

HB437 HD2 RELATING TO COASTAL ZONE MANAGEMENT

Senate Committee on Water and Land

March 17	. 2017	2:50 p.m.	Room 224
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The Office of Hawaiian Affairs (OHA) <u>SUPPORTS</u> HB437 HD2. This bill would provide a layer of public accountability and regulatory oversight over seawall proposals that may unnecessarily erode away our culturally, economically, and socially invaluable beaches and shoreline areas.

Hawai'i's beaches and shoreline areas provide numerous benefits to the Native Hawaiian community and the public that are critical to our cultural values and kama'āina way of life. Access to the shoreline and the resources in the nearshore environment is critical to Native Hawaiian cultural perpetuation and constitutionallyprotected traditional and customary gathering practices. Moreover, our beaches and shoreline areas provide a place to bond with 'ohana and friends, help to foster positive youth development and an early appreciation for our natural resources, and provide for a variety of recreational activities, such as surfing and fishing, that have been staples of local life for generations. Our beaches are also a driving force for our economy, as a key attraction for tourists visiting our islands. Accordingly, our laws have repeatedly recognized the public nature of our shoreline areas and the right of the public to access the shoreline, and OHA has also always been a strong advocate for shoreline access in Hawai'i.

Unfortunately, poor planning has resulted in the proliferation of seawalls that have and continue to erode away much of our beaches and shoreline areas, cutting off lateral shoreline access, and undermining a cultural and socioeconomic foundation of our islands. While at times necessary to protect property and infrastructure, seawalls are notorious for their documented contribution to the loss of beaches throughout the State. For example, an estimated 25% of the length of beaches on O'ahu has been permanently lost due to seawalls and shoreline hardening, along with many miles of shoreline on Maui.¹ In many areas, such beach loss has completely precluded safe lateral access along the shoreline, eliminating any opportunity for cultural or public use. Notwithstanding the clear impact of seawalls on our shoreline areas, however, the threat of sea level rise and adjacent shoreline loss due to existing seawalls may motivate coastal landowners to seek

¹ Charles Fletcher, et. al., *Chapter 9: Beach Erosion 16*, in ON THE SHORES OF PARADISE (2010), *available at* <u>http://www.soest.hawaii.edu/coasts/publications/shores/</u>.

the installation of new seawalls for their own properties, particularly where buildings or infrastructure have been placed too close to the ocean.

This measure will provide an increased level of public accountability and regulatory oversight in the proposed installation of new seawalls. OHA understands that the public hearing and variance approval standards and findings mandated in this measure will help to ensure that seawalls are only used when absolutely necessary, to protect a legally-installed structure that cannot be moved further inland. OHA also understands that this measure would allow for conditions to be placed on the construction of any new seawalls, to mitigate the impacts of resulting shoreline loss to safe lateral shoreline access and Native Hawaiian traditional and customary practices. Accordingly, OHA appreciates and supports this measure, as a proactive means to mitigate any further loss of our culturally and socioeconomically invaluable beach and shoreline areas.

Therefore, OHA urges the Committee to **PASS** HB437 HD2. Mahalo nui loa for the opportunity to testify on this measure.

DAVID Y. IGE GOVERNOR OF HAWAII





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

> KEKOA KALUHIWA FIRST DEPUTY

JEFFREY T. PEARSON, P.E. DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONVEYANCES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND RESOURCES ENFORCEMENT ENGINEERING FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE ELAND RESERVE COMMISSION LAND STATE PARKS

STATE OF HAWAI'I DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAI'I 96809

Testimony of SUZANNE D. CASE Chairperson

Before the Senate Committee on WATER AND LAND

Friday, March 17, 2017 2:50 PM State Capitol, Conference Room 224

In consideration of HOUSE BILL 437, HOUSE DRAFT 2 RELATING TO COASTAL ZONE MANAGEMENT

House Bill 437, House Draft 2 proposes to prohibit variances for installation of shoreline hardening (e.g., seawalls) without a public hearing and demonstrating that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion, and no reasonable alternatives exist. **The Department of Land and Natural Resources (Department) opposes the measure as written and offers the following comments.**

The Department believes that any amendments to Section 205A-46, Hawaii Revised Statutes (HRS), should strengthen and clarify the existing conditions for granting variances for installation of shoreline hardening to protect public beaches and shoreline access.

