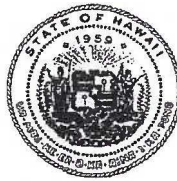


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF HEALTH

P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

LATE TESTIMONY

Testimony COMMENTING on S.B. 2163
RELATING TO SERVICE OF PROCESS

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE
Hearing Date: February 1, 2016 Room Number: 224
2:45 P.M.

LATE

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health respectfully provides the following
3 comment on this measure. This measure provides for an additional method of legal notification
4 when an enforcement action is being taken under Hawaii Revised Statutes, Chapter 205. The
5 Department of Health, Clean Water Branch, has encountered situations when a respondent of an
6 enforcement action deliberately avoids certified mail or personal service and as such, counters
7 the Department of Health's ability to proceed with a timely enforcement action. The Department
8 of Health supports adding an additional method of legal notification when an enforcement action
9 is being taken; however, enforcement authority for environmental violations is not authorized
10 under HRS 205 but rather HRS 342.

11 For these reason, the Department of Health supports the intent of this measure, but
12 suggests adding similar language to add the additional method of service for water pollution
13 enforcement actions authorized by HRS 342.

14 Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honolulu.dpp.org • CITY WEB SITE: www.honolulu.gov

KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

February 1, 2016

The Honorable Mike Gabbard, Chair
and Members of the Committee on Water, Land
and Agriculture
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Gabbard and Members:

Subject: Senate Bill No. 2163
Relating to Service of Process

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2163, which allows "posting on a searchable government website" as a means of notifying persons when traditional methods of delivering notices of violation have been unsuccessful.

Annually, the DPP issues well over a hundred notices of violation of our development codes. We do experience occasions when personal service of notices is unsuccessful. In these cases, we publish the notices in a daily newspaper. However, this can be costly for us. Therefore, the option of notification by searchable website would be helpful to us.

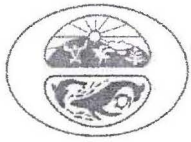
However, we believe that Senate Bill No. 2163, as drafted, only applies to violations of Chapter 205, which covers state land use districts, district boundary amendments, and special use permits. It would not address other state or county programs. Consideration should be given to allowing website notification for other types of violations.

Thank you for this opportunity to comment.

Very truly yours,

A handwritten signature in black ink that reads "George I. Atta".

George I. Atta, FAICP
Director



Conservation Council
for Hawai'i

Hawai'i's voice for wildlife

Kō Hawai'i / leo no nā hoioholona lōhiu

Testimony Submitted to the Senate Committee on Water, Land, and Agriculture
Hearing: Monday, February 1, 2016 2:45 pm
Conference Room 224

Support for SB 2163 Relating to Service of Process

Chair Gabbard, Vice Chair Nishihara, and Members of the Committee.

Aloha. Conservation Council for Hawai'i supports SB 2163, which allows notice of a land use violation to be given via a posting on a searchable government website when attempts to serve the notice in person and by mail have been unsuccessful.

Serving notices online when potential violators do not want to be found or cannot be found makes a lot of sense, and serves the State and the people well. Please support SB 2163.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler



SB2163 SD1
RELATING TO SERVICE OF PROCESS
Senate Committee on Judiciary and Labor

February 29, 2016

10:05 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2163 SD1, which would facilitate the enforcement of water quality laws for absentee violators, by allowing notices of violation to be posted on a government website when water polluters cannot be served in person.

Abundant and clean fresh water resources, including streams and springs, are essential for the exercise of many Native Hawaiian traditional and customary practices, cultural resources, and the restoration and perpetuation of fishponds and traditional farming methods and crops.¹ Degraded surface and groundwater quality from violations of state water pollution laws can therefore have a significant impact not only on our islands' water security, but also on Native Hawaiians' ability to perpetuate their culture, as well as on the food self-sufficiency of the state. Accordingly, there is a clear need to ensure that water pollution violations can be addressed, and corrective action obtained, in an expedient manner.

By allowing notices of water pollution violations to be served via government website, for violators who cannot be served in person or via mail, this measure may help to facilitate the expedited enforcement of our water pollution laws in such cases. Such a provision may also aid the recovery of costs associated with obtaining injunctive relief, including corrective action, for ongoing violations impacting our streams, coasts, and other water resources.

Therefore, OHA urges the Committee to **PASS** SB2163 SD1.

Mahalo nui for the opportunity to testify on this measure.

¹ In 2015, the legislature passed Act 31, an OHA legislative package measure which added traditional Hawaiian farming systems, traditional Hawaiian crops, and small-scale agriculture to the agricultural priorities of the State. These priorities recognize the importance of traditional agricultural methods as well as small farms to ensuring food security and disaster preparedness in our islands.



SIERRA CLUB OF HAWAI'I
MĀLAMA I KA HONUA. *Cherish the Earth.*

SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE

Monday February 1, 2016 2:45PM Room 224

In Support **SB2163** Relating to Service of Process

Aloha Chairman Gabbard and members of the Senate Water, Land & Agriculture Committee,

On behalf of our 12,000 members and supporters, the Sierra Club of Hawai'i strongly supports SB2163 relating to service of process. This bill would improve enforcement of current land use laws by allowing for constructive notice to violators of land use violations via a public government website.

For a community that values our pristine natural environment, we do a poor job of enforcing our land use laws. Land use violations are rampant throughout the Hawaiian Islands, but is especially egregious on O'ahu. We regularly see illegal dumps on our curbsides, auto repair shops on agricultural lands, reefs contaminated by illegal grading and grubbing on land. These illegal uses of land can be reduced with better enforcement of current land use laws.

Better enforcement begins with improved options for notifying suspected violators of their violations. SB2645 will give counties additional options for notifying suspected violators when attempts of service are unsuccessful by person or mail. The ability to do so will lead to greater enforcement of land use laws, providing for better safety and welfare for the people of Hawai'i.

This bill currently focuses solely on Haw. Rev. Stat. § 205, Hawai'i's land use law. However, there should be consideration to expand this bill to other types of violations to agencies with enforcement abilities, such as the Department of Health.

We strongly urge this Committee to move this measure forward. Thank you for the opportunity to testify on this measure.

Mahalo,

Martha Townsend
Director

LATE TESTIMONY

From: mailinglist@capitol.hawaii.gov
To: WLA Testimony
Cc: [REDACTED]
Subject: Submitted testimony for SB2163 on Feb 1, 2016 14:45PM
Date: Sunday, January 31, 2016 11:26:45 PM

SB2163

Submitted on: 1/31/2016

Testimony for WLA on Feb 1, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Don Aweau	Individual	Support	No

Comments: In support of having this legislation passed to satisfy notification requirements that have hindered City and State agencies from enforcing violations that are detrimental to the public trust in addressing citizens concerns in a timely matter. It is time for the Committee of Water, Land and Agriculture to close a loophole and support the use of enforcement and fines to deter further land use violations.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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