

DAVID Y. IGE
GOVERNOR OF
HAWAII



LATE

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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
ENERGY & ENVIRONMENTAL PROTECTION
and
WATER, LAND & HAWAIIAN AFFAIRS**

**Wednesday, March 11, 2020
11:15 AM**

State Capitol, Conference Room 325

**In consideration of
SENATE BILL 3099, SENATE DRAFT 2
RELATING TO CLIMATE CHANGE**

Senate Bill 3099, Senate Draft 2 proposes to implement the recommendations of the 2017 Hawai'i Sea Level Rise Vulnerability and Adaptation Report issued by the Hawai'i Climate Change Mitigation and Adaptation Commission. **The Department of Land and Natural Resources ("Department") acknowledges the importance of this measure and offers the following comments.**

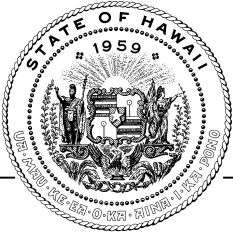
Impacts to the Department:

PART VIII of this measure (SECTIONS 18-23 on pages 39-57) relates to implementation by the Board of Land and Natural Resources and would impact, directly, programs within the Department's Historic Preservation Division; Office of Conservation and Coastal Lands (SECTIONS 20, 22, and 23); Land Division (SECTIONS 20-23); Division of Forestry and Wildlife (Sections 21-23); and Division of Aquatic Resources and Engineering Division (SECTIONS 22-23). If the Department is to carry out additional functions as outlined in this measure, new funding will be required.

Acquisition of Resource Value Lands: The Department respectfully requests that this Committee delete SECTION 21 of the bill.

Chapter 173A, Hawaii Revised Statutes (HRS), governing the Legacy Land Conservation Program, already authorizes protection of coastal areas, beaches, and ocean access. Lands that "buffer" beaches and coastal frequently include built residential or commercial lands, not "legacy" natural, cultural, and scenic areas intended for protection under Chapter 173A, HRS.

Thank you for the opportunity to comment on this measure and for your support of the Department's mission to protect and perpetuate the State's beach systems in the face of climate change.



**OFFICE OF PLANNING
STATE OF HAWAII**

LATE

DAVID Y. IGE
GOVERNOR

MARY ALICE EVANS
DIRECTOR
OFFICE OF PLANNING

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Statement of
MARY ALICE EVANS
Director, Office of Planning
before the
**HOUSE COMMITTEES ON ENERGY & ENVIRONMENT
AND WATER, LAND & HAWAIIAN AFFAIRS**

Wednesday, March 11, 2020

11:15 AM

State Capitol, Conference Room 325

in consideration of
SB 3099 SD2
RELATING TO CLIMATE CHANGE.

Chair Gabbard, Chair Kahele, Vice Chair Ruderman, Vice Chair Keith-Agaran, and Members of the Senate Committees.

The Office of Planning (OP) **supports** SB3099 SD2, with comments, which implements the recommendations of the Hawaii Sea Level Rise Vulnerability and Adaptation Report. OP offers comments on the **Part IV** of the bill that pertain specifically to the Office of Planning. We defer to other departments and programs on the other sections of the bill.

The Office of Planning notes that the tasks in Part IV require additional planning support. Specifically, OP will require the authorization of two exempt planning and policy analyst positions with personnel costs each of \$80,000 (equivalent to SR 26, Step H, FY21) to support OP's Special Plans Branch, CZM Branch, GIS Branch and Land Use Division; and the addition of an appropriation section for Part IV of \$400,000 to hire contract services to assist with:

- 1) creating and maintaining an inventory of developable lands outside of the SLR-XA;
- 2) establishing a standing committee of state and county officials;
- 3) conducting detailed risk analyses;
- 4) creating a Willing Seller Program; and
- 5) developing a financing strategy.

The Office of Planning **thanks** the Legislature for considering this detailed approach to mitigating and adapting to sea level rise and providing additional resources to implement the tasks in Part IV, provided that they do not displace or negatively impact Executive budget priorities.

Thank you for the opportunity to testify on this measure.

