

HB 1260



LATE

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

April 6, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION
COMMITTEE ON WAYS AND MEANS
COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS
HOUSE BILL NO. 1260, H.D.1, (PROPOSED) S.D.1,
RELATING TO GOVERNMENT.

The purpose of H.B. No. 1260, H.D.1, Proposed S.D.1, is to abolish the Aloha Tower Development Corporation (ATDC) and to transfer the responsibility for the harbors modernization functions to the Department of Transportation, Harbors Division, effective July 1, 2009.

The Department of Transportation (DOT) **opposes** this portion (Part II) of the Proposed S.D.1.

Part II of the Proposed S.D.1 does not provide for dedicated personnel support, which is currently available through ATDC and which is essential to implement the Harbors Modernization Plan (HMP) within an expedited timeframe. HMP (Act 200) is a critical initiative intended to modernize and expand Hawaii's commercial harbor system; thereby increasing harbor efficiency and decreasing the cost of moving consumer goods and people through the commercial harbors. The DOT would oppose any initiative which would reduce manpower; thereby frustrating or hampering our ability to continue and further the progress we have made to date. A core group of dedicated personnel focused only on HMP is a necessity and, absent such an accommodation, the DOT opposes the proposed legislation.

The DOT respectfully requests that Part II of the Proposed S.D.1 be deferred.



LATE

**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 1260, H.D. 1, Proposed S.D. 1, RELATING TO GOVERNMENT.

BEFORE THE:

SENATE COMMITTEES ON WAYS AND MEANS
AND ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Monday, April 6, 2009 **TIME:** 10:30 AM

LOCATION: State Capitol, Room 211
Deliver by: Email to WAMTestimony@Capitol.hawaii.gov

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Bryan C. Yee, Deputy Attorney General
or Liane M. Moriyama, Administrator,
Hawaii Criminal Justice Data Center

Chairs Kim and Taniguchi and Members of the Committees:

The Administration, as a matter of policy, is opposed to almost all of the changes in this bill. The Department of the Attorney General is opposed to the transfer of the civil identification (State ID) functions from the Department of the Attorney General to the Office of the Lieutenant Governor. Further, we find that the provisions to undertake certain changes in this bill are technically flawed.

One of the purposes of this bill is to transfer the State ID function from the Department of the Attorney General to the Office of the Lieutenant Governor. We believe that a thorough evaluation should be made before any transfer of this function. The State ID program benefits from being part of the Hawaii Criminal Justice Data Center, where there is significant technical expertise to support the automated State ID System, which includes the capability to process ID cards remotely through community outreach programs and the state website. Further, ongoing agreements, such as those with the Social Security Administration, the American Association of Motor Vehicle Administrators, and Marquis ID Systems, would be affected and would have to be addressed immediately. In light of anticipated activity in Congress on possible modification of the national Real ID Act, and the

resulting effect on and need for coordination between the state driver's license and state identification programs, we recommend that the civil identification program not be transferred at this time. We therefore respectfully ask that part XI of this bill be removed.

We also have a number of technical or legal comments, concerns, and recommendations.

With respect to part II, section 6 of this bill purports to abolish the Aloha Tower Development Corporation (ATDC) and transfer ATDC's harbors-related duties to the Department of Transportation, Harbors Division (DOT-H).

While adequate provisions for the transfer of the duties and functions of the harbors-related responsibilities have been made in various parts of the bill, no attention has been paid to the various ongoing contractual and legal obligations of the non-harbors-related side of ATDC. Generally, part II of this bill, and section 61 in particular (with regard to transfers of personnel, powers and duties), makes no provisions for the personnel, powers, and duties of the non-harbors-related functions of ATDC.

For instance, ATDC is the lessor under a 65-year lease with Aloha Tower Marketplace, and almost 50 years are still left on this lease, with rents of at least \$1,000,000 per year coming into ATDC as lessor. With the repeal of chapter 206J, Hawaii Revised Statutes (HRS), there is no longer any organization with authority to enter into or maintain the lease with Aloha Tower Marketplace. The rents are also to be deposited in the Aloha Tower special fund, which will no longer exist after the repeal of chapter 206J, and there is no transition provision to cover the transfer of those funds.

ATDC has also entered into a series of interlocking legal obligations, evidenced through a series of executed agreements, with Aloha Tower Marketplace. These include parking license agreements, estoppel agreements, and other lease-related obligations. The legal status of these obligations has not been addressed by this bill.

Further, ATDC is the named defendant in a lawsuit that is currently stayed in state circuit court, as well as the respondent in an arbitration for which a final decision has not been rendered. ATDC is also in the midst of mediation negotiations, the results of which may result in value for the State. There is no provision in this bill for dealing with any of these ongoing obligations.

