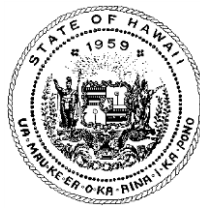




# SB2917

Measure Title:	RELATING TO CORRECTIONAL FACILITIES.
Report Title:	RELATING TO CORRECTIONAL FACILITIES. (\$)
Description:	Creates an exemption from Hawai'i Revised Statutes §343-5 for a jail facility to be built adjacent to Halawa Correctional Facility and funding therefore and makes clarifying amendments.
Companion:	<a href="#">HB2388</a>
Package:	Governor
Current Referral:	PSM, WAM
Introducer(s):	KOUCHI (Introduced by request of another party)

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

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**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Shawn H. Tsuha**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2917  
RELATING TO CORRECTIONAL FACILITIES

By  
Nolan P. Espinda, Director

Senate Committee on Public Safety, Intergovernmental, and Military Affairs  
Senator Clarence K. Nishihara, Chair  
Senator Will Espero, Vice Chair

Tuesday, February 16, 2016; 1:18 p.m.  
State Capitol, Conference Room 229

Chair Nishihara, Vice Chair Espero, and Members of the Committee:

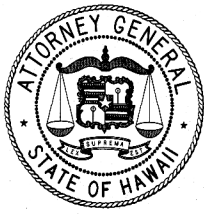
The Department of Public Safety (PSD) **supports** the enactment of Senate Bill (SB) 2917 as addressing the dire need to relocate the Oahu jail (OCCC) out of the urban core community of Kalihi.

The facility's aged and deteriorating infrastructure and the grossly outmoded and inefficient layout of the current campus call for a complete architectural redesign and structural relocation.

For more than a century, the Kalihi community has endured the presence of the Oahu jail, as well as, hosted the old Hawaii State Prison (HSP) up until the late 1980s. It is true that when originally established, the institution sat alone amongst agricultural farms. The reality is that over the years, residences, industrial and commercial enterprises, and even schools, moved in around OCCC, just next door to its armed and razor-wired perimeter. Being in such close proximity to the jail must be a constant safety concern to the residents, business owners, educators, and students in the neighborhood.

The development of Honolulu's new rail system, with plans to locate transit stops near the OCCC property, offers the potential of revitalizing Kalihi, if all or part of the main jail complex can be redeveloped with the mind to enhancing and supporting the rail and Kalihi communities.

Thank you for the opportunity to present this testimony.



## TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2917, RELATING TO CORRECTIONAL FACILITIES.

**BEFORE THE:**

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND  
MILITARY AFFAIRS

**DATE:** Tuesday, February 16, 2016

**TIME:** 1:18 p.m.

**LOCATION:** State Capitol, Room 229

**TESTIFIER(S):** Douglas S. Chin, Attorney General, or  
Diane Taira, Deputy Attorney General

---

Chair Nishihara and Members of the Committee:

The Department of the Attorney General provides comments and proposes amendments to this bill.

The purpose of this bill is to provide the Department of Public Safety a wide range of options in pursuing much-needed development of new correctional facilities, or increasing the capacity of existing facilities, and to provide funding for its current development needs with regard to the Oahu Community Correctional Center (OCCC).

We propose the deletion of the word “turnkey” on page 1, line 8, of the bill to allow for more flexibility in the procurement method to be employed for a new facility.

The bill in its original form provides for an exemption from section 343-5, Hawaii Revised Statutes, for a single development and to provide for a comment period of 30 days. We recommend this bill be amended to delete these amendments, which are found on page 1, lines 9 through 12, and on page 2, line 1. This reflects a policy determination by the Department of Public Safety that such an exemption and shortened comment period is not necessary at this time.

We also suggest that clarifying wording, “or detainees,” be added to the end of paragraph (1) of subsection (b) on page 2, line 8, so that it reads:

- (1) The percentage of low, medium, and high security inmates and  
the number of prison or jail beds needed to incarcerate each of  
the foregoing classes of inmates or detainees;

This clarifies the type of population primarily served by jails.

