

**DEPARTMENT OF HOUSING AND LAND MANAGEMENT
KA 'OIHANA HO'OLĀLĀ KŪKULU HALE A ME KA HO'OKELE 'ĀINA
CITY AND COUNTY OF HONOLULU**

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February 5, 2026

The Honorable Luke A. Evslin, Chair
House Committee on Housing

The Honorable Mark J. Hashem, Chair
House Committee on Water & Land
and Members of the Committees

Hawai'i State House of Representatives
State Capitol
Honolulu, Hawai'i 96813

**SUBJECT: Support for House Bill 1799
Relating to the Counties**

Dear Chairs Evslin and Hashem, and Committee Members:

The Department of Housing and Land Management (DHLM) supports HB1799, which expands the authority provided under Hawaii Revised Statutes (HRS) §46-15 to include commercial projects.

HRS §46-15 is an important tool that allows counties to advance innovative housing solutions by testing alternative approaches to design, development standards, and delivery methods. The flexibility provided by this statute enables projects that might otherwise be infeasible under conventional regulatory frameworks.

HB1799 appropriately recognizes that successful housing communities often require integrated land uses. Allowing commercial projects under §46-15 will enable counties to pursue mixed-use residential and commercial developments that support complete communities, improve project feasibility, and help reduce overall housing costs by incorporating services, employment opportunities, and supporting infrastructure.

From DHLM's perspective, the primary value of this amendment is its ability to facilitate mixed-use projects tied to residential development. When used thoughtfully, this authority can help test new models of integrated development that helps spur innovation in development.

The Honorable Luke A. Evslin, Chair; The Honorable Mark J. Hashem, Chair;
and Members of the House Committees on Housing and Water & Land
February 4, 2026
Page 2

For these reasons, DHLM respectfully supports HB1799 and appreciates the Legislature's continued efforts to provide counties with flexible tools to address Hawai'i's housing challenges.

Thank you for the opportunity to provide testimony. If you have any questions, please feel free to contact me or Gavin Thornton, Director of Housing Policy, at (808) 768-4277.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin D. Auger", with a large, stylized flourish at the end.

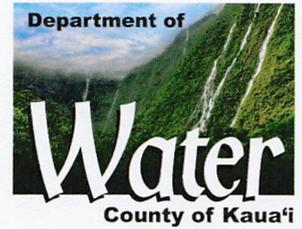
Kevin D. Auger
Director

DEPARTMENT OF WATER

COUNTY OF KAUAI

4398 PUA LOKE STREET LIHUE, HAWAII 96766

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JOSEPH E. TAIT
MANAGER AND CHIEF ENGINEER

February 5, 2026

The Honorable Luke A. Evslin, Chair
and Committee Members
House Committee on Housing

The Honorable Mark J. Hashem, Chair
and Committee Members
House Committee on Water and Land

Hawaii State Capitol, Room 430
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chairs Evslin and Hashem, and Committee Members:

Subject: House Bill 1799 – Relating to The Counties

The County of Kaua'i, Department of Water (DOW) submits this letter to respectfully express its opposition to House Bill (HB) 1799. The bill proposes to "exempt commercial projects from all statutes, ordinances, charter provisions, and rules or regulations of any governmental agency of public utility relating to planning, zoning, construction standards for subdivision, development and improvement of land, and the construction and sale of homes hereon; provided that the experimental and demonstration housing projects, or commercial projects shall not affect the safety standards or tariffs approved by the public utilities commission for such public utility."

Pursuant to HRS 46-1.5(23), the counties were granted, by the State, the power to establish and maintain waterworks; to collect rates for water supplied to consumers; to install water meters whenever deemed expedient; and, to take over from the State existing waterworks systems, including water rights, pipelines, and other appurtenances belonging thereto, and to enlarge, develop and improve the same.

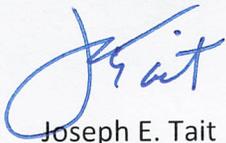
The Kauai County established its Department of Water as a semi-autonomous organization to manage its island-wide drinking water systems. As a semi-autonomous agency, the DOW relies solely on its self-sufficiency to generate revenue through its water rates and impact fees to operate, maintain and expand its water systems and does not receive any funds from the County's revenue streams of taxes.

