

**SB 1057**

kim2 - Arline

---

**From:** Arline Schaefer [allischaefers@yahoo.com]  
**Sent:** Sunday, March 01, 2009 12:43 PM  
**To:** WAM Testimony  
**Subject:** testimony in support of SB 1057 March 2 hearing  
**Attachments:** art2a.jpg; Testimony in support of SB 1057.doc

Testimony in support of SB 1057, decision making scheduled for March 2

Senators, I come before you today to speak on behalf of my daughter Sharkey Schaefer, who drowned in 2004 while attempting to rescue a friend who had fallen into a poorly built and improperly maintained rainwater pond. In fact, Saturday, marked the anniversary of her untimely death.

Sharkey would have turned 10 last month if the developers and builders in our Pearl City neighborhood had not favored cost savings over the safety of a human life or consideration for the environment. Sadly, Sharkey's story is not an isolated one. Families all across the country mourn loved ones whose lives were tragically shortened in rainwater ponds.

Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children. Hawaii has one of the highest drowning rates in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. In addition, when rainwater drainage systems are not properly maintained, they also pose environmental risks.

It's a straight forward problem. However, as I learned from last year's attempts at legislation and from meeting with stakeholders this year, the solution is more complex. Establishing a task force to collect data and examine advisability and effectiveness of a detention/retention pond safety program is necessary to ensure the safety of Hawaii's citizens, to protect the environment and to reduce the liability for the city and county of Hawaii, the state and its business owners.

The task force does not have a funding appropriation in deference to this tight budget year. It is my belief that we can use teleconferencing and other creative methods that do not necessitate Neighbor Island trips to get the job done.

I would only suggest one change to this bill for a task force. If at all possible, I would urge you to add a retention pond/detention pond victim's advocate to the members of this task force. Along with government and industry stakeholders, the unique views of victims and their families also should be represented in any dialogue.

Hawaii needs this task force and here are some of the reasons why:

My daughter's death could have been prevented and as a result my family was awarded a \$2 million settlement, a record in the state of Hawaii for the wrongful death of a child. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. Developers knew that the drain pipe that they put into the basin was 89 percent clogged, but choose not to fix it because they said that "the cost to fix it outweighed the liabilities."

Developers also chose to reduce costs by eliminating fencing and proper boundaries from their design and warning signage even though they knew that this pond would be located in a neighborhood where young children lived. While I am not anti-development and I believe that many developers when given the choice will do the right thing, it goes without saying that some will not. The state cannot allow developers to balance their books by taking safety out of the equation, because when they do someone, like my daughter, is going to pay the ultimate price. Establishing a task force and requiring signage would create a basic level of accountability.

Rainwater ponds are designed for water drainage management, not recreation. While in many cases, these ponds can be aesthetically pleasing to the eye, steps must be taken to ensure that people, especially young children, and animals are not attracted to these bodies of water. While in some cases they are necessary for flood control, they often pose environmental and safety hazards.

Drainage ponds are often filled with toxic chemical runoff from surrounding lawns and buildings. They must be monitored so that environmentally toxic sludge and sediment do not build up inside them. If they are not maintained, these ponds also may become breeding grounds for disease carrying mosquitoes and other pests. They may also have potentially adverse affects on water quality, groundwater, cold water, fisheries, or wetlands.

In addition, retention and detention ponds are often deceptive by design, which makes them inherently dangerous for both humans and animals. Retention ponds, often called wet ponds because they are designed to permanently hold water, can be deceptively deep. Many, like the one my daughter died in, have a steep drop at the water's edge. Detention ponds, which are meant to hold storm water for short periods of time before piping the water into surrounding wetlands or natural water beds, may pose an even greater risk because people may not be aware that they even exist.

While I believe that human costs provide the most compelling support for the need to begin the process of legislating Hawaii's rainwater drainage systems, there are also solid environmental reasons to appoint a task force to study this issue. Above ground rainwater drainage systems are not considered the most proactive drainage solution for our environment. Poorly maintained systems are virtual cess pools where disease and pests can spread. The most progressive green developers across the country now prefer to use porous asphalt or underground rainwater systems which are better for the environment and pose less of a safety risk for citizens.

Now that I have shared my family's tragedy and outlined my concern for Hawaii's people and environment, you must decide what you will do with this information. Just like my daughter, who stood on the banks of a flooded pond and watched her friend struggling, you have a life or death decision to make. Let me remind you that even though the risks were great, my daughter Sharkey didn't hesitate to do the right thing.

I'm deeply saddened that it took the death of my child, to shed light on this dangerous situation. Please take this opportunity to establish a task force that shows that Hawaii cares about our children and our environment.