With respect to part III, the repeal of the Occupational Safety and Health Law, chapter 396, HRS, raises at least three issues that should be clarified if this bill is passed: (1) What will happen to violations that are alleged to have occurred before October 1, 2010 (the effective date of the repeal) and any pending litigation; (2) What effect will the repeal have on variances; and (3) What rules will apply to disclosure of records.

First, if this bill is passed, it should make clear what will happen to violations that are alleged to have occurred before October 1, 2010. If the intent is to complete the investigations of alleged violations or complaints of discrimination, then staffing must be maintained. With respect to any pending litigation resulting from a citation issued pursuant to chapter 396, HRS, the cases can be either dismissed or pursued until final resolution. The bill should specify which course of action should be taken. If the cases are pursued and a violation is affirmed after the repeal date, then, as a practical matter, there will be no authority to subsequently require compliance.

Second, the Department of Labor and Industrial Relations' Hawaii Occupational Safety and Health Division, has, over the years, granted variances from occupational safety and health standards to employers. The variances do not necessarily have an expiration date. Thus, to make it clear, a provision should be included to state that all variances will be null and void on a date to coincide with the repeal of chapter 396.

Third, under chapter 396, the names and identities of witnesses are kept confidential in order to protect the witness from retaliation or discrimination and are, therefore, never disclosed. In addition,

records maintained under chapter 396 are not to be admitted or used in any civil action growing out of any manner mentioned in the record, and therefore are generally not disclosed to civil litigants. If these protections against disclosure should be continued, then wording from sections 396-8(f) and 396-14, HRS, should be included in the bill.

With respect to part VIII, on page 23, lines 20-21, if this bill is passed, the term "business, economic development, and tourism" should be deleted in Ramseyer format, and the term "land and natural resources" added.

With respect to part X, section 35 proposes to replace the term "department" with the term "board." Section 36 proposes to replace the term "director" with the term "chairperson" and to replace the term "director" with the term "administrator." These terms should be reversed. For example, the term "board" should be replaced with the term "department", not the other way around.

With respect to part XI, in addition to our comments above, we also note that section 42 proposes to replace the term "lieutenant governor" with the term "attorney general", and to replace the term "lieutenant governor" or "office of the lieutenant governor" with the term "department" or "department of the attorney general. If this bill is passed, these terms should be reversed. Furthermore, pursuant to section 76-16(b)(5), HRS, all employees within the office of the lieutenant governor are exempted from civil service. Under the proposed bill, it appears that the Legislature is removing the civil service protections from the various employees of the State ID program.

With respect to part XIII, a number of references to the Hawaii Health Systems Corporation (HHSC) as a body remain within chapter 323F, HRS. If this bill is passed, the Committees should amend sections 323F-1, 4, 4.5, 5, 6, 8.5, 9, 10, 10.5, 11, 21, 22, 23, 24, 31, and 32 to delete the references to HHSC as a whole, the corporation, or corporate board, and substitute where appropriate a replacement agency. Other statutes that would need to be similarly amended include: sections 26-5(e), 26-35.5(a) and (e), 28-8.3(a)(12) and (c), 29-24(a),

36-27(13), 36-30(a)(12), 37-53, 37-74(d)(2), 37D-1, 37D-2(a) and (b)(3), 41D-2(b), 76-11, 76-47(c), 89-2, 89C-1.5, 102-2(b)(12), 103-53(e)(7), 103D-102(5)(c), and 103D-203(a)(7), HRS. The Committees should especially note that no amendment was made to chapters 76 and 89, HRS, which makes the HHSC a separate civil service jurisdiction and gives it a vote in employer group collective bargaining.

Furthermore, if this bill is passed, the Committees should amend section 52 to allow for the transfer of not only the assets but also the liabilities of HHSC to the appropriate regional health care system.

We respectfully ask that part XI be deleted, and that the various legal concerns, comments and recommendations be addressed.

LATE

COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Testimony of Senator David Y. Ige, Chair - Committee on Health

Monday, April 6, 2009 10:30 am Conference Room 211

Requesting Amendments to HB 1260 Proposed SD1

As Chair of the Senate Committee on Health, I respectfully request amendments to HB 1260 Proposed SD1:

1. Delete Part XIII, Sections 45-52 on pages 40-77, which proposes to abolish the Hawaii health systems corporation (HHSC) in its role as a central corporation-wide, policy-making and managerial entity.

The proposal to abolish the corporate board of the Hawaii health systems corporation contradicts and undermines the work of the Committees on Health and Labor in developing a comprehensive restructuring of HHSC. As you are aware, restructuring HHSC is a priority of the Senate and is reflected in SB 1673 SD2. I have been working with other Senators and have convened several meetings with Senators, key HHSC executives, Board members, and stake holders to develop consensus and support for SB1673 SD2.