It is the mission of the Department to manage public lands and ocean resources, including beaches throughout the State. The Department is very much at the forefront of addressing impacts related to coastal erosion and beach loss in Hawai'i. Beaches are central to our culture and economy, yet our beaches are being lost at alarming rates due to natural processes and human impacts, threatening coastal ecosystems, alongshore public access, and upland development. When shore-front property, homes, and infrastructure are threatened by coastal erosion and flooding, the Department often faces intense pressure from land owners to permit shoreline protection such as seawalls and rock revetments, even though shoreline armoring is discouraged by Chapter 205A, HRS, Department administrative rules, and county rules. The science is clear that installing coastal armoring on a chronically eroding beach leads to beach narrowing and loss and often leads to increased erosion to neighboring property.

If the Committee decides to pass the measure, the Department respectfully offers the following comments and suggested amendments. These suggested amendments were provided to the House Judiciary Committee in the previous hearing but were not adopted.

Page 6, line 17 through page 8, line 9 amends Section 205A-46, HRS, by adding a subsection (d) to add requirements for granting a variance for the construction of a shoreline hardening structure. The Department believes that any amendments to Section 205A-46, HRS, should strengthen and clarify the existing conditions in subsection (c) for granting a variance. In addition, the Department believes the burden should be on the applicant and not the government authority, to provide a thorough assessment and comparison of impacts, feasibility, and cost of alternatives to shoreline hardening. If the measure should be passed by the Committee, the Department recommends amending the proposed addition to Section 205A-46(d), HRS, as follows (recommended language to be deleted are bracketed and stricken; recommended language to be added are underscored; amendments highlighted):

(d) No variance shall be granted to allow for the construction of a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment, or groin, unless the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to [seawater inundation or] shoreline erosion and the object, structure, or activity cannot reasonably be protected by relocating it outside of the shoreline area. In determining whether a variance for a shoreline hardening structure may be approved, the applicant shall provide a thorough assessment of and the authority shall consider the following:

- (1) The feasibility and cost of relocating the relevant structures, objects, or activities outside of the shoreline area;
- (2) <u>The likelihood and severity of damage that will occur if the shoreline hardening</u> <u>structure is not constructed;</u>
- (3) The likelihood and severity of adverse impacts to beach processes, adjoining shoreline areas, and the natural environment if the shoreline structure is constructed;
- [(3)] (4) The [availability] feasibility and cost of alternative means including but not limited to beach nourishment to protect the relevant objects, structures, or activities;
- (4) The shoreline hardening structure as the only reasonable alternative to protect relevant structures, objects, or activities from damage due to shoreline erosion;
- (5) The nature and scope of valued cultural and historical resources in the seaward areas that may be impacted by shoreline erosion resulting from the installation of a shoreline hardening structure, impact to any associated native Hawaiian traditional and customary practices, and the feasibility of action that may be taken to protect the resources and practices; and
- (6) The diminution of safe lateral public access and enjoyment of shoreline area resulting from the shoreline hardening structure, and conditions, including but not limited to public access easements, that may be required to mitigate any such diminution.

Thank you for the opportunity to comment on this measure.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE GOVERNOR

LEO R. ASUNCION DIRECTOR OFFICE OF PLANNING

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Statement of LEO R. ASUNCION Director, Office of Planning before the SENATE COMMITTEE ON WATER AND LAND March 17, 2017 2:50 PM State Capitol, Conference Room 224

in consideration of HB 437, HD2 RELATING TO COASTAL ZONE MANAGEMENT.

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Water and Land.

The Office of Planning (OP) supports HB 437, HD2, and respectfully offers the following comments on this measure:

HB 437, HD2 prohibits variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held, and the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion, and no reasonable alternative locations exist.

