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In reply, please refer to:
File:

**Testimony COMMENTING on SB0508
RELATING TO THE ENVIRONMENT**

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Hearing Date: 2/15/2023 Room Number: 224

1 **Fiscal Implications:** This measure will impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities.

4 **Department Testimony:** The Department acknowledges the intent of this measure and
5 respectfully submits the following comments.

6 Testing During Brown Water Advisories. Section 1(a)(1) of the bill requires the Clean
7 Water Branch (CWB) to perform water quality testing during brown water advisories (BWAs) as
8 part of its Hawaii beach monitoring program, as practicable; provided that no water sample shall
9 be collected by clean water branch personnel until hazardous conditions at affected beaches have
10 subsided. The Department believes water quality testing during BWAs is not necessary and is an
11 undesirable diversion of an already low supply of resources, both material and human. The
12 CWB has more than 700 historic water quality data points that show that the action threshold
13 value for the fecal indicator is almost always exceeded after heavy rainfall. This data is available
14 to the public upon request. BWAs are often issued at specific beaches or by geographical areas
15 and may include large parts of an island, the entire island, or the entire state. Logistically, it
16 would be nearly impossible to collect samples from all affected areas. BWAs serve to
17 preemptively inform the public without the need for laboratory confirmation of the results, which
18 takes 24 hours to complete.

19 If sampling is required, a sampler will need to return to the affected beach(es) while the
20 advisory remains active. BWAs often last several days and in the past have lasted for several

1 weeks. This bill does not provide guidance on how the CWB can determine when it has
2 achieved the objective this bill requires. The Department further notes that there is only one
3 sampler each on Kauai and Maui, one in Hilo, one in Kona, and three on Oahu. More field
4 samplers will clearly be needed to be able to fulfill this requirement.

5 The Department notes that a condition of the federal grant that supports beach monitoring
6 is weekly monitoring of all statewide Tier 1 beaches and subsequent retesting of all beaches that
7 exceed the threshold on each subsequent work-day until the threshold is no longer exceeded.
8 Samplers are required to deliver the samples to the laboratory within a set timeframe, often by
9 early afternoon to meet the maximum analytical holding time and to allow time for processing in
10 the laboratory. This limits the number of sites that can be monitored per day. The Department
11 further notes that testing during BWAs will require additional laboratory resources to analyze
12 those additional samples. In the event that laboratory resources are overburdened during a
13 brown water event, the Department will be faced with a difficult decision on how to balance this
14 bill's requirement to test waters during BWAs and the competing federal requirement that funds
15 much of the beach monitoring and public notification program, potentially jeopardizing future
16 federal grants.

17 The Department currently receives approximately \$310,000 annually in federal Clean
18 Water Act grant funding to implement Hawaii's beach monitoring and public notification
19 program. The allotted funds are insufficient to pay for additional statewide monitoring and
20 laboratory analytical testing. The Department estimates that a total of 33 FTEs would be needed
21 for CWB and laboratory personnel with an estimated personnel cost of \$2.2 million and
22 approximately \$1.5 million in operating cost per year. Other considerations include office and
23 laboratory space for the additional personnel, additional laboratory equipment and supplies, and
24 additional vehicles for monitoring staff. In addition, the Department does not have a laboratory
25 in Kona and is currently contracting laboratory services. Funds will be needed for increased
26 laboratory contracting costs.

27 The Department is currently working with state and county parks departments to post
28 permanent signs on beaches advising beach users to stay out of waters that appear brown or
29 turbid, especially after heavy rain. The signs will include a quick response (QR) code that can be
30 scanned by any smart phone which will take the user to the CWB beach advisories web page.

1 The sign will also have the web address to the that page. The CWB phone number will also be
2 listed. Coordination with the various parks officials will provide CWB with the relevant
3 permissions to post the signs at state and county parks, help CWB to determine the number of
4 signs needed, and the best location for their placement.

5 Issuing Health Advisories During Brown Water Advisories. Section 1(a)(2) of the bill
6 requires the Department to issue health advisories during BWAs that explain the health risks
7 associated with water runoff, including making proactive efforts to communicate BWAs with the
8 public. The CWB already issues health advisories and risk communication on beach water
9 quality when human health may be at risk. If fecal indicator levels exceed the threshold, CWB is
10 required by federal grant obligations to notify the public and collect follow up samples on each
11 subsequent workday until the fecal indicator levels no longer exceed the threshold level. The
12 CWB notifies the public through its website and through email notifications sent to all
13 subscribers, which include print and broadcast media, as well as other government agencies, the
14 visitor industry, lifeguards, and private individuals. BWAs are often mentioned in local
15 broadcast news.

16 The posting of permanent signs as discussed above will also help to advise beach users to
17 remain out of waters that appear brown or turbid and provides convenient contact information for
18 more information.