I would welcome the opportunity to work with you to address any concerns and issues that you may have with HHSC and incorporate additional amendments within the framework contained in SB 1673 SD2. Having two bills going in different directions would be counterproductive and confusing.

Thank you for your consideration.

HGBA

1260

SUGGESTED AMENDMENTS TO S.B. 1250, H.D. 1 (Proposed S.D. 1)

PART XVI

LATE TESTIMONY

SECTION 61.

(b) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer subject to the state personnel laws and this Act; except that an officer or employee whose position is no longer authorized under the General Appropriations Act of 2009 shall not be transferred. In the event that a position held by any employee having permanent civil service status or membership is no longer authorized under the General Appropriations Act of 2009, such employee shall remain in the employment of the State in accordance with the civil service law, the applicable bargaining unit contract, or the state personnel rules and regulations, whichever is applicable.

(c) No officer or employee who has been transferred pursuant to subsection (b) who has tenure shall suffer any loss of salary, seniority, prior service credit vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

(d) Any employee who, prior to this Act, was exempt from civil service and who may be transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. No exempt employee who is transferred by this Act shall suffer any loss of

prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act.

~~(d) If a position held by an officer or employee having tenure is no longer authorized under the General Appropriations Act of 2009, the movement of an officer or an employee to another position shall be subject to the applicable collective bargaining agreement.~~

LATE

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE

Committee on Ways and Means

Sen. Donna Mercado Kim, Chair

Sen. Shan S. Tsutsui, Vice Chair

Committee on Judiciary and Government Operations

Sen. Brian T. Taniguchi, Chair

Sen. Dwight Y. Takamine, Vice Chair

State Capitol, Conference Room 211
Monday, April 6, 2009; 10:30 a.m.

**STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1260, proposed SD1
RELATING TO GOVERNMENT**

The ILWU Local 142 offers comments on H.B. 1260, proposed SD1, which reorganizes certain executive branch agencies by abolishing or transferring various agencies and programs to correspond with H.B. 200, HD1, the General Appropriations Act of 2009. Our comments are limited to Part II of the bill related to the harbors modernization functions currently assigned to the Aloha Tower Development Corporation.

In 2008, Act 200 was enacted to expand the authority of the Aloha Tower Development Corporation to assist in the development of a statewide harbors modernization plan. There was general recognition that improvements to the state's harbors were badly needed, especially since Hawaii depends so heavily on goods imported by ship from other parts of the U.S. and the world. While Hawaii is making strides toward sustainability, we are clearly far from being able to grow all our own food and manufacture all the goods that our population needs and desires. Ocean surface transportation is, therefore, the state's lifeline.

H.B. 1260, SD1 would transfer the harbors modernization functions from the Aloha Tower Development Corporation to the Harbors Division of the Department of Transportation effective July 1, 2009. In addition, the Harbors Modernization Group shall have jurisdiction over harbors projects, which will be known as the "commercial harbors modernization plan," for Honolulu, Kahului, Hana, Hilo, Kawaihae, Kalaeloa, and Nawiliwili.

The ILWU's primary concern is the timely implementation of the commercial harbors modernization plan. Unlike the quasi-public Aloha Tower Development Corporation, the Department of Transportation may be hampered by procurement requirements and limited in its ability to enter into public-private partnerships and development-oriented financing options.

However, if these issues are adequately addressed and the commercial harbors modernization plan can be implemented without further delay, we have no objections to Part II of H.B. 1260, proposed SD1. The harbors modernization plan must be implemented as quickly as possible. Further delays will only mean more congestion at the harbors, more potential for accidents, less efficiency in moving cargo on and off the ships, and higher costs.

Thank you for the opportunity to share our views and concerns.

The Pacific Resource
PARTNERSHIP



LATE

Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

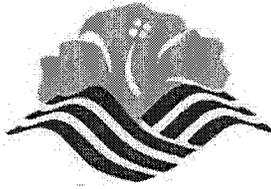
HB 1260, HD1, Proposed SD1 – Relating to Government
Monday, April 6, 2009
10:30 am
Conference Room 211

Chair Kim, Vice Chair Tsutsui and Members of the Senate Committee on Ways and Means:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

Pacific Resource Partnership supports the intent of HB 1260, HD1, SD1, to provide creation of loans for affordable housing projects. During this time of economic challenges, it is critical to provide much needed jobs and affordable housing.

Thank you for the opportunity to testify on HB1260, HD1, Proposed SD1.



LATE

KONA COUNTY FARM BUREAU
P.O. Box 2341 • Kealahou, Hawaii 96750
Phone: 324-6011

TESTIMONY
Re: HB1260 SD1 (proposed) Relating to Government

April 6, 2009

Chair Kim, Chair Taniguchi and Members of the Committees:

On behalf of our members, the Kona County Farm Bureau provides the following comments on HB1260 SD1, proposing transfer of DBEDT responsibilities to other agencies within government.

