



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 823, H.D. 1, RELATING TO PUBLIC LAND LIABILITY.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Tuesday, February 17, 2021 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Caron M. Inagaki,
Deputy Attorney General, at 586-1494)

Chair Nakashima and Members of the Committee:

The Department of the Attorney General (Department) supports this bill.

The bill proposes to amend sections 663-1.56 and 663-52, Hawaii Revised Statutes, to eliminate the Task Force on Beach and Water Safety (TFBWS) and the Risk Assessment Working Group (RAWG) in order to streamline the process by which signs warning of dangerous natural conditions on beach parks and improved public lands are approved for placement.

The TFBWS and RAWG were initially created 25 and 18 years ago, respectively, in an effort to establish a new process to determine the design and placement of warning signs of known hazards on certain public lands. The process is now well-established and standardized, obviating the need for the TFBWS and RAWG.

Rather than going through the prolonged TFBWS or RAWG consultation process, the bill would allow the chairperson of the Board of Land and Natural Resources and the mayor of the county in which a sign will be placed to quickly approve the design and placement of the warning sign. The public's safety and welfare are best served if warning signs for hazardous conditions are erected as soon as possible after the hazards become known.

The Department respectfully requests that this bill be passed.

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, February 17, 2021
2:00 PM

State Capitol, Via Videoconference, Conference Room 325

In consideration of
HOUSE BILL 823, HOUSE DRAFT 1
RELATING TO PUBLIC LAND LIABILITY

House Bill 823, House Draft 1 proposes to repeal the Task Force on Beach and Water Safety and Risk Assessment Working Group and requires the design and placement of warning signs, devices, and systems on certain areas of the State to be approved by the chairperson of the board of land and natural resources and the respective county mayors. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department is in strong support of this measure. Both the Task Force on Beach and Water Safety (TFBWS) and the Risk Assessment Working Group (RAWG) are separate but similar in their respective function. The TFBWS was created under Act 190, Session Laws of Hawaii (SLH), 1996 (25 years ago) and the RAWG was enacted through Act 82, SLH, 2003 (18 years ago). Both groups have not been re-designated or have met in over a decade.

These two groups were initially formed to establish what was then a new process and guidelines on the optimal placement of warning signs – for ocean related hazards on state and county beaches and for terrestrial hazards for state and county parks and trails. The significance is that these two Acts then confirm that the signs are “conclusively presumed to be legally adequate warning of all dangerous natural conditions.” The signs, once installed, are subject to inspection and replacement criteria based upon their condition and legibility.

In the ensuing 25 and 18 years, respectively, the design and placement of these signs has been well vetted and over the years State and County staff have developed a clear understanding of optimal placement based on years of examination and installation. Act 82 has ancillary administrative rules (Chapter 13-8) that further attenuate the design and placement of the

terrestrial hazard signage. Additionally, new beach or park or trail recreation features are not being established on a frequent basis, so State and County staff mostly just periodically inspect and then replace deteriorating or vandalized signs.

Since the inception of these Acts, social media has been created, that at times requires the need for a rapid or temporary warning signage until more permanent closure, fencing or enforcement can be initiated for areas that are not managed for public use.

The reporting obligation to the Legislature will also be eliminated, as this now institutionalized and standardized management procedure has not changed in the ensuing 25 and 18 years for these two Acts. The passage of this measure will help streamline an institutionalized and simple government function and provide rapid flexibility as warranted in responding to the need for additional warning signage.

Mahalo for the opportunity to comment on this measure.

**TESTIMONY OF NAHELANI WEBSTER ON BEHALF OF
THE HAWAII ASSOCIATION FOR JUSTICE (HAJ) PROVIDING
COMMENTS ON H.B. NO. 823 HD1**

DATE: Tuesday, February 17, 2021

TIME: 2:00 pm

To: Chair Mark Nakashima, and Members of the House Committee on Judiciary &
Hawaiian Affairs:

My name is Nahelani Webster and I am presenting this testimony on behalf of the Hawaii Association for Justice (HAJ) regarding H.B. 823 HD1, relating to Public Land Liability as currently drafted.

The purpose of this measure is to increase efficiency and update old statutory provisions regarding two working groups on beach and water safety including warning signs.

It is important to provide adequate warning signs to the public when there are known risks. Authorizing the chairperson of the board of land and natural resources to determine placement and design of warning signs seems reasonable as long as there is consistency across the state. When authorizing the mayor of each county to collaborate with the chairperson on this, we encourage that placement and design is consistent across the state in order to avoid any confusion.

Thank you for the opportunity to provide comments on this measure.