

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the Senate Committees on  
AGRICULTURE AND ENVIRONMENT  
and  
GOVERNMENT OPERATIONS

Monday, February 13, 2023  
2:00 p.m.

State Capitol, Conference Room 224 & Videoconference

In consideration of  
SENATE BILL 245  
RELATING TO THE ENVIRONMENT

Senate Bill 245 proposes to require that public hearings be held in the community directly affected by a proposed action as part of the environmental review process. **The Department of Land and Natural Resources (Department) appreciates the goals of the bill, and offers comments.**

The proposed bill would address concerns that many communities in the State do not have an adequate voice in the decisions that directly affect them, and would require that public hearings be held in communities directly affected by a proposed action.

The Department notes that current rules only require that a hearing be held in the county in which a land use is proposed. We appreciate that the proposed bill focuses instead on the "community directly affected by a proposed action." This will help ensure that hearings are held in areas that are often under-served and under-represented.

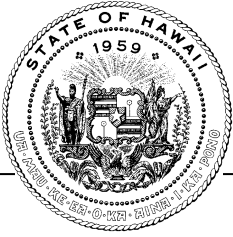
We also appreciate that the bill would ask the Environmental Review Program, formerly the Office of Environmental Quality Control, to investigate procedures for giving timely notice to the public. Current rules require that notices of hearings be published in a newspaper of general circulation. We are in an age of digital media, with traditional print media in decline, and the Department feels it is time for the State to examine new ways to communicate with the public.

The Department has some concerns regarding the proposed bill in its current form. Senate Bill 245 appears to require that the Environmental Review Program themselves hold public hearings on draft environmental assessments and draft environmental impact statements. Currently the burden of conducting public

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
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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

consultation rests with an applicant for a proposed project. Permitting agencies will take the lead in holding public hearings in cases where the public interest requires it. The Department prefers that the primary burden remain with the applicant rather than with the State.

Mahalo for the opportunity to provide comment on this measure.



**STATE OF HAWAII  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**

**JOSH GREEN, M.D.**  
GOVERNOR

**SCOTT J. GLENN**  
DIRECTOR

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Statement of  
**SCOTT GLENN, Director**

before the  
**SENATE COMMITTEES ON AGRICULTURE AND THE ENVIRONMENT  
AND GOVERNMENT OPERATIONS**

Monday, February 13, 2023, 2:00 PM  
State Capitol, Conference Room 224

in consideration of  
**SB 245**  
**RELATING TO THE ENVIRONMENT**

Chairs Gabbard and McKelvey, Vice Chairs Richards and Gabbard, and Members of the Senate Committees:

The Office of Planning and Sustainable Development (OPSD) offers the following **comments** on SB 245, which requires a public hearing for each draft environmental assessment and draft environmental impact statement in the community directly affected by the underlying proposed action.

Through longstanding practice, the Legislature, through the establishment of Hawaii Revised Statutes (HRS) Chapter 343, has differentiated between 1) actions that are likely to have a significant impact on the environment and 2) actions for which a Finding of No Significant Impact is anticipated. Very detailed Environmental Impact Statements (EISs) are required for the former, while less impactful actions prepare more appropriate Environmental Assessments (EAs). The draft EIS has a 45-day comment period while the draft EA has a 30-day comment period.

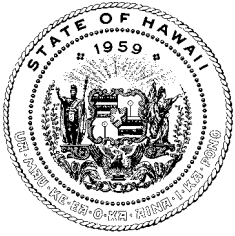
In 2019, new administrative rules for the environmental review process were promulgated with substantial input from many stakeholders in the process. After careful consideration, these rules established the requirement for a public scoping meeting following the publication of an EIS Publication Notice only for actions undergoing the detailed EIS process. A strong consideration was the need to balance community input and engagement with reducing the burden on communities, agencies, and applicants; accordingly, the requirement for such meetings for EAs was not established. It was recognized that when the proposed action eventually applied for the various permits required, further hearings and opportunities for public input would occur. The OPSD understands this process of holding public scoping hearings for EISs has been working successfully since 2019.