My daughter was the most amazing person. She was funny, brave and very, very sweet. She had the biggest heart in the world and she always did what she felt was the right thing to do. She made the ultimate sacrifice for a friend. Passing SB 1057 begins the process of reducing the risk that any other child in the state of Hawaii would ever have to do that again.

Allison Schaefer  
Pearl City, Hawaii  
(808) 456-0570  
(808) 781-4029

kim2 - Arline

---

**From:** drgeorge@verizon.net  
**Sent:** Sunday, March 01, 2009 1:03 PM  
**To:** WAM Testimony  
**Subject:** SB 1057 Hearing

**LATE**

Hawaii Senate's Ways and Means Committee:

Re: SB1057 Hearing,  
March 2, 2009 9:30 AM Room 201 State Capitol

I am writing to offer testimony in support of Hawaii's SB1057. I am a Licensed Professional Engineer in the Commonwealth of Pennsylvania (PE016968E) specializing in the safety of the design, construction and operation of nuclear facilities. I recently learned of the tragedy to the Schaefer's family on the loss of their daughter, Charlotte, in an unprotected and uninspected retention/detention pond near their family home.

Retention/detention pond safety is well documented in water facility engineering literature. Failure to adhere to best engineering practice in the design of this retention pond permitted the construction and operation of this unprotected facility adjacent to a residential housing area.

If the Engineer/constructors in the State of Hawaii have not adhered to these best practices, then it is incumbent on the State to issue guidance and provide periodic inspection and enforcement to prevent tragedies comparable to the drowning of Charlotte Schaefer's.

Sincerely,

G.A. Englesson, P. E., Ph.D  
Avenue

2186 Packard  
Huntingdon Valley, PA 19006

**kim2 - Arline**

---

**From:** Nick Dubovsky [nickdubovsky@yahoo.com]  
**Sent:** Sunday, March 01, 2009 12:59 PM  
**To:** WAM Testimony  
**Subject:** Support for SB 1057

**LATE**

Please support SB 1057. I offer the following testimony in support of this bill for a task force:

I urge you to support SB 1057, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the bill seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Instituting a task force to examine the issue will go a long way toward making retention ponds, detention ponds, or catchment areas safer for Hawaii's citizens. The death of Charlotte "Sharkey" Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

I have a deep concern for the welfare of the children in my family in times of significant rain events. I trust that you will take adequate measures to alleviate concerns of visitors and residents alike over the well-being of our keiki.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057, and I look forward to hearing a response from your office.

Sincerely,

Nick Dubovsky  
Pearl City, Hawaii

(808) 780-8078

# LATE

I offer the following testimony in support of SB 1057:

I urge you to support SB 1057, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the bill seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. An appropriation is not required for the passage of this bill.

The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057 and I look forward to hearing a response from your office.

Sincerely,

Darcey Rogers

104 Ridgefield Drive

LaGrange, GA 30241

706-884-0933



art2a.jpg

# LATE

Dear Senators:

On June the 15th, 1995, my eight-year-old son Michael Shedd, accidentally fell into a retention pond. He died July 22nd, 1995. He was a great little boy that is sadly missed.

My family is now fighting for safer building of these dangerous retention ponds that are in many neighborhoods. These retention ponds need to be built with safer slopes, locations that are not next to playgrounds or common "kid zones", and should have lifeline rescue boxes near by. Most of these ponds have junk in the bottom of them and have dangerous bacteria in them.

With a lot of developers selling these ponds as a water feature, many neighborhoods don't realize they have this huge danger out their back door."

In 2005, after a decade of safety petitioning, the Tippecanoe County Drainage Board adopted safety measures for retention and detention ponds in housing developments. One of the key safety requirements called for placing signs around the ponds to warn people of danger. Rescue boxes are also required. The boxes contain rope that can be used to pull someone that is drowning to safety.

Other provisions mandate that the sides of the ponds slope more gradually and that the ponds be built more than 100 feet away from playgrounds. The new sloping requirements ensure that children realize the ponds are getting deeper and don't have a false sense of security from flat ledges.

The nearby fire departments and other rescuers also have adopted retention/detention pond water safety as a topic they teach to schoolchildren. Curriculum has already been developed by WARN, (Water Awareness in Residential Neighborhoods).

Sergeant Jerry Richert, dive team coordinator of the Franklin Township fire department, founded WARN in 2000 after the drowning of a young child in a retention pond made him aware of the need for a community awareness program that addressed the potential dangers of these ponds and other bodies of water.

