

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LATE

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Thursday, February 21, 2013
9:00 AM
State Capitol, Conference Room 211

In consideration of
SENATE BILL 1009, SENATE DRAFT 1
RELATING TO TORT LIABILITY

Senate Bill 1009, Senate Draft 1 proposes to make permanent the liability protections afforded to lifeguards. The Department of Land and Natural Resources (Department) notes that Senate Bill 1009, Senate Draft 1 inserted an effective date of January 1, 2020. **As such, the Department respectfully asks this Committee to restore the "upon approval" effective date. Accordingly the Department strongly supports this Administration measure.**

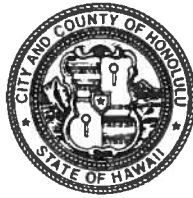
At present, the liability protections afforded to lifeguards in Act 170, Session Laws of Hawaii (SLH) 2002, will sunset on June 30, 2014. Act 170, SLH 2002, provides liability protection for lifeguard services on the beach or in the ocean, except for gross negligence or wanton acts or omissions. This limited liability protection was made necessary because some counties would not provide lifeguard services at state beach parks, due to the fear of potential liability that might ensue. Thus, Act 170 created a climate in which lifeguard services could be provided by the counties without fear of liability. This is a life-saving measure that deserves to be made permanent, effective upon approval of the measure.

HONOLULU EMERGENCY SERVICES DEPARTMENT
CITY AND COUNTY OF HONOLULU

3375 KOAPAKA STREET, SUITE H-450 • HONOLULU, HAWAII 96819-1869
Phone: (808) 723-7800 • Fax: (808) 833-3934

LATE

KIRK CALDWELL
MAYOR



MARK K. RIGG
DIRECTOR DESIGNATE

February 20, 2013

The Honorable David Y. Ige, Chair
The Honorable Michelle N. Kidani, Vice Chair, and Members
Committee on Ways and Means
The Senate
The Twenty-Seventh Legislature
Regular Session of 2013

Re: SB 1009, Relating to Tort Liability

Dear Chair Ige, Vice Chair Kidani, and Committee Members:

The Honolulu Emergency Services Department, City and County of Honolulu, strongly supports the intent of HB 1009, and urges your favorable consideration and passage.

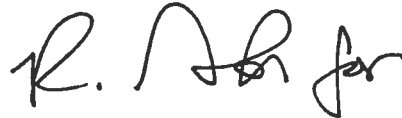
SB 1009 will make permanent certain liability protections provided in Act 170, Session Laws of Hawaii 2002.

As you know, the City & County of Honolulu provides lifeguard services at Oahu's most popular beaches, including Kaena Point State Park. Because the State does not have a lifeguard service, it contracts with the City and County of Honolulu to station lifeguards at Keawaula Beach in Kaena Point State Park. City lifeguards have protected this beach since 1992, and have performed hundreds of rescues and emergency medical responses and have saved hundreds of lives during this time.

Act 170 provides the necessary protection from liability for the lifeguards and the City and County of Honolulu, without which services could not be provided. We strongly support making Act 170 permanent and urge your favorable consideration of this bill.

Thank you for the opportunity to testify on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Rigg for". The signature is fluid and cursive.

Mark K. Rigg, Director Designate
Honolulu Emergency Services Department

LATE



HAWAIIAN LIFEGUARD ASSOCIATION

February 8, 2013

The Honorable Will Espero, Chair
Committee on Public Safety, Intergovernmental and Military Affairs
and
The Honorable Clayton Hee, Chair
Committee on Judiciary and Labor
The Senate
The Twenty Seventh Legislature
Regular Session of 2013
State Capitol
Honolulu, HI 96813

Dear Chair Espero, Chair Hee, and Members:

Re: HB 1009, Relating to Tort Liability

The Hawaiian Lifeguard Association (HLA) is the non-profit organization that represents the 400 professional ocean lifeguards in the State of Hawaii. The mission of the HLA is to promote the advancement of professional lifeguarding and to reduce drownings in the ocean surrounding our island state. The HLA attempts to accomplish this mission by supporting the efforts of Hawaii's lifeguards through fundraising and educational programs and by partnering with the government agencies in delivering the statewide Junior Lifeguard Program.

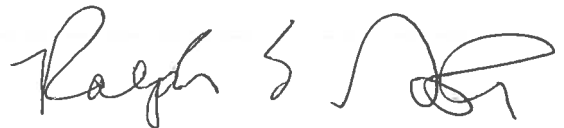
The HLA strongly supports SB 1009, which seeks to make permanent the protection from liability provided by Act 170 (2002). The protection in Act 170 is necessary for individual lifeguards as well as their employing counties to be able to provide services for the State of Hawaii at Kaena Point State Park on Oahu, Hapuna Beach on Hawaii Island, Makena Beach on Maui, and Ke'e Beach on Kauai. These four beaches are popularly used by the public and would be where drownings and serious injuries occur if lifeguard services were not provided.

The United States Lifesaving Association, the national organization of professional open water lifeguard agencies, has collected data over a twenty year period that shows that the chances of drowning at a lifeguarded beach in the United States is one in 18 million. According to the State Department of Health's Injury Prevention and Control Program, drownings that occur at unguarded beaches in the State of Hawaii far outnumber those at guarded beaches by at least 10 to one.

The necessity of providing trained lifeguards at Hawaii's beaches is obvious, a "no brainer." We urge you to acknowledge this fact by moving to remove the sunset provision from Act 170 to make this important law permanent.

Thank you for the opportunity to present this testimony. I am available to answer any questions you may have. Aloha nui loa.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph S. Goto". The signature is fluid and cursive, with a large initial "R" and "S".

Ralph S. Goto
For the Board of Directors

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



LATE

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 19, 2013

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

FROM: Robert Carroll
Council Member, East Maui

Handwritten signature of Robert Carroll in cursive script.

DATE: Hearing Date Thursday, February 21, 2013

SUBJECT: **SUPPORT SB 1009 S.D. 1, RELATING TO TORT LIABILITY**

I support SB 1009 SD1 for the reasons cited in testimony submitted by the Maui County Council Chair, and urge you to support this measure.