

NEIL ABERCROMBIE
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LAND
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Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
WATER, LAND & OCEAN RECREATION

February 13, 2012
9:00 a.m.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1923
RELATING TO THE STATE WATER CODE

House Bill 1923 proposes to ban the export of bottled water unless an applicant has first obtained a water use permit from the State Commission on Water Resources Management pursuant to Section 174C-48, Hawaii Revised Statutes (HRS). House Bill 1923 would amend the State Water Code (Water Code) by adding a new subsection (c) to Section 174C-48, HRS. However, it is not clear if the purpose of this bill is *track* bottled water or to *ban* the export of it. The Department of Land and Natural Resources and the Commission on Water Resource Management (Commission) **oppose** House Bill 1923 in its present form.

First, the Water Code and Section 174C-48, HRS, are not the means to either track or ban the export of bottled water. Section 174C-48, HRS, permits only apply to designated water management areas. There is *no process* for issuing permits in *non-designated* areas. Only portions of Oahu, Molokai and Maui are designated *ground* water areas. Even smaller portions of Maui and Oahu are designated *surface* water management areas. Thus, only a small portion of the State is subject to Section 174C-48, HRS, permits. While permits may identify total water use at the point it is withdrawn, diverted, impounded, or consumed, the ultimate end use is not always clear.

Second, amending the Water Code would **not** address bottling companies using municipal water provided by the County Boards of Water Supply. House Bill 1923 would **not preclude** the bottling and export of bottled water from municipal water systems. Water bottling companies that use or propose to use the municipal water system will not be impacted by this measure.

Third, the State Department of Health regulates/permits all bottled water companies in Hawaii under the Federal Safe Drinking Water Act and other health standards.

Fourth, if the purpose is to address the potential negative environmental and ecological impacts associated with the exportation of large quantities of water out of the State, the Legislature should adopt a standalone bill barring - across the board - the export of bottled potable water outside of the state as a matter of state policy. This should not be done through the Water Code.

This approach would cover all potential bottled water producers, including municipal sources. It would inform land use decision makers at the state and county levels. It would avoid having to address every water and land use decision process because it would apply universally regardless of the context.

Fifth, if there is a standalone bill, the legislature should consider exempt desalting operations that use deep ocean water, such as the Natural Energy Laboratory of Hawaii Authority.

Sixth and most important, the Department and the Commission *oppose* any bill that seeks to interject individual interests through piecemeal amendments to the Water Code or "water resources" or that provides the vehicle to do so. The 1987 Water Code was adopted after decades of litigation and years of difficult discussions. It is a delicate balance to meet the constitutional mandates, fully protect the natural resources, and allocate water under the law. The Water Code has the tools and the processes to sort out complex problems. The Water Code should not be amended to address a single issue like the export of bottled water. A stand alone bill can do that.

Thank you for the opportunity to comment.