



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

H.B. NO. 1024, RELATING TO LIABILITY.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Thursday, January 30, 2014

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Caron M. Inagaki, Deputy Attorney General

Chair Rhoads and Members of the Committee:

The Department of the Attorney General strongly supports this measure.

The purpose of this bill is to make permanent the liability protections for lifeguards, and the counties and the State providing lifeguard services on the beach or in the ocean. The exception from liability does not apply for gross negligence or wanton acts or omissions of the lifeguard. At present, the liability protections provided in Act 170, Session Laws of Hawaii (SLH) 2002, will sunset on June 30, 2014.

This limited liability protection was necessary because some counties would not provide lifeguard services at state beach parks, due to fear of potential liability that might arise from the public's use and enjoyment of the beach and ocean. Thus, Act 170 remedied this problem by protecting the state and counties, under certain circumstances, from liability, thereby allowing them to provide lifeguard services with less fear of liability.

Under Act 81, SLH 2007, the Legislature found that Act 170 created a climate in which lifeguard services could be provided without fear of liability and was, therefore, a life-saving measure that should be extended.

Under Act 152, SLH 2007, the Legislature found that the limitations on state and county liability have proven to be beneficial to the state and county governments, as well as the public. The liability protections of Act 170, Act 82, SLH 2003 (recreational activities on public lands), and Act 190, SLH 1996 (public beach parks), as amended, have reduced the exposure of the state and county governments to substantial damages and, as a result, have allowed the state and county governments to keep recreational areas and public beach parks with potentially dangerous

natural conditions open to the public. The Legislature further found that state and county compliance with the statutorily required public warning of dangerous conditions at recreational areas and public beach parks have contributed to an improvement in public safety in these areas. This justified making the current liability exemptions that state and county governments enjoy under Act 82, Act 190, and Act 170 permanent, or extending their protections.

Act 152 also established a task force to examine the effectiveness of, collect data, and provide information to the Legislature on, Acts 170, 190, and 82. The report submitted by the task force to the 2009 Legislature found with near unanimity that Act 170 was effective and promotes and increases public safety. The task force, again, with near unanimity recommended that Act 170 be made permanent. The lone dissenter was the representative of Consumer Lawyers of Hawaii (now known as Hawaii Association for Justice), who believed that lifeguards had not been on the beaches, specifically on Kauai, long enough to determine the efficacy of Act 170. Lifeguards have now been in place on Kauai since 2008.

Prior to Act 170, Kee Beach, the state beach on Kauai, has had eight drownings between 1970 and 2008. Since Act 170, Kee Beach has had zero drownings. At Kee Beach, from 2008 – 2013, there have been an approximate average of 13,000 rescues and preventative actions performed by lifeguards in each of those years. In a recent article in *The Garden Island*, it was reported that Kauai's Mayor, Bernard Carvalho, emphasized the vital importance of ocean safety and that a critical component of the county's ongoing effort is to be able to continue to provide lifeguard services on both state and county beaches. If Act 170 is allowed to sunset, a spokesperson for the county recognized that Kauai may not be able to keep lifeguard coverage at Kee Beach. *The Garden Island* article is attached.

Following the enactment of Act 170, there have been tens of thousands of rescues and preventative actions by lifeguards each year on every state beach park on Oahu, Maui, Kauai, and Hawaii Island, rescues and preventative actions that would not have occurred if Act 170 had not been in effect and lifeguards had not been assigned to those beach parks.

At Maui's Makena Beach, from 2009 – 2013, there have been an approximate average of 72,000 rescues and preventative actions each year. At Hawaii Island's Hapuna Beach, from 2009 – 2013, there have been an approximate average of 18,000 rescues and preventative actions

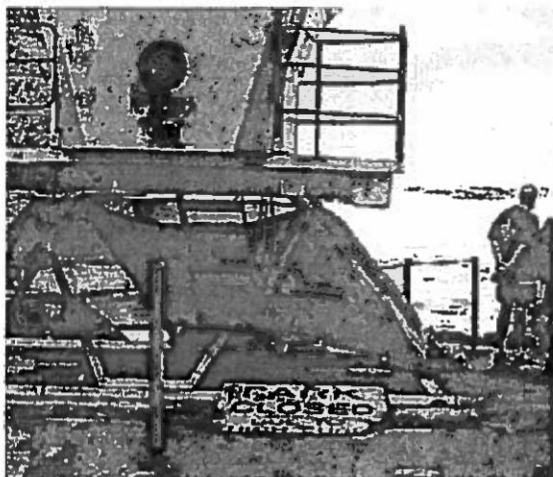
each year. At Oahu's Keawaula Beach, from 2008 – 2012, there have been an approximate average of 23,000 rescues and preventative actions each year.

If Act 170 is allowed to sunset, like Kauai, each of the other counties may not be able to keep lifeguard coverage at these beaches putting the safety of the hundreds of thousands of yearly visitors to these beaches at risk. In the past, the Hawaii Association for Justice (HAJ) has opposed this and similar bills and indicated that the State could simply purchase insurance for the lifeguards. However, if the State were required to include the additional cost of purchasing insurance for these beaches, the State would have to pay nearly \$3,000,000 a year in order to keep the lifeguards on its beaches. This yearly cost would not be feasible.

Act 170 is a life-saving measure that deserves to be made permanent. We therefore respectfully request that the Committee pass this bill.

Keeping safety intact

TheGardenIsland.com



kee LIFEGUARD.jpg

Chris D'Angelo/The Garden Island

A crowd gathers at the Kee Beach lifeguard tower last week to catch a glimpse of a massive winter swell.

| 1 comment

LIHUE — Last week, an 87-year-old Washington man was sitting high above the water's edge at Kee Beach watching the massive winter swell when a powerful wave washed ashore and swept him out to sea.

Thanks to a fast-acting lifeguard, the man narrowly escaped becoming Kauai's first statistic of 2014 — as well as the first drowning victim at Kee since 2008.

