits. DOT aims to reduce, to the maximum extent practicable, the discharge of pollutants to and from the MS4, protect water quality, comply with permit requirements and satisfy the appropriate water quality requirements of the Clean Water Act.

The DOT meets its permit responsibilities in managing stormwater including, but not limited to, inspections, preventative maintenance, cleaning drainage structures and outfalls, sweeping facilities to mitigate debris from entering the system during storms, and tenant trainings to promote compliance. DOT spends about \$24 million on an annual basis (Airports \$6 million, Harbors \$2 million, and Highways \$16 million) on its stormwater programs.

During the development of the Airports, Harbors, and Highways stormwater infrastructure, the City and County of Honolulu connected its facilities to DOT's various storm drains with certain outfalls directly onto state facilities before flowing into the ocean waters. DOT currently allows the City and County of Honolulu MS4 to discharge stormwater at various points into the DOT MS4 systems at no cost or expense to the City.

The measure clarifies that the counties may not charge a State department a fee related to maintaining a stormwater system if that department is responsible for the maintenance and operation of a stormwater management system that connects to a county stormwater system. This clarification prevents any extra costs related to

stormwater system management and promotes coordination between MS4 NPDES permittees.

For improved readability, DOT requests your committee's consideration of this amendment to Section 1, so item (5)(E) reads as follows:

(E) Establish and charge user fees to create and maintain any stormwater management system or infrastructure; provided that no county shall charge against or collect from any of the State's departments that are responsible for the maintenance and operation of a stormwater management system that connects or otherwise intersects with a county stormwater management system or infrastructure a user fee;

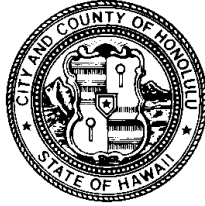
Thank you for the opportunity to provide testimony.

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DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

1000 Ulu'ohia Street, Suite 215, Kapolei, Hawaii 96707
Phone: (808) 768-3343 • Fax: (808) 768-3381
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RICK BLANGIARDI
MAYOR



DAWN B. SZEWCZYK, P.E.
DIRECTOR AND CHIEF ENGINEER

WARREN K. MAMIZUKA
DEPUTY DIRECTOR

IN REPLY REFER TO:
SWQ-23-011

February 7, 2023

The Honorable Linda Ichiyama, Chair
The Honorable Mahina Poepoe, Vice Chair
and members of the Committee on Water & Land
House of Representatives
415 South Beretania Street, Room 426
Honolulu, Hawaii 96813

Dear Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

Subject: Department of Facility Maintenance
Testimony in Opposition to H.B. No. 1101, Relating to Stormwater Fees

The Department of Facility Maintenance (DFM) of the City and County of Honolulu opposes H.B. No. 1101, Relating to Stormwater Fees, which would exempt any State departments that are responsible for the maintenance and operation of a stormwater management system that connects or otherwise intersects with a county stormwater management system or infrastructure from paying any stormwater fees, as well as prohibit the City and County from enforcing penalties for non-payment of duly adopted fees.

The Department has primary responsibility for ensuring the County's compliance with stormwater regulations under the United States Clean Water Act. In 2015, the Hawaii Legislature took the proactive and foresighted step of authorizing the counties to establish fee-based funding of stormwater services, or "stormwater utilities." Over the past three (3) years, the Department has undertaken a comprehensive program to develop a stormwater utility and fee for the County pursuant to this State law. During this time, extensive information has been provided to State agencies and departments on the benefits and impacts of adopting a stormwater fee. **Please see the attachments.**

The Honorable Linda Ichiyama, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the Committee on Water & Land
February 7, 2023
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Protecting and enhancing Oahu's groundwater, streams, and near-shore environment is a shared responsibility. Stormwater utilities have been adopted by over 2,000 of our peer cities and counties in the United States and Canada, providing stable, equitable funding for these programs including permitting, maintenance and necessary capital improvements.

Under a stormwater utility, all properties, including United States federal government properties, would pay a fee representing their fair share of the cost of providing services, similar to the water bills charged by the Honolulu Board of Water Supply and sewer fees by the Department of Environmental Services. Stormwater fees will be assessed based on impervious area and the total raised may not exceed the demonstrated cost of stormwater services, an important check and balance on spending that is not in place today.

DFM has determined that it currently spends approximately \$92 million per year on stormwater services but is expecting that cost will need to increase upwards to around \$122 Million in order to run a right-sized program. A blanket exemption of State facilities, as proposed in H.B. 1101, undermines this important element of equity and fairness. In fact, equity and fairness are the core purposes of adopting a stormwater fee: Today, the full cost burden is on taxable properties, with the greatest impact on residential property owners. Under a stormwater utility, everyone would pay a fair share based on stormwater runoff generated from impervious surfaces. It is notable that the Clean Water Act itself requires all federal agencies (which own nearly 17% of the impervious area on Oahu) to pay duly adopted local stormwater fees. Courts across the United States have upheld the appropriateness and legality of state and federal governments paying duly adopted and equitable stormwater utility fees, recognizing the burden on local taxpayers with the introduction of any new utility fees. State properties, based on current estimations, makes up around 14% of the total amount impervious area on Oahu.

The adoption of a fee, at the level under consideration by the City and County of Honolulu, would result in charging fees to State agencies for their share of the total cost of managing stormwater runoff on O'ahu. However, there are multiple opportunities for each state agency to reduce its fees and to cooperate with DFM in finding mutually beneficial means of providing these services.