These safety efforts and provisions have gone a long way in our community to prevent other needless deaths. A task force is warranted in Hawaii to look at this issue. In the meantime, signage at a minimum would go a long way toward stopping further tragedies.

Sincerely,  
Kathy Shedd  
Lafayette, Indiana



## kim2 - Arline

---

**From:** Teddi Anderson [teddia@thelimitiacocompany.com]  
**Sent:** Saturday, February 28, 2009 4:02 PM  
**To:** WAM Testimony  
**Subject:** SB 1057 - Support!

**LATE**

I offer the following personal testimony in support of SB 1057:

I urge you to support SB 1057, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the bill seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. An appropriation is not required for the passage of this bill.

The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057 and I look forward to hearing a response from your office.

Teddi Anderson

Cell: 8085428162

### **Teddi Anderson**

President | The Limtiaco Company  
928 Nu'uuanu Ave., Suite 400, Honolulu HI 96817  
[www.TheLimtiacoCompany.com](http://www.TheLimtiacoCompany.com)

Office: 808.535.9099 ext 103 | fax: 808.535-9091  
E-mail: [TeddiA@TheLimtiacoCompany.com](mailto:TeddiA@TheLimtiacoCompany.com)



# LATE

**RE: SB 1057, for testimony March 2 @ 9: 30 a.m. in Conference Room 211**

To Whom It May Concern:

I, Robert F. Kay, offer the following testimony in support of SB 1057:

I urge you to support SB 1057, concerning retention, detention and catchment pond safety. The bill is written in memory of a five-year-old child who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her friend. It seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as a viable visitor destination and place to live.

Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. An appropriation is not required for the passage of this bill.

The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057 and I look forward to hearing a response from your office.

Sincerely,

Robert F. Kay

**Contact information:** [rkay@lava.net](mailto:rkay@lava.net), 808 732 0631, 3663 Lilinoe Place, Honolulu, I 96816



Via Capitol Website

March 2, 2009

**Senate Committee on Ways and Means  
Hearing Date: March 2, 2009, at 9:30 AM in CR 211**

**Testimony in support of SB 1057 SD1: Relating to Detention & Retention  
Ponds  
(Establishes a water safety task force.)**

Honorable Chair Donna Mercado Kim and Vice Chair Shan Tsutsui and  
Senate Ways and Means Committee 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 **in support of SB 1057 SD1**, which calls for the establishment of a task force to investigate and examine the dangers of retention ponds and to recommend appropriate safety measures. We believe that the issues should be reviewed by technical experts and stakeholders as part of the proposed task force.

**SB 1057 SD1.** The purpose of this bill is to establish a task force to investigate and examine the dangers of retention ponds and to recommend appropriate safety measures. Under SB 1057 SD1, members of the task force would include:

- (1) The director of health, as chair of the task force;
- (2) The attorney general;
- (3) The chairperson of the board of land and natural resources;
- (4) The president of the Hawaii chapter of the American Public Works Association, who shall be requested to assist the task force;
- (5) The mayor of the city and county of Honolulu;
- (6) The mayor of the county of Maui;
- (7) The mayor of the county of Kauai;
- (8) The mayor of the county of Hawaii;
- (9) The executive director of the Hawaii Association for Justice, who shall be requested to assist the task force;

(10) The commander of the United States Army Corps of Engineers Honolulu Engineering District, who shall be requested to assist the task force; and

(11) The director of the United States Department of Agriculture's Hawaii field office, who shall be requested to assist the task force.

SB 1057 SD1 was amended by the Senate Committees on Energy and Environment and Water, Land, Agriculture, and Hawaiian Affairs as follows:

(1) Deleting its contents and substituting the language regarding the water safety task force recommended by the American Council of Engineering Companies of Hawaii;

(2) Inserting into the revised measure the following: "This Act shall be known as the "Charlotte 'Sharkey' Schaefer's Act", in memory of the young girl who drowned in 2004 while attempting to rescue a friend who had fallen into a retention pond"; and

(3) Modifying the revised measure by emphasizing that the task force shall determine the appropriate warning signs for retention ponds.

SB 1057 SD1 requires the task force to submit its findings, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2010. Additionally, the task force shall cease to exist on June 30, 2010.

**LURF's Position.** LURF and its members support the protection of the health and welfare of our island *keiki* with respect to retention and detention ponds and support the establishment of a temporary water safety task force under the Department of Health whose duties will include:

(1) Collecting data and determining the advisability of limiting or defining liability to landowners from persons injured on their land, where the land is made available for the retention of flood waters and runoff;

(2) Determining minimum safety requirements for the development and maintenance of retention ponds, including but not limited to proper borders, fencing, landscaping, and sloping;

(3) Determining the appropriate warning signs for retention ponds;

(4) Determining the need for a periodic retention pond inspection program; and

(5) Consideration of any other relevant matters pertaining to the safety of retention ponds.

