

SB 617

Incorporates beach land conservation under the general powers of the board of land and natural resources. Expands the department of land and natural resources' beach restoration plans to include beach conservation plans. Requires beach restoration plans to include, where appropriate, county participation and the formation of private-public partnerships. Allows the department of land and natural resources to include studies about the effect of sea level rise and other coastal engineering studies when developing beach conservation plans that involve more than the nourishment of beaches with sand. Renames the "beach restoration special fund" as the "beach restoration and conservation special fund". Permits 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 revenues to be deposited into the beach restoration and conservation special fund. Allows moneys from the beach restoration and conservation special fund to be used for conservation projects and all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands. Allocates \$3,000,000 of transient accommodations tax revenues to the special land and development fund to be expended by the board of land and natural resources and board of directors of the Hawaii tourism authority, under a mutual agreement. Allocates an annual amount of \$3,000,000 of transient accommodations tax revenues to the beach restoration and conservation special fund and requires the fund to maintain a balance of \$7,000,000 once that balance is achieved.

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON TOURISM AND INTERNATIONAL AFFAIRS
AND WATER AND LAND
ON
SENATE BILL NO. 617

February 11, 2015

RELATING TO BEACH PROTECTION

Senate Bill No. 617: 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) requires beach restoration plans to include, where appropriate, county participation and the formation of private-public partnerships; c) allows the BLNR to include studies about the effect of sea level rise and other coastal engineering studies when developing beach conservation plans that involve more than the nourishment of beaches with sand; d) renames the "beach restoration special fund" as the "beach restoration and conservation special fund"; e) permits 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 to be deposited into the beach restoration and conservation special fund; f) allows moneys from the beach restoration and conservation special fund to be used for conservation projects and all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands; g) allocates \$3.0 million 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

h) allocates an annual amount of \$3.0 million of TAT revenues to the beach restoration and conservation special fund and requires the fund to maintain a balance of \$7.0 million once that balance is achieved.

The Department of Budget and Finance recommends that funding for beach land conservation be appropriated directly from the general fund instead of diverting revenues from the TAT because the net effect to the general fund is the same. 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 \$3.0 million annually. This general fund revenue reduction has not been accounted for in the Administration's general fund financial plan.

DAVID Y. IGE
GOVERNOR OF HAWAII



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
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
CARTY S. CHANG
Interim Chairperson

Before the Senate Committees on
TOURISM AND INTERNATIONAL AFFAIRS
and
WATER AND LAND

Wednesday, February 11, 2015
2:45 pm
State Capitol, Conference Room 225

In consideration of
SENATE BILL 617
RELATING TO BEACH PROTECTION

Senate Bill 617 proposes to provide 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 proposes to allocate funds to the Special Land and Development Fund to be expended according to a mutual agreement of the Board of Land and Natural Resources (BLNR) and the Board of Directors of the Hawaii Tourism Authority (HTA) in accordance with the long-range strategic plan for tourism developed by the HTA. **The Department of Land and Natural Resources (Department) strongly supports Senate Bill 617 and respectfully requests that this measure be amended to be consistent with companion House Bill 444.**

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 are aware, 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.

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 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.

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 into law 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 BLNR 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 solved 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.

Companion House Bill 444 was amended by the House Committee on Water and Land to reduce the cap on the Beach Restoration Special Fund from \$7,000,000 to \$5,000,000. In addition, the Committee removed the requirement that the HTA and the BLNR reach mutual agreement on the expenditure of the funds. While the Department has not yet reviewed the House Committee Report on House Bill 444, the Department supports the amendments announced at the hearing's decision-making and suggests the following language to replace language in Senate Bill 617 regarding the mutual agreement clause under SECTION 7:

“(5) [~~Of the excess revenues deposited into the general fund pursuant to this subsection,~~ \$3,000,000 shall be allocated [~~subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority in accordance with the Hawaii tourism authority strategic plan~~] to the special land and development fund to be expended pursuant to title 12 and in accordance with the [Hawaii tourism authority] long-range strategic plan for tourism developed by the Hawaii tourism authority for:

- (A) The protection, preservation, and enhancement of natural resources important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs [~~public lands~~] of state parks, beaches, and trails, and costs associated with improving enforcement of ancillary regulations, connected with enhancing the visitor experience.”

Also amend SECTION 7 by including the attached language that addresses a housekeeping change in reference from Section 237D-6.5(b)(2), Hawaii Revised Statutes to Section 237D-6.5(b)(5), Hawaii Revised Statutes.

In addition to the funds that would be allocated to the Beach Restoration Special Fund, this measure solves the issue of authority to expend the funds that would be allocated to the special land and development fund. With that issue resolved, the Department requests **that the measure take effect upon approval**, in order that it might access funding intended for use in the current fiscal year. The Department urges your strong support of this measure with the requested amendment.

Thank you for the opportunity to testify on this measure.

**SB617 – RELATING TO BEACH PROTECTION
DEPARTMENT OF LAND AND NATURAL RESOURCES
Attachment 1**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 171-19, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is created in the department a special fund to be designated as the "special land and development fund". Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; transient accommodations tax revenues collected pursuant to section [~~237D-6.5(b)(2)~~] 237D-6.5(b)(5); and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the

fund and shall be used only as authorized by the legislature for the following purposes:

- (1) To reimburse the general fund of the State for advances made that are required to be reimbursed from the proceeds derived from sales, leases, licenses, or permits of public lands;
- (2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board[7] 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 pursuant to section 237D-6.5(b)(5) shall be expended in accordance with the Hawaii tourism authority strategic plan as provided in section 237D-6.5(b)(5);
- (3) To repurchase any land, including improvements, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;

- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;
- (6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;
- (7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;
- (8) For the payment of debt service on revenue bonds issued by the department, and the establishment of debt service and other reserves deemed necessary by the board;
- (9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, where the bonds are designated to be reimbursed from the special land and development fund;
- (10) For the protection, planning, management, and regulation of water resources under chapter 174C; and
- (11) For other purposes of this chapter."