Under the proposed structure of the stormwater utility, all State agencies would have the opportunity to reduce their fees by up to 60%, by implementing beneficial water capture, green infrastructure and stormwater management practices on site, which most State agencies are doing. DFM also is aware of cooperative approaches other jurisdictions have taken to address the cost impact on State agencies.

The Honorable Linda Ichiyama, Chair
The Honorable Mahina Poepoe, Vice Chair
and Members of the Committee on Water & Land
February 7, 2023
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The current draft fee proposals exempt all public roadways, and it is possible that other surfaces, such as State airport runways and harbor docks, can be considered fundamentally part of the public transportation systems and also be exempt from fees.

The City met with the State Department of Transportation in December 2021 to present those partnership opportunities. During that discussion, it was presented that the State Department of Transportation Harbors and Airport Division could realize an overall reduction in fees by 41% (~\$29,000/year) and 85% (~\$70,000/year), respectively. There would also be opportunities for credits and rebates associated with education on stormwater and watersheds in the Department of Education (DOE) schools, University of Hawaii (UH), and Department of Hawaiian Homelands (DHHL) properties. We have only so far released draft fee proposals and we have not had the opportunity to discuss these options with the State DOE, UH, and DHHL partners. H.B. 1101 would foreclose exploration of appropriate and fair fees and mutually beneficial options, including delayed/phased implementation based upon economic recovery.

In its 2015 action authorizing counties to adopt stormwater fees, the Legislature recognized the need to fund the protection of our waters sufficiently and equitably. H.B. No. 1101 moves the State away from embracing that shared responsibility. DFM would be happy to conduct a presentation and Q&A on the stormwater utility, fee proposals, and potentials for phased implementation to this committee and any other interested legislators whenever convenient. We urge the committee to reject H.B. No. 1101 at this time to allow for further discussion and collaboration. Thank you for this opportunity to testify on this measure.

Sincerely,



Digitally signed by
Szewczyk, Dawn
Date: 2023.02.07
18:26:42 -10'00'

Dawn B. Szewczyk, P.E.
Director and Chief Engineer

Attachments

Storm Water Utility Projected Rate, Revenues & Fee Impacts
Honolulu Storm Water Fee Proposal Implications for State of Hawaii



Storm Water Utility

Projected Rate, Revenues & Fee Impacts

February 7, 2022

Proposed Rate, Maximum Reductions & Hardship Allowances

- Storm water rate, before credits: \$6.33/month/1,000 SF of Impervious Area
- Maximum monthly rate for low-income households: \$3.17/month
- Maximum annual charge to non-profit facilities: 0.5% of annual revenue (*based on individual sites, not income of parent/umbrella organization*)

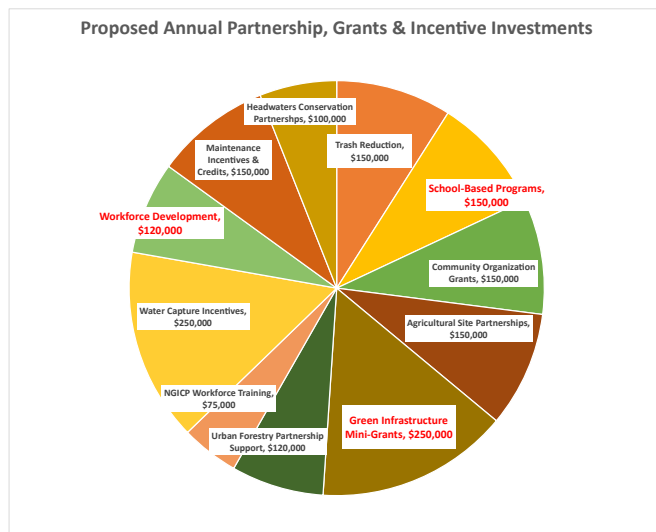
Adverse Impact of Proposed Exemptions

Partial exemption of HDOT Airport and Harbor facilities would increase rate to \$6.58 (5% increase)

- Increases rate by \$0.25
- Reduces DOT Airports fee by ~85%
- Reduces DOT Harbors fee by ~41%
- Adds to cost for other Oahu ratepayers, including other State of Hawaii Departments

Blanket exemption of all state properties would further increase rate to \$7.28 (15% increase)

- Adds total of \$0.95/month to storm water rate
- Fee at ~\$25.50/month for typical single family (increase of \$3.50/month)



Storm Water Services Budget Supported (2020 dollars)

- Annual Average Operating Budget: \$62.16 million/~\$20 million increase from FY20
- Projected “Steady State” Budget, FY 7+: \$65 million operating/\$37 million capital (includes debt service)

Capital Budget Supported (2020 dollars)

- Annual Average Cash-Funded CIP, Years 1-3: \$40 million (scheduled, permit-mandated projects)
- *Debt-funded capital issued in Year 4 for asset renewal: \$75 million



