



**Testimony to the Senate Committees on Water, Land and Housing, and
Transportation and International Affairs
February 13, 2012
1:20 p.m.
State Capitol - Conference Room 224**

RE: SENATE BILL NO. 2875 RELATING TO TRANSPORTATION

Chairs Dela Cruz and English, Vice Chairs Solomon and Espero, and members of the committees:

The Chamber of Commerce of Hawaii respectfully provides the following testimony on S.B. 2875. The bill proposes to amend Chapter **266**, Hawaii Revised Statutes, to exempt the Department of Transportation, Harbors Division, from the permit and site plan approvals requirements relating to submerged lands within the conservation district.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

The Chamber of Commerce of Hawaii takes no position on this Administration bill; however, we question the need for an exemption from the Conservation District Use Application (CDUA) process for all commercial harbors.

In their justification for the exemption, the State Department of Transportation states that: “Sufficient oversight already exists for submerged lands within the State commercial harbors system for the preservation of the ecosystem, flora and fauna as the Department of Transportation will continue to be subject to the requirements of chapter 343, HRS, as well as the permit requirements by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and oversight by the State Department of Health for federal programs such as the Clean Water Act.

This exemption will allow the Harbors Division to plan and more effectively and efficiently implement projects in a timely manner to meet the growing needs of the maritime industry.

The “just in time” cargo system for Hawaii is dependent upon the State commercial harbors system as 98 percent of imported goods passes through its harbors. Significant impacts to facility operations and delivery of goods can occur if necessary capital projects are not completed or harbor facilities are not maintained and/or rehabilitated in a timely manner due to unnecessary permit delays.”

Our understanding is that all submerged lands in the State are zoned Conservation. Any use of these lands requires an approved Conservation District Use Application (CDUA) from DLNR. The CDUA establishes the “land use” of the property, and once approved, the state owned submerged lands are usually set aside through an executive order that allows the agency to manage these lands for the established land use. Once established, as long as the activities conducted on the property are consistent with the established land use, no additional CDUA is required. The process appears to have been set up to allow government agencies the flexibility to manage their on-going uses/activities on the property once the land use has been established through the CDUA process and further documented in the set aside of the lands to the agency.

As such once the land use is established, we do not understand how the CDUA process would result in “Significant impacts to facility operations and delivery of goods can occur if necessary capital projects are not completed or harbor facilities are not maintained and/or rehabilitated in a timely manner due to unnecessary permit delays.”

Furthermore, since the DOT proposes to comply with Chapter 343 HRS, as well as the permit requirements by the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and oversight by the State Department of Health for federal programs such as the Clean Water Act, why was the CDUA process singled out as the only permit that would delay harbor projects?

There does not appear to be a public health or public safety need for this exemption. We believe that without identifying specific public benefits from these types of exemptions, other government agencies will request a similar exemption. For example, DOT Highways and DOT Airports could provide similar rationale for exempting their respective projects from the CDUA process.

Finally, if this legislation is approved, the legislature is essentially creating two different standards for harbor facilities. One for government harbors that would be exempt from the CDUA requirements and one for all other harbors (i.e. DLNR Small Boat Harbors, commercial harbors, and private harbors).

Thank you for this opportunity to express our views.