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com




March 11, 2020

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ROSS S. SASAMURA, Ex-Officio
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ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer 

The Honorable Nicole E. Lowen, Chair
and Members
Committee on Energy and Environment Protection
House of Representatives
State Capitol, Room 325
Honolulu, Hawaii 96813

The Honorable Ryan I. Yamane, Chair
and Members
Committee on Water, Land and Hawaiian Affairs
House of Representatives
State Capitol, Room 325
Honolulu, Hawaii 96813

Dear Chairs Lowen and Yamane and Members:

Subject: Senate Bill No. 3099, Senate Draft 2: Relating to Climate Change

The Honolulu Board of Water Supply (BWS) supports the intent of Senate Bill (SB) 3099, Senate Draft (SD) 2. This bill requires the applicable state and county agencies to implement recommendations of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report (Report). The BWS appreciates the State Legislature's leadership in climate change and sea level rise mitigation and adaptation. BWS is actively working with the City's Office of Climate Change, Sustainability and Resiliency (OCCSR) and the Honolulu Climate Change Commission on the implementation of various components of the Report.

Based on the recommendations of OCCSR and the Honolulu Climate Change Commission, the Mayor of the City and County of Honolulu executed the Honolulu Climate Change and Sea Level Rise Directive 18-02 on July 16, 2018, which directs all City agencies to incorporate the findings of the Report into their long-range plans and Capital Improvement Programs (CIP).

The BWS recognizes that climate change and sea level rise will impact the sustainability of Oahu's water resources and coastal water infrastructure. As such, vulnerability assessments and adaptation measures needed to be prioritized and implemented. BWS recently completed its vulnerability assessment entitled Impacts of Climate Change on

The Honorable Nicole E. Lowen, Chair
and Members
The Honorable Ryan I. Yamane, Chair
and Members
March 11, 2020
Page 2

Honolulu Water Supplies & Planning Strategies for Mitigation (2019) and have incorporated the findings into our long-range CIP. The expansion of the Honouliuli Water Recycling Facility (completed in December 2019) and the proposed Kalaeloa Seawater Desalination Project are among other BWS infrastructure resilience projects. Climate change and sea level rise adaptation is currently being incorporated in our regional watershed management plans for South Oahu (Ewa, Central Oahu, Primary Urban Center and East Honolulu).

<https://www.boardofwatersupply.com/bws/media/files/water-research-foundation-4637-climate-change-impacts-on-honolulu-water-supplies-2019.pdf>

Thank you for your consideration of our testimony in support of SB 3099, SD 2.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer

SB-3099-SD-2

Submitted on: 3/10/2020 1:44:38 PM

Testimony for EEP on 3/11/2020 11:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Climate Protector	Climate Protectors Coalition	Support	No

Comments:

March 11, 2020

The Honorable Nicole Lowen, Chair

House Committee on Energy & Environmental Protection

The Honorable Ryan I. Yamane, Chair

House Committee on Water, Land and Hawaiian Affairs

State Capitol, Room 325

Honolulu, HI 96813

RE: S.B. 3099, SD2, Relating to Climate Change

HEARING: Wednesday, March 11, 2020, at 11:15 a.m.

Aloha Chair Lowen, Chair Yamane, and Members of the Joint Committees,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **provides comments on Part XI** of Senate Bill 3099, SD2, which provides for disclosure of properties within a sea level rise exposure area as officially designated by the Hawai'i Climate Change Mitigation and Adaptation Commission. This measure also implements the recommendations of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report issued by the Hawai'i Climate Change Mitigation and Adaptation Commission.

HAR respectfully requests amendments to Part IX to reflect Chair Yamane's HB1878. Additionally, attached is a copy of the measure.

- Change lines 8-10 to: “(5) Within the sea level rise exposure area as officially designated by the relevant county.”
- Change lines 11-20: Refer to five instead of four tax map keys.

HAR believes having the tax map keys will provide clarity to sellers in identifying whether there properties are within a sea level rise exposure area.

Additionally, if the Committee is inclined to pass the measure, HAR respectfully requests an effective date of November 1st for Part XI. This will allow our Standard Forms Committee to make changes to the Seller's Real Property Disclosure Statement and educate our members on the changes.

Mahalo for the opportunity to testify.

A BILL FOR AN ACT

RELATING TO REAL PROPERTY TRANSACTIONS.

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

1 SECTION 1. The legislature recognizes that climate change
2 is real and a priority issue for the State. It poses immediate
3 and long-term threats to Hawaii's economy, sustainability,
4 security, and way of life. Sea level rise is an especially
5 pressing consequence of climate change, with sea levels
6 projected to rise up to 3.2 feet in some areas by as early as
7 2060.