We believe that the task force should review additional issues could include, among other things, the following:

- We understand that the accident which gave rise to this bill occurred on Federal property in a military housing area. What are the technical requirements, reviews, inspections and fines applicable for such federal lands, and how are such requirements being enforced?

- We understand that many families in the Federal housing area were not aware of the existence of the retention pond. What measures could be implemented to provide information and communicate the existence of such ponds and provide sufficient warnings to the public?
- We have also been informed that the Federal authorities and consultants knew of the drainage problems in the area which contributed to the accident, and did not take action. What laws exist or could be implemented to hold such responsible individuals accountable to take corrective action?
- The task force established by SB 1057 SD1 will have broad, far reaching effect and set precedent on Oahu as well as in the other counties, which have numerous state and county parks as well as private water features and drainage infrastructure. These public and private ponds, lakes and water features could provide valuable insight and guidance on how to handle the issue of accidents relating to young children.
  - How are safety issues and child supervision handled at venues which have “ponds,” which receive drainage or storm waters, yet also afford access to young children, including, but not limited to, Ala Moana Park, Manoa Falls, Nuuanu Reservoir, Hoomaluhia Park, He’eia Fish Pond, Lake Wilson, Waimea Falls, Kahana Valley Pond, Sacred Falls, Maunawili Falls, Kawainui Marsh, Enchanted Lake, on the Big Island - Liliuokalani Park, the Ice Pond, Akaka Falls and Rainbow Falls, Maui’s Seven Sacred Pools, etc.
  - How do other venues with ponds, water features or shoreline parks (not detention or retention facilities), which are regularly accessible to young children and toddlers – handle safety and child supervision issues to avoid drownings, including, but not limited to the State Capitol Pond, fish ponds at Ala Moana Shopping Center Mall, Blaisdell Center, McCoy Pavilion, the Lily Pond at Punahou School, Kakaako Waterfront Park, Blaisdell Park in Pearl City, and the numerous shoreline parks throughout the state?
- There are existing State and county laws which relate to drainage and safety. Do the existing state and county laws provide an adequate or inadequate level of protection under normal circumstances?
- The Hawaiian Islands are surrounded by the ocean, which clearly presents various risks of drowning for young children. How do the State and County rules, regulations and government reviews protect against similar risks related to the ocean? and
- Drowning in retention or detention ponds could involve the responsibility and liability of various parties. Are there any other measures which could protect children from the risk of drowning under similar circumstances?

LURF and its members **support the task force**, which would investigate and examine the dangers of retention ponds and recommend appropriate safety measures. **We would respectfully request that an amendment be drafted that would add a large landowner or representative of landowners as a member of the task force.**

Thank you for this opportunity to express our views.

March 2, 2009

# LATE

I offer the following testimony in support of SB 1057:

I urge you to support SB 1057, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the bill seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. An appropriation is not required for the passage of this bill.

The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057 and I look forward to hearing a response from your office.

Sincerely,

Randy A. Roberts

Cell: 302-981-2512

Ofc: 302-282-6023

I offer the following testimony in support of SB 1057:

I urge you to support SB 1057, which relates to retention, detention and catchment pond safety. Written in memory of a five-year-old girl who drowned in a Pearl City naval housing complex detention pond while trying to save the life of her childhood friend, the bill seeks to improve the health, safety and welfare of the citizens of this state.

Hawaii has the highest drowning rate in the nation and must take action immediately to improve safety for citizens as well as to improve the state's image as a safe as well as pleasurable visitor destination and place to live. Unregulated and poorly maintained rainwater detention and retention ponds pose a serious health and safety risk, particularly to Hawaii's children.

Passing legislation that establishes a task force to collect data and examine advisability and effectiveness of a detention pond safety program is necessary for the health and safety of Hawaii's citizens. An appropriation is not required for the passage of this bill.

The death of Sharkey Schaefer could have been prevented. Those responsible for the construction of the pond were well aware of the hazardous conditions that this particular rain catchment basin presented. If regulations had existed to ensure responsible parties had built and maintained a safe system, the Schaefer's family would not have lost their precious child.

Hawaii has many proactive laws that protect the environment, now it seems we need to advocate for laws that afford our citizens the same rights and privileges. I would appreciate your support for SB 1057 and I look forward to hearing a response from your office.

Sincerely,

Il Chun, 2311 S. Gilinger Rd., Lafayette Hill, PA 19444