Were it not for Act 170, the lifeguard tower at Kee likely wouldn't exist, and the lifeguard who saved the man wouldn't have been in the area.

Act 170 provides the county with legal immunity — except in cases of gross negligence — so that it can provide lifeguard services at state beaches. But a sunset provision built into the law means it is due to expire, once again, on June 30.

A number of bills have been introduced this legislative session that seek to lift the sunset date. County spokeswoman Beth Tokioka said ensuring that happens is a "high priority for all of the counties."

"We will be actively supporting this measure throughout the session," she said.

Senate Bill 2783, its companion House Bill 2234 and others have a simple goal — repeal the sunset date and make permanent the law.

"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 the might ensue," read the bills.

"The legislature finds that Act 170 created a climate in which lifeguard services could be provided by the counties without fear of liability and, therefore, is a life-saving measure that should be made permanent."

On Jan. 15, Kauai Mayor Bernard Carvalho Jr. delivered a legislative message to the House and Senate money committees. In it, he spoke to the issue a number of times.

"Ocean safety is of vital importance to all of us," Carvalho said. "While Kauai has much success over the years in drowning prevention, 2013 was a particularly tough year for us. Despite monumental efforts over the past two decades to build an ocean safety public-private partnership that rivals any in the world, Kauai still experienced 17 drownings in 2013."

In comparison, Kauai waters claimed four lives — two ocean and two freshwater drownings — in 2012.

Carvalho said one “critical” component of the county's ongoing effort is to be able to continue to provide lifeguard services on both state and county beaches.

Act 170 has allowed the county to station lifeguards at Kee since 2008. Between 1970 and 2008, there were eight drownings at the North Shore beach.

Since the lifeguard tower went in, there have been zero drownings.

“Furthermore, our lifeguards have rescued 233 swimmers in distress at Kee since 2008, and they have had 84,000 preventative interactions with beachgoers — which have no doubt saved numerous lives,” Carvalho said in his legislative message. “We implore you to lift the sunset date from (Act 170) and make this highly successful effort permanent in the interest of public safety.”

Although many of the bills have been referred to various legislative committees, no hearing dates have been set. Once that happens, Tokioka said ocean safety advocates on all islands are poised to testify in an effort to move the bill forward.

The looming question is: What would happen if Act 170 does in fact expire at the end of June?

In that case, Tokioka said the county would have to consider whether it could afford to keep lifeguard coverage at Kee.

Right now, the state provides funding for the county for its services and liability protection. The county could choose to continue the services, however it would do so at considerable cost and risk to county taxpayers, according to Tokioka.

“No decision has been made and we are hopeful it will never come to that,” she said. “It’s been a successful partnership up to this point and we have great hope that at the end of the day it will continue.”

Monty Downs, president of the Kauai Lifeguard Association, said this is his third “rodeo” with Act 170, which comes up for sunset every few years.

“That will just be horrible if we lose the lifeguard stand at Kee,” he said. “That’s just beyond, beyond my comprehension.”

On Friday, Downs, also an emergency room doctor at Wilcox Memorial Hospital, sent letters to a number of state representatives and senators asking for their support.

On a hazardous scale of 1 to 10, Downs ranks Kee as a 3 or 4.

“But, it’s packed,” he said. “So that’s what makes it unsafe.”

The most recent drowning at Kee occurred in 2007, when a 37-year-old pilot for U.S. Airways died while snorkeling.

“That day's flight to Phoenix then had to be canceled because of lack of crew, and the U.S. Air incoming flight the next day not only brought in back-up crew, but also the wife and grief-stricken 8-year-old son of

the deceased pilot," Downs wrote in his letter.

"All of us who saw the 8-year-old boy, including our airport personnel, will never forget his suffering — and in fact this tragedy has spurred our Lihue Airport Manager to install an ocean safety video that runs at our baggage claim areas."

• Chris D'Angelo, environmental reporter, can be reached at 245-0441 or cdangelo@thegardenisland.com

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Posted in Local on *Monday, January 27, 2014 1:45 am.* | Tags: First Aid, Surf Lifesaving, Kauai, Lifeguard , Beth Tokioka, Lifeguard Services, Bernard Carvalho Jr.,

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**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

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January 28, 2014

The Honorable Karl Rhoads, Chair
Committee on Judiciary
The House of Representatives
State Capitol, Room 302
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: H.B. 1024 Relating to Liability

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support H.B. 1024, 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.

The passage of H.B. 1024 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 the removal of the sunset date to ensure benefits of the act can continue.

The benefits of the act were documented in 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. Counties have stationed lifeguards at certain state beach parks where funding has been appropriated.

The Honorable Karl Rhoads, Chair
Page 2
January 28, 2014

The report further discusses the benefits of posting signage 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 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 HFD urge your committee's passage of H.B. 1024. Should you have questions, please contact SFC Administrator Socrates Bratakos at 723-7105 or sbratakos@honolulu.gov.

Sincerely,



MANUEL P. NEVES
Chair

MPN/LR:clc

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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 House Committee on
JUDICIARY

Thursday, January 30, 2014
2:00 PM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1024
RELATING TO LIABILITY

House Bill 1024 proposes to make permanent, laws that provide the state and county governments and county lifeguards exception from liability while carrying out their duties and responsibilities. **The Department of Land and Natural Resources (Department) strongly supports this bill.** The Department notes that the Administration has submitted similar proposals in the form of House Bill 2234 and Senate Bill 2783.

House Bill 1024 proposes to amend Act 170, Session Laws of Hawaii (SLH) 2002 (Act 170), as amended by Act 152, SLH 2007, as amended by Act 81, SLH 2009, by repealing the June 30, 2014 sunset date. Act 170 provides liability immunity for counties and county lifeguards while providing rescue, resuscitative or other lifeguard services. The State does not have lifeguards and contracts with the counties for lifeguard services at its State Parks. Liability concerns had prevented some counties from participating. Act 170 cleared up these concerns and allowed the State to contract with all counties for lifeguard services at State Park beaches. If Act 170 is allowed to sunset, we run the risk of counties pulling out of the program.

