

SB 3116

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER, LAND, AND AGRICULTURE**

**Monday, February 8, 2016
10:00 A.M.
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 3116
RELATING TO INFRASTRUCTURE**

Senate Bill 3116 proposes to establish a dam and reservoir working group to review applicable state laws, administrative rules, and operational policies and recommended amendments, modifications, or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii. **The Department of Land and Natural Resources (Department) acknowledges the intent of this bill, however does not believe establishing a dam and reservoir working group is necessary for the following reasons:**

Act 154 (2011) amended the Dam and Reservoir Safety Act of 2007 (Hawaii Revised Statutes (HRS) Chapter 179D) to provide the Board of Land and Natural Resources the authority to “*consider dams and reservoirs as important water resources for the State that provide significant benefits to the general public, including irrigation for agriculture and other important uses, and acknowledge the need for dams and reservoirs to be consistently maintained and operated in a safe and feasible manner that sustains their roles as important water resources; provided that public safety concerns are addressed*”. Therefore, the intent and purpose of this proposed working group is already codified in HRS Chapter 179D-6(10).

Since the enactment of Act 154 (2011) the Department has successfully proposed several initiatives, which includes amending the State Constitution to allow for the issuance of Special Purpose Revenue Bonds for Dams and Reservoirs specifically to “*offer loans to assist dam and reservoir owners to improve their facilities to protect public safety and provide significant benefits to the general public as important water sources.*” An incentive program was also initiated to reduce permitting fees for owners who submitted applications for improvements to their facilities within three years of the adoption date of the Dam Safety Administrative Rules.

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

KEKOA KALUHIWA
FIRST DEPUTY

JEFFERY T. PEARSON, P.E.
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

This working group would duplicate the work that has been done by the Department and the Legislature over the past decade in response to the 2006 Kaloko Dam breach, which killed seven (7) people and prompted a change to the dam safety laws. The Hawaii Dam and Reservoir Safety Act of 2007 (HRS Chapter 179D) was based on an independent report conducted by Special Deputy Attorney General Robert Godbey who was appointed by the former State Attorney General, Mark J. Bennett, pursuant to House Concurrent Resolution 192 HD1 SD1 (2006). The current dam safety law is a result of the recommendations from that report which was based on a comprehensive review of dam safety laws in 48 other states, the Federal Emergency Management Agency's model dam safety program, and discussions with the United States Army Corps of Engineers, and the Association of State Dam Safety Officials.

Any proposed change to the existing dam safety laws should be evaluated against these national standards and regulations. The key purpose of the dam safety law is primarily to protect public safety and minimize the risk of a dam failure. Any provision to deviate from these commonly accepted standards could result in reduced maintenance of dams, which will further increase the risk to public safety and decrease the chances these dams will continue to operate, which the Department believes is contrary to the intent of this working group.

Upon enactment of the Hawaii Dam and Reservoir Safety Act of 2007, the Department spent nearly five (5) years developing and soliciting comments for its current set of Administrative Rules, which became effective in 2012. The Department has also had regular informal conversations with landowners, certain members of the Hawaii Farm Bureau, the Department of Agriculture, the Hawaii Cattleman's Association, and other users about the actual implementation of the proposed administrative rules to address procedural, timing, and cost issues. The Department has been consistently willing to listen, educate and work with Dam Owner's regarding their concerns and does not believe a formal working group is necessary to facilitate or mandate this communication.

The Department would also like to note that the Dam Safety Program does not receive any general funds and solely relies on special funds and user fees to fulfill its mandate. The bill provides no funding for the working group yet imposes new tasks and expenses that can only be undertaken by diverting existing resources from the Department's Dam Safety Program.

It is in the core mission of the Department to preserve our precious water resources while at the same time ensuring that these dams and reservoirs are managed and operated safely for the benefit of the environment and the public.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE

February 8, 2016
10:00 A.M.
CONFERENCE ROOM 224

SENATE BILL NO. 3116
RELATING TO INFRASTRUCTURE

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3116. The purpose of this measure is to establish a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii. The Department of Agriculture supports this measure.

