

**OFFICE OF PLANNING
STATE OF HAWAII**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
HOUSE COMMITTEE ON AGRICULTURE

Friday, March 24, 2017,
8:31 AM
State Capitol, Conference Room 312

in consideration of
HCR 120
**URGING THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND
TOURISM TO UPDATE THE HAWAII STATE PLANNING ACT'S ECONOMIC
OBJECTIVES FOR AGRICULTURE.**

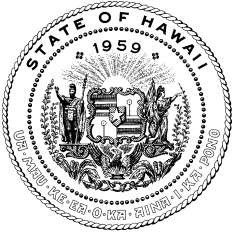
Chair Creagan, Vice Chair DeCoite, and Members of the House Committee on
Agriculture.

The Office of Planning (OP) supports the intent of HCR 120 which urges the study and update the Hawaii State Planning Act ("Act") with regard to economic objectives and policies for Agriculture by working with Department of Agriculture to realign the Act's agricultural priorities to reflect a long term vision of sustainable agriculture and self-sufficiency in Hawaii. OP acknowledges that Hawaii's sugar and pineapple industries have declined and there is a need to evaluate the current economic priorities for the state.

While OP supports the intent of this resolution, we respectfully offer the following comment. We suggest that the reference to the Department of Business, Economic Development and Tourism be replaced with the Office of Planning. OP would be the most appropriate agency as OP has a direct role under the Hawaii State Planning Act to provide technical assistance in administrating the Act and to contract with public and private agencies and persons for special research and planning assistance.

With regard to HCR 120, Proposed HD1, OP has no position and has no comments to offer due to its proposed title, subject matter, and contents.

Thank you for the opportunity to testify on this matter.



OFFICE OF ENVIRONMENTAL QUALITY CONTROL

DEPARTMENT OF HEALTH | 235 South Beretania Street, Suite 702, Honolulu, HI 96813 | oeqchawaii@doh.hawaii.gov

DAVID Y. IGE
GOVERNOR

SCOTT GLENN
DIRECTOR

(808) 586-4185

Testimony of
SCOTT GLENN, Director

before the
HOUSE COMMITTEE ON AGRICULTURE
Friday, March 24, 2017
8:31 AM
State Capitol, Conference Room 312

in consideration of
HOUSE CONCURRENT RESOLUTION 120 HD 1 PROPOSED

REQUESTING THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL APPLY CONSISTENT STANDARDS TO ALL APPLICANTS AND AGENCIES, FOLLOW STATUTORY INTENT OF THE LEGISLATURE AND UPDATE LEGISLATORS ON GUIDANCE UPDATES AND INTERPRETATIONS

Chair Creagan, Vice Chair DeCoite, and Members of the House Committee on Agriculture,

The Office of Environmental Quality Control (OEQC) administers Hawai'i's environmental review process.

HCR 120 HD 1 Proposed replaces a resolution addressed to the Office of Planning. The OEQC offers no comments on the initial resolution.

The HD 1 Proposed version resolves to request the OEQC to do what it already does: apply consistent standards to all applicants and agencies, follow statutory intent, and brief legislators on guidance and interpretations of law. HD 1 Proposed further requests for the OEQC to submit findings and recommendations, including proposed legislation, to the Legislature for the Regular Session of 2018.

The OEQC acknowledges that many ambiguities exist in the EIS process. The root cause of these ambiguities is that the administrative rules have not been updated comprehensively for 20 years. Since the rules were last promulgated and compiled in 1996, the Legislature has made several major amendments to the EIS process. During this same period, practice has evolved and the world has moved to electronic documents and processes. These changes are not reflected in the rules. The Environmental Council, a separate agency from the OEQC, is the rulemaking body for the EIS process. Past lack of legislative and administrative support for the Environmental Council has limited its ability to keep the rules current with statute and practice.

Thank you for the opportunity to testify on this resolution.

Jessica Wooley
P.O. Box 328
Kāneʻohe, HI 96744

March 23, 2017

RE: Testimony in Support of HCR 120, Proposed HD1

Dear Chair Creagan and Committee Members:

Mahalo for providing the opportunity to testify in support of this resolution. As a former director for the Office of Environmental Quality Control (OEQC), I have concerns about how recent interpretations of HRS Chapter 343 may have serious, negative consequences on the environmental review process and potential proposed actions subject to such review.

