

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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HONOLULU, HAWAII 96809

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

**Before the House Committee on  
FINANCE**

**Tuesday, March 3, 2015  
11:00 am  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 444, HOUSE DRAFT 2  
RELATING TO BEACH PROTECTION**

House Bill 444, House Draft 2 proposes to provide for the restoration and conservation of Hawai'i'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 provided that the allocation shall be expended in accordance with the Hawai'i Tourism Authority (HTA) strategic plan. **The Department of Land and Natural Resources (Department) strongly supports House Bill 444, House Draft 2 with a suggested amendment to Section 237D-6.5(b), Hawaii Revised Statutes (HRS) of this measure.**

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 Hawai'i. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due to 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  
KAHO'OLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Recent studies by researchers at the University of Hawaii (UH) and the United States Geological Survey find the majority, of 70%, of Hawai'i beaches are chronically eroding<sup>1</sup>. Over 13 miles of Hawai'i beaches were completely lost to erosion over the past century, nearly all of which were 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 Hawai'i 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 the counties and private stakeholders to restore economically-vital beaches including the Waikiki beach restoration project in 2012, ongoing planning to restore degraded sections of Ka'anapali Beach on Maui, and initial discussions with the Kaua'i County administration for a project to restore Poipu Beach.

In addition, through the Department's Coastal Lands Program and an ongoing partnership with UH Sea Grant, Department staff works directly with other government agencies, communities, and coastal land owners affected by beach and land loss from coastal erosion. Department staff advises 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.

This bill also endeavors to address 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 by the Act in Fiscal Year 2013-2014 or the current fiscal year.

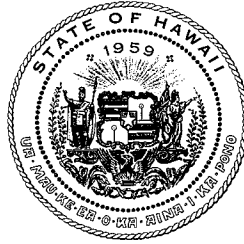
Last session, a measure was introduced which included language that sought to solve the issue mentioned in the above paragraph. However, the measure failed.

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<sup>1</sup>Fletcher, 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.

The Department was recently informed by the Department of the Attorney General of a technical flaw in House Bill 444 House Draft 2. The flaw occurs as a result of proposed amendments to Section 237D-6.5(b)(5), HRS, in House Bill 444, House Draft 2. As the language in this section of the bill does not directly relate to beach protection it potentially violates Article III, Section 14 of the Hawai'i State Constitution, which provides that each law shall embrace but one subject, which shall be expressed in its title (A title must include a distinct reference to the subject matter to which it relates and also cover only one subject.). As the title of House Bill 444, House Draft 2 is "Related To Beach Protection," and the proposed amendments to Section 237D-6.5(b)(5), HRS, are related to Special Land and Development Fund moneys used for purposes other than beach protection, it is our understanding that the bill may be flawed. As such, the Department respectfully requests that Section 237D-6.5 (b)(5), HRS, be left unchanged as it currently reads in the statutes. We suggest that another TAT related measure be used as a vehicle to correct Section 237D-6.5(b)(5), HRS so that the Department may begin receiving TAT funds allocated to the Special Land Development Fund for parks, trails, and enforcement.

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



**TESTIMONY OF SIMEON R. ACOBA, CHAIR,  
STATE-COUNTY FUNCTIONS WORKING GROUP, ON  
HOUSE BILL NO. 444, HOUSE DRAFT 2,  
RELATING TO BEACH PROTECTION**

**House Committee on Finance  
March 3, 2015**

Chair Luke 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 2, relating to beach protection. This measure would, among other purposes, allocate funds from the transient accommodations tax (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 2<sup>nd</sup> year of the 28<sup>th</sup> 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 2. I am available for your questions.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

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

BILL NUMBER: HB 444, HD-2

INTRODUCED BY: House Committee on Tourism

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.” (Emphasis added.) It probably meant to say *to* the special fund.

Digested 3/2/15

Testimony of The Nature Conservancy of Hawai'i  
Supporting H.B. 444 HD2 Relating to Beach Protection  
House Committee on Finance  
Tuesday, March 3, 2015, 11:00AM, Room 308

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*For more than 35 years, The Nature Conservancy of Hawai'i has been working closely with government agencies, local businesses, private landowners, non-profit partners, and interested communities across the state to preserve the lands and waters upon which all life in these islands depends. The Conservancy is a private non-profit conservation organization that has helped to protect nearly 200,000 acres of natural lands in Hawai'i. Today, we actively manage more than 35,000 acres in 11 nature preserves on Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i, and support 19 coastal communities seeking to co-manage marine resources in partnership with the State of Hawai'i.*

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The Nature Conservancy supports H.B. 444 HD2 to clarify the distribution and allowable uses of the TAT allocated to the Department of Land and Natural Resources and provide additional TAT revenue for beach restoration and conservation.

Hawai'i's globally unique environment is amongst the top reasons visitors from all over the world come to these islands. There is also widespread agreement that Hawai'i's fragile environment is in need of improved management and protection. In addition, climate change is an imminent and unprecedented threat to natural systems (forests, coastlines, coral reefs) and to every resident and visitor that—whether they know it or not—depends on services from a healthy and functioning natural environment.

