

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
JUDICIARY**

**Monday, February 24, 2020  
12:00PM  
State Capitol, Room 016**

**In consideration of  
SENATE BILL 2381, SENATE DRAFT 1  
RELATING TO SHORELINE SETBACKS**

Senate Bill 2381, Senate Draft 1 proposes to adjust shoreline setback requirements by taking into consideration rising sea levels. **The Department of Land and Natural Resources supports this measure and provides the following comments.**

In December 2017, the State Climate Change Mitigation and Adaptation Commission accepted the Hawaii Sea Level Rise Report (SLR Report). The report chronicles the science of sea level rise projections, identifies areas around the state that will be impacted by sea level rise of up to 3.2 feet above current sea level, and makes recommendations for sea level rise adaption. Given the world's slow response at curbing greenhouse gas emissions, we are virtually certain to experience one (1) meter of sea level rise this century, and unless drastic actions are taken immediately to significantly reduce greenhouse gas emissions, the world is likely to experience well over one (1) meter of sea level rise during the next 80-years. This is bad news for island communities.

Sea level rise and its associated impacts (e.g., erosion, flooding, and wave inundation) threaten the wellbeing of our coastal communities, public infrastructure, and beaches. Thus, increasing protection for beaches and other coastal resources, as well as strengthening prohibitions against seawalls and revetments, and strengthening zoning controls and shoreline building setbacks through the proposed updates to Chapter 205A, Hawaii Revised Statutes, are critical if we want to allow our beaches to persist with sea level rise while improving resilience of our beachfront communities.

Although the respective counties are more qualified to comment on the regulatory consequences of this measure, we note that should this measure be signed into law, shoreline setbacks would extend very far inland where the land does not immediately rise to 2-meters (e.g., low flat lands). All areas seaward of the 2-meter contour would effectively be in the shoreline setback.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

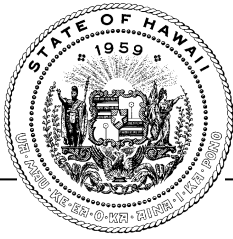
**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

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

Development in these areas would be subject to County shoreline setback laws, and pretty much all development in these areas would be subject to a variance or be outright prohibited.

While this measure deploys a slightly different approach to sea level adaptation than suggested in the SLR report and the State Climate Change Mitigation and Adaptation Commission, we believe that re-defining shoreline setback requirements to adapt to climate change impacts is an important step in protecting our communities and our coastal natural and cultural resources from the impacts of sea level rise and coastal erosion.

Thank you for the opportunity to comment on this measure



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DAVID Y. IGE  
GOVERNOR

MARY ALICE EVANS  
DIRECTOR  
OFFICE OF PLANNING

Statement of

**MARY ALICE EVANS**  
Director, Office of Planning  
before the

## **SENATE COMMITTEE ON JUDICIARY**

Monday, February 24, 2020

12:00 PM

State Capitol, Conference Room 016

in consideration of

### **SB 2381 SD1 RELATING TO SHORELINE SETBACKS.**

Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary.

The Office of Planning (OP) serves as the lead agency of the Hawaii Coastal Zone Management Program established in Hawaii Revised Statutes Chapter 205A. The OP respectfully offers the following comments on **SB 2381 SD1**.

1. Pursuant to HRS §205A-41, "Shoreline setback line" means that line established by the county running inland from the shoreline at a *horizontal* plane. Currently, except at a site with a high cliff, the impact of a vertical sea level at a specific parcel has been reflected and transformed into the horizontal shoreline setback through the location of a shoreline. Without transformation, it will be challenging to apply "an altitude of at least two meters above sea level" (page 2 lines 5-6) directly as an additional minimum requirement to the horizontal shoreline setbacks.
2. Provisions of Hawaii Revised Statutes (HRS) §205A-45 authorize the counties to require that shoreline setback lines be established at a distance greater than that established in Part III of HRS Chapter 205A. Each county has been authorized by HRS Chapter 205A to increase their shoreline setbacks specifically for their unique characteristics in response to coastal hazards as necessary.
3. The purpose of shoreline setbacks is to prohibit structures within the shoreline area, which is the land area between the shoreline and the shoreline setback line. Increasing the minimum shoreline setback line by adding "an altitude of at least two meters above sea level" without assessing coastal land elevations and county land uses

will tremendously increase the requests for shoreline setback variance, which is an exception to the **prohibition** of a structure. As a result, a shoreline setback variance will likely be treated as a **permit to allow** the structures within the shoreline area and jeopardize the purpose of shoreline setbacks.

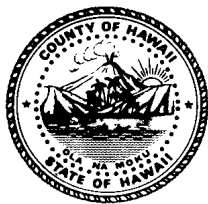
4. The low-lying areas that will be impacted by 2-meter sea level rise may be far inland (e.g., more than 2,500 feet) from the shoreline. Establishing a shoreline setback line by including all low-lying areas that will be impacted by 2-meter sea level rise is beyond the scope of shoreline setbacks which is to provide immediate buffer zones against the risk of coastal hazards, and protect shoreline processes and beaches.
5. Given the intensity of existing development and high limitation of land use, rather than a statewide prohibition of new development within the low-lying areas impacted by 2-meter sea level rise from “shoreline” setbacks, it may be more reasonable to address this challenge through an adaptive approach with other land use policies and engineering approaches which will need to be researched and developed in response to rising sea levels.

Thank you for the opportunity to testify on this measure.

