



**TESTIMONY OF SIMEON R. ACOBA, CHAIR,
STATE-COUNTY FUNCTIONS WORKING GROUP, ON
HOUSE BILL NO. 444, HOUSE DRAFT 1,
RELATING TO TRANSIENT ACCOMMODATIONS TAX**

**House Committee on Tourism
February 18, 2015**

Chair Brower and Members of the Committee:

I am Simeon R. Acoba, Chair of the State-County Functions Working Group. Thank you for the opportunity to comment on House Bill No. 444, House Draft 1, relating to beach protection. This measure would, among other purposes, allocate funds from the TAT to be used in accordance with the Hawai'i Tourism Strategic Plan and for beach restoration.

The Working Group was created by Act 174 (SLH 2014) and administratively placed within the Office of the Auditor. The Working Group, which first convened in October 2014, is comprised of 13 members appointed by the Governor, the Senate President, the Speaker of the House of Representatives, each of the county mayors, and the Chief Justice. The group is assigned the following responsibilities:

- 1) Evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services; and
- 2) Submit a recommendation to the Legislature on the appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services.

Act 174 requires the Working Group to submit two reports: 1) an Interim Report, which was delivered to the Legislature, Governor, and each of the county mayors, on December 18, 2014; and 2) a Final Report with its findings and recommendations to the same parties 20 days prior to the convening of the 2016 Regular Session.

The Working Group will continue its work through 2015 and shall cease to exist upon the adjournment sine die of the 2016 Regular Session. We note that any TAT legislation passed this year may affect the on-going work of the Working Group. Accordingly, while we take no position on the merits of this bill, we respectfully request your consideration of deferring decisions on TAT legislation introduced this year to the 2nd year of the 28th State Legislature to enable the the Working Group to complete its work. As required by Act 174, the Working Group will report its findings and make recommendations prior to the 2016 Regular Session.

Thank you for the opportunity to offer comments on House Bill No. 444, House Draft 1. I am available for your questions.



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David Y. Ige
Governor

Ronald Williams
Chief Executive Officer

Testimony of
Ronald Williams
President and Chief Executive Officer
Hawai'i Tourism Authority
on
H.B. No. 444, H.D. 1
Relating to the Beach Protection
House Committee on Tourism
Friday, February 6, 2015
9:00 a.m.
Conference Room 325

The Hawaii Tourism Authority strongly supports H.B. No.444, H.D. 1, which provides for the implementation of beach restoration and sand nourishment as part of a viable management strategy for Hawaii's special resource.

Hawaii's beaches are important, unique, and special components of the natural resources that make Hawaii a special place for residents as well as visitors. Hawaii's beaches, however, are eroding at an alarming rate. As an important component of our diverse array of natural resources, our beaches require a commitment of resources to protect them, and the coordination of efforts at all levels to achieve this protection.

H.B. 444, H.D. 1, allocates transient accommodations tax revenues to develop and implement plans to slow the degradation of Hawaii's beaches and coordinate activities of government and private sector organizations through public-private partnerships that are more than replenishing sand on beaches.

H.B. 444, H.D. 1, proposes, beginning July 1, 2015, to allocate \$3 million annually to the renamed Beach Restoration and Conservation Special Fund until a fund balance of \$5 million is achieved, and provides that thereafter funds shall be allocated to the Special Fund sufficient to maintain the \$5 million balance, to do "all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands." Further, H.B. 444, H.D. 1, has an effective date of "upon approval," which will allow DLNR to expend the revenues deposited into the Special Land and Development Fund during the current fiscal year.

For these reasons, we strongly support H.B. 444, H.D. 1, and urge its passage.

Mahalo for the opportunity to offer these comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
TOURISM**

**Wednesday, February 18, 2015
9:00 am
State Capitol, Conference Room 312**

**In consideration of
HOUSE BILL 444, HOUSE DRAFT 1
RELATING TO BEACH PROTECTION**

House Bill 444, House Draft 1 provides for the restoration and conservation of Hawaii's valuable beach resources by:

1. Allocating Transient Accommodations Tax (TAT) revenue to the beach restoration and conservation special fund;
2. Effectively developing and implementing plans to slow the degradation of our beaches; and
3. Restoring beaches through the coordination of activities involving the counties and public-private partnerships.

In addition to beach restoration and conservation, this bill allocates funds to the special land and development fund provide that the allocation shall be expended in accordance with the Hawaii Tourism Authority (HTA) strategic plan. **The Department strongly supports House Bill 444, House Draft 1 with a suggested amendment to section 171-19(a), Hawaii Revised Statutes (HRS).**

This legislation endeavors to facilitate implementation of plans and projects for conservation and restoration of public trust beach and other resources across the State.