As stated by the HFBB in their testimony to you, the Office of State Planning and the Land Use Commission provide services that critically impact the agricultural industry. Therefore, their future is of interest to the industry.

The Kona County Farm Bureau feels that it is not practical to place additional and potentially conflicting responsibilities under the administration of the Department of Land and Natural Resources. The DLNR has a mission statement that says its role is to:

“Enhance, protect, conserve and manage Hawaii’s unique and limited natural, cultural and historic resources held in public trust for current and future generations of visitors and the people of Hawaii nei in partnership with others from the public and private sectors.”

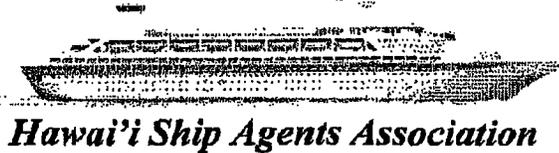
HFBB’s suggestion to move these two areas to the Department of Budget and Finance again, for administrative purposes makes sense.

We respectfully request that this action be deferred so that more consideration may be given to moving the administrative responsibilities of oversight of the OSP and LUC to the Department of Budget and Finance instead of the Department of Land and Natural Resources.

Thank you for providing this opportunity to share with you the position of the Kona County Farm Bureau.

Sincerely yours,

Nancy Pisicchio
President

**LATE**

April 5, 2009

SENATE COMMITTEE ON WAYS AND MEANS

Chair - Sen. Donna Mercado Kim, Vice Chair - Sen. Shan Tsutsui, and Committee Members

SENATE COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Chair - Sen. Brian Taniguchi, Vice Chair - Sen. Dwight Takamine, and Committee Members

Public Hearing, April 6, 2009, 10:30 a.m. Conference Room 211

TESTIMONY OF WILLIAM F. ANONSEN, PRESIDENT**HAWAII SHIP AGENTS ASSOCIATION****SUPPORT THE INTENT WITH CONCERNS, H. B. 1260 HD1 (Proposed SD1)**

My name is William Anonsen and I am the President of the Hawai'i Ship Agents Association (HSAA) and respectfully submit this testimony on behalf of our membership. We commend the Senate for their fiduciary initiative and efforts with this proposed SD1 which seeks to identify state executive branch departments and their respective division's roles and responsibilities' to determine if they are most appropriately aligned and structured to fulfill their statutory mandates.

The HSAA supports the intent of this bill, however in view of the critical importance of undertaking such a comprehensive reorganization program, we respectfully request additional time to better understand and discuss the potential impact this may have on impending statewide projects for the commercial harbors modernization plan with effected harbor users and stakeholders. We have been working with the DOT-Harbors Division and the maritime industry on a myriad of critically needed infrastructure improvements and are concerned about their implementation and/or if they may be in jeopardy.

To ensure we optimize the maritime commercial utilization of our limited and constrained port facilities, we must have cohesive management that creates an efficient, productive, and accessible environment that is responsive in meeting our multi-island state's future ocean transportation requirements. Our statewide harbor system is a major economic asset that will only be successful and benefit from deliberate and coordinated planning in order to maximize appropriate economic development opportunities.

Cooperatively, we should and must continue our collaborative efforts in advancing the idea of a transportation agenda that strengthens Hawai'i's transportation system. We are living in a new world that requires new thinking and approaches to transportation that should be characterized by changed behaviors and measureable results.

As a multi-island state that is largely dependant on waterborne transportation, we must remain vigilant to preserve our finite maritime lands. Our island infrastructure is not disposable; it is a strategic asset that must be properly planned, maintained, renewed and protected. The impact of doing nothing and maintaining the status quo is longer prudent or acceptable and a consequential disservice to Hawai'i's residents and visitors. We would be pleased to work with the legislature, stakeholders and other effected parties in any dialogue related to this proposed reorganization program.

Mahalo for the opportunity to offer this commentary on this proposed amendment

Respectfully,

A handwritten signature in cursive script that reads "William F. Anonsen".

William F. Anonsen
President**1240 Ala Moana Blvd. Suite 323, Honolulu, Hawai'i, 96814**

Tel: (808) 590-1222 Fax: (808) 522-8502



LATE

LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132



Via Capitol Website

April 6, 2009

**Senate Committee on Ways and Means
Hearing Date: Monday, April 06, 2009 at 10:30 A.M. in CR 211**

**Comments regarding HB 1260 HD1, PROPOSED SD1
Relating to Government
(Reorganizing Executive Branch including Department of Planning)**

Honorable Chair Donna Mercado Kim, Vice-Chair Stan S. Tsustui and Senate Committee on Ways and Means Members; Honorable Chair Brian Taniguchi, Vice Chair Dwight Takamine and Senate Committee on Judiciary and Government Operations Members:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

LURF is writing to submit **comments** regarding **HB 1260, HD1, PROPOSED SD1** which is proposing to reorganize a select number of executive branch agencies by abolishing or transferring various agencies and programs to correspond with HB 200, HD1, the General Appropriations Act of 2009.