19 Consider environmental justice issues in the assessment of beaches. Section 1(a)(3) of
20 the bill requires the Department to take into consideration environmental justice issues in the
21 assessment of use, when considering usage and public health risk for its determination and
22 ranking of beaches for inclusion in Hawaii's beach monitoring program. In developing its
23 statewide tier system, the CWB evaluated the usage level of the various beaches, the availability
24 of facilities such as restrooms and showers, the presence of staffed lifeguard stations, and
25 accessibility, including parking. The rationale for this decision was to protect as many beach
26 users as possible with the available resources.

27 The CWB receives federal grant funding for the specific purpose of implementing
28 Hawaii's beach program. A grant requirement is to ensure that disadvantaged communities have
29 equal access to the benefits of federal funding. EPA has recently identified beaches in
30 disadvantaged communities throughout the state based on national criteria. The CWB has

1 engaged in discussions with EPA on utilizing state census data rather than national criteria to
2 determined disadvantaged communities as local data would likely to be more accurate.

3 Adopt or amend administrative rules. Section 1(b) of the bill requires the Department to
4 adopt or amend its administrative rules as necessary to implement this section. The CWB
5 believes that amending the administrative rule to implement this bill is not necessary. The CWB
6 is required to perform the activities of this bill as a federal grant condition. If federal funding is
7 reduced or eliminated, CWB will not be able to perform these tasks without replacement funding
8 from other sources.

9 Thank you for the opportunity to testify.

10 **Offered Amendments:** None.



2/14/2023

AEN Committee
Hawai'i State Capitol
Honolulu, Hawai'i 96813

Dear Chair Gabbard, Vice Chair Richards, and members of the Senate Committee on Agriculture and Environment,

Position: Support SB508 - Improving statewide coastal water quality monitoring program and public health notifications

The Surfrider Foundation would like to offer this testimony in support of SB508 and offer the following suggested edits. In addition, and attached to our testimony, is a sign-on letter from **23 local organizations** urging your support of this bill.

Suggested Bill Edits:

1. **Require posting of signs during Brown Water Advisories at Tier 1 Beaches.** We suggest editing item #2 to explicitly require that the Department of Health post physical signs at Tier 1 beaches when Brown Water Advisories are issued for those beaches. Suggested language is as follows:

*2) Issue health advisories during brown water advisories that explain the health risks associated with water runoff, including **but not limited to posting informational signs during brown water advisories at Tier 1 beaches.** ~~making proactive efforts to communicate brown water advisories with the public; and~~*

Note that these signs do not need to be permanent in nature. Rather they can be temporarily placed at beach park entrances during Brown Water Advisories and removed once Brown Water Advisories are lifted. This is similar to the High Surf Warning signs posted temporarily during high surf events. There is an opportunity for DOH to work with community groups, including lifeguards, to get these signs placed during Brown Water Advisory events.

2. **Remove Section 2: Appropriations** - We do not believe that any additional full time personnel is required to meet the requirements of this bill. In reviewing DOH data from Kaua'i and Maui in 2020, it was determined that only 11 of the 551 regularly scheduled samples on Maui in 2020 were skipped because of an active Brown Water Advisory. In the same year, zero of the 440 regularly scheduled samples on Kaua'i were skipped due to BWA. These results indicate a minimal number of additional samples that would be processed if DOH collected during BWA and **does not suggest the need for additional staff.**



Example of temporary High Surf Warning/strong rip current signs that could be replicated for brown water advisories.

Support and rationale for SB508

In Hawai'i, Surfrider Foundation has worked extensively with the Hawai'i Dept. of Health (DOH) and their Clean Water Branch (CWB) to support robust water testing and public notification programs so the beach-going public has the information they need to make decisions on where it is safe to surf, swim and play at the beach in Hawaii.

SB508 directs the Department of Health to make changes to the Clean Water Branch's (CWB) beach water quality and public notification program to better assess the threats to public health in Hawaii's recreational waters and to take further steps to communicate these risks to the public, so people can make informed decisions on where and when it is safe for them or their families to get into the water.

Continued Monitoring During Brown Water Advisories

Currently the CWB suspends all testing activity when Brown Water Advisories are issued. No samples are collected from any of the affected beaches, not even Tier 1 beaches, until the BWAs are lifted as a result of visual inspections. The problems with this approach are multi-faceted:

1. There is virtually no data to really describe the pollution levels and health risks during Brown Water Advisory (i.e. "wet") conditions. Because the overall dataset is biased, the public is less informed of risks during pollution associated with Brown Water Advisories. In some cases, the bacteria levels could be extremely high and dangerous, and the public should be aware of that risk.

