

UNIVERSITY OF HAWAII AT MANOA  
Environmental Center

A UNIT OF THE WATER RESOURCES RESEARCH CENTER

RL:2223

SB 1279  
MAKING AN APPROPRIATION FOR THE UNIVERSITY OF HAWAII

Senate Committee on Higher Education  
Senate Committee on Energy and Environment

Public Hearing – February 5, 2009  
2:00 p.m., State Capitol, Conference Room 22e

By  
Charles Fletcher, Geology and Geophysics  
Dolan Eversole, Hawaii Sea Grant  
Chris Conger, Hawaii Sea Grant  
Peter Rappa, Environmental Center

SB 1279 Appropriates funds to a task force attached to the University of Hawaii School of Ocean and Earth Science and Technology (SOEST) to provide recommendations to prevent, mitigate, and reverse beach erosion at Kailua beach. We emphasize that our testimony on this measure does not represent an official position of the University of Hawaii.

University of Hawaii researchers and extension agents along with the Department of Land and Natural Resources (DLNR) are already involved in examining the causes and extent of erosion at Kailua Beach. There is already planning, coastal research, sea-level calculations, public participation, and inter-agency components built into the DLNR and University of Hawaii Sea Grant project to address the problem.

We can see no reason for appointing a task force to examine beach erosion at Kailua beach. The funding allocated to support the task force could be better spent supporting the present DLNR and Sea Grant effort to address the problem.

Thank you for the opportunity to comment on this bill.

# OFFICE OF INFORMATION PRACTICES

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## COMMENTS

To: Senate Committees on Higher Education and Energy & Environment

From: Paul T. Tsukiyama, Director

Date: February 5, 2009, 2:00 p.m.  
State Capitol, Room 225

Re: Testimony on S.B. 1279  
Making an Appropriation for the University of Hawaii

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Thank you for the opportunity to submit testimony on S.B. 1279.

This bill would establish a Kailua Beach Erosion Task Force. The Office of Information Practices ("OIP") takes no position on the substance of this bill, but has a concern about the bill's provision relating to the Task Force's meetings. OIP seeks clarification of a provision beginning at page 2, line 20, of the bill, which reads

The task force shall not be subject to chapters 91 and 92, Hawaii Revised Statutes; provided that the task force shall provide the public with thirty days notice of the date and agenda for their meetings.

The Sunshine Law is only part I of chapter 92. Parts II through IV of chapter 92 relate to non-Sunshine Law issues, such as boards' general powers and quorum requirements, copy charges for public records, and publication of legal notices. If the intent of this provision is to exempt the Task Force from the Sunshine Law, OIP recommends that the bill state that the Task Force "shall not be subject to chapter 91 and part I of chapter 92."

OIP would, however, recommend that this Committee carefully consider whether it is good policy to exempt the Task Force from the Sunshine Law in light of the express policy and intent of the statute.

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonably method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and actions of government agencies - shall be conducted as openly as possible.

Haw. Rev. Stat. §92-1 (1993).

The issues on the issue on which the Task Force is charged with making recommendations are important to the public at large. Although the bill calls for the Task Force to give thirty days public notice of its meetings (without specifying a method for doing so), the Task Force will have no obligation under this bill to allow the public to attend its meetings or to accept public testimony. Further, there is no provision for public recourse in the event that the Task Force fails to give the thirty days' notice called for in the bill. Thus, the Task Force's formation and conduct of public policy will be conducted openly only to the extent that the Task Force wishes to do so.

Thank you for the opportunity to testify.



# Sierra Club Hawai'i Chapter

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## SENATE COMMITTEE ON HIGHER EDUCATION SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

February 5, 2009, 2:00 P.M.

*(Testimony is 2 pages long)*

### TESTIMONY IN SUPPORT OF SB 1279 WITH AMENDMENTS

Chair Tokuda, Chair Gabbard, and members of the Committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports an amended version SB 1279, which funds a study of beach erosion at Kailua Beach.

The erosion problems at Kailua Beach are fairly well-understood. Although a report from a neutral task-force may accomplish greater community involvement, *we believe the general steps to help alleviate Kailua Beach's problems are already known.* To this end, we suggest two specific amendments.

#### **Managed Retreat**

Given the realities of sea level rise caused by global climate change and the accompanying loss of shoreline-protecting coral reef, a policy of "managed retreat" makes the most sense to protect private property, taxpayers, and public shoreline. Setting a significant setback from the shoreline for new construction or redevelopments is the best managed retreat strategy for Hawai'i.

Further, a significant setback protects our beach dunes, which preserve sand during the natural accretion/erosion cycles that occur during each season.

To this end, we suggest immediately protecting the undeveloped portions of Kailua from development near the coastline while the task force proceeds. A moratorium would ensure that no further harm occurs to Kailua beach while scientists and the general public are able to determine the next steps. Specifically, we suggest the language used in HB 593.

There is hereby established an interim coastal construction line along the length of Kailua beach, as defined in section 205A- , Hawaii Revised Statutes, extending along the makai faces of coastal residences as they exist at the time of the effective date of this Act. The coastal construction line for any vacant parcel shall extend across the parcel from the mauka most point of the coastal construction line of its abutting parcels. The coastal construction line shall establish an interim limit for construction at Kailua Beach for beach preservation purposes. There shall be no new development makai of the coastal construction line [until June 1, 2011.]

### **Inconsistent Management**

One problem with the current regime is the separation of responsibility and management for the different beach zones between the state and the City and County of Honolulu. Long-term decisions made by DLNR to protect the dunes, for example, can easily be undone by the City permitting construction in the dune area. Accordingly, it is suggested that any land makai of the shoreline setback (proposed above) be placed under one agency -- perhaps DLNR, which already has an obligation to protect the conservation district -- until the task force can complete its recommendations and this legislature has an opportunity to act. This allows for consistent management and stewardship by one entity.

Kailua beach is a natural treasure that deserves protection. The concepts in this bill and the suggested amendments could become the example on how to protect our "special" beaches in the future, particularly as we begin to understand and see the effects of sea level rise impact our beaches. We respectfully request you proceed expeditiously with this bill, as amended.

Thank you for the opportunity to testify.