The department manages seven of its own reservoirs and provides engineering consultation for six Agribusiness Development Corporation reservoirs. The establishment of a working group of reservoir owners and operators to review existing laws and policies and recommend amendments, modifications, or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii provides a formal venue to address issues that are hindering the continued operation and existence of many of these structures.

Thank you for the opportunity to testify on this measure.





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February 8, 2016

HEARING BEFORE THE
SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE
TESTIMONY ON
SB3116: RELATING TO INFRASTRUCTURE

Room 224
10:00 AM

Aloha Chair Gabbard, Vice Chair Nishihara, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

The Hawaii Farm Bureau strongly supports SB3116, establishing a Dam and Reservoir Working group to address issues associated with the operations of Dam and Reservoirs.

An unintended consequence of the Dam and Reservoir Safety program has been the decommissioning of reservoirs as landowners found the cost of inspection and maintenance excessive, especially in cases where active agriculture was no longer occurring. This does not mean agriculture may not start again in the future, but the absence of beneficial use of the reservoir resulted in the maintenance viewed as just an expense. This has been disturbing as new agricultural ventures will be difficult to start as water sources may no longer be readily available. In addition reservoirs serve as critical water storage for use during wildfires and other similar emergencies. When we live during a time of prolonged droughts, these sources may be extremely critical.

Some time has passed since the implementation of the program. An evaluation of the program, its' effectiveness and ways for improvement is in order.

We request your **support of SB3116**, creating a mechanism to review the dam and reservoir safety program and recommend improvements as needed.. Thank you.



Hawaii Cattlemen's Council, Inc.

SENATE COMMITTEE ON WATER, LAND & AGRICULTURE

SENATOR MIKE GABBARD, CHAIR

SENATOR CLARENCE K. NISHIHARA

DATE: Monday, February 8, 2016
TIME: 10:00 AM
PLACE: Conference Room 224

SB 3116 – RELATING TO INFRASTRUCTURE.

Establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.

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

My name is Dale Sandlin, and I am Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 140+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council supports SB 3116 as this working group will help to ensure the future of Hawaii's greatest resource, water.

Many of the water systems that provide collection and delivery of fresh water in the state, have fallen into disrepair and are in need of improvement to continue their service. Also, the policies concerning their update and improvement have become burdensome and restrictive. The working group will help to determine recommendations in providing for the future of water collection and storage infrastructure.

Often well-meaning policies can cause delays and even disruption of the catchment and delivery of fresh water. This working group, will provide multi-faceted insight to help review and recommend changes to the policies that may hinder the enhancement of our water systems and their delivery.

We respectfully ask this committee to pass SB 3116 and we appreciate the opportunity to serve in this capacity, as well as testify on this important matter.





February 3, 2016

Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair
Senate Committee on Water, Land, and Agriculture

Testimony in Support of SB 3116, Relating to Infrastructure (Establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.)

Monday, February 8, 2016 at 10:00 a.m. in CR 224

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to provide testimony in support of this measure.

SB 3116. This bill establishes a Dam and Reservoir Working Group ("Working Group") to ensure and enhance the continued availability and operation of dams and reservoirs in Hawaii. The Working Group shall consist of members including agricultural stakeholders representing the public and private sectors, as well as individuals with specialized knowledge and experience in water resource management. The Working Group shall be placed within the State Department of Land and Natural Resources (DLNR) for administrative purposes only. The role and responsibility of the Working Group shall be to review applicable state laws, administrative rules and operational policies, and recommend amendments or actions to be taken to ensure and enhance the continued availability and operation of dams and reservoirs in the State.

LURF's Position. Dams and reservoirs are recognized as being critical to the conduct of agricultural operations and businesses, as well as for their vital contributions to the community such as providing drinking water, renewable energy, and flood control, which are extremely important functions necessary to sustain the State's water resources and to promote public safety.