The State's environmental review laws have been the fundamental mechanism to provide for review of potential actions, primarily by government agencies and private entities needing discretionary government approval (i.e., any actions with a potential statutory trigger)

The review process under HRS Chapter 343 is exactly that, a process. It was never intended to be a tool to halt actions that should move forward. New interpretations of the law appear to do exactly that: to allow litigators the opportunity to make a profit off of indefinite, potentially infinite loops of challenges on non-substantive issues (unrelated to any potential environmental concerns).

The process is at risk of becoming unhelpful to the public as well. Over the years, litigation, rules and guidance have increased the level of detail that must be provided to be considered acceptable for Environmental Assessments and Draft and Final Environmental Impact Statements. The latest interpretation of how Guidance will be applied creates the expectation for a level detail at a magnitude never seen before and in contrast to the purpose of the statute itself. This level of detail will actually discourage public participation as the relevance of the document becomes buried in tomes of legalese and technicalities.

In addition, any change in the expected level of detail must be clarified to all parties, including the consultants attempting to draft acceptable documents, to ensure consistency and avoid surprises or "gotcha" moments that will prevent beneficial actions from moving forward or at least promote the skyrocketing of costs to comply.

For these reasons and more, I support this resolution requesting OEQC apply consistent standards to all applicants and agencies, follow the statutory intent of the legislature and update legislators on Guidance updates and interpretations.

Mahalo for your consideration.

Jessica Wooley



Email: communications@ulupono.com

HOUSE COMMITTEE ON AGRICULTURE
Friday, March 24, 2017 — 8:31 a.m. — Room 312

Ulupono Initiative Supports HCR 120, Requesting the Office of Environmental Quality Control Apply Consistent Standards to All Applicants and Agencies, Follow Statutory Intent of the Legislature and Update Legislators on Guidance Updates and Interpretations

Dear Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

My name is Kyle Datta and I am General Partner of Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono supports HCR 120, which applies consistent standards to all applicants for environmental reviews, because it aligns with our goal of creating more locally produced food.

The purpose of the environmental review statute itself is set forth in the law: the “environmental review process will integrate the review of environmental concerns with existing state and county planning processes and alert decision makers to significant environmental effects which may result from the implementation of certain actions... the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.” HRS § 343-1 (emphasis added).

Yet the application of the statute recently shifted, perhaps to address litigation concerns for state agencies, creating an ambiguous standard of compliance. This type of ambiguity creates potential inconsistencies that will hurt businesses and potential economic development efforts, including efforts to increase food security in particular.

The proposed dairy in Kauai is but one example of how efforts to promote economic development and, in this case, food security, can be stalled or stopped by the unclear

Investing in a Sustainable Hawai'i



interpretation of statutory provisions. Despite broad-based support and significant efforts to work with OEQC (and the hiring of the reputable consultants, Group70), the project is now caught in what appears to be a needless loop of review.

County Councilman Derek Kawakami, former House member, recently explained in the Star Advertiser February 9, 2017 newspaper editorial,

“The agricultural community is watching this process. Those who might like to begin farming ventures will be rightly discouraged if the Hawai'i Dairy Farms project does not proceed.”

The importance of supporting agriculture, and dairy in the state of Hawai'i, has never been more clear; support for increased local food production is now reflected as a primary goal for the state by multiple agencies, Governor Ige and the public in general, and it is widely viewed as necessary for food security.

The result of a recent ruling by OEQC is that Hawai'i Dairy Farms now needs to respond point by point to all non-substantive issues. This unnecessarily delays the project and adds further costs. This process also invites comment bombing where there is an incentive to put forth comments not directly related to this dairy project.

Although Hawai'i Dairy Farms now is caught up in an interpretation of the statute that will lead to a whole new process of environmental review, proponents and supporters are not deterred. We do have concerns, however, that the new standards of review will have significant and negative effects on economic development and food security for the state. One of the most important concepts for business is consistency, and consistency in the application of rules is key.

I ask you to pass this resolution in its current form.

We believe that by collaborating, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Kyle Datta
General Partner