2. Data from Surfrider Foundation's Blue Water Task Force monitoring clearly demonstrates that many locations have elevated levels of fecal indicator bacteria after rain events and in brown water events. Without testing during brown water events, it is unknown which locations monitored by the Department of Health experience pollution spikes during heavy rains. As noted above, this gap in knowledge puts ocean users at risk and delays the identification and enactment of needed pollution mitigation efforts.
3. By never testing during BWAs, cumulative water quality statistics communicated by the CWB beach monitoring program do not give an accurate picture of water quality conditions at many of Hawaii's beaches, and certainly not during wet weather conditions when public health is most likely to be threatened. EPA Region 9 has likewise recommended to the CWB, *"Establishing a protocol to test in Brown Water Advisories would provide much better and accurate data in regards to the water quality."*
4. The bill does **not** increase the number of sites monitored by CWB nor the number of times that sites must be monitored.
5. The bill does **not** require CWB to specifically test beaches under BWA nor conduct additional testing outside of its regularly monitored beaches.
6. If high bacteria readings are recorded, **daily** follow up testing is **not** required by EPA, nor should resampling prevent staff from testing other covered beaches.

Public Advisory Signs Posted at Beaches During Brown Water Advisories

Likewise, physical signs posted at the beach during BWAs would provide better notification to beach goers as they are stepping onto the beach that water quality conditions are likely affected by Brown Water conditions, allowing families with young children and people with compromised immune systems to take precautions from becoming sick.

While local residents and those who use Hawaii's beaches frequently may be aware of the BWAs that HDOH issues online and shares via email and radio/TV in some cases, there are many tourists and visitors who have no idea that Advisories have been issued and Brown Water could be affecting water quality conditions. Signs posted at popular Tier 1 beaches, would help provide better warning to visitors and those unfamiliar with HDOH's online advisories, and should not require any more staff time or logistical problems than it does to post temporary advisory signs for high bacteria readings. Surfrider feels confident that the Clean Water Branch could work out a system with beach managers or property owners of Tier 1 beaches to develop a reasonable plan to make this work.

Environmental Justice and Tiering of Beaches

Surfrider Foundation also supports the inclusion of environmental justice considerations in the prioritization of beaches for testing. The current ranking system identifies beaches that are heavily used, but this results in overlooking many areas that are important to local communities for fishing, gathering food, recreation, and cultural practices. Many coastal waters that are used primarily by native Hawaiian communities and local people are in areas with high cesspool

density and/or low coastal circulation, such as Kahalu'u on O'ahu. The Department of Health has a responsibility to the public health of our island communities, and therefore the Surfrider Foundation supports updating the beach prioritization scheme to shift prioritization from beaches that consistently test as clean (and well below the health standard) to higher risk areas where local communities fish, work, and recreate.

Sincerely,

A handwritten signature in black ink that reads "Lauren Blickley". The signature is written in a cursive, flowing style.

Lauren Blickley
Hawai'i Regional Manager
Surfrider Foundation

February 15, 2023
SENATE AGRICULTURE & ENVIRONMENT COMMITTEE
In SUPPORT of SB508: Relating to the Environment

Aloha Chair Gabbard, Vice Chair Richards, and Committee Members,

We, the **23 undersigned organizations**, write to express our support for SB508 directed towards improving the Department of Health Clean Water Branch's statewide beach water quality monitoring and public notification program.

The ocean is a vital part of our communities in Hawai'i. From recreation and putting food on our tables to cultural and traditional practices, our way of life depends on clean coastal waters. Unfortunately, statewide water quality monitoring at beaches in Hawai'i currently lags other states, favors beaches predominately visited by tourists, and lacks data collection during wet weather.

SB508 is a critical step towards improving water quality monitoring in coastal recreational waters in Hawai'i and will achieve the following:

- Account for environmental justice when DOH is evaluating its beach tiering system.
- Ensure that water quality sampling adequately covers popular local beaches and is not biased towards tourist-dominated beaches.
- Improve public notification of health hazards during Brown Water Advisories by requiring the DOH to post signs at affected Tier 1 beaches.
- Continue DOH water quality testing program during Brown Water Advisories. Currently, the Clean Water Branch suspends all testing when Brown Water Advisories are issued, leaving us with an incomplete assessment of coastal water quality conditions across the state.

We believe that it is a public right to ensure that our beaches and coastal waters are clean and free from pollution. Our local keiki, kupuna, 'ohana, and visitors should furthermore be able to enjoy surfing, swimming and recreating in the ocean safely. We appreciate your support of SB508 and the improvements to beach water quality monitoring that will protect the public health of all our communities.

Sincerely,

Organizations



SB-508

Submitted on: 2/14/2023 6:30:40 PM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Caroline Azelski	Individual	Support	Written Testimony Only

Comments:

Support. Thank you.

