



**HB 1923**  
**RELATING TO STATE WATER CODE**  
Committee on Water, Land, & Ocean Resources  
Committee on Hawaiian Affairs

February 13, 2012

9:00 a.m.

Room 325

The Office of Hawaiian Affairs **OPPOSES** HB 1923, which could result in increased exportation of fresh water outside of Hawai'i. While OHA understands that HB 1923 may provide tools to better manage current and foreseeable water bottling activities, a ban on water bottling for export would provide even more protection of this precious resource for current and future generations.

OHA would like to make clear that it supports the intent of HB 1923 to ensure oversight by the Commission on Water Resources Management (CWRM) over water bottling activities in areas that have not been designated a water management area. In *Kaua'i Springs vs. Planning Commission of the County of Kaua'i*, the Kaua'i Planning Commission found itself in unfamiliar territory when it had to determine whether a water bottling company had met its burden to justify its activities and determine its impacts on water resources, as required by the public trust. Although OHA believes that the Planning Commission ultimately met its fiduciary and trustee obligations by denying Kaua'i Springs' permits, the circuit court disagreed, and the case is now before Hawai'i's intermediate court of appeals. Although HB 1923 would provide needed oversight over water bottling activities by the CWRM, OHA opposes the bill in so far as it may encourage additional water bottling activities for export, resulting in a further reduction of fresh water resources for the people of Hawai'i and Native Hawaiian practitioners in particular.

Water's importance to the Native Hawaiian people is captured in the 'ōlelo no'ēau "Ola i ka Wai (Water is Life)." Since the beginning of time, proper management of this precious resource and ma uka to ma kai stream flow provided sufficient water for food production, drinking water, healthy estuaries, and ground water recharge. Unfortunately a large portion of Hawai'i's fresh water resources were and continue to be diverted at the expense of Native Hawaiian cultural practitioners and other community members. Some communities have seen restoration of water resources, but only after extensive litigation and/or significant commitment by the communities of time and other resources. OHA understands this well, as it has played an active role in protecting these resources for Native Hawaiians and has participated in many cases involving controversies over water rights across Hawai'i.

Research shows that Hawai'i's supply of fresh water has steadily declined and will likely continue to do so. If historical and present day controversies over water are any indication, the decline in water supply will inevitably result in increased controversies. Given this, and the fact that many communities continue to be without access to fresh water for food, subsistence, and other cultural purposes, OHA questions whether it is reasonable to allow *any* exportation of Hawai'i's fresh water resources.

Given the significance of wai (water) to the Native Hawaiian and larger Hawai'i communities, OHA opposes exportation of fresh water resources. Therefore OHA urges the committee to hold HB 2782. Mahalo for the opportunity to testify on this important measure.