Harry Kim  
*Mayor*

Roy Takemoto  
*Managing Director*

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**County of Hawai'i**  
**PLANNING DEPARTMENT**

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*Director*

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*Deputy Director*

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February 21, 2020

Testimony by  
**MICHAEL YEE**  
**Director, County of Hawai'i Planning Department**  
before the  
**Committee on Judiciary**  
**Monday, February 24, 2020, 12:00 P.M.**  
**State Capitol, Conference Room 016**  
In consideration of  
**SB 2381 SD1**  
**Relating to Shoreline Setbacks**

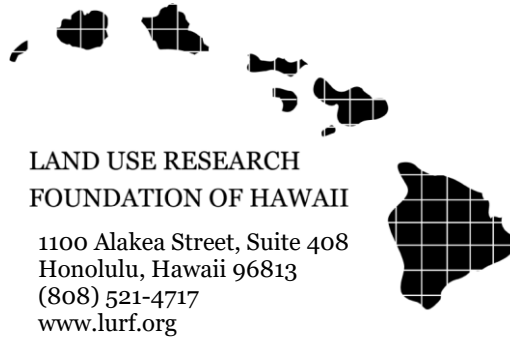
The purpose of this measure is to establish greater shoreline setback requirements. Specifically, the bill provides that setbacks along shorelines are established of not less than forty feet inland from the shoreline, and an altitude of at least two meters above sea level. I support the intent of this bill to address our shorelines that will be affected by sea level rise. However, I have some concerns about the applicability of this proposed change.

Currently, the shoreline setback is determined by a shoreline certification based on the definition of "shoreline". The shoreline is defined by HRS 205A-1 as "the upper reaches of the wash of the waves, other than storm and seismic waves, at high tide during the season of the year in which the highest wash of the waves occurs, usually evidenced by the edge of vegetation growth, or the upper limit of debris left by the wash of the waves". In addition, HRS 205A-41 defines the shoreline setback line as "that line established in the part or by the county running inland from the shoreline at a horizontal plane".

Given these definitions, it is not clear how the proposed two-meter altitude will be measured and applied. It is also important to note that the County of Hawai'i has very different shoreline types than the other counties and we are currently working on a project to analyze these shoreline types and understand the unique shoreline changes that occur.

Once we have a better understanding of how to address the shoreline setbacks for our varying shorelines, we will likely need some flexibility that this bill may foreclose.

Thank you for the opportunity to submit testimony for this measure.



**LATE**

February 23, 2020

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
Senate Committee on Judiciary

**Comments and Concerns in Strong Opposition to SB 2381, SD1 RELATING TO SHORELINE SETBACKS (Establishes greater shoreline setback requirements. Effective 12/31/33. [SD1])**

**JDC Hrg: Monday, February 24, 2020, 12:00 p.m., in Conference Room 016**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and utility companies. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

Over the years, LURF and its members have worked collaboratively with state and county agencies and officials relating to shoreline issues, including certified shorelines, shoreline setback ordinances, and public access. While LURF fully understands and supports the concerns and efforts of the legislature to address hazards such as coastal erosion, flooding from tsunamis, storms and high waves, as well as sea level rise, LURF must **oppose SB 2381, SD1**.

**SB 2381, SD1.** The purpose of this bill to establish a “one-size fits all” greater shoreline setback for all counties across the state.

**LURF’s Position.** LURF’s opposition is based on the following concerns and issues:

- **“One-size does not fit all” for different types of shorelines.** Flexibility is needed to address the different types of shorelines in Hawaii (reefs, sandy shorelines, eroding soil, rocky, rocky cliffs, etc.);
- **“One-size does not fit all” for different property types.** The counties understand that shoreline setbacks should be “place-appropriate,” and flexibility is needed to address the different variety of property types along the shoreline: some properties are very shallow, others are very large and deep;

- **County home-rule.** Due to the differences in shorelines and shoreline properties, Counties should be allowed flexibility to establish their own shoreline setbacks;
- **Major unintended consequences and economic impacts.** As shown in the City and County of Honolulu's prior testimony and maps submitted in opposition to this measure, the greater setbacks proposed by this bill will have major unintended consequences and economic impacts to key properties in Kakaako, Ala Moana and Waikiki; and
- **Lack of public outreach to affected landowners and stakeholders.** The arbitrary, one-size fits all mandate was established without any public outreach to affected landowners and other stakeholders.

**Conclusion.** Based on the above, LURF must **strongly oppose SB 2381, SD1**, regardless of how well-intended this measure may be, and respectfully requests that this bill be **held in this Committee**.

**SB-2381-SD-1**

Submitted on: 2/21/2020 3:50:11 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Trinette Furtado	Individual	Support	No

Comments:

Aloha Mai, Chair and Members of the Judiciary Committee.

Mahalo for the opportunity to testify on this critical measure.

I am in **STRONG SUPPORT** of **SB2381 SD1**, creating a greater shoreline setback.

Across the globe, nations big and small are experiencing the effects of climate change and sea level rise. Nations like Palau and Samoa are looking at ways to stem the tide (so to speak) and address the needs of their growing (and aging populations) as regards buildings and infrastructure near the shore

This measure presents a good step towards ensuring that construction along our coastlines is sensible, thoughtful and inclusive of our dynamic environment and sets the stage for continuing discussions and actions to keep us ahead of the wave.

While my testimony may seem punny and light, shoreline setbacks and sea level rise are no laughing matter. We must look to honestly and earnestly addressing these issues well before they become emergency events.

I ask that you vote **YES** on **SB2381 SD1**.

Mahalo.



**LATE**

**SB-2381-SD-1**

Submitted on: 2/23/2020 6:42:01 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support SB2381. Sea levels are rising at a rate of 3mm/year, which is unprecedented in the geologic record. Paying for all the damage this will do will be costly to our state, not to mention owners, and increasing the setbacks from the shore will help prepare for climate change, which is already occurring.

Thank you for the opportunity to present my testimony.

Sincerely,

Andrea Quinn

Kihei, Maui