SB-508

Submitted on: 2/14/2023 8:30:24 PM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Matthew Geyer	Individual	Support	In Person

Comments:

SUPPORT.

Thanks for hearing this bill, the one concern I have is that this bill was scheduled on 2/14 to be heard on 2/15 which doesn't give folks enough time to provide testimony.

Please support this measure in its efforts to keep our oceans and beaches safe!

SB-508

Submitted on: 2/14/2023 10:08:39 PM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

SB-508

Submitted on: 2/14/2023 10:29:35 PM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Masessa	Individual	Support	Written Testimony Only

Comments:

I support this bill. It's hard to get a comprehensive idea on our water quality if we pick and choose to not test when the water quality is poor. Alerting the public to areas with poor water quality needs to be done, especially in remote areas where people recreate. Mahalo.

SB-508

Submitted on: 2/15/2023 7:06:37 AM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Carl J. Berg	Individual	Support	Written Testimony Only

Comments:

From: Dr. Carl J. Berg:

Water quality expert, former Hawaii Dept. of Health, Clean Water Branch, Environmental Health Specialist IV monitoring water quality and recipient of EPA and Hawaii DOH grants to monitor water quality and research water quality issues on the north shore of Kauai.

SB508 Section 1. (a)(1). I support requiring the CWB to continue to test water quality during Brown Water Advisories. In helping the CWB to set up this Brown Water Advisories program, we never intended it to alleviate testing during such events, rather it was to instantaneously warn the public of the public health risk of stormwater, because water sampling and analysis would take, at a minimum, 24 hours. However, the CWB has adopted a policy of not sampling once a Brown Water Advisory declaration has been made. This prevents the public from knowing how high the public health risk is and by not testing it unethically skews the yearly summary data by implying that there were no pollution events.

This section does not require additional staffing, it only requires the CWB to continue to sample, on its routine schedule, those sites under a Brown Water Advisory.

SB508 Section 1. (a)(2). The important portion of the bill is “making proactive efforts to communicate brown water advisories with the public”. Sending out emails or announcements in the press is not effective as it simply does not reach most tourists or residents. I advise that “caution” or “warning” signs be posted on selected beaches where testing has shown the waters are polluted and where Brown Water Advisories have been issued.

SB508 Section 1. (a)(3). How can the Hawaii Department of Health NOT give environmental and social justice issues a consideration in selecting where to sample and test recreational waters? Why are sites primarily used by tourists, that have been tested for decades and almost

never show signs of pollution, be selected for monitoring over sites used extensively by locals, *e.g.* by canoe clubs and family gatherings, especially when such sites have been tested by others and shown to be chronically polluted?

SB-508

Submitted on: 2/15/2023 7:19:11 AM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel Amato	Individual	Support	Written Testimony Only

Comments:

I Dr. Daniel Amato support SB508. As a water quality professional and coral reef scientist, I understand the value in closely monitoring the quality of our nearshore waters. This is important to protect public health by informing the public of the real risk of entering the ocean, especially during large rain events. Posting a brown water advisory is not an adequate reaction. Residents and tourists do not receive these alerts easily. DOH needs to test the water during and after large rain events and post signs when FIB levels are high so the public is aware of when it is safe to enter the water.

I coordinate a large network of residents that test 20 sites on Oahu every 2 weeks with the Surfrider Foundation. During the last rain event, over 90% of our samples were above the Beach Action Value. DOH should be sampling during these events. The data set DOH generates is very skewed as a result of not capturing these events and misrepresents the actual quality of the water in Hawaii.

In addition, the tier system that determines which beaches are monitored and at what frequency needs adjustment. Too much priority is given to tourism and local residents and the waters they use on a daily basis are largely unmonitored. This is an environmental justice issue as beaches in regions dominated by minority and underserved communities are not adequately monitored. Thank you for your time. -Dr. Daniel Amato

SB-508

Submitted on: 2/15/2023 8:38:01 AM

Testimony for AEN on 2/15/2023 1:35:00 PM

Submitted By	Organization	Testifier Position	Testify
Ruta Jordans	Individual	Support	Written Testimony Only

Comments:

Please support SB508.

The ocean is a vital part of our communities in Hawai‘i. From recreation and putting food on our tables to cultural and traditional practices, our way of life depends on clean coastal waters. Unfortunately, statewide water quality monitoring at beaches in Hawai‘i currently lags other states, favors beaches predominately visited by tourists, and lacks data collection during wet weather.

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I believe that it is a public right to ensure that our beaches and coastal waters are clean and free from pollution. Our local keiki, kupuna, ‘ohana, and visitors should furthermore be able to enjoy surfing, swimming and recreating in the ocean safely.

Please support SB508 and the improvements to beach water quality monitoring that will protect the public health of all our communities.