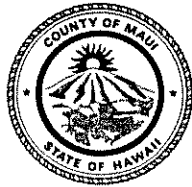


SB 2380



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

CONTACT: PETER HANANO
Deputy Prosecuting Attorney
Appellate, Asset Forfeiture and Administrative Services Division

TESTIMONY
ON
SB 2380 - RELATING TO COUNTIES

February 10, 2016

The Honorable Mike Gabbard
Chair
The Honorable Clarence K. Nishihara
Vice Chair
and Members
Senate Committee on Water, Land, and Agriculture

The Honorable Clarence K. Nishihara
Chair
The Honorable Will Espero
Vice Chair
and Members
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Chairs Gabbard and Nishihara, Vice Chairs Nishihara and Espero, and Members of the Committees:

The Department of the Prosecuting Attorney, County of Maui, OPPOSES SB 2380 - Relating To Counties. The bill authorizes county lifeguards to enforce state laws, rules, and regulations within the near shore zone. We have concerns that the lifeguards lack the necessary law enforcement training to properly handle enforcement of these applicable laws. Furthermore, in the County of Maui, "lifeguards" are pool guards who typically advance to an "ocean safety officer." Thus, "lifeguards" would not be in a position to provide enforcement near the "shore zone." For these reasons, the Department of the Prosecuting Attorney, County of Maui, OPPOSES the passage of this bill.

Thank you very much for the opportunity to provide testimony on this bill.

Bernard P. Carvalho, Jr.
Mayor



Robert F. Westerman
Fire Chief

Nadine K. Nakamura
Managing Director

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

February 4, 2016

The Honorable Clarence K. Nishihara,
Chair
Committee on Public Safety,
Intergovernmental and Military
Affairs

The Honorable Mike Gabbard, Chair
Committee on Water, Land and
Agriculture

Hawaii State Senate
Conference Room 224
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Nishihara and Gabbard:

Subject: S.B. 2380 Relating to Counties

I am Robert Westerman, Fire Chief of the Kauai Fire Department (KFD). The KFD **is not** in support of SB 2380. Due to the fact that the Ocean Safety Officers are extremely busy in their duties providing education, rescuing people in our county beach parks, state beach parks and other beach areas. They are busy providing a safe environment for our visitors and Kama'āina.

The Honorable Clarence K. Nishihara, Chair

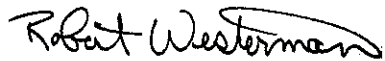
The Honorable Mike Gabbard, Chair

Page 2

The Ocean Safety Officers are not educated on the laws governing the state as it relates to the beach and near shore areas. They do not have enforcement authority, therefore, they could not ticket individuals for violations that may occur and their duties are limited to their areas of responsibility on a daily basis. To remove them from their responsible area is dangerous and creates a liability that is not acceptable.

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

Sincerely,

A handwritten signature in black ink that reads "Robert Westerman". The signature is written in a cursive style with a prominent flourish at the end.

Robert Westerman

Fire Chief, County of Kaua'i

RFW/dag

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: rangien2010@yahoo.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Friday, February 05, 2016 10:16:21 PM

SB2380

Submitted on: 2/5/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Puanani Rogers	Ho`okipa Network - Kauai and Aha Moku Kauai	Oppose	No

Comments: Aloha, I am in strong opposition to this measure. The county authority lies with the county no the lifeguards.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Eighth Legislature, State of Hawaii
The Senate
Committee on Water, Land and Agriculture
Committee on Public Safety, Intergovernmental, and Military Affairs

Testimony by
Hawaii Government Employees Association

February 10, 2016

S.B. 2380 – RELATING TO COUNTIES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO, opposes S.B. 2380, which would allow county lifeguards to enforce state laws, rules and regulations in the near shore zone. The bill claims that the state has insufficient staff to regularly provide enforcement of state laws in this zone. However, the counties have limited resources in terms of equipment and staffing to perform this function.

The answer to this problem is to provide additional personnel within the Department of Land and Natural Resources to enforce state laws, not to require counties to assume these responsibilities that are more appropriately assigned to the state.

Thank you for the opportunity to testify in opposition of S.B. 2380.