As you know, it is the mission of the Department to manage public lands and ocean resources, including coastal areas. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawaii. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due natural processes and human impacts.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Recent studies by researchers at University of Hawaii (UH) and the United States Geological Survey find the majority, or 70%, of Hawaii beaches are chronically eroding¹. Over 13 miles of Hawaii beaches was completely lost to erosion over the past century, nearly all of which was fronting seawalls or other coastal armoring. When beaches erode, shoreline access is lost, recreation and cultural activities are limited, coastal habitat is impacted, and our visitor economy suffers. The State of Hawaii must facilitate conservation and restoration of our public beach resources if our community wishes to maintain this invaluable resource for generations to come.

The Department is working closely with county and private stakeholders to restore economically-vital beaches including a Waikiki beach restoration project in 2012, ongoing planning to restore degraded sections of Ka'anapali Beach on Maui, and initial discussions with Kauai County administration for a project to restore Poipu Beach.

Through the Departments' Coastal Lands Program and an ongoing partnership with UH Sea Grant, Department staff work directly with other government agencies, communities, and coastal land owners affected by beach and land loss from coastal erosion. Department staff advise affected stakeholders on options for coastal erosion management, including 'soft' measures such as beach and dune restoration. However, the Department is presently limited in its ability to assist stakeholders in funding restoration and conservation plans and projects.

Improved funding for the Beach Restoration Special Fund through the TAT would greatly improve the Department's ability to partner with county and local entities on beach restoration and conservation projects statewide. Increased funding will allow the Department to assist the counties in priority projects such as locating and stockpiling beach quality sand, which is in very short supply for restoration projects. Additionally, increased funding will allow the Department to assist the counties and local stakeholders in restoring and conserving key public and visitor beaches beyond major resort areas such as Waikiki and Ka'anapali.

In addition, this bill addresses an issue related to the allocation of the TAT previously approved by the Legislature. In 2013, the Legislature passed Senate Bill 1194, Conference Draft 1, which was signed as Act 161, Session Laws of Hawaii 2013. Prior to this bill being enacted into law, \$1,000,000 from TAT revenues budgeted for the HTA was deposited into the Department's State Parks Special Fund, and the Special Land and Development Fund for the state-wide trail and access program. Act 161 in part left that \$1,000,000 in the HTA budget and instead allocated \$3,000,000 subject to the mutual agreement of the Board of Land and Natural Resources and the Board of Directors of the HTA in accordance with the HTA Strategic Plan for the same purposes outlined in this measure. Act 161 specified an amount "of the excess revenue deposited into the general fund", but did not provide authority to expend the funds. Thus, to date, the Department has received none of the funding intended for it by the Act in Fiscal Year 2013-2014 or the current fiscal year.

Last session, a measure was introduced which included language that sought to solve the issue. The bill remained viable and made it into conference committee. However, last minute revisions related to the acquisition of the Turtle Bay Conservation Easement resulted in elimination of that language.

¹Fletcher, C.H., *et al.*, 2012, *National assessment of shoreline change: Historical shoreline change in the Hawaiian Islands*, U.S. Geological Survey Open-File Report 2011-1051, 55 p.

In addition to the funds that would be allocated to the Beach Restoration Special Fund, this measure as currently amended solves the issue of authority to expend the funds that would be allocated to the Special Land and Development Fund.

Lastly, the Department recommends that section 171-19(a), HRS, be amended to change the existing reference of section “237D-6.5(b)(2)” to section “237D-6.5(b)(5), in order to be consistent with the proposed amendment to section 237-6.5(b)(5), HRS, in House 444, House Draft 1.

The Department urges your strong support of this measure with the requested amendment. Thank you for the opportunity to testify on this measure.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON TOURISM
ON
HOUSE BILL NO. 444, H.D. 1

February 18, 2015

RELATING TO BEACH PROTECTION

House Bill No. 444, H.D. 1: a) incorporates beach land conservation under the general powers of the Board of Land and Natural Resources (BLNR) and expands the beach restoration plans to include beach conservation plans; b) renames the "beach restoration special fund" as the "beach restoration and conservation special fund"; c) deposits permit proceeds from the lease of public lands for an existing shoreline structure, matching funds to carry out a beach restoration and conservation plans from private individuals or organizations, and transient accommodations tax (TAT) revenues into the beach restoration and conservation special fund; d) allocates \$3,000,000 of TAT revenues to the Special Land and Development Fund to be expended by the BLNR and board of directors of the Hawaii Tourism Authority, under a mutual agreement; and e) allocates an annual amount of \$3,000,000 of TAT revenues to the beach restoration and conservation special fund and requires the fund to maintain a balance of \$5,000,000.