8 The legislature finds that a property's vulnerability to
9 sea level rise, as identified by county climate maps, is a
10 material fact for the purposes of mandatory disclosures in
11 residential property sales. Chapter 508D, Hawaii Revised
12 Statutes, requires that all residential property sales include a
13 written disclosure statement prepared by or for the seller that
14 fully and accurately discloses all material facts about the
15 property. A "material fact" is defined in the chapter as "any
16 fact, defect, or condition, past or present, that would be
17 expected to measurably affect the value to a reasonable person



1 of the residential real property being offered for sale." Sea
2 level rise, or an ongoing vulnerability to it, can be expected
3 to measurably affect the value of residential real property.

4 Accordingly, the purpose of this Act is to require that
5 mandatory seller disclosures in residential real property
6 transactions identify property within the sea level rise
7 exposure area as officially designated by the relevant county.

8 SECTION 2. Section 508D-15, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) When residential real property lies:

11 (1) Within the boundaries of a special flood hazard area
12 as officially designated on Flood Insurance
13 Administration maps promulgated by the United States
14 Department of Housing and Urban Development for the
15 purposes of determining eligibility for emergency
16 flood insurance programs;

17 (2) Within the boundaries of the noise exposure area shown
18 on maps prepared by the department of transportation
19 in accordance with Federal Aviation Regulation part
20 150, Airport Noise Compatibility Planning (14 C.F.R.
21 part 150), for any public airport;



1 (3) Within the boundaries of the Air Installation
2 Compatible Use Zone of any Air Force, Army, Navy, or
3 Marine Corps airport as officially designated by
4 military authorities; ~~[or]~~

5 (4) Within the anticipated inundation areas designated on
6 the department of defense's emergency management
7 tsunami inundation maps~~[7]~~; or

8 (5) Within the sea level rise exposure area as officially
9 designated by the relevant county,

10 subject to the availability of maps that designate the ~~[four]~~
11 five areas by tax map key (zone, section, parcel), the seller
12 shall include the material fact information in the disclosure
13 statement provided to the buyer subject to this chapter. Each
14 county shall provide~~[7, where available,]~~ maps of its
15 jurisdiction detailing the ~~[four]~~ five designated areas
16 specified in this subsection. The maps shall identify the
17 properties situated within the ~~[four]~~ five designated areas by
18 tax map key number (zone, section, parcel) and shall be of a
19 size sufficient to provide information necessary to serve the
20 purposes of this section. Each county shall provide legible
21 copies of the maps and may charge a reasonable copying fee.



H.B. NO. 1878

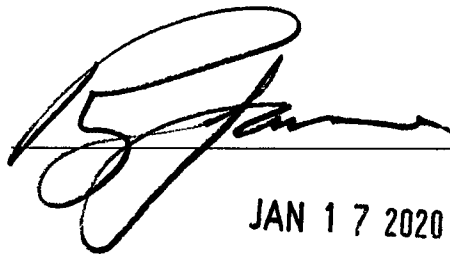
1 Until these maps are made available, current county climate maps
2 shall be accepted."

3 SECTION 3. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect on December 31,
6 2050.

7

INTRODUCED BY:



JAN 17 2020



H.B. NO.1878

Report Title:

Real Estate Transactions; Mandatory Seller Disclosures; Sea Level Rise Exposure Area

Description:

Requires that mandatory seller disclosures in real estate transactions include identification of residential real properties lying within the sea level rise exposure area as designated by the relevant county. Effective 12/31/2050.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.





SB 3099, SD2, RELATING TO CLIMATE CHANGE

MARCH 11, 2020 · HOUSE ENERGY AND ENVIRONMENTAL PROTECTION COMMITTEE AND HOUSE WATER, LAND, AND HAWAIIAN AFFAIRS COMMITTEE · CHAIRS REP. NICOLE E. LOWEN AND REP. RYAN I. YAMANE

POSITION: Support.

RATIONALE: IMUAlliance supports SB 3099, SD2, relating to climate change, which implements the recommendations of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report issued by the Hawai'i Climate Change Mitigation and Adaptation Commission.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding.

Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

Furthermore, according to research conducted by Michael B. Gerrard from Columbia Law School, modern-day slavery tends to increase after natural disasters or conflicts where large numbers of people are displaced from their homes. In the decades to come, says Gerrard, **climate change**

will very likely lead to a significant increase in the number of people who are displaced and, thus vulnerable, to human trafficking. While the Paris Climate Agreement of 2015 established objectives to limit global temperature increases and several international agreements are aimed at combating modern-day slavery, it is highly uncertain whether they will be adequate to cope with the scale of the problem that is likely to occur as a result of climate change.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.

Therefore, our state should take steps to protect Hawai'i's coastal areas, including by identifying vulnerable public infrastructure and creating plans for mitigating and adapting to the imminent and existential threat of sea level rise. For the sake of our keiki, we cannot afford to wait to solidify strategies to preserve our island home for generations to come.

Statement Before The
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Wednesday, March 11, 2020

11:15 AM

State Capitol, Conference Room 325

LATE

in consideration of
SB 3099, HD2
RELATING TO CLIMATE CHANGE.

Chair LOWEN, Vice Chair WILDBERGER, and Members of the House Energy & Environment Protection Committee

Common Cause Hawaii supports the intent of SB 3099, SD2, which implements the recommendations of the Hawaii Sea Level Rise Vulnerability and Adaptation Report issued by the Hawaii Climate Change Mitigation and Adaptation Commission.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to strengthening our democracy through transparency and accountability in our government institutions.

Section 10 of SB 3099, SD2 provides that the Office of Planning (OP) is to establish a standing committee on sea level rise (SLR) and managed retreat, which shall conduct detailed risk analyses of urban areas vulnerable to sea level rise. Page 19, lines 1-6. However, this standing committee is to be exempt from Hawaii Revised Statutes Chapter 92 (Hawaii's Public Agency Meetings and Records Law, a.k.a., Sunshine Law). Page 5, line 7. Given the importance and impact of SLR to Hawaii and impact of any managed retreat study, pages 19-20, it is unclear why this standing committee within OP is exempt from Sunshine Law.

A strong democracy requires transparency in our system, especially one tackling issues as important as this the one assigned to this standing committee. Common Cause Hawaii supports the intent of SB 3099, SD2 but opposes a blanket exemption for the proposed committee from the Sunshine Law. Thank you for the opportunity to testify on SB 3099, SD2. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

LATE

SB-3099-SD-2

Submitted on: 3/10/2020 6:21:17 PM

Testimony for EEP on 3/11/2020 11:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

LATE

SB-3099-SD-2

Submitted on: 3/10/2020 7:47:00 PM

Testimony for EEP on 3/11/2020 11:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lana Brodziak	Individual	Support	No

Comments:

I suport this bill. Implementing the reccomendations of this report sounds like a prudent action to take for effective future State planning and budgeting. I feel it is importanat to pass this legislation. Mahalo for your consideration.

SB-3099-SD-2

Submitted on: 3/11/2020 10:25:31 AM

Testimony for EEP on 3/11/2020 11:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Keara	Individual	Support	No

Comments:

To begin, I am a teenager and worried for my future in only a few years, people aren't recognizing that this is a serious issue. My parents aren't worried about it because they won't be here for its true effect, having this bill processed would recognize climate change and help Hawaii for the better. As citizens in Hawaii we should be more worried than anyone else, we have already seen houses on the North Shore being eroded because of the rising seas.

I can no longer sit by and watch as we don't have a plan, and watch the island I grew up on fall apart.



SB3099 SD2

RELATING TO CLIMATE CHANGE

House Committee on Energy & Environmental Protection
House Committee on Water, Land & Hawaiian Affairs

March 11, 2020

11:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB3099 SD2, which will implement the recommendations of the Hawai'i Sea Level Rise Vulnerability and Adaptation Report (Report) that was submitted by the Hawai'i Climate Change Mitigation and Adaptation Commission (Commission) in 2017. As a member of the Commission, OHA worked with other stakeholders and subject matter experts regarding climate changes and its impacts, and we recognize that climate change poses a threat to the interests of our beneficiaries and the entire State of Hawai'i. **OHA accordingly applauds the introduction of this measure, and supports its intent to implement the recommendations of the Report and strengthen Hawai'i's ability to address the impacts of sea level rise and climate change.**

Should the Committees choose to move SB3099 SD2 forward, OHA does respectfully urge the Committees to amend this measure to (1) remove any amendments to Hawai'i Revised Statutes (HRS) Chapter 6E; and (2) broaden the scope and membership of the working group to be established by OHA.