Respectfully submitted,


for Randy Perreira
Executive Director

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: shyla.moon@ymail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Saturday, February 06, 2016 2:01:46 PM

SB2380

Submitted on: 2/6/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Shyla Moon	Individual	Oppose	No

Comments: Strongly oppose this bill to involve our county lifeguards to have DLNR enforcement capabilities. For these reasons it shouldn't be considered: 1) all lifeguard will have to pass the same tests, study and learn the same rules as DLNR; 2) their main job is to prevent accidents and save lives; 3) the amount of lifeguards right now is barely enough to monitor our beaches safely, the county would have to hire more staff and give them more training and equipment; 4) what do they lifeguards want? Let them speak up for their own jobs. Take a poll statewide of this and find out; 5) all lifeguards would need to be trained as police officers just like DLNR officers are required to be police officers for at least one year before being considered DLNR.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: wekeis333@gmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Monday, February 08, 2016 8:53:09 PM

SB2380

Submitted on: 2/8/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Tony Sylvester	Individual	Oppose	No

Comments: Senator Mike Gabbard, Chair Senator Clarence K. Nishihara, Vice Chair Senator Clarence K. Nishihara, Chair Senator Will Espero, Vice Chair This bill states that counties need greater enforcement authority of near shore laws, rules, and regulations. Lifeguards are trained in ocean rescue prevention, ocean rescue, emergency medical first response, dispatched mobile patrol, education, and injury prevention programs related to ocean safety. Lifeguards are certified in the following: Pass certain swimming requirements. Courses Include: 2 year First Aid and CPR/AED certifications 2 year Lifeguarding certification Topics include: Injury prevention and facility safety Patron surveillance Rescue skills Victim assessment First Aid CPR/AED Care for head, neck and spinal injuries Lifeguards are not enforcement officers and requiring them to do so is irresponsible. We oppose SB2380. Mahalo, Tony Sylvester

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: kawaipapanursery@hushmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Saturday, February 06, 2016 6:33:34 PM

SB2380

Submitted on: 2/6/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Davis	Individual	Oppose	No

Comments: Really? Lifeguards get enough to do watching the ocean and keeping beach goers safe in the water. Hire more police to patrol those areas, don't give more kuleana to the lifeguards who already have a lot to watch over.

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William P. Kenoi
Mayor



Darren J. Rosario
Fire Chief

Renwick J. Victorino
Deputy Fire Chief

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

February 8, 2016

Honorable Clarence Nishihara, Chair
Committee on Public Safety, Intergovernmental,
and Military Affairs
The State Senate
State Capitol, Room 224
Honolulu, Hawaii 96813

Dear Chair Nishihara:

Subject: SB 2380 Relating to Counties
Hearing Date: Wednesday, February 10, 2016
Time/Place of Hearing: 2:45 p.m., Conference Room 224

I am Darren J. Rosario, Fire Chief of the Hawaii Fire Department of the County of Hawaii (HCFD). The HCFD opposes SB 2380, which proposes to amend Chapter 46 of the Hawaii Revised Statutes to allow for greater enforcement of state and county near shore laws, rules, and regulations by county lifeguards.

The primary responsibility of a Water Safety Officer (lifeguard) is to maintain vigil on the safety of beach patrons engaged in ocean activities. This in itself is a huge task for a Water Safety Officer. They must always continue to scan their area of ocean responsibility for any signs of distress and to be readily prepared to execute a rescue.

The amendment proposes to shift enforcement powers to the Water Safety Officer (WSO) upwards of 500 feet seaward of the shoreline. An incident not in the near vicinity of the shoreline will distract the WSO from scanning the ocean. Also, a WSO is not properly trained nor certified to enforce state or county laws, rules, and regulations. A WSO does not have any training in the event that enforcement attempts leads to a physical threat from a confronted beach patron. This puts our WSO in potentially injurious situations. Furthermore, changing the duties of a WSO will require consultation with their Union, HGEA. This may result in possible calls for increased compensation as well. The safety of our Water Safety Officers is a priority of the HCFD.

We, therefore, urge your opposition on the passage of S.B. 2380. Should you have questions, please contact me at 808-932-2903 or darren.rosario@hawaiiicounty.gov

Very Truly Yours,

A handwritten signature in blue ink that reads "DJR".

DARREN J. ROSARIO
Fire Chief



From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: akamaimom@gmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Friday, February 05, 2016 7:59:05 PM

SB2380

Submitted on: 2/5/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments: Please OPPOSE SB2380 that gives county lifeguards the authority to enforce state laws. Currently, the community and beach users have a warm and positive relationship with the lifeguards. Asking them to police the beach and the near shore areas for who might be breaking commerce rules may quickly create an antagonistic environment at the beach that will undermine the lifeguards' primary purpose of ensuring ocean safety. Over the long term, it will draw a different temperament of personality to fill those positions. It is likely to distract the lifeguards from their primary purpose. It may be that "incentives" will be placed for enforcement in a similar manner as happens with the police for ticket and arrest quotas as well as asset forfeiture requirements that create a predatory relationship with the public. People love and trust the firemen and lifeguards, while they typically have anxiety around the police and DLNR enforcement. Ocean Safety is essential to both our local residents and visitors alike. Retaining a positive relationship with the public and attracting staff with a warm heart for the public is too big of a sacrifice. There may also be budget and funding confusion regarding pay. The county should not be expected to pay for state laws they do not create. If the state chips in on their pay and don't have "evidence" of enforcement, incentives that demand proof of activity usually follow.