The DOW does not believe it is appropriate for commercial development projects to receive an exemption as proposed, as it would exempt these projects from adhering to the Board of Water Supply Rules and Regulations, including meter and infrastructure requirements, water system facilities charges and user fees; and, would shift the cost of its expenses to other water rate payers. This bill would result in a further financial burden on the customers the DOW serves, including other non-residential customers – existing agriculture and businesses. It would cause an inequity for other water rate payers to subsidize the cost of commercial development projects. Additionally, it would be difficult for the DOW to forecast these costs, which would have to be made up with other sources of revenue or expenditure deferrals.

Thank you for your attention to this matter, and for your dedication and commitment you have shown in serving our State. We remain hopeful that you will carefully weigh the concerns raised by the DOW and others.

Please feel free to contact us at (808) 245-5403 or via email at jtait@kauaiwater.org or (808) 245-5416 at mhinazumi@kauaiwater.org with any questions you may have regarding DOW's comments.

Sincerely,



Joseph E. Tait
Manager and Chief Engineer



Michael K. Hinazumi, P.E.
Executive Engineer

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843
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GENE C. ALBANO, P.E., Ex-Officio

February 6, 2026

The Honorable Luke A. Evslin, Chair
and Members
House Committee on Housing
Hawai'i State Capitol, Room 430
Honolulu, Hawai'i 96813

The Honorable Mark J. Hashem, Chair
and Members
House Committee on Water and Land
Hawaii State Capitol, Room 430
Honolulu, Hawai'i 96813

Dear Chair Evslin, Chair Hashem and Members:

Subject: House Bill 1799: Relating to Counties

The Honolulu Board of Water Supply (BWS) asks that House Bill (HB) 1799, be amended to address our concerns. HB1799 expands a county's authority under Hawai'i Revised Statutes (HRS) § 46-15 to designate "experimental and demonstration" projects to include commercial projects, in addition to housing.

1. Need to Preserve Chapter 54 Authority

As drafted, HRS §46-15 exempts designated projects from "all statutes, ordinances, charter provisions, and rules or regulations of any governmental agency or public utility" relating to development. The only express limitation protects Public Utilities Commission (PUC)-approved safety standards and tariffs. Because BWS is *not* regulated by the PUC and exercises its authority under HRS Chapter 54 and the Revised Charter of the City and County of Honolulu, the bill could be interpreted to exempt designated projects from:

- Water System Facilities Charges (WSFC) and other connection fees;
- BWS requirements necessary to protect public health and safety, including water systems standards, protection of water resources; and
- potentially water rates and fees to pay for the cost to provide service and to continue to improve BWS infrastructure.

To ensure consistency with statewide housing policy and protect existing ratepayers, BWS respectfully recommends that HRS §46-15 be amended to mirror the protection already contained in HRS §201H-38(a)(1)(B) for Hawai'i Housing Finance and Development Corporation (HHFDC) projects.

2. Attorney General Guidance Confirms Need for Express Language

A 1996 Attorney General opinion interpreting a parallel housing exemption concluded that the terms “planning, zoning, and construction standards” refer to county land-use controls and do not encompass the rules of the county boards of water supply, including water development fees. A copy of the Attorney General opinion is attached for the Committee’s reference. The opinion further observed that “the express mention of one thing in a statute implies the exclusion of what is not mentioned,” indicating that reference only to PUC-approved standards could be read to exclude chapter 54 authority.

For this reason, HRS §46-15 should expressly reference the boards of water supply to avoid unintended preemption.

3. Proposed Amendment

Amend page 1, line 17 and page 2, lines 1 through 4, (new language underscored):

“ . . . provided that the experimental and demonstration housing projects or commercial projects shall not affect the safety standards or tariffs approved by the public utilities commission for public utilities or the safety standards, tariffs, rates, and fees of the various boards of water supply authorized under Chapter 54.

This amendment would confirm that designated projects remain subject to BWS authority to impose WSFC, service conditions, and monthly rates essential to maintain system capacity and reliability.

4. Illustrative Risk – High Demand Commercial Uses

HB1799 newly extends these exemptions to commercial projects, which may have water demands far exceeding typical housing. For example, a designated project could include an artificial intelligence (AI) data center that requires massive amounts of water. These projects utilize water-intensive evaporative cooling systems. In 2014, a total of 626 billion liters of water use was attributable to US data centers.¹ This massive volume

¹ Shehabi, A. et al. United States Data Center Energy Usage Report. Tech. Rep. LBNL-1005775, Lawrence Berkeley National Laboratory, California. <http://www.osti.gov/servlets/purl/1372902/> (2016).

