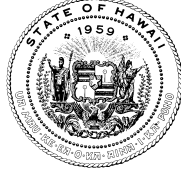


JOSH GREEN, M.D.
GOVERNOR
STATE OF HAWAII
*Ke Kia'āina o ka Moku'āina 'o
Hawai'i*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawai'i*



KALI WATSON
CHAIRMAN, HHC
Ka Luna Ho'okele

KATIE L. DUCATT
DEPUTY TO THE CHAIRMAN
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF KALI WATSON, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON FINANCE
HEARING ON FEBRUARY 26, 2024 AT 3:30PM IN CR 308

HB 2695, HD 1, RELATING TO WATER

February 26, 2024

Aloha Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) supports the intent of this bill which would 1) require each county board of water supply or water board to prioritize the sustainable recharge of aquifers, ensure the health of watersheds, and, when allocating water for new development, prioritize the development of affordable housing over other types of development and 2) provide that these requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended - effective 7/1/3000.

The DHHL concurs with the proposed amendment that the noted requirements shall not be construed to affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended. The DHHL understands that water in Hawai'i is held as a public trust resource, a status which derives from laws in the Hawaiian Kingdom as well as common law, case law, and State Constitutional provisions.

Partly in recognition of the significant role in which DHHL Homestead development can address much needed housing demand in the Counties, the Counties have started to explore ways in which they can use their limited powers related to water to address the water needs and accessibility challenges of DHHL. Maui County has led the way in these efforts. In 2007, Maui County enacted Ordinance 3502, often referred to as the "show me the water" ordinance. This requires verification of "a long-term reliable source of water before subdivisions are approved." The goal of this policy is to conserve the County's resources for affordable housing. In 2021, Ordinance 5313 specifically exempted DHHL projects from this requirement.

Also in Maui County, in November of 2022, Charter Amendment 12 was approved, establishing the East Maui Water Authority Board. This eleven-member Board will oversee the Nāhiku, Ke‘anae, Honomanu and Huelo water license areas. The responsibilities of the Board include approval of watershed management plans and related programs, approval of annual operations budget appropriation requests, and recommendations on water rates. One seat was reserved for a representative of the Hawaiian Homes Commission. This is the first instance in which a state or county water managing body has specifically dedicated a seat to represent and look out for DHHL interests.

In 2023, also in Maui County, the Council passed a 0.5 percent surcharge on top of the State’s 4 percent general excise tax. Twenty percent of the county’s revenue from the surcharge will go toward development of County infrastructure projects that would allow DHHL to proceed with homestead development, including the development of necessary water infrastructure.

In April 2022, the Hawai‘i County Council passed two bills allowing the development of timeshares, affordable workforce housing and other facilities at a particular site in Waikōloa, South Kohala. As passed, 2% of timeshare sales and resales from the proposed project will be donated to the Waikōloa Foundation, and 25% of those derived funds will be allocated to an agency or program to directly or indirectly support water-related needs associated with housing programs for Native Hawaiians within the South Kohala district.

Despite the importance and significance of various Federal, State, and County policies, progress on addressing the significant water access challenges of DHHL on the Hawaiian Home Lands remains a very significant challenge.

Thank you for your consideration of our testimony.

**BOARD OF WATER SUPPLY
KA 'OIHANA WAI**

CITY AND COUNTY OF HONOLULU

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843
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ERNEST Y. W. LAU, P.E.
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MANAKIA A ME KAHU WILIKI

ERWIN KAWATA
DEPUTY MANAGER
HOPE MANAKIA



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GENE C. ALBANO, P.E., Ex-Officio

February 26, 2024

The Honorable Kyle T. Yamashita, Chair
and Members
House Committee on Finance
Hawaii State Capitol, Room 308
Honolulu, Hawaii 96813

Dear Chair Yamashita and Members:

Subject: House Bill 2695, HD1: Relating to Water

The Honolulu Board of Water Supply (BWS) has concerns regarding House Bill (HB) 2695, House Draft (HD) 1, and believes this measure is unnecessary. HB 2695, HD1, proposes to add a new chapter to Hawaii Revised Statutes (HRS) Title 13, Planning and Economic Development to require each county to prioritize (1) the sustainable recharge of aquifers, (2) ensure the health of watersheds, and (3) prioritize allocating water for affordable housing.