- 1. Page 2, lines 8-11, amends Hawaii Revised Statutes (HRS) § 205A-43.5(a) by adding a condition that a public hearing shall not be waived for action on a variance application for a shoreline hardening structure. OP supports this provision.
- Page 6, line 17 to Page 8, line 9 amends HRS § 205A-46 to add the requirements to approve a variance application for a shoreline hardening structure by adding subsection (d). OP believes the proposed added requirements to approve a variance application for a shoreline hardening structure are already covered in HRS §§ 205A-46(a), (b) and (c).
 - a) Pursuant to HRS § 205A-2(c)(9), the purpose of shoreline setbacks is to locate new structures inland from the shoreline setback to conserve open space, minimize interference with natural shoreline process, and minimize loss of improvements due to erosion. A shoreline setback variance is an exception to the prohibition of structures or activities within the shoreline area under HRS Chapter 205A. No variance application for a shoreline hardening structure, even when the applicant demonstrates it is necessary, shall guarantee an approval. OP

recommends deleting the following proposed language on page 6, lines 17-21, and page 7, lines 1-4:

(d) No variance shall be granted to allow for the construction of a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment, or groin, unless the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion and the object, structure, or activity cannot reasonably be protected by relocating it outside of the shoreline area.

b) Page 7, line 19 to Page 8, line 9 describes factors that the authority shall consider in determining whether a variance for a shoreline hardening structure may be approved. Pursuant to HRS § 205A-5, all state and county agencies shall enforce the coastal zone management objectives and policies, which include the requirements to protect historical resources and shoreline public access, as proposed in the above cited portion of HB 437, HD2. OP agrees that historical resources and shoreline public access should be considered, however these factors are already found in HRS § 205A-2 Coastal Zone Management Program; objectives and policies which apply to all parts of the chapter.

When a variance may be granted for private facilities or improvements that may artificially fix the shoreline, HRS § 205A-46(a)(9) requires the authority to impose conditions to prohibit any structure seaward of the existing shoreline unless it is clearly in the public interest.

Therefore, OP recommends amending the proposed language in section 3 of HB 437, HD2, by adding a new subsection (d) to HRS § 205A-46, to read as follows:

(d) In determining whether a variance may be granted to allow for the construction of a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment or groin, the authority shall consider the conditions as provided in subsection (c), and assess the following:

- (1) The feasibility and cost of relocating the relevant structures, objects, or activities outside of the shoreline area;
- (2) The likelihood and severity of damage that will occur if the shoreline hardening structure is not constructed;
- (3) The availability of alternative means to protect the existing legal structures, objects, or activities; and
- (4) The shoreline hardening structure as the only reasonable alternative to protect the existing legal structures, objects, or activities from damage due to shoreline erosion.

Thank you for the opportunity to testify on this measure.

Harry Kim Mayor

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County of Hawai'i

PLANNING DEPARTMENT

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Daryn Arai Deputy Director

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Statement of MICHAEL YEE Director, County of Hawai'i Planning Department before the COMMITTEE ON WATER AND LAND Friday, March17, 2017, 2:50 PM State Capitol, Conference Room 224 in consideration of HB 437, HD 2 RELATING TO COASTAL ZONE MANAGEMENT

HB 437, HD2 prohibits variances for installation of shoreline hardening structures in shoreline areas, unless a public hearing is held, the applicant demonstrates that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to seawater inundation or shoreline erosion, and no reasonable alternative locations exist..

The Hawaii County Planning Department **SUPPORTS** the intent HB 437, HD2, which is consistent with the County of Hawai'i Rules of Practice and Procedure that pertain to Shoreline Setback Variances.

It is well documented that hardening the shoreline, while perhaps protecting an existing structure, causes unintended erosion and end scouring, alternate wave action effects and new erosion on neighboring properties, deterioration of Hawai'i's pristine beaches, negative effects to marine habitat, limitations to Native Hawaiian cultural shoreline practices, and a loss of shoreline public access.