We recognize the importance of beach land conservation for our residents; however, the State's resources are limited. The bill would reduce general fund revenues by \$3,000,000 annually. This general fund reduction has not been accounted for in the Administration's general fund financial plan.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Disposition for beach restoration and conservation special fund

BILL NUMBER: HB 444, HD-1

INTRODUCED BY: House Committee on Water and Land

EXECUTIVE SUMMARY: This bill adjusts earmarks on the transient accommodations tax (TAT) that feed various special funds. Earmarks decrease transparency and accountability of government operations and should be avoided.

In addition, the bill provides for an allocation from the beach restoration and conservation special fund in a manner sufficient to maintain a fund balance of \$5 million. The apparent intent is to provide for an allocation from TAT revenues to the special fund, and the language should be adjusted if this bill is to move on.

BRIEF SUMMARY: Amends HRS section 237D-6.5(b) to add a new paragraph (6) to provide that \$3 million shall be allocated to the beach restoration and conservation special fund until it reaches \$5 million. Thereafter, funds shall be allocated from the beach restoration and conservation special fund in a manner sufficient to maintain a fund balance of \$5 million.

Makes conforming amendments to HRS chapter 171.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 161, SLH 2013, made permanent the TAT rate of 9.5% and changed the allocations of TAT from a percentage basis to a specific dollar amount. Currently, TAT revenues are allocated as follows: (1) \$26.5 million is deposited into the convention center enterprise special fund; (2) \$82 million into the tourism special fund; (3) \$103 million is transferred to the various counties; (4) \$3 million for debt service of the Turtle Bay conservation easement; and (5) any remaining revenues deposited into the general fund of which \$3 million is to be allocated according to the Hawaii tourism strategic plan. This measure would then divert \$3 million a year to the beach restoration and conservation special fund.

The proposed measure would add another siphon of TAT revenues and would perpetuate the earmarking of TAT revenues. While proponents of earmarking of the TAT argue that if these projects or programs are not funded, none of the pristine beauty that visitors come to see will be preserved, one could make the argument on the other side - if there are insufficient funds to promote the industry, then visitor counts will drop and so will the income that fuels the state's economy. Lawmakers seem to have lost sight of the fact that visitors also contribute to state coffers directly through the 4% on everything they purchase including hotel rooms, visitor activities and purchases of food and souvenirs. To that extent, a good part of the general fund tax collections is contributed by visitors. If the argument is that visitors should pay

for other “visitor related” programs, then paying for those programs out of general funds would be more appropriate than stealing the money from what is identified as a tax paid specifically by the visitor.

Rather than the continual earmarking of TAT revenues, a direct appropriation of general funds would be preferable. Earmarking the TAT revenues for these programs that not only benefit the visitors but the community at large, decreases transparency and accountability.

Finally, it should be remembered that revenues earmarked into a special fund, in this case the beach restoration and conservation special fund, will not be counted against the state’s spending ceiling or debt limit and will obscure the state’s true financial condition.

The measure states that “thereafter, funds shall be allocated from the beach restoration and conservation special fund in a manner sufficient to maintain a balance of \$5 million.” Does this mean the fund must maintain a balance of \$5 million and that is the minimum amount required in the fund? If that is the case, the \$5 million could never be spent. On the other hand, does it mean that funds over \$5 million must be spent to maintain a fund balance of \$5 million?

Digested 2/17/15



Testimony Presented Before the
House Committee on
TOURISM
Wednesday, February 18, 2015; 9:30 am
By
HAWAII SHORE AND BEACH PRESERVATION ASSOCIATION

In consideration of
HOUSE BILL 444 HD1 RELATING TO BEACH PROTECTION

House Bill 444 HD1 expands the scope of the Department of Land and Natural Resources' Beach Restoration Plans to include beach conservation. Allocates funds from the Transient Accommodations Tax to be used in accordance with the Hawaii Tourism Strategic Plan and for beach restoration and conservation.

The Hawaii Shore and Beach Preservation Association (HSBPA)* strongly supports House Bill 444 HD1. Beaches are the backbone of Hawaii's \$15 Billion tourism industry and are central to Hawaii's unique culture and lifestyle. Hawaii's beaches have become increasingly threatened by erosion. According to the United States Geological Service (USGS) National Assessment of Shoreline Change for the Hawaiian Islands, 70% of Hawaii's beaches are eroding and 13 miles of beach have been lost over the last century. Beach erosion effects shoreline access, recreation and cultural activities, coastal environments, and our tourism-based economy.