HB 1260 HD1, PROPOSED SD1. The proposed SD1 version proposes to reorganize certain state executive branch departments to reflect the provisions of the General Appropriations Act of 2009, which is being proposed in HB 200, HD1.

LURF's Position. LURF is particularly concerned with the following sections of this bill:

- **Section 17.** Transfers the State Land Use Commission (SLUC) to the Department of Land and Natural Resources (DLNR).
- **Section 24.** Moves the State Office of Planning (SOP) from DBEDT to DLNR.

This bill may be a good vehicle for discussion, however we do not believe that it would be prudent to place SLUC or SOP in DLNR because the LUC and SOP deals with long range planning and DLNR emphasis is primarily on day to day operations. Perhaps SLUC and SOP would be better suited in the Department of Budget and Finance.

Thank you for the opportunity to express our comments regarding **to HB 1260 HD1, Proposed SD1.**



Testimony of C. Mike Kido
External Affairs
The Pacific Resource Partnership

Senate Committee on Ways and Means
Senator Donna Mercado Kim, Chair
Senator Shan Tsutsui, Vice Chair

HB 1260, HD1, Proposed SD1 – Relating to Government
Monday, April 6, 2009
10:30 am
Conference Room 211

Chair Kim, Vice Chair Tsutsui and Members of the Senate Committee on Ways and Means:

My name is C. Mike Kido, External Affairs of the Pacific Resource Partnership (PRP), a labor-management consortium representing over 240 signatory contractors and the Hawaii Carpenters Union.

Pacific Resource Partnership supports the intent of HB 1260, HD1, SD1, to provide creation of loans for affordable housing projects. During this time of economic challenges, it is critical to provide much needed jobs and affordable housing.

Thank you for the opportunity to testify on HB1260, HD1, Proposed SD1.



Ocean Tourism Coalition

LATE
The Voice for Hawaii's Ocean Tourism Industry
820 Mililani Street, #810
(808) 205-1745 Phone (808) 533-2739 Fax
office@oceantourism.org

TESTIMONY HB 1260 SD1

April 6, 10:30 AM Room #211

TESTIMONY TO: Senate Committee on Ways and Means

Presented By: James E. Coon, President of the Ocean Tourism Coalition

Subject: HB 1260 SD1 RELATING TO PLANNING AND ECONOMIC DEVELOPEMENT

SPEAKING IN THE STRONGEST OPPOSITION

Chair Senator Donna Mercado Kim, Vice Chair Senator Shan Tsutsui and Members of the Committee:

I am Jim Coon, President of the Ocean Tourism Coalition (OTC) speaking with **STRONG OPPOSITION to HB 1260 SD1**. The many small businesses that earn their livelihood from a pristine and protected marine environment applaud the CZM program for all it does for our marine and coastal environment.

I have had the opportunity to serve in close association with the Office of Planning in various capacities since 1984 including chairing the first Whale Sanctuary Task force, participating in drafting the original ORMP, serving as a citizen representative on MACZMAG and the current Vice Chair and charter member of MACZAG. Hawaii is fortunate to have the State Office of Planning and the CZM program. (With its federal funding!) In fact Hawaii was the first State in the Nation to have a comprehensive Ocean Resources Management Plan which has recently been updated (2006), this is a living document and will continue to serve all state planners as the guidelines for managing the coastal zone in Hawaii.

It would be a mistake to move the State Office of Planning. This would cost the state far more than it could possibly save. The negative consequences are significant! I am sure many others will testify in greater detail on the negative consequences this will have on the management of our precious land and ocean resources. These precious resources form the basis of both our way of life and our continued economic viability.

We all know these are difficult economic times. These are times that we need real vision and leadership and cannot afford to make decisions that will have massive negative impact on us, our environment and the generations to follow. It is incomprehensible to me this bill keeps morphing and has come this far. It is a bad idea, a poorly thought out bill that would cause many seen and unseen negative consequences if passed.

We humbly ask you to **Please Hold HB 1260 SD1** and protect and preserve our coastal zone.