The Honorable Luke A. Evslin, Chair
The Honorable Mark J. Hashem, Chair
and Members
February 6, 2026
Page 3

amount is equivalent to 165 billion gallons.² The maturation of AI technology have created a high demand for water consumption for cooling its systems. Without a Chapter 54 carve-out, such a project could claim exemption from WSFC and BWS conditions, shifting substantial costs to existing customers and potentially affecting system reliability and responsibilities.

Under HRS Chapter 54, the BWS is required to adopt rules and regulations to protect the public water system. These rules are designed to ensure public health and safety, water conservation, prevention of groundwater degradation and pollution, and the collection of geologic and hydrologic information necessary for responsible resource management. Exempting designated projects from these standards and rules could impair the Board's ability to fulfill its statutory and duties to safeguard O'ahu's limited drinking water resources.

The Legislature has already recognized this need for protection in the context of HHFDC housing projects. HRS § 201H-38(a)(1)(B) provides that such projects "do not contravene any safety standards, tariffs, or rates and fees approved by the public utilities commission for public utilities or the various boards of water supply authorized under chapter 54." BWS respectfully requests that the same language be incorporated into HRS § 46-15 to ensure consistent treatment of county-designated housing and commercial projects.

BWS supports the goals of innovative housing and commercial development provided that the Board's Chapter 54 authority and cost-causation principles are expressly preserved. Thank you for the opportunity to testify in support of HB1799 with amendments.

Thank you for the opportunity to testify in support of HB 1799.

Very truly yours,



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

² Ibid.

ATTACHMENT

to Board of Water Supply
Testimony on HB1799

AUG-15-1996 16:38

COMMERCIAL MARKETS

888 528 1175 P.002

EDWARD J. CATEFORO
GOVERNOR

RECEIVED
H.F.D.C.



MARGERY S. BROWN
ATTORNEY GENERAL

AUG 19 7 45 AM '96

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
430 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 541-4300

JOHN W. ANDERSON
FIRST DEPUTY ATTORNEY GENERAL

August 9, 1996

RECEIVE

AUG 14 1996

Time: 2:30pm
Bank of America, FS
Commercial Real Estate Serv

Mr. Donald K. W. Lau, Chairman
Board of Directors
Housing Finance and Development
Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Dear Mr. Lau:

Re: Applicability of Section 201E-210, Hawaii Revised Statutes, to Water System Development Fees

In a letter dated November 27, 1995, Mr. David Craddick of the County of Maui Board of Water Supply questioned the use of section 201E-210, Haw. Rev. Stat., to exempt housing projects from the payment of water system development fees. According to Mr. Craddick, there are "differing legal opinions" among the counties regarding the application of section 201E-210. Subsequently, we received a request from your planning branch for our advice.

Section 201E-210, Haw. Rev. Stat., permits either the Housing Finance and Development Corporation (HFDC) or the counties (through section 46-15.1, Haw. Rev. Stat.) to obtain exemptions from various specified governmental requirements related to the development of housing on an expedited basis. The section 201E-210 exemption reads:

(a) The corporation may develop, on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of housing projects which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units thereon:

Mr. Donald K. W. Lau
August 9, 1996
Page 2

Certain conditions under section 201E-210 also must be met:

- (1) The project must meet minimum health and safety requirements and be consistent with the purposes of chapter 201E, Haw. Rev. Stat.;
- (2) No safety standards or tariffs for public utilities may be violated;
- (3) The project must be approved or deemed approved by the county council; and
- (4) Any boundary change must be submitted to the land use commission and either be approved or deemed approved.

Assuming the conditions are met, the project could be exempt from the rules of any governmental agency. A semi-autonomous board of water supply would be encompassed within the term "any governmental agency." The issue to resolve then is whether water system development fees adopted under the rules of a board of water supply are rules relating to "planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of units" to which the section 201E-210 exemption applies.

Exemptions to state laws are not lightly inferred. As the Hawaii Supreme Court stated, "It is a well settled rule of statutory construction that exceptions to legislative enactments must be strictly construed" and the one "who claims the benefits of such an exception has the burden of bringing himself clearly within it." State v. Russell, 62 Haw. 474, 480, 617 P.2d 84, 88 (1980). Such "exceptions, generally, should be strictly, but reasonably, construed; that they extend only so far as their language warrants; and all doubts should be resolved in favor of the general provision, rather than the exception." State v. Christensen, 137 P.2d 512, 518 (Wash. 1943).