Storm Water Utility

Projected Rate, Revenues & Fee Impacts

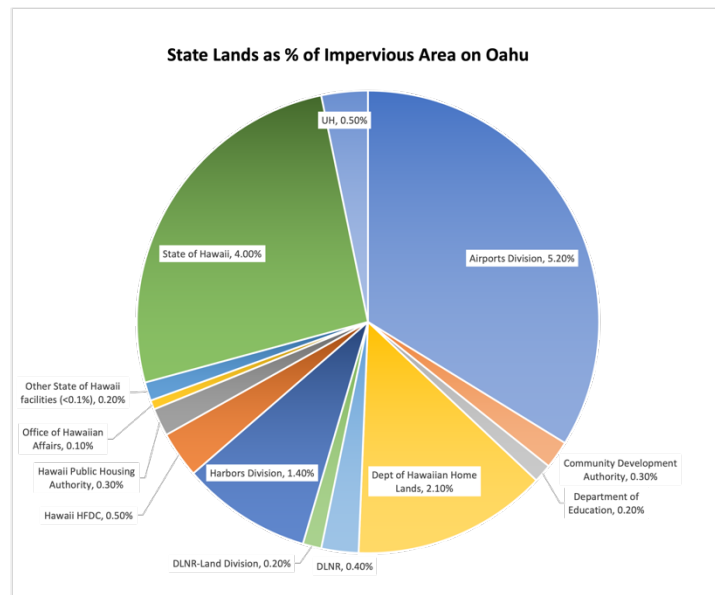
February 7, 2022

Projected Fees for State Departments & Facilities

Estimated Storm Water Fees @ \$6.33/month	Impervious Area (,000 SF)	Monthly Fee	Annual Fee	
<i>United States of America</i>	62,764	\$397,298	\$4,767,571	
<i>City & County of Honolulu</i>	60,552	\$383,297	\$4,599,563	<i>Annual fee with full 60% credit:</i>
State of Hawaii	731	\$4,627	\$55,527	\$22,211
Hawaii MMGD LLC	4,375	\$27,694	\$332,334	\$132,933
Hawaiian Home Lands	32,441	\$205,355	\$2,464,254	\$985,702
Hawaii Housing Finance & Development Corp.	19,984	\$126,499	\$1,517,985	\$607,194
Hawaiian Electric Company	7,834	\$49,587	\$595,039	\$238,016
University of Hawaii	7,257	\$45,939	\$551,265	\$220,506
Hawaii Public Housing Authority	4,713	\$29,836	\$358,036	\$143,214
Hawaii Community Development Authority	4,097	\$25,932	\$311,179	\$124,471
State of Hawaii - Department of Ag.	37	\$237	\$2,844	\$1,138
University of Hawaii Foundation	106	\$674	\$8,083	\$3,233

Example Fees to Other Customers, Base & with 60% Maximum Credit

Customer	Monthly Fee	Annual Fee	Annual w/Max. Credit (60%)
Typical Single-Family Residence	\$22	\$264	\$106
Safeway Plaza, Salt Lake Blvd. & Ala Liliko Street	\$1,522	\$18,264	\$7,305
Roman Catholic Archdiocese (all properties)	\$20,372	\$244,466	\$97,786
Ala Moana Mall	\$44,373	\$280,883	\$112,353



Supporting Documents

Feasibility study summary report:
https://www.stormwaterutilityoahu.org/wp-content/uploads/HAWAII_HONOLULU-SWU_HCF-REPORT_FINAL-SUMMARY-REPORT_12-222020.pdf

Overview of Storm Water Utility Legal Cases:
<https://stormwater.wef.org/wpcontent/uploads/2015/01/NACWAs-Navigating-Ligitagtion-Floodwaters.pdf>

Credits, Rebates & Exemptions analysis:
https://www.stormwaterutilityoahu.org/wpcontent/uploads/HI_HNL_SWU_TECH_TM_Credits-Hardship_Final_12.08.2020.pdf

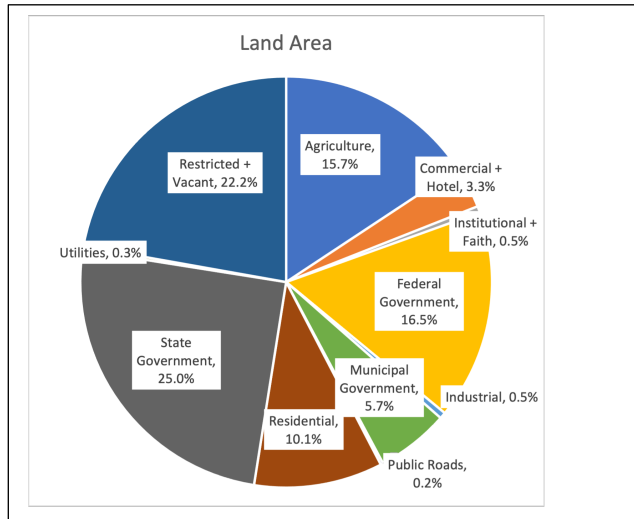
Rate Analysis:
https://www.stormwaterutilityoahu.org/wp-content/uploads/CCH_DFM_Rate_Analysis_Final.pdf