Thank you,

James E. Coon, President
Ocean Tourism Coalition
PO Box 847
Kula, HI 96790
808-870-9115
captcoon@hawaiiantel.net

LATE 210

**WINDWARD
AHUPUA'A ALLIANCE**

From the Peaks of *Na Ko'olau* to the Outer Reefs

*Community-Based Planning
Sustainable Economic Development
Restoration, Preservation, Protection & Public Access
Educational & Cultural Programs*

COMMITTEE ON WAYS AND MEANS

Sen. Donna Mercado Kim, Chair

Sen. Shan S. Trutsui, Vice Chair

COMMITTEE ON JUDICIARY & GOVERNMENT OPERATIONS

10:30 AM

Monday, April 6, 2009

Conference Room 211

HB 1260 1 SD1 (Proposed) - RELATING TO GOVERNMENT

Oppose With Amendments

My name is Shannon Wood, speaking on behalf of the *Windward Ahupua'a Alliance*, a 501c3 Hawai'i non-profit corporation founded in July, 2002.

We oppose **HB 1260 1 SD1 (Proposed) - RELATING TO GOVERNMENT** because of the shortness of time to examine in detail the entire bill.

The *House Finance Committee* is also hearing the *Senate's* version of the bill later today and we'll be saying the same thing. With only three days notice on two huge pieces of legislation, we urge that the bill be deferred pending further study over the interim.

This is not to say that there is no merit to the suggested changes; however, a quick analysis of just two of them - shifting the *Land Use Commission* and the *Office of Planning* from the *Department of Business, Economic Development & Tourism* to the *Department of Land & Natural Resources*- have significant flaws in them. That makes me wonder about the rest of the proposed changes.

Therefore, *WAA* proposes that this bill be deferred until the 2010 Session to allow a task force/working group made up on members from the *House* & the *Senate*, the heads of the impacted departments along with their key staff currently involved in the programs to be transferred or abolished, and members from the for-profit & non-profit sectors who utilize these governmental services.

Moving this bill through without giving everyone adequate time to read and analyze it is not good government. The *Windward Ahupua'a Alliance* urges you to defer further action on **HB 1260 1 SD1 (Proposed)** until the 2010 session.

P.O. Box 6366

Kane'ohe, HI 96744

E-Mail: info@waa-hawaii.org

Voicemail: 808/247-6366

Cellular: 808/223-4481

Website: <http://www.waa-hawaii.org>

SENATE COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

LATE

Monday April 6, 2009

Senate Conference Room 211

10:30 AM

**HOUSE BILL 1260, HD1, PROPOSED SD1
RELATING TO GOVERNMENT**

Aloha Chair Kim, Vice Chair Tsutsui and Ways and Means Committee Members:

This testimony is in SUPPORT with COMMENTS for House Bill 1260, HD1, Proposed Senate Draft 1. This long overdue measure demonstrates a studied and reasoned restructuring of State administrative functions for the purpose of **sound planning practices and policies**. House Bill 1260, Proposed SD1, provides the means with which to rein in a public agency, the Department of Business, Economic Development and Tourism (**DBEDT**), which has perceptibly become a land use monopoly agency with increasing latitude and autonomous actions by its land use authorities.

The Proposed SD1 for House Bill 1260, HD1, transfers several land use planning and development functions from DBEDT to the State Department of Land and Natural Resources (**DLNR**). As its name suggests, the DLNR is by far the most appropriate agency to oversee state land use planning matters from the wider State land use planning perspective, i.e., **balancing** protection and preservation of fragile natural and historic resources with sound planning practices for each island's finite developable lands, including sustainable agricultural and coastal zone resources.

In the recent past, serious challenges and costly difficulties have arisen from the formation of the DBEDT's development authorities and their autonomous structure:

- Ten years ago the Aloha Tower Development Authority (**ATDC**) learned a hard lesson head-on when the State Circuit Court ruled that the ATDC had no right to insist on taking public land for a multi-level parking garage – land which had been historically **entrusted to the State** as a public park and landscaped gateway for the Honolulu Waterfront.
- Three years ago the Hawaii Community Development Authority (**HCDA**) was strongly advised by the State Legislature to form a public working group to **ensure public guidance** on the future planning and development of public lands on the Kaka'ako shoreline. Shortly afterward the ATDC wisely followed this example by forming a community/professional public advisory group to guide their planning efforts for the Downtown Honolulu waterfront.

In accordance with House Bill 1260, HD1, Proposed Senate Draft 1, the State's **Office of Planning** and **Land Use Commission** will be important assets and additions to the DLNR's functions. Joining these functions with the Historic Preservation Division, Division of State Parks and other **Hawaii land use values** under the protective mission of the DLNR will help ensure sound planning practices and, it is hoped, far more **comprehensive planning policies** to conserve Hawaii's fragile resources and finite developable lands, including calculated **sustainability** for agricultural and coastal zone resources as well as emerging understanding and recognition of the vital significance of carrying capacity, building rehabilitation, facility reuse and renewable resources. Clearly these values have been alien to and absent from the DBEDT's often exploitative land use practices and authority decisions.