The benefit of having lifeguards cover selected State Parks beaches has been punctuated by an incident at Ke'e Beach, Kauai. On the morning of February 9, 2012, shortly after starting the hike to Hanakapi'ai, a Department employee suffered cardiac arrest and collapsed with no discernable heartbeat or respiration. Kauai County Ocean Safety lifeguards were able to revive him using Cardiopulmonary resuscitation (CPR), and their automated external defibrillator (AED) and breathing bag. He was flown to Honolulu for surgery and has made a recovery and is back at work. This helps point out that, although the focus of the lifeguards' attention is necessarily on ocean safety, they are first responders saving lives on land as well.

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

For the reasons stated in this testimony, the Department strongly supports House Bill 1024 in its objective to continue the partnership of the state and counties to enhance safety of public park users while promoting a greater understanding, respect, and enjoyment of the otherwise inviting ocean that we are blessed with. The sunset provisions in Act 170 need to be removed.

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

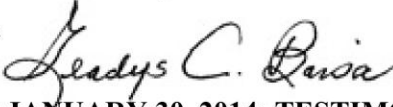


Director of Council Services
David M. Raatz, Jr., Esq.

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

January 29, 2014

TO: The Honorable Karl Rhoads, Chair
House Committee on Judiciary

FROM: Gladys C. Baisa
Council Chair 

SUBJECT: **HEARING OF JANUARY 30, 2014; TESTIMONY IN SUPPORT OF HB 1024,
RELATING TO LIABILITY**

Thank you for the opportunity to testify **in support** of this important measure. The purpose of this measure is to make permanent the liability protections for actions of county lifeguards.

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 to county lifeguards will enhance public safety by fostering a climate in which lifeguard services can be provided without fear of liability. Without this protection, lifeguard services at beach parks may be reduced because of the threat of potential liability.
2. The law has been in effect for the last decade. Since its enactment in 2002, the Legislature has twice been convinced of the wisdom of extending its protections. Any need for a trial period has been exhausted, and the law should be made permanent.
3. Enacting this measure will help to protect the financial assets and reputation of county lifeguards who otherwise jeopardize both, in addition to their own health and safety, through their valiant rescue efforts.

For the foregoing reasons, I **support** this measure.



CITY COUNCIL

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January 29, 2014

TESTIMONY OF STANLEY CHANG
CONCILMEMBER FOR THE CITY AND COUNTY OF HONOLULU

On

H.B. No. 1024, RELATING TO LIABILITY

Committee on Judiciary

Thursday, January 30, 2014

2:00 p.m.

Conference Room 325

Dear Chair Rhoads and Committee Members:

Thank you for allowing me the opportunity to submit testimony in support of H.B. 1024 Relating to Liability in my capacity as Councilmember of the City and County of Honolulu.

H.B. 1024 makes permanent the liability protections for the actions of county lifeguards. The bill repeals the June 30, 2014, sunset date of Act 170, Session Laws of Hawaii 2002, resulting in continued liability protection for our Counties.

This bill will make beaches more accessible and safer for public use by allowing the counties to continue to place lifeguards at beaches that are outside the counties' control without the threat of litigation. Our county lifeguards provide necessary services for the health and safety of our residents and visitors at beaches, as well as educating the public on beach safety and awareness.

For these reasons, I respectfully ask for your favorable passage of H.B. 1024 Relating to Liability and thank the Committee for allowing me to provide testimony.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley Chang".

Stanley Chang
Councilmember, District IV

Testimony of the
County of Kaua'i
Bernard P. Carvalho, Jr., Mayor
4444 Rice Street, Suite 235
Līhu'e, Hawai'i 96766
Tel: (808) 241-4900; Fax (808) 241-6877

House Judiciary Committee
Rep. Karl Rhoads, Chair
Rep. Sharon Har, Vice Chair
Re: HB 1024 Relating to Tort Liability
January 28, 2014

Aloha from the Garden Island!


As 50-foot waves crashed upon our north and west side beaches last week, ocean safety professionals on all of our islands struggle to prevent injury and death in our waters. Ocean safety and drowning prevention is a core mission of the State and the Counties, and we have created a widespread and effective collaboration with each other and numerous private partners in this effort.

Extending the liability protection that is currently provided for county lifeguards on State beaches is absolutely essential to the success of our ocean safety program. Since 2008, Kaua'i has stationed lifeguards at Kē'ē beach as a result of this legislation. Prior to 2008, there were **eight** drownings at Kē'ē beach. Since 2008, there have been **zero** drownings. Furthermore, our lifeguards have conducted 233 "saves" at Kē'ē since 2008. How many of these individuals might have drowned if it weren't for our lifeguards on duty? And how many drownings or "saves" were prevented via the 84,000 educational interactions our lifeguards have had with beachgoers at Kē'ē since 2008? Just last week during the high surf event a man was rescued by County lifeguards in waters off of Kē'ē – which had officially been closed for the day.

This measure is included in the Kaua'i County legislative package, the Hawai'i Council of Mayor's (HCOM) legislative package, and the Hawai'i State Association of Counties (HSAC) legislative package. The counties are completely united in their support of this important measure.

Should Act 170 sunset as of June 30, we may have no choice but to discontinue lifeguard services at Kē'ē beach. Hopefully we can all agree that this issue warrants serious consideration through the legislative process and we can come to an agreement as to how this critical partnership can continue.

Respectfully submitted,



Bernard P. Carvalho, Jr.
Mayor, County of Kaua'i

TESTIMONY OF ALAN ARAKAWA, MAYOR
COUNTY OF MAUI

BEFORE THE HOUSE
COMMITTEE ON JUDICIARY

Thursday, January 30, 2014, 2:00 p.m., Conference Rm. 325

HOUSE BILL 1024 (HSCR 476)
RELATING TO LIABILITY

The Honorable Karl Rhoads, Chair
And Members of the House Committee on Judiciary

Thank you for this opportunity to testimony in **strong support** of HB 1024.