We further propose that the number of beds noted on line 1 on page 4 of the bill be amended to reflect “1,250” instead of “1,000.” This change is supported by the recommendations of a needs assessment provided by consultants to the Department of Accounting and General Services for the proposed construction of a new OCCC facility. We also propose the following amendments on page 4, lines 1 through 4, to allow more flexibility in the procurement method to be employed for the new facility:

purchasing, constructing, developing, leasing, or otherwise  
providing for jail facilities for up to 1,250 beds on a turn-key basis,  
to include jail housing units and support buildings, for ~~the~~ an Oahu  
community correctional center, ~~to be located adjacent to Halawa~~  
~~correctional facility.~~

Additionally, we propose that the following be added to the end of section 3 on page 4 of the bill: “The sum appropriated shall be expended by the department of public safety.” This will allow the PSD to expend the funds appropriated.

Lastly, the last section of the bill on page 4, line 12, should be renumbered to section 6.  
We support the passing of this bill with the foregoing amendments.

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**Testimony to the Senate Committee on Public Safety, Intergovernmental, &  
Military Affairs  
Tuesday, February 16, 2016  
1:18 P.M.  
State Capitol - Conference Room 229**

**RE: SB 2917 – Relating to Correctional Facilities.**

Dear Chair Nishihara, Vice-Chair Espero, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

The normal trigger for a Chapter 343 HRS document is the use of state/county owned lands or funds. However in this case, the new jail facility is essentially another building within the existing grounds of the Halawa Correction Facility. It would be viewed as adding another building on the grounds of the Halawa Correction Facility.

With the overcrowding of the existing Oahu Community Correctional Center (OCCC), and the site being located near a proposed transit station, the opportunity to not only relocate the existing OCCC facilities to a new, modern facility but also capture the value of redeveloping the existing OCCC site with higher densities and mixed uses that would be consistent with Transit Oriented Development (TOD).

There have been several prior efforts to address the overcrowding and need to modernize the existing OCCC facilities. None of these prior efforts or discussions have resulted in any tangible plan. The proposed bill provides a unique opportunity to move the state in the right direction and provide a center piece for the redevelopment along the transit corridor in Kalihi.

We strongly support S.B. 2917 and appreciate the opportunity to express our views on this matter.



**Testimony to the Senate Committee on Public Safety, Intergovernmental, &  
Military Affairs  
Tuesday, February 16, 2016 at 1:18 P.M.  
Conference Room 229, State Capitol**

**RE: SENATE BILL 2917 RELATING TO CORRECTIONAL FACILITIES**

Chair Nishihara, Vice Chair Espero, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** SB 2917, which would create an exemption from Hawai'i Revised Statutes §343-5 for a jail facility to be built adjacent to Halawa Correctional Facility and authorize funding for purchasing a jail facility for up to 1,000 beds to be located on the existing state owned lands used to house the Halawa Correction Facility.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The normal trigger for a Chapter 343 HRS document is the use of state/county owned lands or funds. However in this case, the new jail facility is essentially another building within the existing grounds of the Halawa Correction Facility. It would be viewed as adding another building on the grounds of the Halawa Correction Facility.

With the overcrowding of the existing Oahu Community Correctional Center (OCCC), and the site being located near a proposed transit station, the opportunity to not only relocate the existing OCCC facilities to a new, modern facility but also capture the value of redeveloping the existing OCCC site with higher densities and mixed uses that would be consistent with Transit Oriented Development (TOD).

There have been several prior efforts to address the overcrowding and need to modernize the existing OCCC facilities. None of these prior efforts or discussions have resulted in any tangible plan. House Bill No. 2388 provides a unique opportunity to move the state in the right direction and provide a center piece for the redevelopment along the transit corridor in Kalihi.

We strongly support S.B. 2917 and appreciate the opportunity to express our views on this matter.

Thank you for the opportunity to testify.



**SB2917**

**RELATING TO CORRECTIONAL FACILITIES**

Senate Committee on Public Safety, Intergovernmental, and Military Affairs

February 16, 2016

1:15 p.m.

Room 229

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2917. OHA appreciates the need to alleviate the overcrowding and substandard conditions at the O‘ahu Community Correctional Center, but believes **an exemption from Chapter 343, Hawai‘i Revised Statutes (HRS), is an unnecessary and inappropriate means to facilitate construction of a new correctional facility.**

The environmental review process embodied in Chapter 343, HRS, is of substantial value to the environmental and cultural interests of Native Hawaiians, and to the general public. Environmental assessments and environmental impact statements serve as important mechanisms to ensure that agencies take a “hard look” at the social, environmental, and cultural impacts of certain projects, and render decisions regarding such projects with fuller knowledge of their potential costs and benefits. These mechanisms also allow other agencies, Native Hawaiians, as well as the general public, to provide input on potential environmental and cultural impacts that may be otherwise overlooked.