Also, the bill requires the OPSD to conduct all the required public hearings, on the last day of the public review and comment period. This is a substantial departure from established

law and practice, which tasks the proposing or approving agencies with all responsibilities related to any specific action undergoing environmental review. The OPSD, like the former Office of Environmental Quality Control, maintains an objective, neutral role generally publishing documents such as EAs and EISs at the request of agencies; it is not directly involved with any details of the action under review.

Further, the OPSD has neither the staff nor the resources to conduct all the public hearings required by this bill, which could exceed 70 public hearings per year based on publication history. The OPSD notes that EAs and EISs are published every two weeks in *The Environmental Notice*. The volume of draft EAs and EISs published can range from one to more than 10 per issue. The administration of this requirement would be substantial, even more so when multiple hearings on separate islands for different actions all undergoing review would have to occur on the same last day of the public review and comment period.

Thank you for the opportunity to testify on this measure.



# STATE ENVIRONMENTAL ADVISORY COUNCIL

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM,  
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT, STATE OF HAWAII  
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Testimony of the Environmental Advisory Council on SB245  
Before the Senate Committee on Agriculture and Environment and  
the Senate Committee on Government Operations  
Conference Room 224 & Videoconference  
February 13, 2023 at 2:00 pm

Josh Green, M.D.  
Governor

Chairperson  
Puananionaona Thoene

Vice Chair  
Mary Begier

Members  
Roy Abe  
Stephanie Dunbar-Co  
Dawn Hegger-Nordblom  
Makaala Kaaumoana  
Ian Robin Kaye  
Theresita Kinnaman  
Michele Lefebvre  
Gordon Scruton, Jr.  
Rachel Sprague  
Ron Terry  
Michael Tulang  
N. Mahina Tuteur

Aloha Chair Gabbard, Vice Chair Richards III, and Members of the Senate Committee on Agriculture and Environment, and Chair McKelvey, Vice Chair Gabbard, and Members of the Senate Committee on Government Operations:

The State of Hawai'i Environmental Advisory Council (EAC) submits this testimony in **OPPOSITION** to Senate Bill 245 on behalf of the EAC.

Although SB 245 is well intentioned, it is unnecessary, as the recently-revised Hawai'i Administrative Rules (HAR) that implement Hawai'i Revised Statutes (HRS) Chapter 343 (i.e., the state's environmental review process) already require that a public scoping meeting be held during the 30-day public comment review period for an Environmental Impact Statement (EIS) Preparation Notice (EISPN):

HAR § 11-200.1-23 (d): No fewer than one EIS public scoping meeting addressing the scope of the draft EIS shall be held on the island or islands most affected by the proposed action, within the public review and comment period in subsection (c). The EIS public scoping meeting shall include a separate portion reserved for oral public comments and that portion of the EIS public scoping meeting shall be audio recorded.

The HAR require a public scoping meeting for an EIS as an EIS is required when a proposed action may have a significant impact. In contrast, no public scoping meeting is required for an Environmental Assessment (EA) because an EA is completed when the proposed action is not expected to have a significant impact.

There was much discussion across the state when the HAR were revised. At least one public hearing was held on each island, and in fact several were held on the largest and most populated islands. Comments on requiring a public scoping meeting for EISs were quite supportive because it added a very specific protection to public input during the scoping process.

This bill requires the Office of Planning and Sustainable Development (OPSD) to conduct a "public hearing" for each EA and EIS. This requirement would place an undue burden on OPSD and its staff. Approximately 50 to 70 **EAs** are prepared by agencies and applicants annually. Requiring OPSD to hold a "public hearing" for each EA and EIS could consume all of OPSD's

staff time and budget. The current HAR require that the agency or applicant proposing the action and preparing the EIS hold the public scoping meeting.

The requirement in SB 245 to require OPSD to hold a "public hearing" in each community that may be environmentally impacted by a proposed action also seems disproportionate in terms of the intent of the HRS Chapter 343 process. As a reminder, environmental review documents prepared under HRS Chapter 343 are disclosure documents -- they do not grant substantive rights to complete a proposed action.

The challenges, costs to the state, in particular OPSD, and time delays, related to adding at least one public hearing for each EA and EIS outweigh any benefit of such a requirement. In addition, the EIS process already requires a public scoping meeting to be held. For these reasons, the EAC opposes SB 245 and requests that the Committees do not advance this bill.