LURF strongly supports the establishment of the Working Group and respectfully requests this Committee's consideration to appoint LURF as a member of the Group, based on the following:

1. For more than a decade, LURF has worked closely with the Board of Agriculture, the Hawaii Cattlemen's Council and the Hawaii Farm Bureau Federation (other organizations whose designees or representatives are proposed for inclusion as members of the Working Group), and was instrumental in passing the Important Agricultural Lands law.
2. LURF represents many large agricultural land owners with a number of dams and reservoirs located on their respective properties.
3. LURF has actively and consistently participated, commented and testified at the DLNR hearings regarding dam safety rules and regulations.
4. LURF is qualified to undertake and accomplish the responsibilities of the Working Group, including review of applicable state laws, administrative rules and operational policies, and recommending actions to be taken, including legislation.

Given its extensive experience and involvement with agricultural lands and organizations, as well as the IAL laws, LURF possesses the qualifications and experience to identify and address safety concerns and other issues relating to agricultural irrigation water systems necessary to promote agricultural production, including dams and reservoirs, and would appreciate the opportunity to be involved in the Working Group.

For the reasons set forth above, LURF is in **support of SB 3116**, and respectfully requests this Committee's favorable consideration to designate LURF as a member of the Working Group.

Thank you for the opportunity to present testimony regarding this matter.

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: warrenmcfb@gmail.com
Subject: *Submitted testimony for SB3116 on Feb 8, 2016 10:00AM*
Date: Sunday, February 07, 2016 1:37:18 PM

SB3116

Submitted on: 2/7/2016

Testimony for WLA on Feb 8, 2016 10:00AM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

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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**Testimony to the Senate Committee on Water, Land, & Agriculture
Monday, February 8, 2016 at 10:00 A.M.
Conference Room 224, State Capitol**

RE: SENATE BILL 3116 RELATING TO INFRASTRUCTURE

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

The Chamber of Commerce Hawaii ("The Chamber") **expresses concern** regarding the need for SB 3116, which establishes a Dam and Reservoir Working Group to ensure and enhance the continued availability and operation of dams and reservoirs in the State of Hawaii.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Chapter 179D HRS provides the statutory authority to regulate Dams and Reservoirs under the Department of Land and Natural Resources. Rather than adding more oversight to the program, perhaps providing more specificity on what information or actions must be contained in the Annual Report to the Legislature will address the concerns raised in S.B. 3116.

Thank you for the opportunity to express our views on this matter.

**SB 3116
RELATING TO INFRASTRUCTURE**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 8, 2016

Chair Gabbard and Members of the Senate Committee on Water, Land &
Agriculture:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on SB 3116,
“A BILL FOR AN ACT RELATING TO INFRASTRUCTURE.” We support this bill.

In addition to serving as a valuable water resource for Hawaii’s agricultural
industry, dams and reservoirs also provide several other significant benefits to the
general public. Several of these facilities provide drinking water for residential
communities, renewable energy by way of hydropower, and flood control and drainage
for public safety.

Alexander & Baldwin presently has a total of 46 regulated reservoirs statewide,
17 on Kauai and 29 on Maui, the vast majority of which are in active operation
supporting various agricultural operations. These reservoirs are absolutely integral to
our ability to continue to keep tens of thousands of acres in agriculture, particularly
during periods of water shortages.

This bill establishes a Dam & Reservoir Working Group to review applicable
State Laws, Administrative Rules, and Operational Procedures and recommend

amendments, modifications, or actions to enhance the continued availability and operation of dams and reservoirs throughout the State of Hawaii. Dam and reservoir owners are often faced with on-going challenges in keeping their dam and reservoir facilities in active operation. The evaluation and implementation of repair and maintenance requirements, periodic inspections and structural assessments, along with making payment on required regulatory fees and other assessments are a few of the items and issues which confront owners of dams and reservoirs. We support this bill, as we believe that it will provide a forum for interested stakeholders to discuss and collaborate on initiatives to sustain and retain dam and reservoir facilities throughout the State of Hawaii.

Based on the aforementioned, we respectfully request your favorable consideration on this bill.

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: mnakahata@gmail.com
Subject: *Submitted testimony for SB3116 on Feb 8, 2016 10:00AM*
Date: Sunday, February 07, 2016 1:31:29 PM

SB3116

Submitted on: 2/7/2016

Testimony for WLA on Feb 8, 2016 10:00AM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Mae Nakahata	Individual	Support	No

Comments:

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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