The exemption in this measure would directly contravene the purpose of Chapter 343, and set a dangerous precedent for any future “high-priority” public projects. Our environmental review process demonstrates our state’s well-founded belief that the desire for development should never outweigh the importance of careful, responsible planning, particularly when public resources are involved. The construction of a large correctional facility complex on public land using a substantial sum of public funding is exactly the type of action that the Chapter 343 process was established to examine. Accordingly, a wholesale exemption for such a project from Chapter 343 may not only result in irreparable and unnecessary impacts to natural and cultural resources, but may set a precedent that severely undermines the foundation of our environmental review policy.

Mahalo for the opportunity to testify on this measure.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [PSMTestimony](#)  
**Cc:** [blawaiianlvr@icloud.com](mailto:blawaiianlvr@icloud.com)  
**Subject:** Submitted testimony for SB2917 on Feb 16, 2016 13:18PM  
**Date:** Wednesday, February 10, 2016 9:54:50 PM

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**SB2917**

Submitted on: 2/10/2016

Testimony for PSM on Feb 16, 2016 13:18PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: We TOTALLY OPPOSE this bill on the grounds that this push to exempt the State from conducting an EIS and/or EA, goes against what the Governor has pledged to the Hawaii Tax Payers, when he said that we must learn from the mistakes of our past (like the Superferry Fiasco!), and that to restore trust in our government, we must an open & transparent government. Did the Governor lie to the Hawaii Tax Payer or is this August Legislative body turning a deaf ear to the Governor? Civil liability will be placed upon this State, when law suits are filed for this States's deliberate actions to avoid conducting an EIS/EA.

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To: [PSMTestimony](#)  
Cc: [blawaiianlvr@icloud.com](mailto:blawaiianlvr@icloud.com)  
Subject: Submitted testimony for SB2917 on Feb 16, 2016 13:18PM  
Date: Sunday, February 14, 2016 9:48:20 AM

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**SB2917**

Submitted on: 2/14/2016

Testimony for PSM on Feb 16, 2016 13:18PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Oppose	Yes

Comments: PLEASE HOLD OR DEFER THIS BILL! We wholly OPPOSE this bill for the following reasons: 1.) Governor Ige repeatedly stated that we must learn from the mistakes of our past. Well, past mistakes included the building of structures without following environmental impact studies. This led to major lawsuits & federal oversights; 2.) Governor Ige repeatedly stated that we must have honesty & TRANSPARENCY in government. This bill denies the public the right to know how the surrounding environment will be impacted & it puts Governor Ige into a situation where it appears that he had lied to his supporters & all of Hawai'i. This is a voting year!; 3.) There are major aspects of that part of Halawa Valley that must be taken into account, a.) Halawa Valley is a known Sacred Archeological site. Remember the H-3 fiasco (echoes of Governor Ige's message that we must "learn from the mistakes of our past!"), b.) What harmful effects will the inmates in the Halawa Medium Security Facility & the Coast Guard housing complex be subjected to, while the new jail is being built? c.) With only one road in to Halawa currently available, that is heavily used by the industrial complex, how will traffic be affected by the building of this new jail? d.) With the latest fiasco regarding the Red Hill Fuel Tank leakages, which is literally across the freeway from Halawa, how will this new jail be impacted from the contamination of the ground water from that fuel tanks? e.) What studies, if any, have recently been done regarding the fuel tanks in the hill that sits right behind Halawa Medium Security Facility? Are they leaking as well? f.) Will the State/PSD need to negotiate with the military to re-open the military access road on the Coast Guard housing side of Halawa, to help alleviate traffic from the industrial road? If so, how will this increase in traffic affect the Coast Guard housing population? Has anyone even thought of informing the Coast Guard neighborhood? As we have just shown, there is a myriad of issues are awaiting the building of the new jail, for which there has been NO INFORMATION from PSD on how it will deal with any of those issues. While it is a cute notion that Government simply has to wave its magic wand by eliminating or circumventing to EIS process, to allow PSD to have its new jail built without accountability to the tax paying citizens of this State, especially in light of the continuing troubles that plagues PSD, in lawsuit settlements & federal oversight of OCCC & WCCC. It would not be prudent, especially in this voting year to go soft on the EIS requirements. For these reasons, we must respectfully OPPOSE this bill &

caution this committee to consider the long term ramifications that this bill will have.