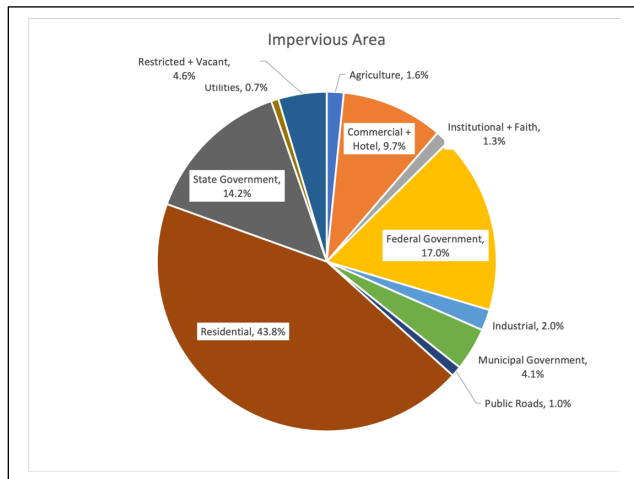
Storm Water Utility

Impervious Area, Land Area & Taxable Value

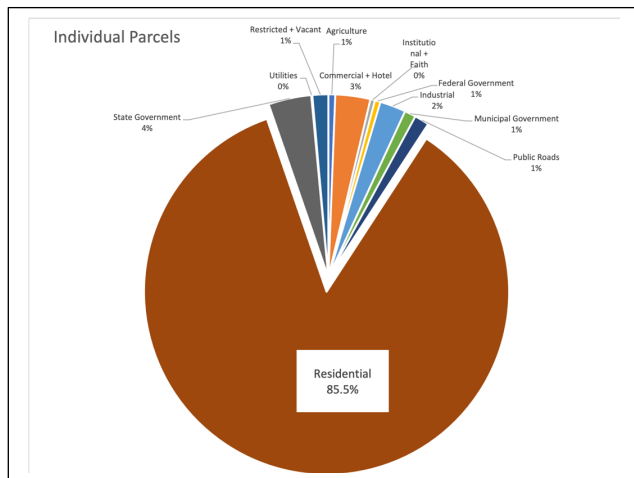
February 9, 2021



State-owned lands make up 25% of the land area on the Island of Oahu. Federal government and military facilities comprise another 16.5%. Residential, commercial, hotel, and industrial lands, which make up the bulk of the City & County's taxable value, represent only 13.8% of the Island's land area. **These owners of taxable lands contribute roughly \$70 million in property taxes towards the \$92 million annual storm water budget.** The remaining \$22 million is an internal transfer from the Highway Fund, representing the cost of maintaining roadway-related storm water systems.



An impervious area-based fee distributes the cost of storm water services across all property owners and across all land uses. **Courts across the U.S. have upheld the use of impervious area as a legally valid basis for determining a property's proportional impact on the cost of storm water services.** This approach generally reduces the share of the total storm water cost funded by taxable residential and commercial properties. Residential lands make up 43.8% of impervious area but generated 52% of 2020 tax receipts to the City and County¹. Commercial and hotel properties contain 9.7% of impervious area and generated 36% of 2020 tax receipts.



A flat fee per parcel for storm water services would have the greatest impact on residential properties (left), which represent 85% of all individually-owned properties on Oahu.

¹ Technical Branch, Real Property Assessment Division, Department of Budget & Fiscal Services, City & County of Honolulu

Welcome

Honolulu Storm Water Fee Proposal
Implications for
State of Hawai'i Agencies and Properties



Proposal for a Storm Water Fee



Requires Two City Council actions* (Bills for an Ordinance):

- 1 Ordinance to establish a ***Special Fund*** for Storm Water Management
- 2 Ordinance to ***implement storm water fees*** and set key credit, exemption, and hardship policies

****This process would NOT establish a separate agency/authority. Storm water responsibilities remain with the Storm Water Quality Division***

Fee based on square feet of impervious area (IA)

- Measured for all properties on O’ahu
- Directly correlates to amount of storm water runoff – which is best equivalent for total strain on the storm water system
- Enables **credits** (up to 60% proposed) for properties taking actions to reduce runoff, improving water quality and reducing nuisance flooding

Why Can't DFM Fund these Services Today?

Property Tax/General Fund-based system today	With a Storm Water Fund/Fee-Based funding:
Capital projects are pay-as-you-go	Capital projects can be funded with revenue bonds or through HI Clean Water State Revolving Fund
Stormwater competes for capital funding	Stormwater can issue its own revenue bonds, reducing impact on City & County's general obligation bond capacity
All budgets are limited to one fiscal year; no carry-over of funds	Funds can be carried over to leverage external grant opportunities
Budget commitments can only be made for one fiscal year; limits ability to fill open staff positions & plan equipment purchases	Funding levels based on fees are <u>predictable</u> and restricted to storm water purposes Multi-year commitments can be made, enhancing partnership

