

JOSH GREEN, M.D.  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia'āina o ka Moku'āina 'o  
Hawaii*

SYLVIA J. LUKE  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia'āina o ka Moku'āina  
'o Hawaii*



KALI WATSON  
CHAIRMAN, HHC  
*Ka Luna Ho'okele*

KATIE L. DUCATT  
DEPUTY TO THE CHAIRMAN  
*Ka Hope Luna Ho'okele*

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**

*Ka 'Oihana 'Āina Ho'opulapula Hawaii'i*

P. O. BOX 1879  
HONOLULU, HAWAII 96805

**TESTIMONY OF KALI WATSON, CHAIRMAN**  
**HAWAIIAN HOMES COMMISSION**  
**BEFORE THE SENATE COMMITTEE ON WATER & LAND AND**  
**THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS AND**  
**THE SENATE COMMITTEE ON HOUSING**  
**HEARING ON FEBRUARY 15, 2024 AT 3:01PM IN CR 225**

**SB 2976, RELATING TO WATER**

February 15, 2024

Aloha Chairs Inouye, McKelvey, and Chang, Vice Chairs Elefante, Gabbard, and Hashimoto, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports the intent of this bill which would 1) require each county board of water supply or water board to prioritize the sustainable recharge of aquifers, ensure the health of watersheds, and, when allocating water for new development, prioritize the development of affordable housing over other types of development and 2) provide that these requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended.

The DHHL concurs with the proposed amendment that the noted requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended. DHHL would prefer that the language in the bill not simply be stopped from negatively impacting DHHL needs but moving towards encouraging the delivery of water for DHHL needs. The Department would recommend the appropriate part of Section 2 be amended to read

§ -2 **Water resources; county duties.** In discharging its duties, each board shall:

- (1) Prioritize the sustainable recharge of aquifers within the board's jurisdiction;
- (2) Ensure the health of watersheds within each board's jurisdiction; and

Department of Hawaiian Home Lands  
February 15, 2024

(3) Prioritize the development of homesteads under Section 221 of the Hawaiian Homes Commission Act, and affordable housing over other types of development when allocating water for new development.

The DHHL understands that water in Hawai'i is held as a public trust resource, a status which derives from laws in the Hawaiian Kingdom as well as common law, case law, and State Constitutional provisions.

Partly in recognition of the significant role in which DHHL Homestead development can address much needed housing demand in the Counties, the Counties have started to explore ways in which they can use their limited powers related to water to address the water needs and accessibility challenges of DHHL. Maui County has led the way in these efforts. In 2007, Maui County enacted Ordinance 3502, often referred to as the "show me the water" ordinance. This requires verification of "a long-term reliable source of water before subdivisions are approved." The goal of this policy is to conserve the County's resources for affordable housing. In 2021, Ordinance 5313 specifically exempted DHHL projects from this requirement.

Also in Maui County, in November of 2022, Charter Amendment 12 was approved, establishing the East Maui Water Authority Board. This eleven-member Board will oversee the Nāhiku, Ke'anae, Honomanu and Huelo water license areas. The responsibilities of the Board include approval of watershed management plans and related programs, approval of annual operations budget appropriation requests, and recommendations on water rates. One seat was reserved for a representative of the Hawaiian Homes Commission. This is the first instance in which a state or county water managing body has specifically dedicated a seat to represent and look out for DHHL interests.

In 2023, also in Maui County, the Council passed a 0.5 percent surcharge on top of the State's 4 percent general excise tax. Twenty percent of the county's revenue from the surcharge will go toward development of County infrastructure projects that would allow DHHL to proceed with homestead development, including the development of necessary water infrastructure.

In April 2022, the Hawai'i County Council passed two bills allowing the development of timeshares, affordable workforce housing and other facilities at a particular site in Waikōloa, South Kohala. As passed, 2% of timeshare sales and resales from the proposed project will be donated to the Waikōloa Foundation, and 25% of those derived funds will be allocated to an agency or program to directly or indirectly support water-related needs associated with housing programs for Native Hawaiians within the South Kohala district.

Department of Hawaiian Home Lands  
February 15, 2024

Despite the importance and significance of various Federal, State, and County policies, progress on addressing the significant water access challenges of DHHL on the Hawaiian Home Lands remains a very significant challenge. DHHL believes SB 2976 would be a step in the right direction.

