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HB 2271, HD 2
RELATING TO COUNTIES

Statement for
Senate Committee on
Agriculture, Energy and Ocean Resources
Public Hearing - March 14, 1988

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SECTION 1 of HB 2271, HD 2 would amend HRS 205A-44 by adding dead coral and coral rubble to the list of beach or marine deposits whose removal is prohibited within the shoreline area; by deleting the seaward limitations for mining or taking of sand (to be covered under HRS 171); by limiting the amount of materials that can be removed from the shoreline area for personal, non-commercial use and allow for stricter limitations on this removal by the counties; by deleting the present limitation to specific public beaches where sand replenishment in the shoreline area is now permitted; by deleting the EIS requirement for mining or taking of sand for replenishment of beaches in the shoreline area but substituting a requirement for an environmental assessment; by permitting beach cleaning for state or county maintenance purposes; and by requiring that sand removed for cleaning or maintenance be placed on adjacent areas unless significant turbidity will result.

SECTION 2 of HB 2271 HD 2 would amend HRS Chapter 171 by adding a new section that would prohibit the mining or taking of various marine deposits seaward of the shoreline with certain exceptions. It would permit:

1. Taking of beach materials in small specified quantities for personal, non-commercial use,
2. Taking for replenishment or protection of shoreline areas and adjacent public lands seaward of the shoreline area; or ~~construction or maintenance of certain state approved facilities~~

seaward of the shoreline, with a permit under HRS 183-41, but exclude permits for Hakipu'u sandbar offshore of Molii fishpond, Oahu,

3. Allows cleaning and maintenance of drainage structures and mouths of streams and requires that the material removed be placed on adjacent areas unless such placement will cause turbidity.

SECTION 3 of HB 2271 HD 2 would repeal HRS 7-3 as provisions are covered under other statutes.

This statement does not represent an institutional position of the University of Hawaii.

SECTION 1

We concur with the amendments proposed in Section 1, paragraph (a). Deletion of reference to areas seaward of the shoreline from Section 205A is appropriate and consistent with the jurisdictional responsibility of HRS 205A. The limitation of the taking of beach materials to modest amounts for personal use is reasonable. By removing the present restrictions on what shoreline areas can be replenished, as is provided by the amendments in paragraph (2), shoreline enhancement projects can be permitted based on the individual case by case need of each site.

When this paragraph (page 2, lines 3-19), was originally drafted, public concern had been expressed as to the potential environmental effects of offshore sand mining. Hence the direct requirement for an EIS was inserted into the bill. We had suggested in our previous testimony that since actions in the shoreline area require assessment under HRS 343, specific requirement for either an EIS or EA under 205A-44 is unnecessary. However, to maintain the emphasis desired by the drafters of this statute, amendment to reflect the requirement of an environmental assessment would be procedurally more correct than the present requirement for an EIS. In making this change from requiring an EIS to requiring assessment, a second change is necessary. The specific language on page 2, lines 3-4, that would require an environmental assessment for the proposed project to be "accepted" is procedurally incorrect. Environmental Assessments can be "prepared" or "required" but are not "accepted". EIS's are "accepted". We suggest that line 4 be amended to read,

...provided that for the purpose of this paragraph an environmental assessment pursuant to Chapter 343 shall be required.

The proposed amendments on page 2, paragraph 3, addressing cleaning and maintenance of shorelines are appropriate.

SECTION 2

SECTION 2 of HB 2271 HD 2 deals with prohibitions and exceptions relevant to the mining or taking of various beach deposits seaward of the shoreline.

Paragraph (1) would permit the taking of small amounts of marine deposits seaward of the shoreline, for personal uses and we concur with the rationale and appropriateness of the proposed amendment.

Paragraph (2) would permit taking of marine deposits seaward of the shoreline for the replenishment or protection of public shoreline areas, and for construction or maintenance of state approved lagoons, harbors, launching ramps or navigational channels with a permit under section 183-41 but excludes issuance of such permits for Hakipu'u sandbar offshore of Molii fishpond, Oahu.

This paragraph recognizes the previous emphasis in the development of the legislation for sand recovery that such taking be limited to purposes for public facilities. We fully concur with the amendment as proposed.

Paragraph (3). We concur with the amendment to permit removal of marine deposits seaward of the shoreline for state or county maintenance purposes. Such actions are needed to insure adequate maintenance of flood control drainage and navigational channels. Placement of the removed materials on adjacent areas is appropriate if such placement will not result in significant turbidity, as is indicated in the proposed amendment.

We strongly support the intent of this bill. We appreciate the opportunity to provide our comments and would be pleased to work with your committee or members of DLNR if any additional changes are proposed.