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## A BILL FOR AN ACT

RELATING TO PUBLIC LAND LIABILITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that two groups, the task  
2 force on beach and water safety established pursuant to Act 190,  
3 Session Laws of Hawaii 1996, and the risk assessment working  
4 group established in section 171-86, Hawaii Revised Statutes,  
5 pursuant to Act 82, Session Laws of Hawaii 2003, were created to  
6 advise the chairperson of the board of land and natural  
7 resources regarding the design and placement of warning signs,  
8 devices, or systems at public beach parks and improved public  
9 lands before the chairperson approved the design and placement  
10 of such warning signs, devices, and systems. The legislature  
11 further finds that these two groups are defunct and no longer  
12 necessary to effectuate proper warnings of dangers at public  
13 beach parks and improved public lands.

14           The purpose of this Act is to increase efficiency and  
15 update old statutory provisions by:

16           (1) Repealing the task force on beach and water safety and  
17           risk assessment working group; and



1           (2) Requiring the design and placement of warning signs,  
2           devices, and systems on certain areas of the State to  
3           be approved by the chairperson of the board of land  
4           and natural resources and the respective county  
5           mayors.

6           SECTION 2. Section 663-1.56, Hawaii Revised Statutes, is  
7 amended as follows:

8           1. By amending subsections (b) through (d) to read:

9           (b) A sign or signs warning of dangerous shorebreak or  
10 strong current shall be conclusively presumed to be legally  
11 adequate to warn of these dangerous conditions, if the State or  
12 county posts a sign or signs warning of the dangerous shorebreak  
13 or strong current and the design and placement of the warning  
14 sign or signs has been approved by the chairperson of the board  
15 of land and natural resources [~~. The chairperson shall consult~~  
16 ~~the governor's task force on beach and water safety prior to~~  
17 ~~approving the design and placement of the warning sign or~~  
18 ~~signs.] and the mayor of the county in which the sign or signs  
19 shall be placed.~~

20           (c) A sign or signs warning of other extremely dangerous  
21 natural conditions in the ocean adjacent to a public beach park



1 shall be conclusively presumed to be legally adequate to warn of  
2 the dangerous natural conditions, if the State or county posts a  
3 sign or signs warning of the extremely dangerous natural  
4 condition and the design and placement of the sign or signs have  
5 been approved by the chairperson of the board of land and  
6 natural resources [~~. The chairperson shall consult the task  
7 force on beach and water safety prior to issuing an approval of  
8 the design and placement of a warning sign or signs pursuant to  
9 this section.] and the mayor of the county in which the sign or  
10 signs shall be placed.~~

11 (d) The State or county operating a public beach park may  
12 submit a comprehensive plan for warning of dangerous natural  
13 conditions in the ocean adjacent to a public beach park to the  
14 chairperson of the board of land and natural resources who shall  
15 review the plan for adequacy of the warning as well as the  
16 design and placement of the warning signs, devices, or systems.  
17 [~~The chairperson shall consult with the task force on beach and  
18 water safety prior to issuing an approval of the plan. The task  
19 force on beach and water safety may seek public comment on the  
20 plan.] In the event that the chairperson approves the plan and  
21 the design and placement of warning signs, devices, or systems~~



1 are approved by the mayor of the county in which the warning  
2 signs, devices, or systems are placed as part of the plan for  
3 the particular beach park [after consulting with the task  
4 force], and the State or county posts the warnings provided for  
5 in the approved plan, then the warning signs, devices, or  
6 systems shall be conclusively presumed to be legally adequate to  
7 warn for all dangerous natural conditions in the ocean adjacent  
8 to the public beach park."

9 2. By amending subsection (g) to read:

10 "(g) In the event that a warning sign, device, or system  
11 posted or established in accordance with this section is  
12 vandalized, otherwise removed, or made illegible, the conclusive  
13 presumption provided by this section shall continue for a period  
14 of five days from the date that the vandalism, removal, or  
15 illegibility is discovered by the State or county. The State or  
16 county operating a public beach park shall maintain a record  
17 regarding each report of vandalism, removal, or illegibility  
18 that results in the replacement of a warning sign, device, or  
19 system at a State or county public beach park. The record shall  
20 include the date and time of the reporting and the replacement  
21 of the warning sign, device, or system. The State and county



1 shall provide a copy of the record annually to the chairperson  
2 of the board of land and natural resources [~~and the task force~~  
3 ~~on beach and water safety~~]."