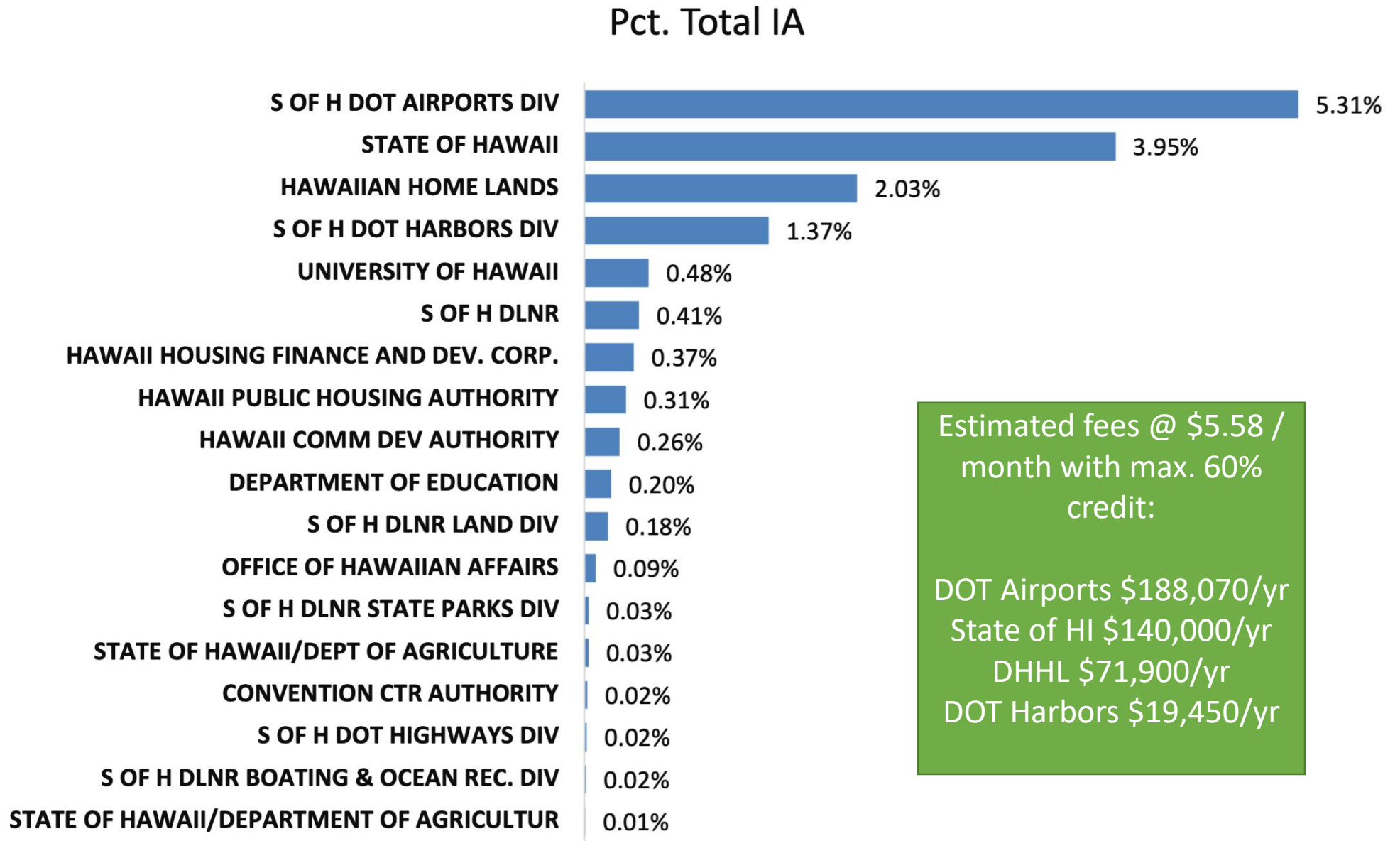
Where else are storm water utilities in place? Will Federal Government facilities pay storm water fees?



>2,000 US cities have established storm water utilities since the 1990s

- Hawai'i's enabling law, passed by the Legislature in 2016, allows each county to establish a utility & charge fees
- **US courts have consistently upheld use of impervious area as a valid basis for charging storm water fees**
- **US Clean Water Act clarifies that federal facilities shall pay duly adopted local storm water fees**

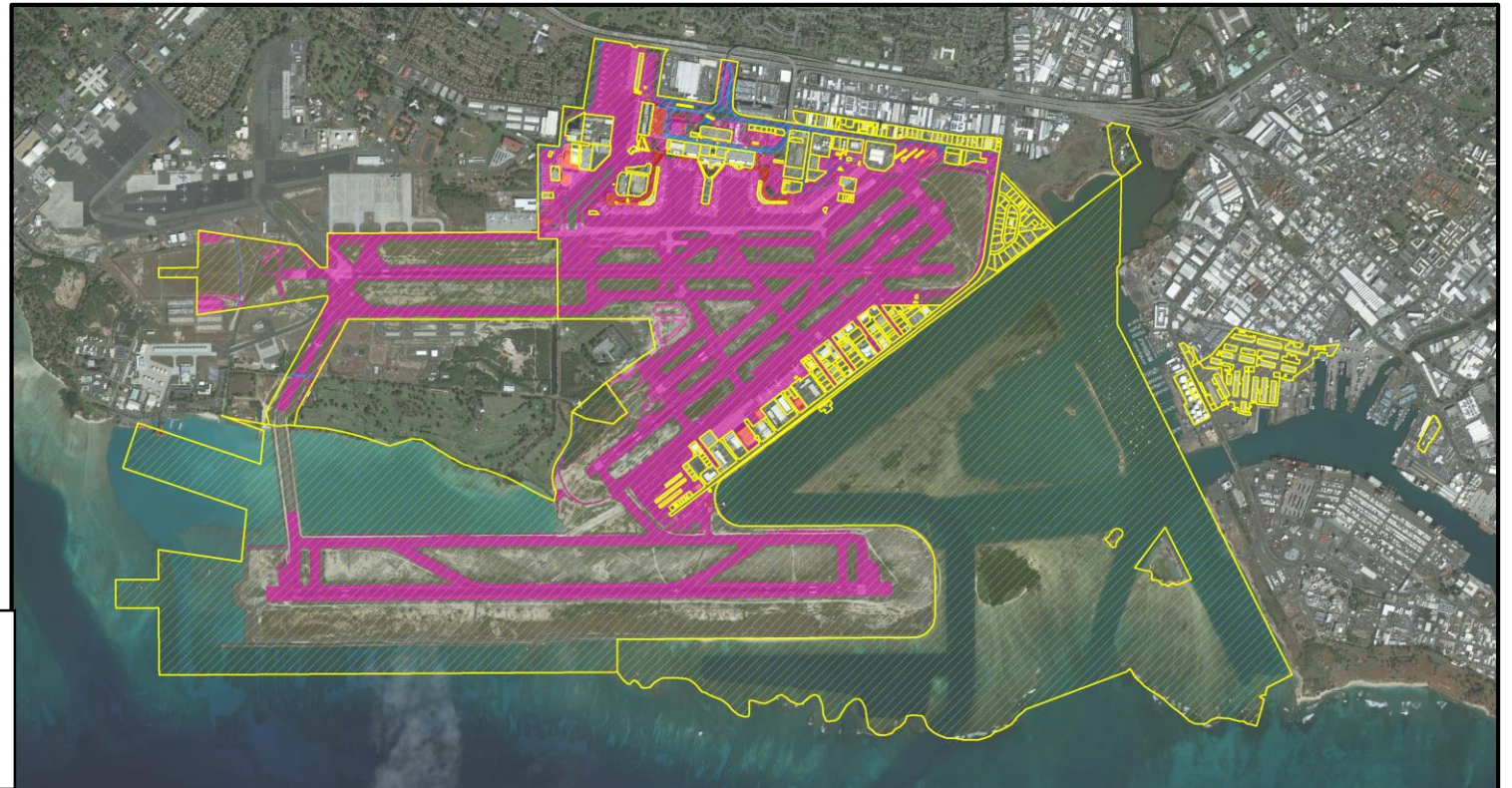
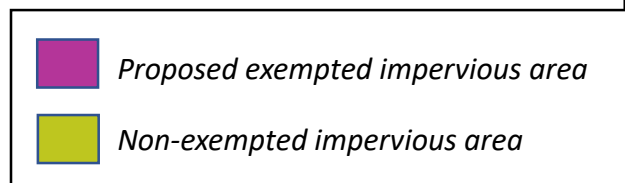
State of Hawaii Properties as Share of total impervious area on Oahu