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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# COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

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## COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Will Espero, Vice Chair

Tuesday, February 16, 2016

1:18 p.m.

Room 229

### **STRONG OPPOSITION TO SB 2917 - NEW JAIL: EXEMPTION FROM ENVIRONMENTAL IMPACT STATEMENT LAW - Chapter 343**

Aloha Chair Nishihara, Vice Chair Espero and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for almost two decades. This testimony is respectfully offered on behalf of the 6,000 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety. We are always mindful that approximately 1,400 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

SB 2917 creates an-exemption from Hawai'i Revised Statutes §343-5 for a jail facility to be built adjacent to Halawa Correctional Facility and funding therefore and makes clarifying amendments.

Community Alliance on Prisons is **strongly opposed** to this bill that seeks to exempt this administration from the law that others must follow. **An environment review is a disclosure document.** It is a health and safety document requiring the developer to disclose potential impacts that a proposed development could have on the community, on traffic, on the environment, on cultural and/or historical resources, etc.

**§343-5 Applicability and requirements.** (a) *Except as otherwise provided, an environmental assessment shall be required for actions that:*

*(1) Propose the use of state or county lands or the use of state or county funds, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies; provided further that an environmental assessment for proposed uses under section 205-2(d)(11) or 205-4.5(a)(13) shall only be required pursuant to section 205-5(b);<sup>1</sup>*

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<sup>1</sup> Chapter 343-5, Hawai'i Revised Statutes.

[http://www.capitol.hawaii.gov/hrscurrent/Vol06\\_Ch0321-0344/HRS0343/HRS\\_0343-0005.htm](http://www.capitol.hawaii.gov/hrscurrent/Vol06_Ch0321-0344/HRS0343/HRS_0343-0005.htm)

We have not spoken to one person who thinks that exempting a new jail from the EIS law is a good idea. In fact, people have remarked that it is clear that the administration just wants to shove incarcerated people somewhere out of sight without public input.

There are many factors that must be considered before any new facility is even considered. It is akin to developing software to fix a problem – this is the part that takes the most planning – and then you figure out the hardware to implement the software. We are doing this backwards. We are developing a building without thinking about the people who live and work there first.

Every person in OCCC is a member of our community, thus making visiting from family and friends even more difficult is a huge impact.

Has this site ever been surveyed both for cultural sites and potential environmental problems?

Has soil sampling been done?

Has contamination from nearby Red Hill (i.e. leaking underground fuel tanks) been detected at the site?

Has the impact of building been analyzed on the Halawa Correctional Facility and the health and safety of the men inside and the men and women who work there?

Isn't site selection part of the planning process that was intended to involve the community?

Community partnering is a public hearing? Sorry that is NOT THE INTENT OF THE LAW PASSED IN 1998.

***§353-16.37 Community partnering.*** *Regardless of the method for funding new prison facilities, the department of public safety shall develop and implement a community partnering process to be incorporated into the request for proposal; this partnering process shall include a community hearing for the purpose of soliciting community input. Further, a community benefit and enhancement package shall be developed by the department and the affected community to mitigate the negative aspects of building a correctional facility in the community. The benefit and enhancement package may include but is not limited to:*

- (1) Infrastructure improvements;*
- (2) Job training programs or improvements to schools and health care facilities;*
- (3) Social programs; and*
- (4) Other government functions. [L 1998, c 227, pt of §5; am L 1999, c 134, §4]*

Highlighted in red is the section cut out by this administration. **The heart of the law – involving the community early on in the process -- in the development of the request for proposals -- has been cut out by this administration.** What are they afraid of? What is it that they do not want to disclose? Is it because an environmental review triggers a “No Build” alternative where the state must justify the project with a thorough analysis (open to community review) of other alternatives? The purpose of the DOJ's Justice Reinvestment Initiative (JRI) is to reduce the incarcerated population. The state, however, seems content to count the large number of mentally ill and unsheltered individuals at

OCCC to justify their plan. Ironically, we have been told that the administration will look at implementing JRI after building the jail. This is backwards.