The purpose of HB 1024 is to amend Act 170, Session Laws of Hawaii (SLH) 2002, as amended by Act 152, SLH 2007, as amended by Act 81, SLH 2009, by repealing the June 30, 2014 "sunset" date. Since its enactment in 2002, the legislature has twice taken the time to extend the liability protection for the counties when providing lifeguard services at our beaches. The legislature has considered all the testimony and agreed with the benefits of reducing the exposure of the State and County government from substantial damages and allowing us to keep

recreational areas open to the public. After being in effect for over a decade, I urge this legislature to make the law permanent.

As Mayor of Maui County, I support HB 1024 for the following reasons:

1. Passing HB 1024 will Save Lives and Reduce Injuries

Our beaches are a place where local families and visitors from around the world go to picnic, swim, snorkel, fish, surf, body board, and simply relax. The state does not have lifeguards, and without the existing liability protection, we would be forced to discontinue lifeguard services at our most popular beaches.

There is no doubt that removal of lifeguards from our beaches would result in an adverse impact to the public's health, safety and welfare. It is reported that about 4,000 people die from drowning in the United States each year. Most drownings are preventable and without lifeguards this figure would be much higher. For instance, many people assume that a drowning person is easy to spot due to clear signs of distress. However, reports on how people drown show that children and adults often times are unable to wave their arms or call out when in distress in the water and tend to drown quietly and quickly – submerging in as little as 20 to 60 seconds. While such scenarios are disturbing to think about, we must understand that without trained lifeguards on duty many more people would likely drown.

Representative Karl Rhoads

RE: HB 1024 Relating to Liability

January 30, 2014

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Our lifeguards are also trained in first aid, CPR, and other rescue techniques and *prevent* more drownings simply by understanding the currents, waves, and other dangers and urging people to swim in safer areas. Since the liability protections were put in place, there have been

hundreds of lifeguard rescues every year at beaches on Oahu, Maui, Kauai, and the island of Hawaii. These rescues would not have occurred if our lifeguards were not there.

2. Lifeguards and Economic Value of Beaches

The saving of a single life is enough to justify the need for lifeguards at our beaches. However, I would also ask that you consider how important our beaches staffed with lifeguards are to our national, state, and counties' economies.

In a manuscript entitled "The economic value of beaches – a 2013 update," James R. Houston states:

- "The travel and tourism industry (T&T) is becoming increasingly dominant in economies throughout the world. However, few realize that T&T is among America's largest industries, employers, and earners of foreign exchange; and beaches are its leading tourist destination."
- "The T&T is the world's largest industry contributing \$6.3 trillion in 2011 to the world's Gross Domestic Product (GDP) and exceeding the GDP of all countries other than the United States. Similarly, T&T contributes \$1.3 trillion to America's GDP.... [and] also produces \$124 billion in annual tax revenue for all levels of government in the United States, without this revenue, each U.S. household would pay \$1,055 more in taxes."
- "T&T is both the worlds and America's largest employer providing 255 million jobs throughout the world (8.7% of jobs) and 14.3 million jobs in the U.S. (10.2% of total employment)."
- "The U.S. ran a trade deficit of \$727 billion in 2011 but, in contrast, T&T was one of the few bright spots of trade with international tourists spending more in the U.S. than U.S. tourists spend abroad, resulting in a trade surplus of \$43 billion (U.S. Department of Commerce 2011)."

- “International tourists visiting the U.S. produced estimated tax revenues in 2011 of \$17 billion (U.S. Travel Association 2009; U.S. Department of Commerce 2011). The federal government receives 5% of tax revenues from domestic T&T, and state and local governments receive 28% and 17% respectively....” (U.S. Travel Association 2009).

Houston further determined that beaches are the *key element* of U.S. travel and tourism, stating:

Representative Karl Rhoads

RE: HB 1024 Relating to Liability

January 30, 2014

Page 3 of 3

- “Beaches are the key element of U.S. T&T, since they are the leading tourist destination. A survey by Trip-Advisor (2011) of planned 2012 travel found that beaches are the leading U.S. tourist destination with 44% of survey respondents planning beach vacations. An ABC/Washington Post poll (ABC/*Washington Post* 2012) found beaches the most popular summer vacation destination with 72% of Americans expressing a favorable opinion of going to the beach for summer vacation. Further, they found Americans spend a full 40% of their allotted vacation days at the beach and 52% of respondents planned to holiday at the beach in the next 12 months.”
- Going to beaches is not just an American obsession. Expedia.com (2012) found in a survey of 8599 adults in 21 countries ‘ ... the beach is by far the favorite destination for the majority of the world’s travelers.’”

In essence, Houston concludes by saying that there is a world economy in tourism that gives consumers ample choices and produces stiff worldwide competition for tourists. He also

states the need for “a paradigm shift in attitudes toward the economic significance of travel and tourism and necessary infrastructure investment to maintain and restore beaches.”

Accordingly, we believe that it would be a monumental mistake to allow the liability protection for our lifeguards and counties to “sunset” when, instead, we should be supporting our lifeguards and doing everything necessary to give Hawaii’s beaches their competitive edge over other destinations. If we don’t, tourists may go elsewhere.

Finally, please also consider that pursuant to the reporting requirements of Act 82, Session Laws of Hawaii (SLH) 2003 (Act 82), and Act 190, SLH 1996, the state Task Force on Beach and Water Safety provided a report to the legislature in 2013 with a single recommendation:

“Due to the an increasing amount of interest by the resident and visiting public in recreational pursuits in the natural environment and the proliferation of information being posted on the Internet and other social medium, there continues to be a need to inform the public on exposure to natural hazards and as such – notification is a priority with the Department and the Counties.

