

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAAKUA
FIRST DEPUTY
M. KALEO MANUEL
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Monday, February 13, 2023
12:30 PM
State Capitol, Conference Room 229

In consideration of
SENATE BILL 1064
RELATING TO DAM AND RESERVOIR SAFETY

Senate Bill 1064 proposes to: (1) establish the dam and appurtenance improvement loan program for plans, design, construction, and equipment that is used to improve deficient dams and appurtenances as determined by the Department of Land and Natural Resources; (2) establish a dam and appurtenance improvement revolving fund to deposit proceeds from the dam and appurtenance improvement loan program; (3) establish a dam and appurtenance improvement grant program to provide private dam or appurtenance owners with funds for plans, design, construction, and equipment used to improve deficient dams and appurtenances as determined by the department of land and natural resources; and (4) establish a dam and appurtenance improvement tax credit for qualifying expenditures for the improvement of deficient dams and appurtenances. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and offers the following comments and amendments.**

While private dam owners are responsible to bring their dams into compliance, the Department recognizes the intent of this measure is to reduce potential hazards associated with non-compliant dams and to assist private dam owners to finance the repair or rehabilitation of their dams to meet current standards. Dams provide many beneficial uses, and approximately 73% of the total 127 dams regulated by the Department are fully or partly privately owned.

The Department recommends the measure be amended by retaining only the dam and appurtenance improvement grant program portion of the bill and removing the remaining provisions of financial assistance for the following reasons:

1. The typical dam owner who this measure is intended to help will unlikely have a consistent revenue stream and, therefore, will not likely qualify for a loan or service the debt on a loan.
2. If a dam owner does choose to secure financial assistance via a loan, issuance of Special Purpose Revenue Bonds is an existing mechanism that can provide assistance, eliminating the need to create a redundant loan program.
3. The loan's debt service payments will divert much needed funds the dam owner needs for operations and maintenance of improvements.
4. A loan program will require additional Departmental resources to administer, including at least three new positions and necessary operating funds, totaling \$300,000 to \$350,000 per year.

The Department has no expertise in issuing tax credits and would defer to the Department of Taxation regarding the inclusion of this new section. If this committee elects to incorporate the grant program, the Department will require the following resources: Two (2) new positions (planner and accountant) and operating expenses for a total annual budget of \$220,000. The Department request these funds be appropriated as recurring general funds (MOF A) and established as a base budget under Program ID LNR810. Without these resources, the Department could not implement the grant program.

For this grant program to be successful, in providing the most opportunity to the widest pool of applicants, the Department recommends amending Page 4, lines 16-20 to read as follows:

"(3) The applicant shall indicate on the application that the proposed plans, design, construction, and equipment shall be intended for remediation or removal of the dam or appurtenance;"

The Department also will require the creation of a Dam and Appurtenance Improvement Grant Program Special Fund and a one-time seed funding of \$15,000,000 in general funds in this fund for use as the initial funding source. A provision for recurring deposits into this special fund to replenish the balance of the funding should also be included to sustain the program. Depending on the extent of the deficiencies, plans, design, and construction costs to bring a single dam into compliance could run in the millions of dollars.

Mahalo for the opportunity to comment on this measure.

JOSH GREEN M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
Ka 'Oihana 'Auhau
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

GARY S. SUGANUMA
DIRECTOR

KRISTEN M.R. SAKAMOTO
DEPUTY DIRECTOR

**TESTIMONY OF
GARY S. SUGANUMA, DIRECTOR OF TAXATION**

TESTIMONY ON THE FOLLOWING MEASURE:

S.B. No. 1064, Relating to Dam and Appurtenance Safety

BEFORE THE:

Senate Committee on Water and Land

DATE: Monday, February 13, 2023
TIME: 12:30 p.m.
LOCATION: State Capitol, Room 229

Chair Inouye, Vice-Chair Elefante, and Members of the Committee:

The Department of Taxation ("Department") offers the following comments regarding S.B. 1064 for your consideration.

S.B. 1064 adds a new section to chapter 235, Hawaii Revised Statutes, to create a refundable dam and appurtenance improvement tax credit. The credit is set at an unspecified percent of the "qualified dam and appurtenance improvement costs" incurred during the taxable year. Depreciation or accelerated cost recovery for state income tax shall be reduced by the amount of credit allowable and claimed. The bill sets an unspecified aggregate cap and requires the Department of Land and Natural Resources to certify the total of all "qualified dam and appurtenance improvement costs" claimed. The term "qualified dam and appurtenances improvement costs" is defined in this measure. This bill is effective on July 1, 2023.

First, the Department recommends making the tax credit nonrefundable, as refundable credits are more prone to fraudulent claims.