The HSBPA supports the development of special discretionary funds to facilitate improved understanding and management of Hawaii's coastal resources. The fund will be critical to the development and the implementation of local and regional beach conservation and management plans and projects. The DLNR has a proven history in successfully developing beach conservation plans and managing coastal assets as exemplified by the 2012 Waikiki Beach Maintenance project.

The HSBPA held a Beach Restoration Workshop in November, 2014 that included HSBPA members and invitees representing a cross-section of stakeholders involved with coastal management. Increased funding for agencies tasked with coastal management to support beach conservation, restoration, and coastal land use planning was identified as a key recommendation from workshop participants.

*The Hawaii Shore and Beach Preservation Association (HSBPA, <http://www.hawaiishoreandbeach.org/>), formed in 2014, is an organization of private sector, academic, and government professionals, students and local community members dedicated



to the preservation and restoration of Hawaii's beaches and coastal environments. The HSBPA aims to bring together various members of the coastal community to foster dialogue and cooperation on beach and coastal resource conservation, management, and regulation; supporting professional development of chapter members; and providing education to students and community members on Hawaii's beaches and coastal environments.

Thank you for considering our testimony on this bill. Please consider HSBPA a resource should you have any questions or want more information about beach preservation and restoration. We can be reached at aloha@hawaiiishoreandbeach.org.



Testimony Presented Before the
House Committee on
TOURISM
Wednesday, February 18, 2015; 9:30 am
By
HAWAII SHORE AND BEACH PRESERVATION ASSOCIATION

In consideration of
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Thank you for considering our testimony on this bill. Please consider HSBPA a resource should you have any questions or want more information about beach preservation and restoration. We can be reached at aloha@hawaiiishoreandbeach.org.



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of George Szigeti
President & CEO
HAWAI'I LODGING & TOURISM ASSOCIATION
House Committee on Tourism
Hearing on February 18, 2015, 9:30 a.m.
HB 444 H.D. 1 - Relating to Beach Protection

Dear Chair Brower, Vice Chair Ohno, and Members of the Committee. My name is George Szigeti and I am the President and CEO of the Hawai'i Lodging & Tourism Association.

The Hawai'i Lodging & Tourism Association (HLTA) is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms that benefit from and strengthen Hawai'i's visitor industry. Our membership includes over 150 lodging properties, representing over 50,000 rooms, and over 400 other Allied members. The visitor industry was responsible for generating \$14.9 billion in visitor spending in 2014 and supported 170,000 jobs statewide – we represent one of Hawai'i's largest industries and a critical sector of the economy.

On behalf of HLTA, permit me to offer this testimony regarding House Bill 444, H.D.1 Relating to beach protection, which incorporates beach land conservation under the general powers of the Board of Land and Natural Resources (BLNR), expands the Department of Land and Natural Resources (DLNR) beach restoration plans to include beach conservation and allocates \$3,000,000 from TAT revenues to the special land and development fund as well as \$3,000,000 to the beach restoration and conservation special fund.

The Hawai'i Lodging & Tourism Association **supports** HB 444 H.D. 1, which is critical to the restoration, conservation and protection of one of our State's most important assets, our beaches. With the constant issue of beach erosion present on our State's shores it is important that we not only look at restoration solutions but also a plan for conservation by effectively slowing the degradation of our beaches.

This Bill proposes the annual allocation of \$3,000,000 from the transient accommodations tax revenue to the beach restoration and conservation special fund established in section 171-156 until it reaches a balance of \$5,000,000 whereas it will need to maintain this balance thereafter. It further proposes that beach restoration be coordinated through activities involving the counties and the formation of public-private partnerships.

For these reasons, we **support** HB 444 H.D. 1 and urge its passage.

Thank you for the opportunity to testify.



HOUSE OF REPRESENTATIVES
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON TOURISM
Representative Tom Brower, Chair

2/18/2015
Rm. 312, 9:30 AM

HB 444, HD 1
Relating to Beach Protection

Chair Brower and Members of the Tourism Committees, my name is Max Sword, here on behalf of Outrigger Enterprises Group, in support of HB 444, HD 1.

HB 444 provides for the implementation of beach restoration and sand nourishment planning, as part of a viable management strategy for Hawaii's special resource.