Therefore, it is recommended that the 2014 “sunset” date on Act 82 (as amended by Act 81, SLH 2009), be repealed and that Act 82 be codified into the Hawaii Revised Statutes as permanent law.”

For the reasons stated in this testimony, I join the mayors and councilmembers of our neighboring Counties in support of HB 1024 and urge you support the continued partnership between the state and counties whose common goal is to promote and enhance public safety.

Hawai'i State Association of Counties (HSAC)
Counties of Kaua'i, Maui, Hawai'i & City & County of Honolulu

January 28, 2014

TESTIMONY OF MEL RAPOZO
PRESIDENT, HAWAII STATE ASSOCIATION OF COUNTIES
ON
HB 1024, RELATING TO LIABILITY
Committee on Judiciary
Thursday, January 30, 2014
2:00 p.m.
Conference Room 325

Dear Chair Rhoads and Committee Members:

Thank you for this opportunity to submit testimony in strong support of HB 1024, relating to liability. My testimony is submitted in my capacity as President of the Hawai'i State Association of Counties (HSAC).

HB 1024 provides limited liability protection for lifeguards, reduces the exposure of the State and County government from substantial damages, and allows government agencies to keep recreational areas open to the public. Without this protection, lifeguard services at beach parks may be reduced due to the fear of potential liability that might ensue. Currently, the limited liability protection provision sunsets on June 30, 2014. In light of this, this measure is needed as it will provide continuous liability protection for government agencies and their duty to warn the public of dangers on improved public lands.

In recent weeks, the State endured extreme weather conditions with high wind and high surf warnings. Waves as high as fifty (50) feet crashed on our shores, putting our ocean safety professionals at risk as they worked to prevent unintended injuries and deaths. The tremendous amount of rescues our lifeguards respond to, compared to the occasional drowning announcements, often goes unnoticed. Ocean safety and drowning prevention is a high priority for the State and the Counties, and we continue to work collaboratively with numerous private partners in this effort.

The Counties recognize the importance of this issue and stand united in their efforts to support this measure. If the sunset date is not removed, the Counties could possibly be faced with discontinuing lifeguard services on State beaches. Each County is facing fiscal challenges and may need to evaluate the costs for potential liability should the June 30, 2014 sunset date remain.

Representative Karl Rhoads & Committee Members
RE: HB 1024 Relating to Liability
January 28, 2014
Page 2

In addition, I would also like to offer a suggestion to amend HB 1024 to incorporate the following language, and assure complete protection, as this matter was previously discussed and amended in 2009 by Act 81:

"SECTION 2. Act 82, Session Laws of Hawaii 2003, as amended by Act 152, Session Laws of Hawaii 2007, section 5, as amended by Act 144, Session Laws of Hawaii 2008, section 1, as amended by Act 81, Session Laws of Hawaii 2009, section 3, is amended by amending section 8 to read as follows:

"SECTION 8. This Act shall take effect on July 1, 2003 [~~and shall be repealed on June 30, 2014~~]."

For the reasons stated above, HSAC strongly encourages the Committee on Judiciary to support this measure and consider the aforementioned amendment. Should you have any questions, please feel free to contact the County of Kaua'i, Office of the County Clerk, Council Services Division at (808) 241-4188.

Sincerely,



MEL RAPOZO
HSAC President

AB:aa

cc: HSAC Executive Committee Members

Testimony from:

Jim Ingham, North District Supervisor, Ocean Safety Bureau, Kauai Fire Dept.

I am writing in support of HB1024. This bill will keep Ke'e Beach Park lifeguard protected.

I am the district supervisor for ocean safety here on Kauai's north shore. I have firsthand knowledge as a lifeguard, and supervisor, of Ke'e Tower and its value to the public. I also lifeguarded Heana tower, 1 mile away, before the Ke'e Tower was installed; and was called on many rescues and first aids via 911 to Ke'e beach.

Ke'e Beach Park is one of, if not the most visited, state park in Hawaii. The idea of removing guards from the beach, and the ensuing consequences of such action, is fool hearty and tragic at the same time. For a state reliant on the visitor economy, we must not allow the safety net in this naturally hazardous environment fall away. Unfortunately, should the tower close, we can assure that harm and loss of life will likely follow.

The pressure on Heana Tower, if guards will be asked to respond, would be significant. If guards will not be allowed to respond due to legal concerns, the nearest help is Station 1 Fire in Hanalei, 15 to 20 minutes away. For a drowning or heart attack victim that is far too long a response time.

Please support this bill. Ensure the safety of the public in this beautiful and sought after location. Kauai County guards are doing a terrific job and will continue to do so.

Mahalo,

Jim Ingham

Bernard P. Carvalho, Jr.
Mayor



Robert F. Westerman
Fire Chief

Nadine K. Nakamura
Managing Director

John T. Blalock
Deputy Fire Chief

KAUA'I FIRE DEPARTMENT
County of Kaua'i, State of Hawai'i
4444 Rice Street, Suite 315, Līhu'e, Hawai'i 96766
TEL (808) 241-4980 FAX (808) 241-6508

January 28, 2014

The Honorable Karl Rhoads, Chair
Committee on Judiciary
House of Representatives
Conference Room 325
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Rhoads:

Subject: H.B. 1024 Relating to Liability

I am Robert Westerman, Fire Chief of the Kauai Fire Department (KFD). The KFD strongly supports H.B. 1024, 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 H.B. 1024 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.

What is happening on Kauai is devastating, in 2013 in terms of drownings, Kauai suffered through 14 ocean related drownings. Ke'e is one of the most dangerous state beaches under State jurisdiction. Current legislation...which is scheduled to sunset at the end of June...allows the County to provide lifeguard services at State beaches such as Ke'e.

The County has stationed lifeguards at Kē'e since 2008 with zero drowning's because of the present law, and prior to this between 1970 and 2008 there were eight drowning's at Ke'e. Additionally the lifeguards at Ke'e saved the life of a state employee just after he started on the Hanakapiai Falls trail. This person would surely have passed away had they not been there.