Presently, the DLNR receives about 1% of the State's general fund budget to oversee and care for millions of acres of natural lands and waters. Obviously, not all of the cost of protecting these resources should be laid at the feet of the visitor industry; it's everyone's responsibility because we all benefit and are at risk. And, while litter and graffiti clean ups and park restroom repairs are important, long term, larger investments are needed in:

- **Forest** management to ensure that they are as healthy as possible to capture as much rain (drinking water) and hold as much soil as possible as climate change brings more severe individual storm events, but overall less rainfall and more long term drought events;
- **Coral reef** and near shore management to ensure that they are as healthy as possible to withstand the warming and acidification effects of climate change and still provide storm protection, seafood, and a continuing visitor attraction;
- **Invasive pest** prevention and control so that at the same time we are inviting the world to our shores, we are not also granting easy access to the world's pests and diseases; and
- **Compliance** and enforcement for those who choose not to respect these natural resources.

We all have a stake—including the visitor industry—in the general health and function of Hawai'i's finite natural environment and resources as a:

- **Raw material** that supports the lifestyle and livelihood of every resident, visitor and business;
- **Service** that if not healthy and functioning will not deliver basic elements like fresh water needed for any person or business to thrive in the middle of the Pacific ocean; and
- **Product** that we market to the world to get them to vacation, do business and invest here.

Thank you for this opportunity to offer our support for this measure.

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**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 Finance  
Hearing on March 03, 2015, 11:00 a.m.  
HB 444 H.D. 2 - Relating to Beach Protection

Dear Chair Luke, Vice Chair Nishimoto, 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.2 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. 2, 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. 2 and urge its passage.

Thank you for the opportunity to testify.



**LATE**

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

COMMITTEE ON FINANCE  
Representative Sylvia Luke, Chair

3/3/2015  
Rm. 308, 11:00 AM

HB 444, HD 2  
Relating to Beach Protection

Chair Luke and Members of the Finance Committee, my name is Max Sword, here on behalf of Outrigger Enterprises Group, in support of HB 444, HD 2.

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.

TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 444, H.D. 2

March 3, 2015

**LATE**

RELATING TO BEACH PROTECTION

House Bill No. 444, H.D. 2: 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.



# HAWAII TOURISM AUTHORITY

Hawai'i Convention Center  
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
kelepona tel 808 973 2255  
kelepa'i fax 808 973 2253  
kahua pa'a web hawaii tourismauthority.org

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. 2**  
**Relating to the Beach Protection**  
House Committee on Finance  
Tuesday, March 3, 2015  
11:00 a.m.  
Conference Room 308

**LATE**

The Hawaii Tourism Authority strongly supports H.B. No.444, H.D. 2, with an amendment, 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. 2, 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. 2, 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. 2, 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.

In response to the Attorney General's comments that H.B. 444 violates the one subject requirement of article III, section 14, of the Hawaii State Constitution, we offer the following comment and request an amendment which may address the problem.

H.B. 444 was introduced along with H.B. 954, both of which contained proposed amendments to section 237D-6.5. H.B. 954 proposed:

- To correct an error in Act 161, Session Laws of Hawaii 2013, which amended section 237D-6.5, to provide that \$3 million of the excess TAT revenues deposited into the general fund be allocated for programs to support the protection, preservation, and enhancement of natural resources important to the visitor industry, including planning, construction, and repair of facilities, and operation and maintenance costs for public lands connected with enhancing the visitor experience. The phrase "deposited into the general fund," however, created a problem because those funds could not be expended by the Department of Land and Natural Resources (DLNR) without being further appropriated.
- To amend section 171-19(a)(2), relating to the Special Land and Development Fund, to provide that transient accommodations tax revenues deposited in to the Fund pursuant to section 237D-6.5(b)(5) may be expended for the "planning, development, management, operations, or maintenance of lands and improvements under the control of DLNR under Title 12, HRS, which includes beach restoration.

H.B. 444 is not "logrolling" legislation, attempting to embrace more than one subject under one title. We propose the following amendments to H.B. 444:

- In SECTION 1, amend section 171-19(a)(2) to read:  
"(2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board[;] pursuant to title 12, including but not limited to permanent or temporary staff positions who may be appointed without regard to chapter 76[;], provided that transient accommodations tax revenues allocated to the fund shall be expended as provided in section 237D-6.5(b)(5)."
- In SECTION 2, amend section 237D-6.5(b)(5)(C) to read:  
"(C) Operation and maintenance costs of [~~public lands~~] of state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations, connected with enhancing the visitor experience."

For these reasons and with the requested amendments, we strongly support H.B. 444, H.D. 2, and urge its passage.

Mahalo for the opportunity to offer these comments.



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**From:** Mailing List  
**Sent:** Friday, February 27, 2015 3:27 PM  
**To:** FINTestimony  
**Cc:** darakawa@lurf.org  
**Subject:** Submitted testimony for HB444 on Mar 3, 2015 11:00AM

**HB444**

Submitted on: 2/27/2015

Testimony for FIN on Mar 3, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Support	No

Comments: The Land Use Research Foundation of Hawaii SUPPORTS HB 444, HD2, which expands the scope of the Department of Land and Natural Resources' Beach Restoration Plans to include beach conservation; and allocates funds from the Transient Accommodations Tax to be used in accordance with the Hawaii Tourism Strategic Plan and for beach restoration and conservation. (HB444 HD2)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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