4 SECTION 3. Section 663-52, Hawaii Revised Statutes, is  
5 amended as follows:

6 1. By amending subsections (a) and (b) to read:

7 "(a) A sign or signs warning of dangerous natural  
8 conditions on improved public lands shall be conclusively  
9 presumed to be legally adequate warning of the dangerous natural  
10 conditions of which the sign or signs warn, if the State or a  
11 county posts a sign or signs warning of the dangerous natural  
12 conditions and the design and placement of the warning sign or  
13 signs are approved by the [~~board. The board shall consult the~~  
14 ~~risk assessment working group established by chapter 171, prior~~  
15 ~~to approving the design and placement of a warning sign pursuant~~  
16 ~~to this section.~~] chairperson of the board and the mayor of the  
17 county in which the sign or signs shall be placed.

18 (b) The State or a county may submit to the board a  
19 comprehensive plan for warning of dangerous natural conditions  
20 at a particular area of improved public lands. The board shall  
21 review the plan for adequacy of the warning as well as the



1 design and placement of the warning signs, devices, or systems.  
2 ~~[The board shall consult with the risk assessment working group~~  
3 ~~before approving the plan. The risk assessment working group~~  
4 ~~shall seek public comment on the plan.]~~ In the event that the  
5 chairperson of the board ~~[after consulting with the risk~~  
6 ~~assessment working group]~~ approves the plan and the design and  
7 placement of the warning signs, devices, or systems are approved  
8 by the mayor of the county in which the warning signs, devices,  
9 or systems are placed as part of the plan for a particular area  
10 of improved public lands, and the State or a county posts the  
11 warnings provided for in the approved plan, then the warning  
12 signs, devices, or systems shall be conclusively presumed to be  
13 legally adequate warning of all dangerous natural conditions on  
14 the improved public lands."

15 2. By amending subsections (f) and (g) to read:

16 "(f) The board shall adopt rules pursuant to chapter 91  
17 establishing standards to guide the department of land and  
18 natural resources ~~[and the risk assessment working group]~~ in the  
19 general design and placement of warning signs; provided that  
20 chapter 91 shall not apply to any other process or action  
21 undertaken pursuant to this part.



1 (g) The State and the counties shall implement an accident  
2 reporting and recordkeeping program whereby all known accidents  
3 in park and trail areas are documented on an accident report  
4 form, and all such accident reports are kept on a permanent  
5 basis. [~~The risk assessment working group shall review and use~~  
6 ~~accident reports kept as part of this program as part of its~~  
7 ~~consultation to the board under this section.~~]"

8 SECTION 4. Section 171-8.6, Hawaii Revised Statutes, is  
9 repealed.

10 [~~"[§171-8.6] Risk assessment working group. (a) There is~~  
11 ~~established a risk assessment working group that shall be~~  
12 ~~administratively attached to the department. The risk~~  
13 ~~assessment working group shall provide consultation to the board~~  
14 ~~regarding the design and placement of warning signs, devices, or~~  
15 ~~systems on improved public lands as defined in section 663-51,~~  
16 ~~including any comprehensive plan submitted by the State, a~~  
17 ~~county, or managing entity, to the board for approval. The risk~~  
18 ~~assessment working group shall consist of the following members,~~  
19 ~~who shall serve without compensation:~~

20 (1) ~~The chairperson of the board, or designee;~~

21 (2) ~~The mayor of each county, or designee;~~



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- 1       ~~(3) The administrators of the department's division of~~
- 2           ~~forestry and wildlife and the division of state parks,~~
- 3           ~~or their designees;~~
- 4       ~~(4) The attorney general, or designee; and~~
- 5       ~~(5) A person appointed by the chairperson of the board~~
- 6           ~~knowledgeable in warning sign design.~~

7       ~~[(b)] The risk assessment working group shall submit a~~  
8 ~~report of its recommendations and of the consultation provided~~  
9 ~~to the board of land and natural resources under [Act 82,~~  
10 ~~Session Laws of Hawaii 2003], including a listing of warning~~  
11 ~~signs, devices, and systems on improved and unimproved public~~  
12 ~~lands subsequently approved or disapproved by the board, to the~~  
13 ~~legislature no later than twenty days prior to the convening of~~  
14 ~~each regular session." ]~~

15       SECTION 5. Act 190, Session Laws of Hawaii 1996, as  
16 amended by Act 101, Session Laws of Hawaii 1999, as amended by  
17 Act 170, Session Laws of Hawaii 2002, as amended by Act 152,  
18 Session Laws of Hawaii 2007, is amended by amending section 7 to  
19 read as follows:

20       "SECTION 7. This Act shall take effect on July 1, 1996~~[ ]~~;  
21 provided that section 3 shall be repealed on June 30, 2021."



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1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

*David Barnes*

JAN 25 2021



# H.B. NO. 823

**Report Title:**

Public Lands; Liabilities; Warning Signs; Task Force on Beach and Water Safety; Risk Assessment Working Group; Repealed

**Description:**

Repeals the task force on beach and water safety and risk assessment working group. Requires 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 and the respective county mayors.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