The county boards of water supply already share a collective responsibility with State, City, Federal agencies and departments ensuring the health of watersheds and sustainable recharge of aquifers. The priorities listed in this bill overlaps with compliance responsibilities of Hawaii Revised Statutes (HRS) of Chapter 174C State Water Code and HRS Chapter 171 Public Lands, Management and Disposition Of.

The BWS is not the proper authority to determine whether to prioritize affordable housing. The priorities of the State and counties as to the various categories of development are prone to change from time to time. The permitting process at the county level include various reviews by multiple state and county agencies based on the type of zoning, whether it be residential, agricultural, planned development, special purpose, commercial or industrial.

The BWS is a semi-autonomous agency that does not receive funds from property taxes. The BWS mission is to deliver safe, dependable, and affordable water, now

The Honorable Kyle T. Yamashita, Chair
and Members
February 26, 2024
Page 2

and into the future. The BWS does not discriminate against its water users as water service is offered on a first come, first serve basis. The BWS Board (Board) recognizes the importance of affordable water to meet essential household needs and is doing its part to support the development of affordable housing. The Board passed Resolution No. 889 (2018) to allow for waiver(s) of the water system facilities charge and new meter cost for qualified affordable and homeless dwelling units, up to 500 dwelling units per year, and recently renewed and extended the provision for waivers through June 30, 2029, through Resolution No. 976 (2023). The dwelling units must meet certain requirements as specified in the BWS Resolution. Any further extension of the provision is subject to Board approval.

Under Sections 1-102 and 2-202 of the BWS Rules and Regulations, the BWS may allow a deferral of payment of water system facilities charge and installation of water service fees until the installation of the water meter, provided that all BWS requirements are satisfied.

Pursuant to the Revised Charter of the City and County of Honolulu 1973, under Article VII, Section 7-103 "All water systems of the city, including water rights and water sources, sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems shall be under the control of the department ["board of water supply"]."

Again, the BWS believes HB2695, HD1, is not necessary and as written we oppose it.

Thank you for the opportunity to testify our opposition to HB 2695, HD1.

Very truly yours,



ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer





DEPARTMENT OF WATER SUPPLY • COUNTY OF HAWAII

345 KEKŪANAŌ'A STREET, SUITE 20 • HILO, HAWAII 96720

TELEPHONE (808) 961-8050 • FAX (808) 961-8657

February 26, 2024

TESTIMONY OF KEITH K. OKAMOTO, MANAGER-CHIEF ENGINEER
DEPARTMENT OF WATER SUPPLY, COUNTY OF HAWAII

HEARING BEFORE THE HOUSE COMMITTEE ON FINANCE

DATE: Monday, February 26, 2024
TIME: 3:30 p.m.
PLACE: Conference Room 308 & Videoconference

HB2695 HD1 - RELATING TO WATER

Honorable Chair Yamashita, Vice-Chair Kitagawa, and committee members,

The County of Hawaii, Department of Water Supply (DWS) submits this letter to respectfully express its significant concerns with HB2695 HD1.

The bill proposes to add a new chapter to title 13 of the Hawaii Revised Statutes to be appropriately designated as "CHAPTER, PROTECTION OF WATER ECOSYSTEMS". To summarize the proposed bill, it would require each county board of water supply or water board to:

- 1) Prioritize the sustainable recharge of aquifers;
- 2) ensure the health of watersheds; and
- 3) when allocating water for new development, prioritize the development of affordable housing over the other types of development.