Proposal: Reduce area of DOT Airports subject to fee

Assumes reduced billable impervious area for airport excluding taxiways and roadways, similar to proposed exemption for public Rights-of-Way

- Removes runways, taxiways and tarmac (FAA Air Operations Areas)
- Reduces overall DOT-Airports fee by ~ 85% before credits
~\$70,500/year

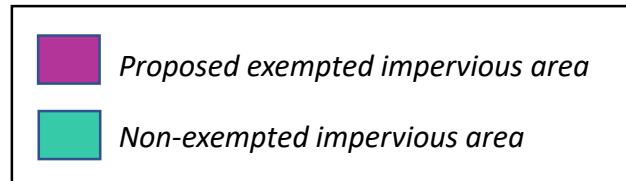


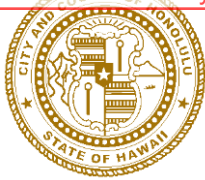
Daniel K. Inouye International Airport

Proposal: Reduce area of DOT Harbors subject to fee

Assumes reduced billable impervious area for harbor roads and docks used to convey people & goods, similar to proposed exemption for public Rights-of-Way

- Removes dock areas within 250 ft of water's edge (loading/unloading of people and goods) and quasi public roads
- Reduces overall DOT-Harbors fee by ~ 41% before credits (~\$29,000/yr)





CITY COUNCIL
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 202
HONOLULU, HAWAII 96813-3065
TELEPHONE: (808) 768-5010 • FAX: (808) 768-5011

Councilmember District 5
Telephone: (808) 768-5005
Email: ckysay@honolulu.gov

February 9, 2023

TO: CHAIR LINDA ICHIYAMA, COMMITTEE ON WATER & LAND
VICE CHAIR MAHINA POEPOE, COMMITTEE ON WATER & LAND

FROM: COUNCILMEMBER CALVIN SAY
HONOLULU CITY COUNCIL, DISTRICT V

SUBJECT: TESTIMONY IN OPPOSITION OF HOUSE BILL 1101

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee on Water & Land:

I am a current member of the Honolulu City Council representing District 5 and serving as the Chair of the Zoning Committee. I stand in **opposition** of House Bill 1101, which would exempt the State and its departments and agencies that maintain or operate a stormwater management system that is interconnected to a county stormwater system from county stormwater user fees. This bill would prohibits each county from denying services to the State or its departments or agencies by reason of nonpayment of user fees.

In my first two years in the Honolulu City Council, I served as Chair of the Committee on Budget, and got an in depth understanding of the financial magnitude the city is faced with when it comes to maintaining our island infrastructure. As our population continues to grow, and developments rise to meet housing needs, our aging infrastructure will need significant new investment to meet current and future storm water challenges. This stormwater utility fee will be used to infrastructure repair and replacement, stream cleaning, and brown water reduction, in addition to continued maintenance and compliance. The fee will be based on each property's amount of impervious area, which directly affects our drainage and runoff systems.

Storm water utilities – or fee-based municipal storm water management programs – have been adopted by over 2,000 municipal governments in the United States (U.S.) and Canada. A storm water utility would support more efficient and consistent capital investments, as well as important improvements in storm water operations. The Fresh Water Initiative at the Hawai'i Community Foundation, in partnership with the Department of Facility Maintenance of the City and County of Honolulu, have studied the feasibility of forming a storm water utility for O'ahu. Guided by an engaged and effective Stakeholder Advisory Group, and incorporating input from two rounds of robust and meaningful community engagement, findings and recommendations of the Feasibility Study found that a fee-funding storm water program is both feasible and desirable for O'ahu.