In the past every eight to ten years, as beaches, such as Waikiki Beach need restoration and sand needs to be replenished, the planning was always done in an ad hoc manner. Everyone gets together, talk, plan and the beach get fixed. Afterwards, everyone goes his or her separate way, until the next time the same crisis arises.

What HB 444 will facilitate is what we are currently in the process of doing in Waikiki. We are working with the City to set up a long-term effort to provide for long term and consistent planning to better facilitate the continuing preservation of Waikiki Beach.

We are planning to do a Waikiki Beach Special District (WBSID) and the funds provided for in HB 444 will augment private funds provided thru the WBSID to do what needs to be done to keep Waikiki Beach a worldwide destination.

We urge your passage of this bill and mahalo for allowing me to testify.



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association
on
HB444 HD1
Relating to Beach Protection

COMMITTEE ON TOURISM
Wednesday, February 18, 2015, 9:30am
Room 312

Dear Chair Brower, Vice Chair Ohno and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 20,000 local residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA **supports** HB444 HD1 which expands the scope of the Department of Land and Natural Resources' Beach Restoration Plans to include beach conservation. Allocates funds from the Transient Accommodations Tax to be used in accordance with the Hawaii Tourism Strategic Plan and for beach restoration and conservation.

This Bill is critical to the restoration, conservation and protection of one of our State's most important assets, our beaches. With the constant issue of beach erosion present on our State's shores it is important that we not only look at restoration solutions but also a plan for conservation by effectively slowing the degradation of our beaches. Hawaii's beaches are naturally beautiful, provide recreational opportunities for visitors and residents alike, and provide storm wave protection for inland resources and structures.

For these reasons we urge you to **support** HB 444 HD 1.

Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

H.B. NO. 444, H.D. 1, RELATING TO BEACH PROTECTION.

BEFORE THE:

HOUSE COMMITTEE ON TOURISM

LATE

DATE: Wednesday, February 18, 2015 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 312

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Colin J. Lau, Deputy Attorney General

Chair Brower and Members of the Committee:

The Department of the Attorney General opposes this bill in its current form as it embraces more than one subject in violation of article III, section 14, of the Hawaii State Constitution.

The original intent of the bill was to amend section 171-156, Hawaii Revised Statutes (HRS), to provide for beach restoration and conservation by a portion of transient accommodation tax revenues. The original bill addresses the allocation of funds for this purpose in section 237D-6.5(b), HRS.

But the amendment to section 237D-6.5(b)(5), HRS, also requires the allocation of \$3,000,000 to the Department of Land and Natural Resources' special land and development fund for expenditure according to the goals of the Hawaii Tourism Authority's strategic plan. This provision does not appear to have any relationship to beach protection.

Article III, section 14, of the State Constitution provides that "[e]ach law shall embrace but one subject, which shall be expressed in its title." Although the term "subject," as used in the State Constitution, should be given "a broad and extended meaning, so as to allow the legislature full scope to include in one act all matters having a logical or natural connection" there still must be only one subject embraced by a bill. *Schwab v. Ariyoshi*, 58 Haw. 25, 33, 564 P.2d 135, 140 (1977).

There is a "duplicity of subject," where an act embraces two or more dissimilar and discordant subjects that by no fair intendment can be considered as having any legitimate connection with or relation to each other. All

that is necessary is that act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

Id., (citing *Johnson v. Harrison*, 47 Minn. 575, 50 N.W. 923, 924 (1894)).

In *Territory v. Dondero*, 21 Haw. 19 (1912), the court set forth a test to be used to construe a provision similar to article III, section 14. The court stated,

[i]t is sufficient if the title of an ordinance fairly indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead; but an act which contains provisions neither suggested by the title, nor germane to the subject expressed therein, is, to that extent void.

21 Haw. at 29.

The purpose of article III, section 14, is to give notice to the public and members of the Legislature of the contents of a bill. The subject expressed in the title of this bill is "beach protection." The bill amends a provision relating to the beach restoration special fund of the Department of Land and Natural Resources. No one reading the title of the bill would be led to suspect that it contains a provision relating to the allocation of a portion of the special land and development fund to the purposes of the Hawaii Tourism Authority's strategic plan.

Under the test set forth in *Dondero*, this latter section would be void. It would be futile to include the section relating to the special land and development fund in the bill as it could not survive challenge.

We believe the amendment to section 237D-6.5(b)(5) in section 7 of this bill causes the measure to embrace more than the one subject expressed in the title. We ask that this bill be amended to remove the amendment to paragraph (5) of section 237D-6.5(b) from the bill.