The Lifeguards at Ke'e have rescued 233 swimmers in distress at Ke'e since 2008, each one of these rescues could have been life lost. The Lifeguards at Ke'e have had

84,000 preventive interactions with beachgoers since 2008 these are all possible rescue avoidance. Nothing can replace the physical bodies on the beach providing these services. This partnership continues to address ocean safety on a number of fronts like liability protection for the County – the same protection that the State affords for itself – is critical in order for us to continue this effort.

If this sunsets that is all lost.

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

The KFD urge your committee's support on the passage of H.B. 1024.

Please call me at (808) 241-4980 should you have any questions regarding this matter.

Sincerely,



Robert Westerman
Fire Chief, County of Kaua'i

RFW/eld

William P. Kenoi
Mayor



Darren J. Rosario
Fire Chief

Renwick J. Victorino
Deputy Fire Chief

County of Hawai'i
HAWAII FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

January 28, 2014

The Honorable Karl Rhodes, Chairman
Judiciary Committee
House of Representatives
State Capitol, Room 325
Honolulu, Hawai'i 96813

Dear Chair Rhodes:

Subject: H.B. 1024 Relating to Liability

I am Darren J. Rosario, Fire Chief of the Hawai'i Fire Department of the County of Hawai'i (HCFD). The HCFD supports H.B. 1024, 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.

H.B. 1024 provides the residents and visitors to the state beach parks with a safe environment to take in the beauty of Hawai'i. H.B. 1024 allows the county governments, such as the County of Hawai'i, to provide lifeguards on state beaches without the threat of litigation for natural conditions beyond reasonable county control. Act 170 protects the lifeguard services provided to the residents and visitors of our State.

During the time period of 2009-2012, it was noted that 5% of fatal resident injuries were due to drowning. 80% of those were drowning occurring in the ocean. 15% of fatal visitor injuries were due to drowning. 86% of those occurred in the ocean. During this same period, 33% of spinal cord injuries were related to three ocean activities (body surfing, body boarding, and being struck by a wave). There were a total of 151 documented spinal cord injuries in the State of Hawai'i. Of this total, 13 spinal cord injuries occurred at the Hāpuna Beach State Park on Hawai'i Island.

During a 10 year study from 2003-2012, a total of 538 drowning incidents were reported statewide. 100 total drownings occurred on the Island of Hawai'i. 56% of those drowning incidents were residents.



The Honorable Karl Rhodes, Chair
H.B. 1024 Relating to Liability
January 28, 2014
Page 2

The role of a Water Safety Officer (lifeguard) is an arduous task. Our personnel at the Hāpuna State Beach Park work very hard at protecting our visitors and residents. It is imperative that these individuals are protected against any liability occurring in providing optimum services within the scope of their work. The following chart outlines the work provided at the Hāpuna State Beach Park on the Island of Hawai‘i:

<u>YEAR</u>	<u>TOTAL BEACH ATTENDANCE</u>	<u>PREVENTATIVE ACTIONS</u>	<u>RESCUES</u>
2009-2010	593,943	27,744	134
2010-1011	641,039	26,479	146
2011-2012	587,339	12,813	46
2012-2013	602,277	22,151	63
2013-present	310,909	22,657	29

During the 2011 Legislative Session, the Act 152 Task Force Report concluded that we have been successful in increasing public safety with programs developed under Acts 82, 170, and 190. This includes having the county agencies provide lifeguard services at state beach parks. This same report provided testimony that county lifeguards on state beaches save lives. This included a uniform signage program designed out of the requirements of Act 82. The Task Force recommended that the sunset dates for Acts 82 and 170 be repealed. Please take this report into consideration. It would be difficult for the HCFD to continue staffing of county lifeguards at the Hāpuna State Beach Park should this measure fail.

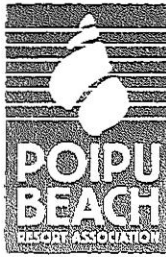
The HCFD strongly urges and request your committee’s support on the passage of H.B. 1024.

I am available at (808) 640-2439 should you or your committee members have any questions for me regarding H.B. 1024.

Sincerely,



DARREN J. ROSARIO
Fire Chief



January 29, 2014

Judiciary House of Representatives
Honorable Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair
Members of the Committee
Honolulu Hawaii 96813

RE: HB1024 Relating to Tort Liability

Dear Chair Rhoads, Vice Chair Har and Member of the Committee:

The Poipu Beach Resort Association (PBRA) is a member-based organization of over 100 businesses primarily located on the South Shore of Kauai. Our membership includes hotels, condominiums, management firms, activity operators, shopping and dining establishments, services and other related firms and individuals, ranging from small, owner-operated businesses to some of the largest employers on the island. We are a 501(c)6 organization whose primary mission is to market the Poipu area as a world-class destination and to provide for the future of Poipu as a great place to live, work, visit and do business.

We are contacting you today in support of HB1024. Extending the liability protection that is currently provided for county lifeguards on State beaches is absolutely critical to the success of Kauai's ocean safety program and for the continued protection of our resident and visitor communities. Since 2008, Kauai has stationed lifeguards at Ke'e Beach as a result of this legislation. Prior to 2008, there were eight drownings at Ke'e Beach alone. Since 2008, there have been no drownings at this location.

Ocean recreation is an important part of our island economy and community. It is imperative that we continue to protect our visitors and residents from the potential dangers that the ocean environment provides.

Thank you for your time and consideration and for allowing us the opportunity to testify in support of HB 1024 Relating to Tort Liability. We encourage you to continue a partnership with the Counties of Hawaii in making permanent the liability protections for the actions of lifeguards statewide.