Thank you for the opportunity to provide testimony.



Board of Directors:

Senate Committee on Water & Land

	Hawai'i Alliance for Progressive Action strongly supports: HB 437
Gary L. Hooser	Dear Chair Rhoads, Vice Chair Gabbard and members of the Committee,
President	
Andrea N. Brower	My name is Anne Frederick and I am the Executive Director for the Hawai'i Alliance for Progressive Action (HAPA). HAPA is a statewide environmental, social and economic justice organization. HAPA engages over 10,000 local
Joshua D. I. Mori	residents annually through our work.
Co-Vice Presidents	
Ikaika M. Hussey Treasurer	Our organization supports HB437. Some types of shoreline hardening structures are more damaging than others, and every coastal location has different dynamics. In addition, there are many different types of shoreline hardening structures, including gabions, groins, steep- and shallow-sloped revetments, and rock armoring, that may be more or less appropriate in a
Bianca K. Isaki	given location. From a "cost" perspective, one could argue that a living shoreline, allowed to retreat naturally, provides continuous, sustainable
Secretary	revenue in the form of beaches, reefs and shoreline access, and shoreline protection (from the reef) worth billions (tourism), not to mention the sustenance, cultural and biological benefits. Hard engineering kills a living
Paul Achitoff	shoreline benefitting ONLY the property owner. The billions lost in revenue fall onto the rest of the community and more importantly, on future
Malia K. Chun	generations.
Bart E. Dame	HB437 is an important measure for the future of our coastlines and marine environment. I urge you to support HB437. Thank you kindly for considering
Laura Harrelson	HAPA's testimony in strong support of the measure.
Kim Coco Iwamoto	Respectfully,
Katie McMillan	
Walter Ritte Jr.	Anne Frederick, Executive Director Hawai'i Alliance for Progressive Action
Karen Shishido	
Leslie Malu Shizue Miki	
Kekaulike Prosper Tomich	
Cade Watanabe	

The Hawai'i Alliance for Progressive Action (HAPA) is a public non-profit organization under Section 501(c)(3) of the Internal Revenue Code. HAPA's mission is to catalyze community empowerment and systemic change towards valuing 'aina (environment) and people ahead of corporate profit.

From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 2:48 PM
То:	WTL Testimony
Cc:	marilynmick@pobox.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Mick	Individual	Support	No

Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 2:46 PM
То:	WTL Testimony
Cc:	terez.amato@yahoo.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Terez Amato Lindsey	Individual	Support	No

Comments:

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From:	Susan Vickery
To:	WTL Testimony
Subject:	SUPPORT HB#437
Date:	Thursday, March 16, 2017 11:44:52 AM

I support HB437. No good to build seawalls. Only creates more erosion of beaches and shoreline. Always conduct public hearing.

Mahalo, Susan Vickery Makawao, HI 96768 Aloha,

I am a full time resident on Maui and am in strong support of HB 437. It is more than clear at this time that seawalls do not in fact help save our coastlines but actually contribute to their diminishment. Building a seawall on a beach has several inevitable impacts and additional potential impacts.

Passive erosion is real - Wherever a hard structure is built along a shoreline undergoing long-term net erosion, the shoreline will eventually migrate landward to (and potentially beyond) the structure. The effect of this migration will be the gradual loss of beach in front of the seawall or revetment as the water deepens and the shoreface moves landward. While private structures may be temporarily saved, the public beach is lost.

We must explore alternative methods and take reliable action to save our coastlines. Mahalo for passing HB437.

--

Erika Lechuga DiSalvo

808.250.5548

Aloha. I urge your strong support for HB 437. Mahalo.