Thank you for the opportunity to testify on this measure.

Puananionaona Thoene  
Chair  
Environmental Advisory Council

Robin Kaye  
Chair  
EAC Legislative Committee

**SB-245**

Submitted on: 2/11/2023 1:46:38 PM

Testimony for AEN on 2/13/2023 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                   | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---------------------------------------|---------------------------|------------------------|
| Lisa Bishop         | Testifying for Friends of Hanauma Bay | Support                   | Written Testimony Only |

Comments:

Aloha Committee Chairs, Vice Chairs, and members,

Please pass this important common-sense bill that will ensure that affected communities have an opportunity for direct engagement with issues important enough to require environmental assessments and/or environmental impact statements.

With Aloha,

Lisa Bishop

President

Friends of Hanauma Bay



# Environmental Caucus of The Democratic Party of Hawai'i

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February 11, 2023

To: The Honorable Mike Gabbard, Chair  
The Honorable Herbert “Tim” Richards, III, Vice Chair, and  
Members of the Senate Committee on Agriculture and the Environment  
and  
The Honorable Angus L.K. McKelvie, Chair  
The Honorable Mike Gabbard, Vice Chair, and  
Members of the Senate Committee on Government Operations  
Senate, Hawaii State Legislature

Re: **SB 245 – Relating to the Environment – Public Hearings for EAs and EISes**

Hearing: Monday, February 13, 2023, 2:00 pm, Room 224 & videoconference

Position: **Strong Support**

Aloha, Chairs Gabbard and McKelvie, Vice Chairs Richards and Gabbard, and Committee Members:

The Environmental Caucus of the Democratic Party of Hawai'i, which has an enrolled membership of more than 7,000 voting Hawai'i citizens, strongly supports SB 245. Its provisions would require an actual public hearing in each community that would be directly affected by an activity that requires the preparation and submission of either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). This requirement should be a “no-brainer.”

For too many government agencies and private developers, the requirements to prepare and submit EAs and EISes are treated as merely paperwork exercises that need to be completed and filed away, rather than being requirements for a serious analysis of how a project might affect the people and the environment in the area, and what might be done to mitigate adverse effects. This attitude must be changed, and this bill is an important step toward that goal.

The Environmental Caucus respectfully suggests that the Committees might make a few amendments to strengthen the bill. We suggest: (1) require “one or more” public hearings in an affected area, rather than only one; (2) allow for at least one hearing to be “not more than ten days before the last day of the public review and comment period,” because flexibility may well be needed, especially if multiple communities are affected and thus multiple hearings must take place; (3) expressly require that each such hearing shall take place at a convenient and adequately large place and time for the residents of the area; and (4) require that the proponent of the project make available to the attendees at the public hearing electronic copies of the EA or EIS, plus at least ten paper copies of the document.





Environmental Caucus of  
The Democratic Party of Hawai'i

Testimony before Senate AEN and GVO Committees  
SB 245 – Public Hearings for EAs and EISes  
Hearing: Monday, February 13, 2023, 2:00 pm, Room 224  
Page 2

On behalf of the Environmental Caucus, we urge you to PASS this bill, ideally with the amendments suggested. We thank you very much in advance for your favorable consideration of this bill and suggested amendments.

*Alan B. Burdick* and *Melodie Huiya*, co-chairs  
Environmental Caucus of the Democratic Party of Hawai'i  
[Burdick808@gmail.com](mailto:Burdick808@gmail.com) 808-927-1500  
[legislativepriorities@gmail.com](mailto:legislativepriorities@gmail.com) 808-258-8889



February 12, 2023

Senator Mike Gabbard, Chair  
Senator Tim Richards, Vice Chair  
Members of the Committee on Agriculture  
And Environment

Senator Angus Mckelvey, Chair  
Senator Mike Gabbard, Vice Chair  
Members of the Committee on Government  
Operations

RE: **SB 245 – RELATING TO THE ENVIRONMENT**  
**Hearing date – February 13, 2023 at 2:00 p.m.**

Aloha Chair Gabbard, Chair Mckelvey and members of the committees,

Thank you for allowing NAIOP Hawaii to submit testimony in **OPPOSITION TO SB 245 – RELATING TO THE ENVIRONMENT**. NAIOP Hawaii is the Hawaii 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.