Second, the Department defers to the Department of Land and Natural Resources (DLNR) on its ability to certify this credit and administer its aggregate cap, but respectively requests that a third-party certification requirement be maintained, as the Department lacks subject-matter expertise to determine eligibility for and to administer this credit. The

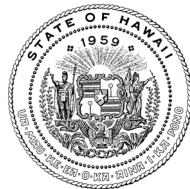
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February 13, 2023
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Department notes that the bill does not specify how DLNR should certify the credit, such as a first come, first served basis. Additionally, as currently drafted, there is no specified deadline for taxpayers to submit their information to DLNR.

Finally, as currently drafted, this bill does not specify which taxable years this applies to. The Department would be able to implement this credit for taxable years beginning after December 31, 2023.

Thank you for the opportunity to provide comments on this measure.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WATER AND LAND
ON
SENATE BILL NO. 1064

February 13, 2023
12:30 p.m.
Room 229 and Videoconference

RELATING TO DAM AND APPURTENANCE SAFETY

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 1064: 1) establishes the Dam and Appurtenance Improvement (DAI) loan and grant programs for plans, design, construction, and equipment to improve deficient dams and appurtenances as determined by the Department of Land and Natural Resources and approved by the Board of Land and Natural Resources; 2) creates a DAI Revolving Fund; sets the revenue sources and authorized uses of the revolving fund; 3) establishes a DAI tax credit for qualifying expenditures for the improvement of deficient dams and appurtenances; and 4) appropriates unspecified sums of general funds for FY 24 and FY 25 for deposit into the revolving fund and for the establishment of three full-time positions for this effort.

As a matter of general policy, B&F does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4, HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general

fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regard to S.B. No. 1064, it is difficult to determine whether the revolving fund proposed will be self-sustaining.

Thank you for your consideration of our comments.



P.O. Box 253, Kunia, Hawai'i 96759
Phone: (808) 848-2074; Fax: (808) 848-1921
e-mail info@hfbf.org; www.hfbf.org

February 13, 2023

HEARING BEFORE THE
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY ON SB 1064
RELATING TO DAM AND APPURTENANCE SAFETY.

Conference Room 229 & Videoconference
12:30 PM

Aloha Chair Inouye, Vice-Chair Elefante, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports SB 1064, which establishes the dam and appurtenance loan and grant programs for plans, design, construction, and equipment that is used to improve deficient dams and appurtenances as determined by the Department of Land and Natural Resources and approved by the Board of Land and Natural Resources, specifies eligibility requirements for dam and appurtenance improvement grants and establishes the dam and appurtenance improvement tax credit for expenditures for dam and appurtenance improvements that bring dams and appurtenances up to code.

While dam and reservoir safety rules represent an important public safety initiative, the rules codified in HRS chapter 179D are having an adverse effect by reducing water storage capacity across the state. At a time when changing weather patterns have demonstrated alternating periods of drought punctuated by significant storm events, coupled with the noble goal of achieving food security for our island state, water storage is more critical than ever. The new rules will discourage new dam and reservoir construction, and in many cases cause dam and reservoir owners to minimize the capacity or decommission existing storage capability.

Many of the reservoirs – built in an era of plantation agriculture—no longer generate enough revenue to be economically sustainable. But they are needed in ways few people have yet imagined. The issue of how to pay for the upgrading and maintenance of this critical infrastructure is now gaining more attention as the state's budget comes into focus.

Dams and reservoirs are the keys not just to a future of sustainable agricultural system in Hawai'i, but to the entire water and environmental health of the State. In addition to the conventional benefits of storing and delivering reliable water for agriculture in dry times, wildlife habitats, flood control during large storms, erosion control, and the reduction of sediment loading on our nearshore ocean reefs, reservoirs also ensure a supply of potable drinking water (after treatment) and provide water to help battle wildfires.

Reservoirs also help recharge our groundwater aquifers by capturing stormwater (for later release) that would otherwise rush to the ocean. There is growing evidence is that there will be a pattern of fewer, but larger storms separated by longer intervals of drought. If the large rainfall flows are not captured, overall groundwater recharge may be significantly reduced. Groundwater is our primary source of drinking water and demand is relentlessly rising. We already face declining groundwater recharge every time we place hard impermeable surfaces (e.g. concrete) over previously open ground (agriculture).

Recent Dam and Reservoir Safety rules will levy an additional burden on reservoir owners and Hawai'i farmers. Fuel, labor, equipment, transportation, and other expenses are already higher in Hawai'i than on the mainland, placing locally-grown products at a competitive disadvantage. Inevitably, increased costs will be passed on to consumers and are counterproductive to efforts to grow more food in Hawai'i. Some landowners will simply decommission their dams, abandon their reservoir systems and decide what to do with their now-fallow lands when agriculture is no longer viable.

The availability of loans, grants, and tax credits will help owners and operators comply with the laws and regulations.

Thank you for the opportunity to testify on this matter of great importance to the agricultural community.