

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER & LAND

Thursday, February 8, 2024
9:00 AM
State Capitol, Conference Room 430

In consideration of
HOUSE BILL 2466
RELATING TO PUBLIC LAND LIABILITY

House Bill 2466 proposes to abolish the Task Force on Beach and Water Safety and the Risk Assessment Working Group, and requires the design and placement of warning signs, devices, and systems to be approved by the Chairperson of the Board of Land and Natural Resources (Board) for state beach parks and the county mayors for county beach parks. **The Department of Land and Natural Resources (Department) supports this measure.**

Two groups were created for two comparable signage programs to warn beach, park, and trail users of hazardous natural conditions. The Task Force on Beach and Water Safety was established 27 years ago pursuant to Act 190, Session Laws of Hawaii (SLH) 1996, and the Risk Assessment Working Group was established 20 years ago in section 171-8.6, Hawaii Revised Statutes (HRS), pursuant to Act 82, SLH 2003. Act 82, SLH 2003, also mandated the adoption of Hawaii Administrative Rules, title 13, chapter 8, in 2006. At the time of inception, the initiatives were new and required a panel of subject matter experts to guide in the design and placement of the signage.

Since then, all managed public beaches, parks, and trails have been examined and the requisite warning signs in place. The Department's Division of State Parks (State Parks) has posted and maintains over 300 Act 82 signs and 26 Act 190 signs statewide. Maintenance of warning signage, along with a variety of other closure and regulatory signage, is currently an internal process that is institutionalized as an essential element of government beach, park, and trail management. The signs fulfill the duty to warn and decrease liability for the State and counties with existing signage. The two groups have not assembled for over 15 years and are now defunct and no longer necessary to effectuate proper warnings of dangers at public beach parks and improved public lands.

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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

The amendments to sections 663-1.56 and 663-52, HRS, require 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 for State beach parks and the respective county mayors for county beach parks without consulting the Task Force on Beach and Water Safety or the Risk Assessment Working Group. The repeal of section 171-8.6, HRS, sunsets the Risk Assessment Working Group.

Mahalo for the opportunity to provide testimony supporting this measure.

Dear Chair, and members of the committee,

My name is Jessamy Town Hornor. I am offering personal testimony as a community member who has been advocating for ocean safety for over seven years. Recently I became the coordinator for the new Hawaii Water Safety Coalition which is developing a statewide water safety plan with key stakeholders.

I am in strong opposition to SB3155– RELATING TO PUBLIC LAND LIABILITY and I offer suggestions for consideration.

In July of 2016 my husband and youngest daughter died in an accident at the Makapu'u Tidepools as a result of a rogue wave set that appeared suddenly from an offshore storm. The tidepools appeared calm when they walked down and many other people were present. The signs indicated via a simple visual that waves were possible on cliff edges, but there was no indication that sets could sweep across the entire tidepool area taking anyone there out to sea with little chance of survival. There was no live conditions warning or closure at the trailhead even though the offshore storm was known to DLNR and Ocean Safety. If a live conditions warning or closure would have been posted, my husband would not have taken our daughters down there and they would still be alive today. I cannot fully express to you the impact that their loss has had on my family. And mine is just one story of many. Hawaii has the second highest rate of drowning for residents in the nation and it is the leading cause of death for our visitors, many of them in the ocean, and yet in many cases drowning is preventable with proper outreach.

While Act 190 establishes liability protection for the state with basic signage, it should also include more robust mechanisms for preventing harm, not less. This bill - with its proposed removal of the Task Force on Beach and Water Safety and the Risk Assessment Working Group that is supposed to review signage - removes the only existing mechanism for consistent, expert oversight and worsens an already significant deficit in safety outreach. The task force has not met for several years due to lack of bandwidth at DLNR, but removing the task force is not the solution.

After reading DLNR Chair Dawn Chang's testimony on SB3255, I would like to address her statement: "The signs fulfill the duty to warn and decrease liability for the State and counties with existing signage."

While they may fulfill a legal duty to warn, this bar is *extremely low* and well below our moral duty to warn. There needs to be a legislative mandate and funding to improve this or it will not happen and people will continue to be injured or die unnecessarily. Although signage and outreach may not protect everyone, ***it will help many more people make safer decisions, and every life matters.***

There are solutions that could address this issue in a more impactful way:

1) Create a new position at DLNR for a Hawaii Ocean and Trail Safety Marshal to review clear, consistent signage at both the state and county levels and additional outreach with other relevant state agencies and county departments.

2) Develop a SMART Access app or digital platform for both tourists and kama'aina, perhaps in collaboration with HTA, to communicate live conditions-based safety information along with cultural content. This could even be used to issue alerts in real time in the case of disasters. This is not simply another expenditure, it would be an investment in our tourism and local safety infrastructure. And by directing users to appropriate destinations and keeping them away from more dangerous ones, a SMART app or platform would also significantly reduce the costs of preventative interventions by our lifeguards and reduce the burden on our first responders - lifeguards, EMS, DLNR, the Coast Guard. According to a recent Civil Beat article, in 2022 on Oahu alone lifeguards made 2,682 rescues and 187,322 interventions. It would also ultimately save lives. There are currently no less than 4 different platforms that beach and trail users need to access for partial safety information in addition to inconsistent, less than effective signage.

Most importantly, these solutions would save lives. Hawaii has a rich tradition of ocean safety, and this is an opportunity to do more, not less, for both our tourism industry and our way of life.

Thank you for your time.