Actions like this do not engender trust in the community. They promote suspicion and fear that the government knows something that it does not want the people to know.

In his campaign, the Governor promised

- Inclusive and transparent style of governing
- Focus on smart economic growth and development while protecting the environment

Please hold this bill. This is an awful precedent; a really bad idea. We are deeply saddened that this administration would even consider offering this bill.

Mahalo for the opportunity to testify.



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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence K. Nishihara, Chair  
Senator Will Espero, Vice Chair

DATE: Tuesday, February 16, 2016  
TIME: 1:18 p.m.  
PLACE: Conference Room 229

Re: SB 2917 Relating to Correctional Facilities **HOLD**

Aloha Chair Nishihara, Vice Chair Espero, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for 46 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

HB 2388 HD1 proposes a new section of law, Hawaii Revised Statutes (HRS) §353-16.35(a). The bill states in part, "the purchase or construction of Oahu community correctional center on an existing parcel in Halawa Valley, adjacent to the Halawa correctional facility, is exempt from section 343-5."

The bill proposes bad policy whereby a project would be exempted from state environmental law based not on its potential impacts but rather because of special interest legislation.

The State Environmental Impact Law (HRS §343-1) states in part, “The **legislature** further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.”

The proposed location of the new Oahu community correctional center (OCCC) is being planned for the footprint of the Halawa Medium and High Security Facilities.

George Ariyoshi accepted the Revised EIS for the Halawa Medium Security Facility on June 22, 1983. The document was prepared for DAGS by Wilson Okamoto & Associates. It was proposed that the new Halawa MSF be located adjacent to Halawa High Security Facility.

The REIS noted that: (1) “Four remnant archeological sites have been identified on the proposed project site”<sup>1</sup>; (2) “Based on the preliminary grading plan for the site ... approximately 122,000 cubic yards of excavation and 107,000 cubic yards of embankment are needed”; (3) “Military housing is located at Red Hill, adjacent to Halawa Valley”; and (4) there were two streams in the area, the North Tributary and the South Halawa Stream.

The Naval Base Pearl Harbor filed comments on December 16, 1982. “The proposed site for the correctional facility will be adjacent to the Navy’s Red Hill Underground Fuel Storage Facility. Egress/egress to and from the present Halawa High Security Facility and the Red Hill Fuel Storage Facility is the Halawa Jail Access Road.” DLNR filed comments on December 2, 1982,

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<sup>1</sup> REIS p. 36

“Two small archeological sites are known to exist in the project area: a stone platform and some agricultural terraces” and on April 28, 1983, “the area contains archeological sites with research potential.”

The phrase "existing parcel" is confusing since all parcels exist.

HRS Chapter 353 deals with Corrections. §353-1 defines "Department" to be the Department of Public Safety (DPS) and "Director" to be the Director of Public Safety. The bill proposes that a DPS parcel be exempt from HRS 343 the State Environmental Impact Statement law.

The Environmental Council was designated by the Legislature as overseeing the EIS process. The Environmental Council has established an Exemption List process. Several state agencies have filed exemption lists which were reviewed by the Environmental Council. Approved exemption lists are posted on the Environmental Council webpage.<sup>2</sup>

State entities with approved exemption lists included but are not limited to the Department of Accounting and General Services (DAGS), Agribusiness Development Corporation (ADC), Department of Agriculture, Department of Defense, Department of Education, Department of Hawaiian Home Lands, Department of Health, Department of Transportation, Hawaii Housing Finance and Development Corporation, Hawaii Public Housing Authority, Hawaii Tourism Authority, and the University of Hawaii.

The Department of Corrections has never filed for an Exemption List.

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2

[http://oeqc.doh.hawaii.gov/Shared%20Documents/Forms/AllItems.aspx?RootFolder=%2fShared%20Documents%2fEnvironmental\\_Council%2fExemption\\_Lists\\_By\\_Department&View=%7bC0C5C897-3066-4821-864E-36FB3D77F5D5%7d](http://oeqc.doh.hawaii.gov/Shared%20Documents/Forms/AllItems.aspx?RootFolder=%2fShared%20Documents%2fEnvironmental_Council%2fExemption_Lists_By_Department&View=%7bC0C5C897-3066-4821-864E-36FB3D77F5D5%7d)



The Department of Accounting and General Services (DAGS) Exemption List is illustrative.<sup>3</sup> This list does not include large new structures. Exemption Class 1 Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features involving negligible or no expansion or change of use beyond that previously existing. Exemption Class 2 Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height and dimensions as the structure replaced. Exemption Class 3 Construction and location of single, new, small facilities or structures.