While DWS agrees that each of the above has merit, DWS has significant concerns with this proposed bill because there are existing government entities that are responsible for the first two items above. The State Commission on Water Resource management (CWRM or Commission) is responsible for prioritizing the sustainable recharge of aquifers. CWRM's Water Resource Protection Plan identifies and documents the recharge rate of the island's aquifers based on rainfall, fog drip, runoff, evapotranspiration, etc. The State Division of Forestry and Wildlife (DOFAW) is responsible for ensuring the health of watersheds. According to DOFAW's website one of their primary goals is to protect the State's native watershed forests. DOFAW has the 30x30 Watershed Initiative, which is an ambitious but simple goal: protect 30% of Hawaii's priority watershed forests by the year 2030. Their goal to protect watershed forests is part of the broader Aloha+ Challenge tracked by the Hawai'i Green Growth Initiative.

Regarding affordable housing development, we fully agree that additional affordable housing is a significant need in our state as well as on the Hawai'i Island. Although available water is a factor in housing development, it is not the only factor, nor does the water utility drive housing development. Also, this component of the bill does not match the proposed title of the new HRS Section, "PROTECTION OF WATER ECOSYSTEMS"

...Water, Our Most Precious Resource...Ka Wai A Kāne...

The Department of Water Supply is an Equal Opportunity provider and employer.

The DWS operates very lean with a staff of approximately 155 personnel and an annual operating budget of \$65M to meet its mission to provide an adequate and continuous supply of safe drinking water in a financially responsible manner. Water utilities are continually burdened by unfunded mandates, primarily to meet Federal and State safe drinking water requirements, but more recently, with requirements over and beyond our core mission. We don't receive any external funding to cover our operating costs. This is provided by revenues generated by our water bills.

We do understand that we are a significant stakeholder and partner when it comes to the health of aquifers and watersheds, as well as the development of affordable housing. As such, we continue to track pumpage from DWS' sources and report the data monthly to CWRM. We are highly aware and cognizant of protecting the water quality of the aquifers and drinking water sources and do everything within our powers to protect the source water quality. We participate in meetings with various watershed partnerships and the State DOFAW and continue to collaborate with them on watershed protection opportunities. When it comes to affordable housing, DWS coordinates with the respective County Office of Housing and Community Development and Planning Departments on the allowable amount of water available for each affordable housing project(s).

In summary, HB2695 HD1 is misdirected and unnecessary. Requiring a county board of water supply to prioritize objectives that are already the purview as well as established priorities of existing agencies with greater funding capacity does not make sense.

We thank you for your attention to this matter, and for your dedication and commitment to serving our State.

Please feel free to contact me at (808) 961-8050 or via email at dws@hawaiidws.org with any questions you may have regarding DWS' comments. Thank you for your time and consideration of our testimony on HB2695 HD1.



Restore the Commons

Monday, February 26, 2023, 3:30 pm

House Committee on Finance

HOUSE BILL 2695 – RELATING TO WATER

Position: Comment

Me ke Aloha, Chair Yamashita, Vice-Chair Kitagawa, and Members of the House Committee on Finance:

HB2695 Requires each county board of water supply or water board to prioritize the sustainable recharge of aquifers and to ensure the health of watersheds. In addition, they should prioritize the development of affordable housing over other types of development. But they should not affect allocations of water for agricultural purposes or developments under the Hawaiian Homes Commission Act, 1920, as amended.

As written, this bill seems a little confused as to what the county water board responsibilities are. Sustainable recharge and health of watersheds are the primary responsibilities of the Water Commission and, to some extent, the Department of Health. Of course, the counties have a role in that, and actually do cooperate.

The real import of this bill seems to favor housing developments, which is not really a water issue. Agricultural uses tend to be more consumptive, so it's not really clear why this language is in a bill.

Mahalo for the opportunity to address this issue,

/s/ Charley Ice

Planner, Department of Hawaiian Home Lands and liaison to the Water Commission (10 years) and Hydrologist, Commission on Water Resource Management (25 years) (retired)

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