Thank you for your consideration of our testimony.

**BOARD OF WATER SUPPLY  
KA 'OIHANA WAI  
CITY AND COUNTY OF HONOLULU**

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MANAGER AND CHIEF ENGINEER  
MANAKIA A ME KAHU WILIKI

ERWIN KAWATA  
DEPUTY MANAGER  
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February 15, 2024

The Honorable Lorraine R. Inouye, Chair  
and Members  
Senate Committee on Water and Land

The Honorable Angus L.K. McKelvey, Chair  
and Members  
Senate Committee on Government Operations

The Honorable Stanley Chang, Chair  
and Members  
Senate Committee on Housing  
Hawaii State Capitol, Room 225  
Honolulu, Hawaii 96813

Dear Chair Inouye, Chair McKelvey, Chair Chang and Members:

Subject: Senate Bill 2976: Relating to Water

The Honolulu Board of Water Supply (BWS) has deep concerns regarding Senate Bill (SB) 2976 and believes this measure is unnecessary and as written, the BWS opposes it. SB 2976 proposes to add a new chapter to Hawaii Revised Statutes (HRS) Title 13, Planning and Economic Development to require each county to prioritize (1) the sustainable recharge of aquifers, (2) ensure the health of watersheds, and (3) prioritize allocating water for affordable housing over other types of development when allocating water for new development.

The county boards of water supply already share a collective responsibility with City, State, and Federal agencies and departments for ensuring the health of watersheds and sustainable recharge of aquifers. BWS is an active member of both the Koolau Mountain Watershed Partnership and the Waianae Mountain Watershed Partnership. We also are an active supporter of control of invasives that threaten the health of our Watersheds. We work closely with the Division of Forestry and Wildlife, Department of Land and Natural Resources to support caring

The Honorable Lorraine R. Inouye, Chair  
The Honorable Angus L.K. McKelvey, Chair  
The Honorable Stanley Chang, Chair  
and Members  
February 15, 2024  
Page 2

for our watersheds. The priorities listed in this bill overlap with compliance responsibilities set forth in Hawaii Revised Statutes (HRS) of Chapter 174C State Water Code and HRS Chapter 171 Public Lands, Management and Disposition Of.

The determination of priorities for housing lies within the purview of State and county administrations, rather than the municipal water authority. It is not within the mandate of the BWS to decide the prioritization of affordable housing. Moreover, the priorities set by the State and counties for various development categories are subject to periodic changes. The permitting process at the county level include various reviews by multiple state and county agencies based on the type of zoning, whether it be residential, agricultural, planned development, special purpose, commercial or industrial.

Since 1929, the BWS has remained a semi-autonomous agency. Water resources and water service is so important to our lives and future, it is important to minimize the influence of politics over water policy and long-term planning.

Pursuant to the Revised Charter of the City and County of Honolulu 1973, under Article VII, Section 7-103 "All water systems of the city, including water rights and water sources, sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems shall be under the control of the department ["board of water supply"]."

As a semi-autonomous agency, the BWS does not receive funds from property taxes. The BWS mission is to deliver safe, dependable, and affordable water, now and into the future. The BWS does not discriminate against its water users as water service is offered on a first come, first serve basis. The BWS Board (Board) recognizes the importance of affordable water to meet essential household needs and is doing its part to support the development of affordable housing. The Board passed Resolution No. 889 (2018) to allow for waivers of the water system facilities charge and new meter cost for qualified affordable and homeless dwelling units, up to 500 dwelling units per year, and recently renewed and extended the provision for waivers through June 30, 2029, through Resolution No. 976 (2023). The dwelling units must meet certain requirements as specified in the BWS Resolution.

Under Sections 1-102 and 2-202 of the BWS Rules and Regulations, the BWS may allow a deferral of payment of water system facility charges and installation of water service fees until the installation of the water meter, provided that all BWS requirements are satisfied.

The Honorable Lorraine R. Inouye, Chair  
The Honorable Angus L.K. McKelvey, Chair  
The Honorable Stanley Chang, Chair  
and Members  
February 15, 2024  
Page 3

Again, the BWS believes SB2976 is not necessary and as written we oppose it.