An EIS is needed when a proposal uses “state or county lands or the use of state or county funds” (HRS §343-5(a)(1) and is not exempt (HRS §343-6(a)(2)).<sup>4</sup>

The bill also weakens community involvement by shifting the community input phase from early during the RFP step to later soliciting input after key decisions have been made.

Mahalo

Henry Curtis

Executive Director

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[http://oeqc.doh.hawaii.gov/Shared%20Documents/Environmental\\_Council/Exemption\\_Lists\\_By\\_Department/State\\_Agencies/Dept-of-Accounting-and-General-Services-04-11.pdf](http://oeqc.doh.hawaii.gov/Shared%20Documents/Environmental_Council/Exemption_Lists_By_Department/State_Agencies/Dept-of-Accounting-and-General-Services-04-11.pdf)

<sup>4</sup> “After consultation with the affected agencies, the council shall adopt, amend, or repeal ...rules that ...establish procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment.”



# SIERRA CLUB OF HAWAI'I

## MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Tuesday February 16, 2016 1:18PM Room 229

In Opposition SB2917 Relating to Correctional Facilities

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Aloha Chair Nishihara, and Members of the PSM Committee:

On behalf of our 12,000 members and supporters, the Sierra Club of Hawai'i strongly OPPOSES SB2917 to exempt a new prison facility in Halawa from environmental review. This bill proposes to carve out a special exemption in the state law requiring Environmental Impact Statements for new correctional facilities on "existing parcels." It is shocking this bill was not referred to the Senate Committee on Economic Development, Environment, and Tourism or the Committee on Water, Land, and Agriculture, as the topic of this bill deals squarely with environmental policy.

### **Informed Decision Making is Not Too Much to Expect**

The requirement to conduct an environmental review before proceeding with any project using state funds or state lands is not onerous. Rather it is essential to ensuring informed decision making about a proposed project before causing irreparable harm and spending irreplaceable resources.

Our position is simple: conduct an environmental assessment on the prison proposal as state law requires. If there truly are no significant impacts to our environment or cultural heritage, then there will be no need to conduct a full environmental impact statement. If, however, significant impacts are identified, then the project proponents — as much as anyone else — must know the extent of those impacts and how to mitigate them. How else can the project proponent know that the proposed site is the right location, that the proposed building is the right design, that the proposed use meets our stated needs? It can't.

That is why we require all projects use state funds or state lands to conduct first an environmental assessment and then, if our cultural and environmental resources might be at risk, a more in-depth environmental impact statement.

In a post-Superferry world, it is simply irresponsible to consider codifying such a counter-intuitive precedent as proposed in this bill. Please do not allow this counter-productive conversation to continue. Hold this bill.

Thank you for the opportunity to testify on this measure.

Martha Townsend  
Director

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [PSMTestimony](#)  
**Cc:** [rkailianu57@gmail.com](mailto:rkailianu57@gmail.com)  
**Subject:** \*Submitted testimony for SB2917 on Feb 16, 2016 13:18PM\*  
**Date:** Thursday, February 11, 2016 9:34:01 AM

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**SB2917**

Submitted on: 2/11/2016

Testimony for PSM on Feb 16, 2016 13:18PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

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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**From:** [E. Funakoshi](#)  
**To:** [PSMTestimony](#)  
**Subject:** SB2917 TESTIMONY (OPPOSE)  
**Date:** Monday, February 15, 2016 8:01:52 AM

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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Will Espero, Vice Chair Tuesday, February 16, 2016 1:18 p.m.

Room 229

OPPOSITION TO SB 2917 – EIS LAW – Chapter 343

Aloha Chair Nishihara, Vice Chair Espero and Members of the Committee:

I am e. ileina funakoshi writing to oppose HB2388 HD1 primarily because there are many questions as to whether the road will be improved to permit public transportation to service the area; are there any Hawaiian cultural artifacts/graves being disturbed; will the present infrastructure support the addition of a new prison?

Others must have other concerns that could be addressed if the community could be involved in the planning phase.

I thank you for the opportunity to submit my testimony.