OHA submits that the proposed amendment to HRS Chapter 6E on page 40, lines 13-15 which directs the State Historic Preservation Division (SHPD) to include "...[t]raditional and customary native Hawaiian cultural resources and practices impacted by sea level rise" in statewide survey and inventory development is not necessary at this time. "Traditional and customary native Hawaiian cultural resources and practices" is a broad term that may include not only archaeological, cultural, and burial sites, but also other resources and associated practices that are not within the jurisdiction of HRS Chapter 6E. OHA supports the intent of the proposed amendment and believes it will be achieved by broadening the scope and membership of the working group established by OHA, as described further below.

Further, OHA finds that the second proposed amendment to HRS Chapter 6E on page 42, lines 1-11 as it relates to "...burial sites, burial goods, [and] human skeletal remains" is also unnecessary at this time. The existing language of HRS § 6E-43.5(f)(3) authorizes the island burial councils established by this section to "...make recommendations regarding appropriate management, treatment, and protection of native Hawaiian burial sites, and on any other matters relating to native Hawaiian burial sites." Thus, as it relates to the impacts of sea level rise and climate change on native Hawaiian burial sites, burial goods, and iwi kūpuna (human skeletal remains), island burial councils are certainly the appropriate entity to make recommendations and are already authorized to do so. OHA supports the intent of this second proposed amendment and believes it can be fully achieved through the existing statutory authority of island

burial councils and by broadening the scope and membership of the working group to be established by OHA.

Accordingly, OHA recommends removing the proposed amendments to HRS Chapter 6E described above, and instead adopting the amended language proposed below.

Broadening the scope and membership of the proposed “coastal lands and water adaptation working group” would better effectuate the intent of this measure as it relates to protecting historic, cultural resources and sites, as well as associated cultural practices, from sea level rise and the impacts of climate change. OHA also respectfully submits that the chief executive officer of OHA would be an ideal candidate to select the Native Hawaiian organizational representatives on the working group. OHA has extensive work experience with Native Hawaiian organizations, and given the broader scope and needs of the working group per OHA’s recommendations, this experience would facilitate OHA’s role in establishing and administering the group. OHA therefore recommends amending the language beginning on page 57, line 13 through page 59, line 8, to read as follows:

SECTION 25. (a) The Office of Hawaiian Affairs shall establish and administer a working group, which shall consist of agency representatives and individuals familiar with traditional and culturally appropriate perspectives and approaches to sea level rise and climate change and shall consult with the Native Hawaiian community, island burial councils established by section 6E-43.5, and other stakeholders to develop adaptation plans for the following as may be impacted by sea level rise and climate change:

- (1) Historic properties of traditional and cultural significance to Native Hawaiians and their associated practices;
 - (2) Burial sites, burial goods, and iwi kūpuna (ancestral remains);
 - (3) Access to coastal lands and associated traditional and customary practices; and
 - (4) Any other identified cultural resources and associated practices.
- (b) The working group shall include:
- (1) The chief executive officer of the office of Hawaiian affairs or the chief executive officer's designee;
 - (2) The chair of the department of Hawaiian home lands or the chair's designee;
 - (3) The chair of the department of land and natural resources or the chair's designee;
 - (4) The director of the office of planning or the director's designee;
 - (5) Three representatives of Native Hawaiian organizations actively working on and with demonstrated knowledge of the impacts of sea level rise and climate change; provided that the

chief executive officer of the office of Hawaiian affairs shall appoint the representatives pursuant to this paragraph; and

- (6) Three persons with a background in sea level rise and climate change science; provided that the speaker of the house of representatives, the president of the senate, and the governor shall each appoint one person pursuant to this paragraph.

(c) In developing the adaptation plan and recommendations pursuant to paragraph (a)(2), the working group shall consult with island burial councils established by section 6E-43.5 and any other appropriate Native Hawaiian organizations.

(d) The working group members shall select the working group chairperson from among its members.

(e) The working group shall utilize data from the Hawai'i sea level rise vulnerability and adaptation report and any other appropriate documents, reports, and consultation to conduct its duties.

(f) The members of the working group shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

(g) The working group shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2023.

OHA respectfully urges the Committees to **PASS WITH AMENDMENTS** the bill as described. Mahalo nui loa for the opportunity to testify on this measure.