Coupled with this important transition to the DLNR would reasonably be the addition of the DBEDT's offspring HCDA and ATDC planning functions for the respective areas of Kaka'ako, Kalaehoa and the Downtown Honolulu Waterfront apart from their working harbors. Further, with

these transitions would properly belong the recently established **public advisory group functions** of the Aloha Tower Public Advisory Group and the Kaka'ako Makai Community Planning Advisory Council. Therefore, in advancing toward truly comprehensive State land use planning, the Proposed Senate Draft 1 for House Bill 1260, HD1, should respectively ensure the continuation of these professional and diverse community-based planning groups, just as the advisory functions of the Diamond Head Citizens Advisory Committee are acknowledged in Chapter 6E-32, HRS.

Clearly, the directives of House Bill 1260, HD1, Proposed Senate Draft 1, are **in the greater public interest**. These directives require attention to the ultimate dissolution of top-down directives and special-interest influences in land use planning by public agencies, as most recently demonstrated by the HCDA during their approval process for the highly speculative General Growth Properties redevelopment application that flew in the face of the Kaka'ako Mauka community-based plan. These directives also require attention to preventing the **potential transfer** of omnipresent back-room policies and practices exhibited over the years by the DBEDT and its attendant development authorities. The public does not forget, and curing old habits should reasonably begin with a slate of dedicated and **knowledgeable planning professionals** untainted by back-room politics and special interest influence.

Please pass the Proposed SD1 for House Bill 1260, HD1, with the constructive amendments suggested above. **Comprehensive land use planning at the State level is long overdue, and the people of the State of Hawaii and its future deserve no less.**

Sincerely,

Michelle S. Matson
Concerned Citizen

LATE

The Twenty-Fifth Legislature
Regular Session of 2009

THE SENATE

Committee on Ways and Means

Sen. Donna Mercado Kim, Chair

Sen. Shan S. Tsutsui, Vice Chair

Committee on Judiciary and Government Operations

Sen. Brian T. Taniguchi, Chair

Sen. Dwight Y. Takamine, Vice Chair

State Capitol, Conference Room 211
Monday, April 6, 2009; 10:30 a.m.

STATEMENT OF THE ILWU LOCAL 142 ON H.B. 1260, proposed SD1 RELATING TO GOVERNMENT

The ILWU Local 142 offers comments on H.B. 1260, proposed SD1, which reorganizes certain executive branch agencies by abolishing or transferring various agencies and programs to correspond with H.B. 200, HD1, the General Appropriations Act of 2009. Our comments are limited to Part II of the bill related to the harbors modernization functions currently assigned to the Aloha Tower Development Corporation.

In 2008, Act 200 was enacted to expand the authority of the Aloha Tower Development Corporation to assist in the development of a statewide harbors modernization plan. There was general recognition that improvements to the state's harbors were badly needed, especially since Hawaii depends so heavily on goods imported by ship from other parts of the U.S. and the world. While Hawaii is making strides toward sustainability, we are clearly far from being able to grow all our own food and manufacture all the goods that our population needs and desires. Ocean surface transportation is, therefore, the state's lifeline.

H.B. 1260, SD1 would transfer the harbors modernization functions from the Aloha Tower Development Corporation to the Harbors Division of the Department of Transportation effective July 1, 2009. In addition, the Harbors Modernization Group shall have jurisdiction over harbors projects, which will be known as the "commercial harbors modernization plan," for Honolulu, Kahului, Hana, Hilo, Kawaihae, Kalaheo, and Nawiliwili.

The ILWU's primary concern is the timely implementation of the commercial harbors modernization plan. Unlike the quasi-public Aloha Tower Development Corporation, the Department of Transportation may be hampered by procurement requirements and limited in its ability to enter into public-private partnerships and development-oriented financing options.

However, if these issues are adequately addressed and the commercial harbors modernization plan can be implemented without further delay, we have no objections to Part II of H.B. 1260, proposed SD1. The harbors modernization plan must be implemented as quickly as possible. Further delays will only mean more congestion at the harbors, more potential for accidents, less efficiency in moving cargo on and off the ships, and higher costs.

Thank you for the opportunity to share our views and concerns.

COMMITTEE ON WAYS AND MEANS

Senator Donna Mercado Kim, Chair

Senator Shan S. Tsutsui, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair

Senator Dwight Y. Takamine, Vice Chair

Testimony of Senator David Y. Ige, Chair - Committee on Health

Monday, April 6, 2009 10:30 am Conference Room 211

Requesting Amendments to HB 1260 Proposed SD1

As Chair of the Senate Committee on Health, I respectfully request amendments to HB 1260 Proposed SD1:

1. Delete Part XIII, Sections 45-52 on pages 40-77, which proposes to abolish the Hawaii health systems corporation (HHSC) in its role as a central corporation-wide, policy-making and managerial entity.