Mahalo and Aloha,

e. ileina funakoshi

**COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS**

Senator Clarence Nishihara, Chair

Senator Will Espero, Vice Chair

Re: **SB 2917 NEW JAIL: EXEMPTION FROM ENVIRONMENTAL IMPACT STATEMENT**

Tuesday, February 16, 2016 1:18 p.m. Room 229

***STRONG OPPOSITION***

Aloha Chair Ishihara, Vice Chair Espero and members of your committee,

For so many reasons, this is a bad bill. Chief among them are disregard for both the letter of the law and the spirit of governance itself. I fear that Governor Ige and the Legislature alike will be held up to ridicule if it passes.

Without using the word “pono,” Governor Ige invoked its consistent usage in matters of legislative conduct during his State of the State address. To paraphrase, “We must do the right thing.” When he pointed his finger at the SuperFerry and Kakaako, we all knew what he meant. Embarrassing, isn’t it? In years to come — after a costly lawsuit, costly delays and an even more costly repudiation of the principles of open, honest government — will another governor add this debacle to the list?

OCCC is a disgrace, yes. Perhaps if the Corrections Population Management Commission was doing its job, the situation would be different. But the urgent need to do something about OCCC does not override the stronger need to do that something correctly.

Dodging the bullet of an EIS only invites a bigger bullet down the road. It is foolhardy at best, and it signals an unwillingness to do for ourselves what we ask of others. Pono? No. Similarly, partnering with the community on a set of circumstances that involves so many of us — and the weakest and sickest among us at that — is not just the law, it is the right thing to do. These two are “musts” for the ‘ohana that Governor Ige has pledged to honor.

I respectfully request that you hold this bill. Thank you very much.

Aloha,



Peter Gellatly

Corrections Population Management Commission, 2004-11  
Penal Code Review Committee, 2015



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COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Senator Clarence Nishihara, Chair

Senator Will Espero, Vice Chair

Tuesday, February 16, 2016

1:18 p.m. Room 229

**OPPOSE: SB 2917 – New Jail Exemption from Ch. 343 EIS Law**

Aloha Chair Nishihara, Vice Chair Espero, and Members of the Committee:

I am writing in strong opposition to SB 2917 that exempts the State from environmental impact statement or assessment requirements for a jail facility on an existing parcel of the Halawa Correctional Facility.

As a former Deputy Public Defender and Director of MEO's Being Empowered and Safe Together (BEST) Reintegration Program, and as a member of Community Alliance on Prisons, I oppose this measure for the following reasons.

1) ***Dangerous legal precedent.***

This proposed measure would allow the State to build a NEW 1250-bed prison without complying with the current environmental review mandates under HRS Chapter 345. If the State is permitted this exemption for building new prisons that will ultimately cost taxpayers millions of dollars, this administration or future administrators may advocate for similar exemptions for other "state" projects.

This exemption thwarts the essence of HRS Chapters 353-16.37 that requires the Department of Public Safety to develop and implement a community partnering process to include a community hearing for the purpose of soliciting community input. Community input, through HRS Chapters 343 and 353, are necessary to promote TRANSPARENCY and ACCOUNTABILITY for proposed projects, including the building of NEW prisons.

2) ***Building NEW prisons makes us poorer, not safer.***

In 2011, our then Governor Neil Abercrombie, Judiciary and State Legislature applied for, and was selected as a Justice Reinvestment site by the Department of Justice. The purpose of Justice Reinvestment policies is to conduct a comprehensive assessment of the state's incarcerated population in order to reduce correctional costs, while enhancing public safety through the following means:

- Focus on the people most likely to commit more crime;
- Use programs proven to work and ensure they are high quality;
- Deploy supervision policies and practices that balance sanctions and treatment; and
- Target places where crime and recidivism rates are the highest

This proposed measure perpetuates the myth that building NEW prisons is the solution to prison overcrowding. Across the United States, jurisdictions that have enacted Smart Justice policies and implemented JRI recommendations have experienced success in reducing recidivism rates and reducing the overall prison population. Notably, some jurisdictions AVOIDED THE NEED TO BUILD MORE PRISONS, and allowed for the reinvestment of funds earmarked for prison construction toward a range of strategies designed to increase public safety and reduce recidivism.

In summary, I respectfully request that you hold this bill.

Sincerely,

*Carrie Ann Shiota*