



STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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February 19, 2013

The Honorable David Ige, Chair
Committee on Ways and Means
The State Senate
State Capitol, Room 215
Honolulu, Hawaii 96813

Dear Chair Ige:

Subject: S.B. 1009, S.D. 1 Relating to Liability

I am Robert Westerman, Vice Chair of the State Fire Council (SFC) and Fire Chief of the Kauai Fire Department (KFD). The SFC and the KFD support S.B. 1009, S.D. 1, which proposes to delete the sunset provision for the liability exception for county lifeguards and damages caused by dangerous natural conditions when certain warning signs are posted.

Passage of S.B. 1009, S.D. 1 would make our beaches accessible and safer by allowing counties to continue posting lifeguards at state beach parks without the threat of costly litigation for conditions or events that are outside the county's control. Act 170 protects lifeguards from liability when they provide rescue, resuscitative, or other lifeguard services. We support removal of the sunset date to ensure benefits of the act can continue.

The benefits of the act were documented in the findings of the Report of the Task Force Established by Act 152 (Task Force Report), which was submitted during the 2011 Legislative Session. The task force concluded that various programs developed under Acts 82, 170, and 190 have been effective in increasing public safety. The procedures contained therein have been and continue to be implemented by the state. Where funding has been appropriated, counties have stationed lifeguards at certain state beach parks.

The report further discusses the benefits of posting signage to the public and the lives saved as a result of posting county lifeguards at state beach parks. The state and counties adopted and installed a uniform signage design that complies with the requirements of Act 82. Based upon its review of various county programs for the

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implementation of Acts 82 and 170, the task force recommended that the sunset dates of Acts 82 and 170 be repealed.

The SFC and the KFD urge your committee's support on the passage of S.B. 1009, S.D. 1.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or sbratakos@honolulu.gov.

Sincerely,



ROBERT WESTERMAN
Vice Chair

RW/LR:cc

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White




Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 20, 2013

TO: The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means

FROM: Gladys C. Baisa 
Council Chair

SUBJECT: **HEARING OF FEBRUARY 21, 2013; TESTIMONY IN SUPPORT OF SB 1009, SD1, RELATING TO TORT LIABILITY**

Thank you for the opportunity to testify in support of this important measure. The purpose of this measure is to repeal the sunset date and make permanent the law shielding county lifeguards from liability.

Legislation with a similar purpose is included in the Hawaii State Association of Counties' ("HSAC") Legislative Package; however, the Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. Making permanent the liability protections afforded county lifeguards will enhance public safety by fostering a climate in which lifeguard services can be provided without fear of liability. The law has been in effect for the last decade, and since its first enactment in 2002, the Legislature has twice been convinced of the wisdom of extending such protection. Any need for a trial period has been exhausted, and the law should be made permanent. Passing this measure will help to protect counties in their efforts to save lives.
2. I respectfully suggest that, given this history, there is no need to extend the effective date of the measure for further deliberation on its merits. The law has successfully been in place since 2002, and the prior effective date should be restored.
3. Included in the HSAC Legislative Package is HB 215, relating to liability, which contains the same measure to repeal the sunset date for Act 170 (2002), as amended. However, HB 215 also includes a provision to make permanent the liability protection for State and county governments regarding the duty to warn of dangers on improved public lands. To that end, I ask that the Legislature not only support SB 1009, SD1 (revised to be effective upon approval), but also the broader, and equally well-reasoned HB 215.

For the foregoing reasons, I support this measure.

ALAN M. ARAKAWA
MAYOR



JEFFREY A. MURRAY
CHIEF

ROBERT M. SHIMADA
DEPUTY CHIEF

COUNTY OF MAUI
DEPARTMENT OF FIRE AND PUBLIC SAFETY

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February 19, 2013

The Honorable David Ige, Chair
Committee on Ways and Means
The State Senate
State Capitol, Room 215
Honolulu, Hawaii 96813

Dear Chair Ige:

Subject: S.B. 1009, S.D. 1 Relating to Liability

I am Jeffrey A. Murray, Fire Chief of the County of Maui, Department of Fire & Public Safety (MFD) and a member of the State Fire Council (SFC). The MFD and the SFC support S.B. 1009, S.D. 1, which proposes to delete the sunset provision for the liability exception for county lifeguards and damages caused by dangerous natural conditions when certain warning signs are posted.

Passage of S.B. 1009, S.D. 1 would make our beaches accessible and safer by allowing counties to continue posting lifeguards at state beach parks without the threat of costly litigation for conditions or events that are outside the county's control. Act 170 protects lifeguards from liability when they provide rescue, resuscitative, or other lifeguard services. We support removal of the sunset date to ensure benefits of the act can continue.

The benefits of the act were documented in the findings of the Report of the Task Force Established by Act 152 (Task Force Report), which was submitted during the 2011 Legislative Session. The task force concluded that various programs developed under Acts 82, 170, and 190 have been effective in increasing public safety. The procedures contained therein have been and continue to be implemented by the state. Where funding has been appropriated, counties have stationed lifeguards at certain state beach parks.

The report further discusses the benefits of posting signage to the public and the lives saved as a result of posting county lifeguards at state beach parks. The state and counties adopted and installed a uniform signage design that complies with the

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requirements of Act 82. Based upon its review of various county programs for the implementation of Acts 82 and 170, the task force recommended that the sunset dates of Acts 82 and 170 be repealed.

The MFD and the SFC urge your committee's support on the passage of S.B. 1009, S.D. 1.

Should you have any questions, please contact SFC Administrator Socrates Bratakos at 723-7151 or sbratakos@honolulu.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Murray".

JEFFREY A. MURRAY
Fire Chief

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: Don.Couch@mauicounty.us
Subject: *Submitted testimony for SB1009 on Feb 21, 2013 09:00AM*
Date: Tuesday, February 19, 2013 3:39:20 PM

SB1009

Submitted on: 2/19/2013

Testimony for WAM on Feb 21, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Councilmember Don Couch	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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