Peggy McArdle Kailua Kona, Hawaii

From:	mailinglist@capitol.hawaii.gov
Sent:	Tuesday, March 14, 2017 3:24 PM
То:	WTL Testimony
Cc:	ndavlantes@aol.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/14/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Thursday, March 16, 2017 7:35 AM
То:	WTL Testimony
Cc:	angkpix@hotmail.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/16/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

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

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Thursday, March 16, 2017 5:10 AM
То:	WTL Testimony
Cc:	michelleanderson@usa.net
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/16/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
michelle anderson	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 11:23 PM
То:	WTL Testimony
Cc:	yappygrl1@aol.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra Fujita	Individual	Support	No

Comments:

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From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 9:55 PM
То:	WTL Testimony
Cc:	treasurer@oahu.surfrider.org
Subject:	Submitted testimony for HB437 on Mar 17, 2017 14:50PM

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Oahu Treasurer	Individual	Support	No

Comments: I vote in Support of this bill!

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 8:26 PM
То:	WTL Testimony
Cc:	begoniabarry@gmail.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Barry	Individual	Support	No

Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

From:	mailinglist@capitol.hawaii.gov
Sent:	Wednesday, March 15, 2017 8:06 PM
То:	WTL Testimony
Cc:	nataliejeanf@gmail.com
Subject:	*Submitted testimony for HB437 on Mar 17, 2017 14:50PM*

Submitted on: 3/15/2017 Testimony for WTL on Mar 17, 2017 14:50PM in Conference Room 224

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

Comments:

Please note that testimony submitted <u>less than 24 hours prior to the hearing</u>, 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.

Aloha mai Committee Members,

'O Trinette Furtado ko'u inoa. No Hamakualoa mai au. Though I live in an area that isn't on our dynamic shoreline, I frequent areas and work in areas that are looking at shoreline hardening as a stop-gap solution for the growing and ever more serious problem of rising seas that shoreline hardening will not address adequately at some point soon.

I am writing in SUPPORT of HB437, which would prohibit variances to construct shoreline hardening structures in proposed areas until a public hearing is held, reasonable alternatives do not exist AND the applicant demonstrates that the proposed shoreline mitigation is an absolute necessity. ALL of us are impacted in some way by the movement of the ocean and the accrual or depletion of sand in any given area. It affects nearshore fisheries, shorelines, muliwai, industry and community enjoyment. We must not allow structures that were originally built too close to the shore or those that have insisted upon remaining near to the high water mark, to construct shoreline hardening unless it is within the greater public interest and causes little to no loss for surrounding areas and peoples.

There is much data online and within our own UH Sea Grant system, that details the hazards of shoreline hardening and other short-term mitigation, that now provide additional issues needing to be addressed. We must be prudent when thinking about our precious island home. We must think not only of those condo residents or others who live right at the shoreline, but also of those who will be impacted through loss of access, loss of fishery and gathering habitat and loss of further shoreline surrounding the hardened area.

Please consider all of these factors and other testimony to this effect and SUPPORT HB437. Mahalo for the opportunity to testify on this matter.

Trinette Furtado Hamakualoa, Mauinuiakama

From:	Alana D"Andrea
То:	WTL Testimony
Subject:	HB437 support testimony
Date:	Thursday, March 16, 2017 1:22:55 PM

Aloha my name is Alana Dandrea and I was born and raised in haiku Maui. I want to testify in support of HB437 as I feel it is extremely important to leave our aina as close to natural as possible. By building these sea walls it causes great impacts to all surrounding environments. Please look at the Maui island plan to see how important it is that we preserve respect and protect this scared island we all live on. Please support hb437 and realize its importance.

Mahalo nui

Alana Dandrea 28 laupapa place Haiku hi 96708

8082699347

To whom it may concern,

As a Maui resident, I'm deeply affected by how the sea walls are being built and negatively affecting our community.

Building a seawall on a beach has several inevitable impacts and additional potential impacts. Passive erosion - Wherever a hard structure is built along a shoreline undergoing long-term net erosion, the shoreline will eventually migrate landward to (and potentially beyond) the structure. The effect of this migration will be the gradual loss of beach in front of the seawall or revetment as the water deepens and the shoreface moves landward. While private structures may be temporarily saved, the public beach is lost.

Please support this bill and protect the public beaches:

Mahalo for your time and consideration.

- Maren Anka

Sent from my iPhone Typed on the go!