Additionally, in construing a statute, we must give effect to the legislative intent. See In re Tax Appeal of Hawaiian Telephone Co., 61 Haw. 572, 577, 608 P.2d 383, 387 (1980); Keller v. Thompson, 56 Haw. 183, 189, 532 P.2d 664 (1975); 2A Norman J. Singer, Sutherland Statutory Construction § 45.05 (5th ed. rev. 1992). Weight must also be given to the interpretation of the statute by the agency charged with

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Page 3

administering the statute. See, S.G., Moverola-Bolains v. Immigration & Naturalization Service, 395 F.2d 131, 136 (9th Cir. 1968); Chun v. Employees' Retirement System, 61 Haw. 596, 602, 607 P.2d 415, 419 (1980); 2B Norman J. Singer, Sutherland Statutory Construction § 49.05 (5th ed. rev. 1992).

On its face, section 201E-210 does not exempt HFDC housing developments from rules of the county boards of water supply. The language of section 201E-210 exempting such housing developments from statutes and rules "relating to planning, zoning, construction standards for subdivisions, development and improvement of land" does not mention or include water facility fees. The words of section 201E-210 must be given their usual meaning. Section 1-4, Haw. Rev. Stat., states that the "words of a law are generally to be understood in their most known and usual signification, . . . their general or popular use or meaning."

While the phrase "planning, zoning and construction standards" is not defined in the statute, some guidance to its meaning may be found in legislative history. The exemptions in section 201E-210 are based on those previously found in sections 359A-4 and 359C-4.1 which arose in Act 185, 1970 Haw. Sess. Laws 190 and Act 225, 1976 Haw. Sess. Laws 556, respectively. Act 105 created the housing development program within the Hawaii Housing Authority. Act 105's preamble cited "a critical shortage of housing units for lower and middle income residents" in the State of Hawaii. Act 105 gave the Hawaii Housing Authority the power to adopt rules that "shall have the force and effect of law and shall supersede . . . all other inconsistent laws, ordinances, and rules and regulations relating to the use, zoning, planning, and development of land." 1970 Haw. Sess. Laws at 193. Act 225 authorized the development of housing projects "which shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards for subdivisions, development and improvement of land and the construction and sale of homes . . .". 1976 Haw. Sess. Laws at 563-64.

Water development fees are clearly not encompassed in zoning and construction standards. The term "planning" was added to the exemptions stated in section 359C-4.1(a) by Act 279, 1984 Haw. Sess. Laws 651. In reporting on the bill that was subsequently enacted as Act 279, the Committee on Conference said:

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August 9, 1996
Page 4

The purpose of this bill is to amend Section 359G-4.1, Hawaii Revised Statutes, to permit the Hawaii Housing Authority ("HHA"), on behalf of the State or in partnership, to develop housing projects which are exempt from development and general plans adopted by the various counties.

S. Conf. Comm. Rep. No. 47-84, Hawaii S.J. 926 (reg. sess. 1984); H. Conf. Comm. Rep. No. 43-84, Hawaii H.J. 739 (reg. sess. 1984). Thus the word "planning" refers to the development and general plans of the counties, and not to the rules of water boards. The purpose of this exemption is "to provide an expedited process for government-assisted housing projects." *Id.* Those exemptions expressly relate to the production, development, construction and zoning of housing.

By limiting the exemptions to only certain types of statutes, and not to others, the Legislature intended HFDC housing projects to be subject to and comply with other laws. It is a rule of statutory construction that the express mention of one thing in a statute implies the exclusion of what is not mentioned. See *Carter v. Gear*, 16 Haw. 342 (1904), *aff'd*, 197 U.S. 348 (1905); *Walsh v. Campbell*, 42 Haw. 490, 494 (1958).

Based on the above discussion, we conclude that section 201E-210 does not exempt housing developments of the Housing Finance and Development Corporation from compliance with the rules of the various county water boards. We believe that legislative amendment of section 201E-210 would be required to provide such an exemption.

Very truly yours,


Celia L. Jacoby
Deputy Attorney General

APPROVED:


Margery S. Bronster
Attorney General

HB-1799

Submitted on: 2/4/2026 1:21:41 PM

Testimony for HSG on 2/6/2026 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT

HB-1799

Submitted on: 2/5/2026 11:44:30 AM

Testimony for HSG on 2/6/2026 8:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Oppose	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry Oppose

Exploration of future projects are being explored by traveling outside of Hawaii by the city and state elected bodies.

1799 HB RELATING TO THE COUNTIES.