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To: [WLA Testimony](#)
Cc: gabrielfigueroa95@hotmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Friday, February 05, 2016 9:44:36 PM

SB2380

Submitted on: 2/5/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Gabriel Figueroa	Individual	Oppose	No

Comments: Currently, the community and beach users have a warm and positive relationship with the lifeguards. Asking them to police the beach and the near shore areas for who might be breaking commerce rules may quickly create an antagonistic environment at the beach that will undermine the lifeguards' primary purpose of ensuring ocean safety. Over the long term, it will draw a different temperament of personality to fill those positions. It is likely to distract the lifeguards from their primary purpose. It may be that "incentives" will be placed for enforcement in a similar manner as happens with the police for ticket and arrest quotas as well as asset forfeiture requirements that create a predatory relationship with the public. People love and trust the firemen and lifeguards, while they typically have anxiety around the police and DLNR enforcement. Ocean Safety is essential to both our local residents and visitors alike. Retaining a positive relationship with the public and attracting staff with a warm heart for the public is too big of a sacrifice. There may also be budget and funding confusion regarding pay. The county should not be expected to pay for state laws they do not create. If the state chips in on their pay and don't have "evidence" of enforcement, incentives that demand proof of activity usually follow.

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To: [WLA Testimony](#)
Cc: gse@hawaii.rr.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Monday, February 08, 2016 1:42:20 PM

SB2380

Submitted on: 2/8/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Gary Elster	Individual	Support	No

Comments: Currently County lifeguards can observe but have no authority to enforce violations of state laws, rules and regulations. . Unlike county lifeguards, DLNR officers are not on site and therefore have no ability to regularly enforce any violations in the near shore zone. This is a much needed bill to remove a vacuum in enforcement authority over the near shore waters and so I strongly support it.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: janetbernard@msn.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Saturday, February 06, 2016 2:54:41 AM

SB2380

Submitted on: 2/6/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Janet C. Bernard	Individual	Oppose	No

Comments: Lifeguards should not be distracted or put at cross purposes to their primary focus of saving lives and insuring safety. Let the enforcement responsibilities fall on the enforcement division of the DLNR or the police...SIMPLE. Life guards can always call the police, like they or any civilian would in good conscience do, if they witnessed criminal activities.

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To: [WLA Testimony](#)
Cc: Zensea1@gmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Tuesday, February 09, 2016 1:52:36 PM

SB2380

Submitted on: 2/9/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Lyn McNutt	Individual	Oppose	No

Comments: Has anyone asked the lifeguards if they want to be DOCARE Officers? Lifeguards should be focused on safety and guarding lives, not enforcing DLNR rules.

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To: [WLA Testimony](#)
Cc: mooninfusion@gmail.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Saturday, February 06, 2016 12:18:25 PM

SB2380

Submitted on: 2/6/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
mieko	Individual	Oppose	No

Comments: Strong opposition!!! Currently, the community and beach users have a warm and positive relationship with the lifeguards. Asking them to police the beach and the near shore areas for who might be breaking commerce rules may quickly create an antagonistic environment at the beach that will undermine the lifeguards' primary purpose of ensuring ocean safety.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: pb5@mac.com
Subject: Submitted testimony for SB2380 on Feb 10, 2016 14:45PM
Date: Monday, February 08, 2016 1:06:50 PM

SB2380

Submitted on: 2/8/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Cadiz	Individual	Support	No

Comments: I support this effort to bring enforcement powers to the lifeguards in the nearshore area which should bring continuity and added safety to all ocean users. Please lend your vote of support to this measure that positivley impacts residents and visitors alike and will enhance safety and enjoyment of our ocean waters. Thank you.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: pogqoppogqop@gmail.com
Subject: *Submitted testimony for SB2380 on Feb 10, 2016 14:45PM*
Date: Saturday, February 06, 2016 11:08:03 PM

SB2380

Submitted on: 2/6/2016

Testimony for WLA/PSM on Feb 10, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Marshall	Individual	Oppose	No

Comments:

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