SB 245 requires for each draft environmental assessment (EA) and draft environmental impact statement (EIS) a public hearing in the community directly affected by the underlying proposed action.

NAIOP is concerned that adding in a public hearing and more rulemaking relating to EAs and EIS will create more barriers, delays, and costs to home building in Hawaii. If a project must get an EA or an EIS, it's just the first of many steps needed to get entitled it's going to get adequate public input and scrutiny. This law will just add more opportunities for NIMBYism to occur and prevent much needed housing projects from occurring.

Accordingly, NAIOP Hawaii opposes this measure due to the impact that it will have on getting homes built for our residents. Thank you for the opportunity to testify on this measure.

Senator Mike Gabbard, Chair  
Senator Tim Richards, Vice Chair  
Members of the Committee on Agriculture  
And Environment  
February 12, 2023  
Page 2

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

**SB-245**

Submitted on: 2/10/2023 3:29:01 PM

Testimony for AEN on 2/13/2023 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Dana Keawe          | Individual          | Support                   | Written Testimony<br>Only |

Comments:

Strong support

**Chair Mike Gabbard**  
**Vice Chair Tim Richards**

**Senate Committee on Agriculture & Environment**

**Chair Angus McKelvey**  
**Vice Chair Mike Gabbard**

**Senate Committee on Government Operations**

**Monday, February 13, 2023**  
**2:00 PM**

**TESTIMONY IN SUPPORT OF SB245 RELATING TO THE ENVIRONMENT**

Aloha Chair(s) Gabbard & McKelvey, Vice Chair(s) Richards & Gabbard, Members of the Senate Committee on Agriculture & Environment and Senate Committee on Government Operations,

My name is Jun Shin. I am a recent graduate of the University of Hawai'i and a member of the Hawai'i State Youth Commission. I am testifying as an individual in **SUPPORT** of **SB245**, Relating to the Environment.

Public/governmental affairs should be as participatory as possible, especially when its actions have or will have very negative impacts on the health, wellbeing, and even the rights of affected communities. Look at the rightful struggles around Red Hill, Kahuku windmills, the former AES coal plant, Honua Ola, PVT landfill, East Maui streams, Mauna Kea. The people and communities will eventually rise up and participate regardless, even if it means a long-term battle of attrition, which will take up resources from the public and private interests pushing for action, and injustice inflicted time and time again in the community, notably communities made up of Hawaiians, other Pacific Islanders, and the broader working class.

The legislature needs to pass this bill and the relevant administrators need to do their part to make sure that community members, but especially working people who are not able to come to public meetings at a moment's notice are actively a part of making decisions with state employees, state officials, and the project's backers and financiers. When a project comes into their homes, a community's life should actually improve because of it being built in their neighborhoods and/or they should be able to have the time and space to collectively decide if they can live with it, especially if that community has faced numerous social and environmental injustices in the past. Please **PASS SB245** out of your committees.

Mahalo for the opportunity to testify,

Jun Shin,

State House District 23 | State Senate District 12

Cell: 808-255-6663

Email: [junshinbusiness729@gmail.com](mailto:junshinbusiness729@gmail.com)

**SB-245**

Submitted on: 2/12/2023 7:41:44 AM

Testimony for AEN on 2/13/2023 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Marion K A Kapuniai | Individual          | Support                   | Written Testimony<br>Only |

Comments:

These are other necessary opportunities for citizen participation from all communities.

To begin the rationale with reference to "people of color" and "environmental racism" is a bit much.

Thank you, M Kapuniai

**SB-245**

Submitted on: 2/12/2023 11:12:09 AM

Testimony for AEN on 2/13/2023 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Regina Gregory      | Individual          | Support                   | Written Testimony<br>Only |

Comments:

Thank you



**SB-245**

Submitted on: 2/13/2023 7:14:56 AM

Testimony for AEN on 2/13/2023 2:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Daniel Amato        | Individual          | Support                   | Written Testimony<br>Only |

Comments:

I support SB245.