The proposal to abolish the corporate board of the Hawaii health systems corporation contradicts and undermines the work of the Committees on Health and Labor in developing a comprehensive restructuring of HHSC. As you are aware, restructuring HHSC is a priority of the Senate and is reflected in SB 1673 SD2. I have been working with other Senators and have convened several meetings with Senators, key HHSC executives, Board members, and stake holders to develop consensus and support for SB1673 SD2.

I would welcome the opportunity to work with you to address any concerns and issues that you may have with HHSC and incorporate additional amendments within the framework contained in SB 1673 SD2. Having two bills going in different directions would be counterproductive and confusing.

Thank you for your consideration.

SUGGESTED AMENDMENTS TO H.B. 1260, H.D. 1 (Proposed S.D. 1)

PART XVI

SECTION 61.

(b) All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer subject to the state personnel laws and this Act; except that an officer or employee whose position is no longer authorized under the General Appropriations Act of 2009 shall not be transferred. In the event that a position held by any employee having permanent civil service status or membership is no longer authorized under the General Appropriations Act of 2009, such employee shall remain in the employment of the State in accordance with the civil service law, the applicable bargaining unit contract, or the state personnel rules and regulations, whichever is applicable.

(c) No officer or employee who has been transferred pursuant to subsection (b) who has tenure shall suffer any loss of salary, seniority, prior service credit vacation, sick leave, or other employee benefit or privilege as a consequence of this Act.

(d) Any employee who, prior to this Act, was exempt from civil service and who may be transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. No exempt employee who is transferred by this Act shall suffer any loss of

prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act.

~~(d) If a position held by an officer or employee having tenure is no longer authorized under the General Appropriations Act of 2009, the movement of an officer or an employee to another position shall be subject to the applicable collective bargaining agreement.~~

BED 130 PRODUCTS AND OUTPUTS	
PRODUCT	FREQUENCY
Key Economic And Statistical Reports	
Quarterly Economic Outlook And Forecast	4 per year
Quarterly Statistical & Economic Report	4 per year
Monthly Economic Indicators	12 per year
Monthly Energy Trends	12 per year
State Of Hawaii Data Book	Annual
County Trends Report	Annual
Hawaii Emerging Industries Report ¹	Annual
County Emerging Industries Report ¹	Annual
Innovation Indicators Report	Annual
Quality Of Life Indicators Report ²	Annual
Long Range Economic And Population Projections Report	At least Every 5 years
Self-Sufficiency Income (Living Wage) Study	Bi Annually
Tourism Reports	
Daily Air Passenger Count:	Daily
Monthly Visitor Highlights	12 per year
Monthly Oahu And Neighbor Island Characteristics	12 per year
Monthly Air Seats Outlook	12 per year
Quarterly Visitor Expenditure Report	4 per year
Quarterly Developing International Markets Report	4 per year
Quarterly Satisfaction Report	4 per year
Annual Visitor Research Report	Annual
Annual Visitor Plant Inventory Report	Annual
Annual Visitor Activity Report	Annual
Hawaii Travel & Tourism Satellite Account Update	Annual
Other Statistical Reports	
Small Area Statistics Study (Income, Employment, Education, Housing)	Annual
Migration Study Update	Annual
Federal Report Update	Annual
Profile Of Hawaii-Based Armed Forces	Annual
Time-Series Data Of Selected Data Book Tables	Annual
U.S. Census Bureau Data On Hawaii Population Estimates	Annual
U.S. Census Bureau, American Community Survey Data On Hawaii	Annual

¹ Benchmark study underway.

² Interim Report due April 2009; final first annual report due June 2009.

Other and Special Research Reports	
Hawaii Input Output Model Update	Every 3 years
Emerging Industry Studies	Five per year
Sustainable Tourism Study (2006)	One time
Report on the Workers Compensation System (2008)	One time
Report on DBEDT activities supporting emerging Industries	Annual
Creative Industries in Hawaii ³	Annual
Analysis of Hawaii's Unemployment Insurance System (2007)	One time
Measuring Diversification in Hawaii (2008)	One time
Other Products And Outputs	
Assistance to Hawaii Census Effort (2009-2010)	Every 10 years
Review and comment on Federal Population Estimates and other Federal data programs impacting Hawaii.	At least Annually
Manage Hawaii State Data Center to disseminate Census data and organize census training for county & state agency personnel and public.	Ongoing
Provide Technical Assistance And Data Requests	Ongoing
Provide Assistance To Users Of Visitor Data	Approx. 1,350 per year
Respond To Requests For Assistance And Information	Approx. 2,600 per year
Respond To Media Requests	Approx. 80 per year
Establish And Maintain Data Warehouse And DBEDT Website	On-going

For further information see: <http://hawaii.gov/dbedt/info/economic>.