



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

---

Testimony Presented Before the  
Senate Committee on Commerce, Consumer Protection, & Health  
And

Senate Committee on Judiciary  
Friday, February 21, 2020 at 10:30 a.m..

By

Tavia Oshiro, Environmental Compliance Officer  
Emma Kennedy, Director  
Environmental Health and Safety Office

And

Michael Bruno, PhD  
Provost  
University of Hawai'i at Mānoa

### SB 2501 SD1 – RELATING TO WATER POLLUTION

Chairs Baker and Rhoads, Vice Chairs Chang and Keohokalole, and members of the committees:

The University of Hawai'i (UH) opposes SB 2501 SD1 and offers the following comments:

UH believes that the current definition of “variance” in §342D-1, Hawai'i Revised Statutes (HRS), already provides the Director of the Hawai'i State Department of Health (DOH) with a clear statement of what can be authorized through the variance procedure. The language proposed to be deleted makes the definition less clear. Therefore, the amendment proposed in Section 1 of the bill is unnecessary and should not be adopted.

Section 2 of the bill amends §342D-6, HRS, by adding a new subsection (a) that includes the terms “continuing discharge,” “highest quality waters,” and “temporary construction.” These terms are not clearly defined and consequently the proposed amendment may result in confusion between regulators and large numbers of current permittees. The committees may wish to review the information in the following United States Environmental Protection Agency link for comparable terminologies.

[https://ofmpub.epa.gov/sor\\_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=Drink%20Water%20Tech/Legal%202009](https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=Drink%20Water%20Tech/Legal%202009)

Section 3 of the bill amends §342D-7, HRS, relating to variances, by adding a new subsection (a). The proposed new subsection references rules related to the granting of variances. UH understands that the pertinent DOH administrative rules currently do not address variance procedures, perhaps because the current §342D-7 is already clear

and detailed. However, the proposed new language calling for “proving entitlement” to a variance further complicates the variance process without providing additional guidance. The proposed amendment may therefore serve to make the process more difficult, time-consuming and expensive for all concerned, including DOH.

More generally, it is unclear why the proposed statutory amendments are necessary, and why any concerns that the measure seeks to ameliorate cannot be addressed through other means, such as appropriate permit conditions or modifications to existing rules.

UH believes that if enacted in its present form, SB 2501 SD1 will introduce complications and uncertainties that can adversely impact several University programs. These programs include the Waikīkī Aquarium, the Pacific Bioscience Research Center’s Kewalo Marine Laboratory, the Hawai’i Institute of Marine Biology at Coconut Island, the Hawai’i Undersea Research Laboratory near Makapu’u Point, and the UH Marine Operations at Honolulu Harbor.

For these reasons, the University of Hawai’i respectfully requests that SB 2501 SD1 be deferred. Thank you for the opportunity to provide testimony on this measure.