The Department of Facility Maintenance presented and answered community questions about the fee and numerous Neighborhood Board meetings over the past couple of years, and shared how protecting and enhancing our groundwater, streams, and near-shore environment is a shared responsibility. It is everyone's kuleana. Everyone pays a fair share and everyone has the opportunity to make a difference. I oppose HB 1101 because the State is not exempt in caring for our land, streams, and oceans. I believe that the carefully thought-out fee structure intended to promote equity based on impervious land, will place a heavier burden on our residents if the State were to exempt themselves from the fee.

Thank you for this opportunity to testify in **opposition** of House Bill 1101. Thank you for your time and consideration.

Testimony of Matson Navigation Company, Inc.
Support of HB1101
Before the Committee on Water and Land
Tuesday, February 9, 2023

Dear Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

Matson Navigation Company, Inc. (Matson) supports HB1101, which clarifies the authority of the counties to establish and charge user fees to create and maintain a stormwater system.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

The Department of Transportation Harbors Division allows the City and County of Honolulu to discharge stormwater at various points of the Hawaii harbor system at no cost to the City. This measure clarifies that the counties may not charge a State department a fee related to maintaining a stormwater system if that department is responsible for the maintenance and operation of a stormwater management system that connects to a county stormwater system. This clarification prevents any extra costs related to stormwater system management and promotes coordination between Municipal Separate Storm Sewer System and National Pollutant Discharge Elimination System permittees.

Thank you for considering our testimony in support.

Testimony of the Hawaii Harbor Users Group
Support of HB1101
Before the Committee on Water and Land
Tuesday, February 9, 2023

Dear Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee:

The Hawaii Harbor Users Group (HHUG) is a non-profit maritime transportation industry group comprised of key commercial harbor users statewide. HHUG supports HB1101, which clarifies the authority of the counties to establish and charge user fees to create and maintain a stormwater system.

As an island state, Hawaii is very dependent upon our commercial harbors to ensure the continued and unimpeded flow of cargo in and out of our State. It is estimated that over 90 percent Hawaii's imported goods pass through our commercial harbors, including consumer goods, motor vehicles, construction materials, and fuel. Given the critical role of our commercial harbors, it is imperative that the State support dependable and efficient cargo transportation and handling to service our residents and businesses.

The Department of Transportation Harbors Division allows the City and County of Honolulu to discharge stormwater at various points of the Hawaii harbor system at no cost to the City. This measure clarifies that the counties may not charge a State department a fee related to maintaining a stormwater system if that department is responsible for the maintenance and operation of a stormwater management system that connects to a county stormwater system. This clarification prevents any extra costs related to stormwater system management and promotes coordination between Municipal Separate Storm Sewer System and National Pollutant Discharge Elimination System permittees.

Thank you for considering our testimony in support.



COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION
HAWAII CHAPTER

February 7, 2023

Representative Linda Ichiyama, Chair
Representative Mahina Poepoe, Vice Chair
Committee on Water and Land

RE: **HB 1101 - Relating to Stormwater Fees**
Hearing date: February 9, 2022 at 9:30AM

Aloha Chair Ichiyama, Vice Chair Poepoe and members of the committee,

Mahalo for the opportunity to submit testimony on behalf of NAIOP Hawaii in **OPPOSITION** to HB 1101. NAIOP Hawaii is the local chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

The purpose of HB 1101 is to: 1) exempt the State and its departments and agencies, from county stormwater user fees; and 2) prohibit a county from denying services to the State or its departments or agencies by reason of nonpayment of user fees.

A stormwater utility will help promote sustainable stormwater practices that enhance water recharge and is a strong component of Hawaii's sustainability goals. If a storm water utility were to be implemented, it is crucial that it be equally applied to all landowners across the state including State lands.

A stormwater utility fee will help evenly spread the cost of stormwater management services by allowing the cost to be directly related to impervious surface area. Landowners, including State agencies, will be able to reduce their fees by implementing sustainable stormwater practices such as green infrastructure or developing other innovative, sustainable stormwater solutions. Locations across the U.S. have been using stormwater utilities for decades to ensure stormwater management as a public service. Several court cases within the U.S. have upheld that state properties are not exempt from paying stormwater utility fees (i.e. City of Gainesville vs. State.)

Our concern is that should the State be exempted from such a utility fee for impervious surfaces on their lands, the cost of stormwater management will be born solely by private landowners and state residents. The utility fee will impact residents and landowners across the state by raising our already high cost of property ownership even more. In addition, the proposed exemption may have the unintended consequence of raising the cost of affordable housing projects, which our residents greatly need.

Representative Linda Ichiyama, Chair
Representative Mahina Poepoe, Vice Chair
Committee on Water and Land
February 7, 2023
Page 2

For these reasons NAIOP respectfully opposes HB 1101 and respectfully ask that it be deferred. Please let us know if we can provide any further information on this matter.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Camp", with a stylized flourish at the end.

Jennifer Camp, President
NAIOP Hawaii



"Advancing the Commercial Real Estate Industry through Education, Networking and Advocacy"

Committee: House Water & Land
Date: Thursday, February 9, 2023
Time: 9:30 A.M.
Place: Via Conference Room 430
RE: HB 1101, Relating to Stormwater Fees

Aloha Chair Ichiyama, Vice Chair Poepoe, and members of the committee:

Thank you for the opportunity to submit testimony on House Bill 1101.

We are the Building Owners and Managers Association of Hawai'i (BOMA Hawai'i) testifying in **opposition** to HB 1101, Relating to Stormwater Fees.