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 Senate Bill No. 617. I am available for your questions.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Tourism and International Affairs
And Senate Committee on Water and Land

February 11, 2015 at 2:45pm

By

Robert Bley-Vroman, Chancellor

And

Darren Lerner, Director

Dolan Eversole, Extension Agent

Sea Grant College Program

University of Hawai'i at Manoa

SB617– RELATING TO BEACH PROTECTION

Chairs Kahele and Thielen, Vice Chairs English and Galuteria, and members of the committees:

The University of Hawai'i supports the intent of SB617. This legislation expands the Department of Land and Natural Resources' (DLNR) beach restoration efforts to include beach conservation plans and allows the DLNR to include studies about the effect of sea level rise and other coastal engineering studies. Along with the allocated funds, proceeds from the lease of public lands for an existing shoreline structure will provide critical and stable funding source to carry out coastal research including the development of beach restoration and conservation plans statewide.

Hawaii's beaches have become increasingly threatened by coastal 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. Beaches are the backbone of Hawaii's \$15 Billion tourism industry and are central to Hawaii's unique culture and lifestyle.

The Sea Grant College Program supports the development of special discretionary funds through the DLNR to facilitate improved understanding and management of Hawaii's coastal resources. Beaches are universally accepted as critical and highly valued natural resources that provide essential social, cultural, ecological and economic value to Hawaii's communities and economy. 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.

Thank you for the opportunity to testify on this measure.



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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
S.B. No. 617
Relating to the Beach Protection
Senate Committee on Tourism
Senate Committee on Water & Land
Wednesday, February 11, 2015
2:45 a.m.
Conference Room 225

The Hawaii Tourism Authority strongly supports S.B. No.617, 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.

S.B. 617 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.

S.B. 617 proposes, beginning July 1, 2015, to allocate \$3 million annually to the renamed Beach Restoration and Conservation Special Fund until a fund balance of \$7 million is achieved, and provides that thereafter funds shall be allocated to the Special Fund sufficient to maintain the \$7 million balance, to do "all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands."

For these reasons, we strongly support S.B. 617, and urge its passage.

Mahalo for the opportunity to offer these comments.



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
Senate Committees on **Tourism and International Affairs** and **Water and Land**
Hearing on February 11, 2015, 2:45 a.m.
SB 617 Relating to Beach Protection

Dear Chairs, Vice Chairs, and Members of the Committees on Tourism and International Affairs and Water and Land. 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 Senate Bill 617 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** Senate Bill 617, 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 \$7,000,000 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** SB 617 and urge its passage.

Thank you for the opportunity to testify.



Testimony Presented Before the
Senate Committees on
TOURISM AND INTERNATIONAL AFFAIRS and
WATER AND LAND

Wednesday, February 11, 2015; 2:45 pm

By
HAWAII SHORE AND BEACH PRESERVATION ASSOCIATION

In consideration of
SENATE BILL 617 RELATING TO BEACH PROTECTION

Senate Bill 617 expands the Department of Land and Natural Resources' (DLNR) beach restoration plans to include beach conservation plans and allows the DLNR to include studies about the effect of sea level rise and other coastal engineering studies. The bill proposes to rename the "Beach Restoration Special Fund" as the "Beach Restoration and Conservation Special Fund." Along with permit fees, proceeds from the lease of public lands for an existing shoreline structure, matching funds to carry out a beach restoration and conservation plans, the bill allocates \$3,000,000, annually (to maintain a balance of \$7,000,000) of transient accommodations tax revenues to the Beach Restoration and Conservation Special Fund to be expended by the Board of Land and Natural Resources and Board of Directors of the Hawaii Tourism Authority, under a mutual agreement.

The Hawaii Shore and Beach Preservation Association (HSBPA)* strongly supports Senate Bill 617. 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. Beaches are the backbone of Hawaii's \$15 Billion tourism industry and are central to Hawaii's unique culture and lifestyle.

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@hawaiishoreandbeach.org.

Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 617 Relating to Beach Protection
Senate Committee on Tourism and International Affairs
Senate Committee on Water and Land
Wednesday, February 11, 2015, 2:45PM, Room 225

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life in these islands depends. The Conservancy 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. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy supports S.B. 617 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 Hawaii'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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SUBJECT: TRANSIENT ACCOMMODATIONS, Disposition for beach restoration and conservation special fund

BILL NUMBER: SB 617; HB 444 (Identical)

INTRODUCED BY: SB by Kim, Chun Oakland, Gabbard, Kahele and 1 Democrat; HB by Yamane, Aquino, Belatti, Brower, Cullen, Evans, Ito, C. Lee, McKelvey, Morikawa, Nishimoto, Thielen, Tsuji and 2 Democrats

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.

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 \$7 million. Thereafter, funds shall be allocated from the beach restoration and conservation special fund in a manner sufficient to maintain a fund balance of \$7 million.

Makes conforming amendments to HRS chapter 171.

EFFECTIVE DATE: July 1, 2015

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 \$7 million." Does this mean the fund must maintain a balance of \$7 million and that is the minimum amount required in the fund? If that is the case, the \$7 million could never be spent. On the other hand, does it mean that funds over \$7 million must be spent to maintain a fund balance of \$7 million?

Digested 2/5/15