

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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 AND LAND
and
PUBLIC SAFETY AND INTERGOVERNMENTAL AND MILITARY AFFAIRS

Wednesday, February 7, 2024
3:00 PM
State Capitol, Conference Room 225

In consideration of
SENATE BILL 3155
RELATING TO PUBLIC LAND LIABILITY

Senate Bill 3155 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.

SB-3155

Submitted on: 2/4/2024 10:17:06 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessamy Town Hornor	Individual	Oppose	In Person

Comments:

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 as it stands 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, even now 7 years later. 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 Hawaii Water Safety Task Force that is supposed to review signage, removes the only mechanism for consistent, expert oversight and worsens an already significant deficit in safety outreach. I have heard that 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.

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

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.

SB-3155

Submitted on: 2/5/2024 12:18:13 PM

Testimony for WTL on 2/7/2024 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Sarah Fairchild	Individual	Comments	Written Testimony Only

Comments:

Dear Chair and Committee Members,

I'm writing personal testimony with comments on SB3155 – Relating to Public Land Liability as I have reservations about the related issues it presents. I am the Executive Director of Outrigger Duke Kahanamoku Foundation and a co-founder of the Hawaii Water Safety Coalition, but I cannot speak for the varied views of our constituents on this matter, only my own views.

ACT 190 created the Hawaii Water Safety Task Force to regularly bring together the safety officials and experts from the State and Counties to create cohesive signage and warning policy. However, the Hawaii Water Safety Task Force it created has not met in several years and thus signage updates have been prevented. While I see the need to clean up the bureaucratic slowdown in updating signage, I am concerned that removing the Hawaii Water Safety Task Force in its entirety is removing the only legally obliged group discussion between the various levels of government to improve aquatics safety. Hawaii currently has the 2nd highest rate of resident drowning, drowning is the leading cause of death for Hawaii keiki 1 to 15, and drowning is the leading cause of injury-related death for our visitors. The ocean lifeguards had to create their own non-profit to collaborate on initiatives because there was no State vehicle for them to do so. Something is broken.

Perhaps it would be best to allow Counties and DLNR to create their own signage. However, there must be more government collaboration and investment in water safety. The State and Counties working should also utilize the technologies available today through an app or website to deliver a comprehensive risk and warning system for locals and tourists. This could be melded with other important information like parking, culture, history, and available discounts to make adoption more attractive. This will help protect tourism – a great economic driver – and our residents.

The failure of ACT 190 has been the insufficient allocation of funding to create a position to drive and align this task force. I would suggest funding a Water Safety Marshall position, probably outside of the overburdened DLNR, to be tasked with convening the task force and creating more synergy in efforts to reduce drowning. Afterall, Hawaii is home to the best watermen and women in the world; surely, we can do better in reducing drowning rates.

Mahalo,

Sarah Fairchild

LATE

February 6, 2024

Aloha Chair Wakai and Members of the Senate Committee on Public Safety and Intergovernmental and Military Affairs,
Aloha Chair Inouye Wakai and Members of the Senate Committee on Water and Land,

I am a Kailua resident and support Senate Bill 3155 to simplify the responsibility for beach warning signs to chairperson of the Board of Land and Natural Resources for state beaches and to the mayors of the respective counties for county beaches.

At the same time, I urge that beach signs be more comprehensive and updated on a daily basis if needed.

My suggestion is that a comprehensive sign should be placed at each park entrance and near each lifeguard station that goes beyond just hazardous currents and shorebreaks to also include current conditions including wave heights, jellyfish advisories, brown water advisories, shark sightings, turtle or monk seal cautions, and beach hours.

Signs for these additional advisories are typically haphazard, ad hoc, and often missing, leaving the public generally unaware.

These signs don't have to be fancy – a durable signboard such as those the state uses for highway signs with smaller boards for each current condition would suffice.

Uniformly placing such signs at each beach park entrance and near lifeguard stands would greatly help public awareness and expectations.

The signs could be updated by the lifeguard at beaches where lifeguards are assigned. At beaches that do not have lifeguards, the signs could be updated daily if needed by a DLNR or Parks Department employee driving the circuit of beach parks on an island.

An example of such a sign could be:

The image shows a green sign with white text. At the top, it says 'Welcome to Kailua Beach Park' and 'Beach Hours 24/7'. Below this is a table with two columns. The first column lists various beach conditions, and the second column shows the status of each condition. The table is as follows:

Welcome to Kailua Beach Park	
Beach Hours 24/7	
Hazardous Currents?	NONE
Dangerous Shorebreaks?	NONE
Today's Wave Heights	3-5'
Jellyfish Advisory in Effect?	NO
Brown Water Advisory in Effect?	NO
Recent Shark Sighting?	NO
Turtles or Monk Seals Present?	TURTLES KEEP 10' AWAY

Mahalo for your consideration.

Aloha,
Bill Hicks