Stormwater utilities across the country equitably distribute stormwater fees across properties, including those owned by State and Federal agencies and the private for-profit and non-profit sectors. Exempting the State from the fee would necessarily redistribute costs, which would land heavily on residents and private for-profit and non-profit sector businesses. This bill undermines the very formulation of a broad-based stormwater management program that is meant to engage all of the parties who benefit from storm water management, including State, Federal and local governments, as well as nontaxable property owners. The legislature took strong leadership in 2015 with Act 42. Turning back now would hinder the progress already made, even before any county has implemented a stormwater utility.

We urge the legislature to oppose HB 1101 and stay committed to taking the necessary action to protect the future of our islands from climate change, water shortages, infrastructure failure and inequities.

BOMA Hawai'i is a non-profit trade association dedicated to advancing the commercial real estate industry through education, networking and advocacy. Please consider BOMA a resource to policy makers. Thank you for the opportunity to testify on this measure.

Sincerely,

Gail M. Abrena-Agas
BOMA Hawai'i Government Affairs Committee Chair, and
Past President

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: Stormwater Fees; State Exemption

BILL NUMBER: HB 1101, SB 1399 [TRN-01]

INTRODUCED BY: HB by SAIKI, SB by KOUCHI (Governor's Package)

EXECUTIVE SUMMARY: Exempts the State and its departments and agencies that maintain or operate a stormwater management system that is interconnected to a county stormwater system from county stormwater user fees. Prohibits each county from denying services to the State or its departments or agencies by reason of nonpayment of user fees.

SYNOPSIS: Amends section 46-1.5(5)(E), HRS, to provide that although the counties may establish and charge user fees to create and maintain any stormwater management system or infrastructure, no such user fee shall be charged to or payable to each county by the State or any of the State's departments or agencies and no services shall be denied to the State or its departments and agencies by reason of nonpayment of such fees.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: This is an Administration bill sponsored by the Department of Transportation and designated TRN-01 (23).

Although this may sound like a heavy-handed thing for a State to do, it appears to be within the State's power. The State created the counties by law, and unless something like the state constitution says otherwise, the State can determine what the counties can or can't do in terms of charging taxes or fees.

Digested: 2/7/2023



**HAWAI'I COMMUNITY
FOUNDATION**

To: House Water & Land Committee
Representative Linda Ichiyama, Chair
Representative Mahina Poepoe, Vice Chair
And all committee Members

From: Micah Kāne, Chief Executive Officer & President
Hawai'i Community Foundation

Re: Testimony in Opposition to HB1101 Relating to Stormwater Fees
Date: Thursday, February 9, 2023
Time: 9:30 A.M.
Place: Via Conference Room 430

My name is Micah Kāne, Chief Executive Officer & President ("HCF"). I am submitting this testimony in opposition to HB1101 which exempts State departments that are responsible for the maintenance and operation of a stormwater management system that connects with the county system.

The exemption provided for under HB1101 may be overly broad and if so, would cause an undue burden to be allocated to resident homeowners and other private landowners. It should be noted that a material portion of the State's revenue comes from tax dollars collected from non-Hawaii residents. Therefore, through the State paying its fair share of stormwater fees, non-residents are helping pay for our stormwater system. If State lands are exempted, the amount of participation by non-residents is significantly reduced and our local residents will have to pay more. Agreements as to credits to the State for the County's use of State infrastructure should be addressed between the County and State departments at the time Counties implement stormwater programs, as opposed to blanket exemptions to the departments as proposed in HB1101.

Our islands are experiencing a range of water quality, flooding, aging infrastructure, and fresh water supply issues related to storm water management, climate change and sea level rise. At the same time, federal requirements under the U.S. Environmental Protection Agency's (EPA) Clean Water Act are imposing increasingly stringent permit standards for storm water runoff management that the City & County of Honolulu must meet, or face very costly fines and penalties. Government officials at the State and County levels recognize the need to take steps to strengthen and expand storm water management services.

Managing and improving our stormwater systems is vital to our environment and the long-term future of our communities. As climate change persists, sustainably managing stormwater will become even more important as sea levels rise and rainfall patterns become less predictable. Stormwater user fees that are calculated under a fair formula provides the best policy and revenue development to take care of this much needed effort. In order to achieve a fair and equitable allocation of the necessary costs, no one, including the State, should be exempted from the fees. For any and every group that is exempted, the burden falls disproportionately on the remaining landowners.

Stormwater management will help promote sustainable stormwater practices that enhance water recharge and is a strong component of Hawaii's sustainability goals, notably the 2016 Sustainable Hawai'i Initiative highlighted the need to protect nearshore ocean waters by reducing sediment and pollution and the State of Hawai'i adopted the Aloha+ Challenge goal of minimizing the impacts of land use on the natural environment. Hawai'i Community Foundation's Fresh Water Initiative also adopted the 2030 target of increasing water security by 100 million gallons per day. Part of this target is increasing recharge by 30 million gallons per day by 2030, which will not only result in increased water security but will also reduce runoff pollution and overflows that result in flooding. Hawai'i Community Foundation has dedicated both time and resources to assist the City & County of Honolulu with community meetings and planning to identify the stormwater system needs and solutions, including development of a fair use fee structure. This public private partnership with the philanthropic community looks to help achieve these environmental and community goals.

For Hawai'i to continue being a leader in sustainability, connecting climate change mitigation and the health and prosperity of our communities, we urge you to oppose HB1101.