Sincerely,


Tony Kjeldsen
Executive Director



January 30, 2014

The Honorable Karl Rhoads, Chair,
The Honorable Sharon E. Har, Vice-Chair, and Members
Committee on Judiciary
House of Representatives
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Dear Chair Rhoads, Vice-Chair Har, and Members:

Re: HB 1024 Relating to Liability

The IPAC strongly supports HB 1024, which seeks to make permanent the protection from liability provided by Act 170 (2002). Established in 1990, the Injury Prevention Advisory Committee (IPAC) is an advocacy group committed to preventing and reducing injuries in Hawai'i. IPAC members include representatives from public and private agencies, physicians and professionals working together to address the eight leading areas of injury, including drowning prevention.

The protection in Act 170 is necessary for individual lifeguards as well as counties to ensure prevention and rescues services for the State of Hawaii. Current beaches that would be impacted are Kaena Point State Park on Oahu, Hapuna Beach on Hawaii Island, Makena Beach on Maui, and Ke'e Beach on Kauai. If Act 170 sunsets, these four, extremely popular beaches would no longer be protected by lifeguards.

Lifeguards provide prevention and early intervention services on our beaches reducing the number of drownings and serious injuries that occur. According to the State Department of Health's Injury Prevention and Control Program, more drownings occur at unguarded beaches in the State of Hawaii than guarded beaches at a rate of more than 10 to one.

Our beaches and ocean are Hawaii's most precious resources. To fully enjoy them, we need the security and reassurance of safety that lifeguards provide. We urge you to remove the sunset provision from Act 170 to make this important law permanent.

Thank you for the opportunity to present this testimony.

Sincerely

Deborah Goebert
Chair
Injury Prevention Advisory Committee

Monty Downs, M.D.
President, Kauai Lifeguard Association
ER Physician, Wilcox Hospital
3-3420 Kuhio Hwy
Lihue, HI 96766

1/28/14

To: Rep. Karl Rhoads, Chair, House Committee on Judiciary
Rep. Sharon E. Har, Vice-Chair “ “

TESTIMONY IN SUPPORT OF HB 1024 – Hearing on 1/30/14

Dear Chair Rhoads, Vice Chair Har, and Members of House Committee on
Judiciary

Thank you for this opportunity to testify in support of HB 1024, which will do away with the sunset of Act 170, the sunset which is scheduled for June 30, 2014.

Act 170 is a huge part of what allows our Ke’e Beach, a State Beach Park, to be guarded by our Kauai County Lifeguards. It basically grants immunity, except in the case of gross negligence, when County Lifeguards formally guard a beach that is not under the County’s jurisdiction. (This Act similarly is the underpinning for guarding Makena Beach on Maui and Yokohama Bay on Oahu). Please realize that this immunity requests no more immunity to the County’s presence at this beach than that which the State enjoys at this and all other State beaches.

What have Ke’e Lifeguards meant to Kauai, our people and our visitors?

Ke’e Beach is packed with people on any day when it isn’t raining. There are so many cars that if you get there in mid-morning cars are parked a full ½ mile walk from the Beach Park. On flat calm days it is a snorkeler’s paradise. On days, however, where any waves at all are breaking onto the barrier reef, water comes IN over the reef -- and this creates a strong, equilibrating, and unseen rip current that pulls unsuspecting people OUT the western portal of the “sheltered” area and takes them out to sea. In the 2 years before we had a Lifeguard Tower there we had a drowning each year. The last person to ever drown at Ke’e was very high profile – a U.S. Air airline pilot from Phoenix who left behind a wife and 8 year old son. That evening’s Lihue to Phoenix flight had to be canceled until a new pilot was flown in the following day. The man’s wife and son were also flown in as part of the funeral arrangements, and those of us who saw the boy’s anguish never want to see this kind of circumstance again.

I am really happy to say that we have indeed never seen this happen again at Ke'e, ever since the Ke'e Tower went up on July 1, 2008. We Kauaians are every day relieved to think of Ke'e being guarded. Please check out these numbers for Ke'e Tower:

	RESCUES	PREVENTIONS	BEACHGOERS	DEATHS
2008	44	6,809		0
2009	52	17,006	132,740	0
2010	34	13,488	120,712	0
2011	33	13,385	107,988	0
2012	28	16,572	120,648	0
2013	42	16,423		0
2014	DATA NOT IN YET EXCEPT FOR			0

“Preventions” refers to conversations that Lifeguards have with beach goers, in which the Lifeguards give them safety advice. Since Ke'e Beach is “The Gateway to the NaPali Coast”, my guess is that these Preventions have impacted the relative safety we’ve -- knock on wood -- enjoyed on the State Park’s very dangerous NaPali beaches (Hanakapiai and Kalalau) for the last few years (since the Ke'e Tower opened.)

I work in the Wilcox Hospital ER and in the last 2 years I have received 2 men who would have been dead were it not for the fast and skillful action of our Ke'e Lifeguards. One man slipped on the rocks and suffered a compound fracture of his humerus, and he was experiencing “massive exsanguinating hemorrhage,” since the bone fragment lacerated his axillary artery. The Lifeguard clamped his hands on the artery and stopped the geyser of blood. Please understand that Paramedics are a full 25 lights-and-sirens minutes away from Ke'e Beach. By the time support arrived Greg’s hands were cramp-locked in their position on the victim’s upper arm and had to be pried off before the next rescuer could intervene.

A second man, one of our State Parks workers, collapsed just as he was coming off the Kalalau Trail. Our Lifeguards heard the commotion at the trailhead, rushed to the man, found him pulseless and not breathing (i.e. dead), started CPR, hooked up the AED, were instructed that “shock is advised”, they administered the shock And the man’s pulse was restored!! By the time the Paramedics and Fire arrived 25 minutes later the man was awake and talking – and certainly a bit dazed, having just had a face-to-face encounter with The Void. Neither case qualifies as a Lifeguard **ocean** rescue, but WOW!

If you believe that Lifeguards at busy and dangerous beaches are essential for our citizens’ safety and for our visitors’ safety (and indeed for our Visitor Industry’s very credibility), then the Lifeguard service at Ke'e Beach MUST be continued. Act 170 helps allow for this, and I ask that you pass HB 1024.