Thank you for the opportunity to testify in opposition to SB 2976.

Very truly yours,



ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer



DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

February 14, 2024

TESTIMONY OF KEITH K. OKAMOTO, MANAGER-CHIEF ENGINEER  
DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAII

HEARING BEFORE THE SENATE COMMITTEES ON WATER AND LAND, GOVERNMENT  
OPERATIONS, AND HOUSING

DATE: Thursday, February 15, 2024  
TIME: 3:01 p.m.  
PLACE: Conference Room 225 & Videoconference

**SB 2976 - RELATING TO WATER**

Honorable Chairs Inouye, McKelvey, and Chang; Vice-Chairs Elefante, Gabbard, and Hashimoto, and committee members,

The County of Hawaii, Department of Water Supply (DWS) submits this letter to respectfully express its significant concerns with Senate Bill (SB) 2976.

The bill proposes to add a new chapter to title 13 of the Hawaii Revised Statutes to be appropriately designated as "CHAPTER, PROTECTION OF WATER ECOSYSTEMS". To summarize the proposed bill, it would require each county board of water supply or water board to:

- 1) Prioritize the sustainable recharge of aquifers;
- 2) ensure the health of watersheds; and
- 3) when allocating water for new development, prioritize the development of affordable housing over the other types of development.

While DWS agrees that each of the above has merit, DWS has significant concerns with this proposed bill because there are existing government entities that are responsible for the first two items above. The State Commission on Water Resource management (CWRM or Commission) is responsible for prioritizing the sustainable recharge of aquifers. CWRM's Water Resource Protection Plan identifies and documents the recharge rate of the island's aquifers based on rainfall, fog drip, runoff, evapotranspiration, etc. The State Division of Forestry and Wildlife (DOFAW) is responsible for ensuring the health of watersheds. According to DOFAW's website one of their primary goals is to protect the State's native watershed forests. DOFAW has the 30x30 Watershed Initiative, which is an ambitious but simple goal: protect 30% of Hawaii's priority watershed forests by the year 2030. Their goal to protect watershed forests is part of the broader Aloha+ Challenge tracked by the Hawai'i Green Growth Initiative.

Due to the geographic enormity of the Island of Hawai'i, DWS maintains 23 water systems, and much of our water infrastructure is spread out, not interconnected. DWS' water systems are primarily located within the populated areas on the island. DWS' systems and jurisdiction do not encompass the interior, forest reserves, and mauka regions of the island, which blankets the island's

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aquifers and watersheds. Requiring DWS to prioritize the sustainable recharge of aquifers and ensure the health of watersheds not associated with our infrastructure locations would be infeasible.

Regarding affordable housing development, we fully agree that additional affordable housing is a significant need in our state as well as on the Hawai'i Island. Although available water is a factor in housing development, it is not the only factor, nor does the water utility drive housing development. Also, this component of the bill does not match the proposed title of the new HRS Section, "PROTECTION OF WATER ECOSYSTEMS"

The DWS operates very lean with a staff of approximately 155 personnel and an annual operating budget of \$65M to meet its mission to provide an adequate and continuous supply of safe drinking water in a financially responsible manner. Water utilities are continually burdened by unfunded mandates, primarily to meet Federal and State safe drinking water requirements, but more recently, with requirements over and beyond our core mission. We don't receive any external funding to cover our operating costs. This is provided by revenues generated by our water bills.

We do understand that we are a significant stakeholder and partner when it comes to the health of aquifers and watersheds, as well as the development of affordable housing. As such, we continue to track pumpage from DWS' sources and report the data monthly to CWRM. We are highly aware and cognizant of protecting the water quality of the aquifers and drinking water sources and do everything within our powers to protect the source water quality. We participate in meetings with various watershed partnerships and the State DOFAW and continue to collaborate with them on watershed protection opportunities. When it comes to affordable housing, DWS coordinates with the respective County Office of Housing and Community Development and Planning Departments on the allowable amount of water available for each affordable housing project(s).

In summary, SB2976 is misdirected and unnecessary. Requiring a county board of water supply to prioritize objectives that are already the purview as well as established priorities of existing agencies with greater funding capacity does not make sense.

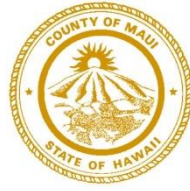
We thank you for your attention to this matter, and for your dedication and commitment to serving our State.

