

**DEPARTMENT OF FACILITY MAINTENANCE
KA 'OIHANA MĀLAMA HALE
CITY AND COUNTY OF HONOLULU**

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IN REPLY REFER TO:
SWQ 25-018

February 5, 2025

The Honorable David A. Tarnas, Chair
and Members
House of Representatives
Hawai'i State Capitol, Room 442
Honolulu, Hawai'i 96813

Dear Chair Tarnas and Members:

SUBJECT: H.B. No. 1090, Relating to County User Fees

The Department of Facility Maintenance (DFM) of the City and County of Honolulu (City) has primary responsibility for ensuring the City's compliance with storm water regulations under the United States Clean Water Act. In 2015, the Hawai'i Legislature took the proactive and foresighted step of authorizing the counties to establish fee-based funding of storm water services, or "storm water utilities." Over the past two (2) years, the DFM has undertaken a comprehensive program to develop a storm water utility and fee for the City 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 storm water fee. The DFM opposes H.B. No. 1090, Relating to Stormwater Fees, which would place a storm water fee cap of \$100,000 in aggregate annually for all Department of Hawaiian Homelands (DHHL) properties and would prohibit the City from denying related storm water management services to the DHHL.

Protecting and enhancing O'ahu's groundwater, streams, and near-shore environment is a shared responsibility. Storm water 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 storm water utility, all properties, including United States 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. Storm water fees will be assessed based on impervious area and the total raised may not exceed the

demonstrated cost of storm water services, an important check and balance on spending that is not in place today. The DFM has determined that it currently spends \$115 million per year on storm water services but is expecting that cost will need to increase upwards to around \$208 million in order to run a right sized program.

Placing a fee cap on DHHL properties and land, especially at an amount that is significantly below the properties' proportional share of storm water service costs, substantially undermines this important element of equity and fairness. In fact, equity and fairness are the core purposes of adopting a storm water fee. Today, the full cost burden is on taxable properties, with the greatest impact on residential property owners. Under a storm water utility, everyone would pay a fair share based on storm water 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 O'ahu) to pay duly adopted local storm water fees. Courts across the United States have upheld the appropriateness and legality of State and Federal governments paying duly adopted and equitable storm water 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 O'ahu.

Adoption of a fee at the level under consideration by the City would result in charging fees to State agencies for their fair share of the total cost of managing storm water runoff on O'ahu. However, there are multiple opportunities for each State agency to reduce its fees and to cooperate with the DFM in finding mutually beneficial means of providing these services. Under the proposed structure of the storm water utility, all State agencies would have the opportunity to reduce their fees by up to 60%, by implementing beneficial water capture and storm water management practices on site, which most State agencies are doing.

A prime example of this occurred in 2023, through which the DFM, under good faith negotiations, collaborated with the State Department of Transportation (DOT) to develop an acceptable and workable solution agreed upon by both parties that recognizes DOT's ongoing investments in storm water management. Through a cooperative analysis, the DFM and the DOT reached an agreement to exempt all public roadways, State airport runways, and harbor docks from a storm water fee, since these areas are fundamentally part of the public transportation systems. The DOT will be able to apply and qualify for the maximum 60% credit reduction of applicable storm water fees for those facilities that include beneficial storm water management. The ultimate agreement would essentially place a fee cap in aggregate not to exceed \$1.5 million per year for all State DOT properties. This amount is proportional to the expected storm water fee while also crediting DOT for its many contributions to storm water management.

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To date, we have not had the opportunity to discuss these options with our State DHHL partners. H.B. 1090 would foreclose exploration of appropriate and fair fees and mutually beneficial options, including delayed/phased implementation based upon current and future economic and financial conditions.

In its 2015 action authorizing counties to adopt storm water fees, the Legislature recognized the need to fund the protection of our waters sufficiently, and equitably. H.B. No. 1090 moves the State away from embracing that shared responsibility. The DFM would be happy to conduct a presentation and Q&A on the storm water utility, fee proposals, potentials for phased implementation, etc. to this committee and any other interested Legislators or State agency partners whenever convenient for you.

We urge the committee to reject H.B. No. 1090 at this time to allow for further discussion and collaboration. Thank you for this opportunity to testify on this measure.

Sincerely,



Digitally signed by Albano,
Gene
Date: 2025.02.05
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Gene C. Albano, P.E.
Director and Chief Engineer Designate