Respectfully Submitted,
 Monty Downs, M.D.



HAWAIIAN LIFEGUARD ASSOCIATION

January 27, 2014

The Honorable Karl Rhoads, Chair, and
The Honorable Sharon E. Har, Vice Chair, and Members
Committee on Judiciary
House of Representatives
The Twenty-Seventh Legislature
Regular Session of 2014

Dear Chair Rhoads, Vice Chair Har, and Members:

Re: HB 1024, Relating to Liability

The Hawaiian Lifeguard Association (HLA) is the non-profit organization that represents the 400 professional lifeguards who protect the residents and visitors who use our State's primary resource, its beaches and surrounding ocean waters. The mission of the HLA is to promote the advancement of professional lifeguarding and to reduce the incidence of drowning and serious injury in the ocean environment. The HLA attempts to accomplish this mission by supporting Hawaii's lifeguards through fundraising and educational programs, and by partnering with county agencies in delivering the statewide Junior Lifeguard program.

The HLA strongly supports HB 1024, the carry over bill from the Regular Session of 2013, that seeks to make permanent the protection from liability as provided by Act 170 (Session Laws 2002). The protection provided in Act 170 is necessary for individual lifeguards as well as their employers to be able to provide lifeguard services at four State beach parks: 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 residents and visitors and were identified as beaches at high risk for drownings and injuries by ocean safety experts at a statewide conference held in 1991. Since lifeguards were assigned to these beaches, the number of drownings has been significantly reduced because of their presence. This fact has been documented in a publication of the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) titled "Lifeguard Effectiveness: A Report of the Working Group."

P.O. Box 283324 • Honolulu, Hawaii 96828 • (808) 922-3888
Facsimile (808) 922-0411 • Email: lifeguards@aloha.com

The United States Lifesaving Association (USLA), the national organization of 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 of Hawaii Department of Health's Injury Prevention and Control Program, drownings occur 10 times more often at beaches in Hawaii that are not manned by lifeguards compared to those with lifeguard protection.

The HLA believes that properly trained, properly equipped lifeguards are the front line of defense in any drowning prevention program. The highly publicized drownings that occurred last year on the Garden Island of Kauai occurred at beaches and areas not patrolled by lifeguards.

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



Ralph S. Goto

For the Board of Directors

TESTIMONY OF ROBERT TOYOFUKU ON BEHALF OF THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) IN OPPOSITION TO H.B. NO. 1024

Date: Thursday, January 30, 2014

Time: 2:00 pm

To: Chairman Karl Rhoads and Members of the House Committee on Judiciary:

My name is Bob Toyofuku and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) in OPPOSITION to H.B. No. 1024, Relating to Liability.

The purpose of this bill is to make Act 170, Session Laws of Hawaii, 2002, as amended, permanent. Act 170 (2002) provides immunity for negligent acts of lifeguards. It is one of the few instances where negligent conduct by government employees is sanctioned and allowed, and where members of the public harmed by such negligence is denied any right of redress whatsoever. Accordingly, Act 170 contained a sunset provision to provide an adequate demonstration period to study and provide data on its effectiveness and value. The legislature would then have sufficient objective data to decide whether to make this extraordinary exception for negligent conduct permanent.

The sunset provision was extended in 2007 because the program to place lifeguards at state beach parks was slow in developing. It was pointed out that the legislature was being asked to make the program permanent before any lifeguards were stationed at the particular state beach park on Kauai. The sunset was again extended in 2009 and because the program was just beginning with that one state beach park staffed with life guards beginning in the summer of 2008 insufficient data was available. The sunset date was set for June 2014 to allow sufficient time to fully implement the program

throughout the state beach park system, collect and analyze data, and report to the legislature with objective information to decide whether the law should be made

A sunset provision is included to give the proponents of the legislation as well as others the opportunity to collect sufficient information to present to the legislature so that the members could make a reasonable and informed decision as to whether the law they passed has worked and is still working in the way they intended. Because this Act has a major impact on consumer rights, HAJ feels it is more prudent to first obtain sufficient information on how the law has worked.

When the law was passed in 2002 the State and counties were concerned about the high cost of insurance to protect them in the event of any negligent acts by lifeguards. Since that time the situation with the availability and cost of insurance has changed and HAJ feels that it is now a viable option for the state and counties to pursue.

No reason has been given why the June 2014 sunset date should not be honored and HAJ questions where sufficient data has not been gathered and presented to justify abandoning the current sunset date.

Thank you very much for allowing me to testify in OPPOSITION to this measure. Please feel free to contact me should you have any questions or desire additional information.

Committee on Judiciary

Rep. Karl Rhoads, Chair

Rep. Sharon Har, Vice Chair

Re: HB 1024 & 2234 Relating to Tort Liability; Hearing January 31, 2014, 9:15am

Testimony of:

Vanessa N. Yatsuoka

Director of Group Sales

1571 Poipu Road

Koloa, HI 96756

Aloha from the Garden Isle,

I am writing to ask for your thoughtful consideration to extend the liability protection that is currently provided for county Lifeguards on State beaches. It is essential to saving lives for both our visitors and residents. Working in the visitor industry on Kauai, we have taken great strides to enhance educating both visitors and staff about ocean safety. We have a video on ocean safety that runs continually in guestrooms as well as a dedicated section in our in-room compendium. On Kauai, if Act 170 sunsets on June 30, this would leave one of our most visited beaches, Ke`e, without a lifeguard. The draw to Ke`e is great, being at the end of the road on the North Shore virtually all visitors end up there at some point in time in their travels around the island. The Lifeguard's role at this beach is vital as there is a strong rip current often present. Since Lifeguards have been posted at Ke`e, they have prevented many accidents that may have resulted in death had they not been present.

I urge you to support extending this liability protection, further saving lives while enhancing the State-County partnership.

Mahalo for your time and consideration of this important legislation.