Please feel free to contact me at (808) 961-8050 or via email at [dws@hawaiidws.org](mailto:dws@hawaiidws.org) with any questions you may have regarding DWS' comments. Thank you for your time and consideration of our testimony on SB 2976.



**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



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February 14, 2024

TO: Senator Lorraine R. Inouye, Chair  
Senator Brandon J.C. Elefante, Vice Chair  
Committee on Water and Land

Senator Angus L.K. McKelvey, Chair  
Senator Mike Gabbard, Vice Chair  
Committee on Government Operations

Senator Stanley Chang, Chair  
Senator Troy N. Hashimoto, Vice Chair  
Committee on Housing

FROM: Richard T. Bissen, Jr., Mayor  
John Stufflebean, Director for Department of Water Supply

DATE: February 14, 2024

SUBJECT: **OPPOSITION OF SB2976, RELATING TO WATER**

Thank you for the opportunity to testify in **OPPOSITION** of this important measure. The act requires each county board of water supply or water board to prioritize the sustainable recharge of aquifers, ensure the health of watersheds, and, when allocating water for new development, prioritize the development of affordable housing over other types of development. The act also provides that these requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended.

We **OPPOSE** this measure for the following reasons:

- The priorities in this bill overlap with the compliance responsibilities set forth in the State Water Code, HRS Chapter 174C and the County of Maui Charter. The County of Maui, the Department of Water Supply (MDWS) along with State and Federal agencies already share the *kuleana* for ensuring the health of our watersheds and aquifers. The MDWS recognizes the critical role watershed protection plays in sustaining reliable groundwater

and stream flow. Maintaining native forests and restoring disturbed landscapes into functioning watersheds are important investments in the face of climate change. Since 1997, the MDWS has provided over \$29 million dollars of funding towards watershed protection and restoration in the county, primarily through watershed partnerships. The MDWS is a county agency solely funded by water rate generated revenue. MDWS dedicates 4% of our annual operations budget to watershed protection, established as a performance measure, which far exceeds the State Freshwater Initiative's funding goals for water utilities. The MDWS consistent funding allows watershed partnerships to leverage state, federal and private funding sources to protect our critical water resources.

- The proposed bill is inconsistent with the County of Maui Charter and may cause confusion over land use policy mandates. The determination of priorities for housing and land use lies within the purview of state and county administrations, rather than with the municipal water utility. MDWS complies with state and county land use policies. The County of Maui's Administration's priority to supply adequate water for affordable housing development is reflected in the MDWS Administrative Rules Title 16, Chapter 201, which exempt residential development projects with 100% affordable housing units from the system capacity limitations for new water service requests.
- The proposed bill is a redundancy as the County of Maui Charter already assigns the duty upon MDWS to protect and manage the water resources in the county and to implement the county's land use plans. We take our *kuleana* as established by County Charter and land use plans very seriously. The County of Maui is the first county in the State to adopt a wellhead protection bill to ensure long term protection of our drinking water supply and avoid future Red Hill contamination disasters. We believe SB2976 is not necessary and MDWS opposes this bill as written.

For the foregoing reasons, we **OPPOSE** this measure.

**SB-2976**

Submitted on: 2/12/2024 5:13:04 PM

Testimony for WTL on 2/15/2024 3:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

**RELATING TO WATER.**

Requires each county board of water supply or water board to prioritize the sustainable recharge of aquifers, ensure the health of watersheds, and, when allocating water for new development, prioritize the development of affordable housing over other types of development. Provides that these requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended.

**SB-2976**

Submitted on: 2/13/2024 10:33:37 AM

Testimony for WTL on 2/15/2024 3:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Roy N Morioka	Individual	Comments	Written Testimony Only

Comments:

ALOHA Committee Chairs and members,

I humbly ask that you consider including language promoting the establishment of "rain gardens" especially on hillside homes to capture surface runoff to facilitate rainwater percolation to help recharge our aquifers.

Mahalo a nui loa,

Roy Morioka

**SB-2976**

Submitted on: 2/14/2024 10:36:04 AM

Testimony for WTL on 2/15/2024 3:01:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Regina Gregory	Individual	Support	Written Testimony Only

Comments:

support