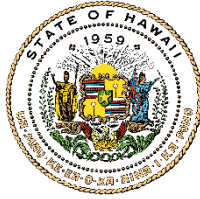


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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

Testimony of
DAWN S. CHANG
Chairperson

Before the House Committees on
ENERGY AND ENVIRONMENTAL PROTECTION
And
WATER AND LAND

Tuesday, February 6, 2024
9:45 AM

State Capitol Conference Room 325 and Videoconference

In Consideration of
HOUSE BILL 2166
RELATING TO THE HAWAII ENVIRONMENTAL PROTECTION AGENCY

House Bill 2166 establishes the Hawaii Environmental Protection Agency within the Department of Land and Natural Resources (DLNR). It also transfers the jurisdiction of certain functions and employees of the departments of agriculture, health and business, economic development and tourism, to the Hawaii environmental protection agency. **DLNR has strong concerns on this measure and provides comments.**

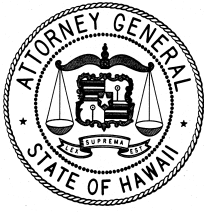
DLNR notes that during the 2021 Session, Senate Bill 968 and its companion, House Bill 423, gave an extensive history and reasoning for a Department of Environmental Protection and proposed to create such a department. In 2022, House Bill 2256, proposed to create a Department of Environmental Protection and moved the State Energy Office into the new department. Also in 2022, Senate Bill 3273 proposed a firm deadline by which to create a Department of Environmental Protection and created a working group to address the logistics of fulfilling this mandate. In 2023, HB196 proposed to create a working group and set firm dates for the working group to report out and for a Department of Environmental Protection to be created. This year, HB2166 proposes to create an Environmental Protection Agency within DLNR.

The record shows that there is a desire for an environmental department. How to get there is problematic, however, because it would be disruptive to several key agencies. To properly create such a department would probably take several years longer than the Legislature has allotted in past legislation. The Department suggests that a new study by the Legislative Reference Bureau be

undertaken suggesting how to create an environmental department. One of the main questions that has not been answered to date is how to create this department without gutting functions of the affected departments. Affected departments' missions require realignment, so that what is left makes sense. For some departments, this may be easier than for others. In DLNR, for example, some parts of our Forestry Division might remain, while others may move to the proposed agency. Even if one key individual from DLNR's Forestry Division is transferred, this move results in a critical vacuum of knowledge and expertise for the division. In addition to DLNR, organizational disruption would likely result at the Departments of Agriculture, Health and Business, Economic Development and Tourism.

There are also several things that would have to be clarified in the legislation. This bill does not clarify whether the proposed agency be equivalent to a division within DLNR. If the proposed agency were to be a division, this bill does not clarify whether the proposed agency would be under the jurisdiction of the Land Board or whether the agency would be under the jurisdiction of the several other commissions within DLNR, such as the Commission on Water Resource Management (CWRM). The relationship between the proposed agency and DLNR needs clarity.

Thank you for the opportunity to testify on this bill.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2166, RELATING TO THE HAWAII ENVIRONMENTAL PROTECTION AGENCY.

BEFORE THE:

HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION AND ON WATER AND LAND

DATE: Tuesday, February 6, 2024 **TIME:** 9:45 a.m.

LOCATION: State Capitol, Room 325 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Miranda C. Steed, Deputy Attorney General

Chairs Lowen and Ichiyama and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to establish the Hawaii Environmental Protection Agency within the Department of Land and Natural Resources for exercising regulatory functions and coordinating responsibilities to manage the State's environment. This bill proposes to transfer functions from the Department of Agriculture and the Department of Health to the new agency, establish the Hawaii Environmental Protection Agency Special Fund, and appropriate unspecified amounts of money for the new agency.

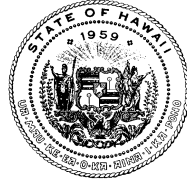
In section 4 of the bill, on page 8, the following provision should be inserted after subsection (a):

“All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.”

Section 7 of the bill, on page 15, should amend chapter 149A, Hawaii Revised Statutes, to also specify that “Hawaii environmental protection agency” should be substituted for “board of agriculture”, which is also used throughout chapter 149A.

We respectfully request that the foregoing changes be made.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. BOX 3378
HONOLULU, HI 96801-3378
doh.testimony@doh.hawaii.gov

In reply, please refer to:
File:

**Testimony in OPPOSITION to HB2166
RELATING TO THE HAWAII ENVIRONMENTAL PROTECTION AGENCY**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

REPRESENTATIVE LINDA ICHIYAMA, CHAIR
HOUSE COMMITTEE ON WATER & LAND

Hearing Date: 2/6/2024

Room Number: 325

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 opposes this measure to establish the Hawaii
5 environmental protection agency within the Department of Land and Natural Resources (DLNR).
6 The Department does not see a benefit to the proposed structure and has major concerns about
7 devoting the resources required to undertake a major reorganization at this time. The
8 Department regulates various divisions of DLNR through many National Pollutant Discharge
9 Elimination System (NPDES) permits, Underground Injection Control (UIC) permits, and
10 Individual Wastewater System (IWS) approvals.

11 The protection of our environment, at scales ranging from a single aquifer to our
12 archipelago home to the entire planet, is closely tied to the health and wellbeing of humans. It is
13 important to prioritize the environmental protection work done by the branches and offices
14 focusing on the protection of human health and the environment, which are housed mostly within
15 the Department's Environmental Health Administration (EHA). The critical functions of the
16 proposed agency are already being performed by these existing branches and offices. The
17 Department does not see any benefit to moving the Environmental Management Division,

1 Hazard Evaluation and Emergency Response Office, and others to DLNR. In addition, separating
2 these offices from the closely related State Laboratories Division and Environmental Health
3 Services Division in EHA would be a loss.

4 The Department cannot reallocate existing human resources to complete the work this bill
5 requires at this time. Unusual global and local events and the pace of change over the last few
6 years have strained the Department and its human resources, including in its environmental
7 programs. Right now, in the face of understaffing and the challenges in hiring that you've heard
8 about from all the executive departments, we need to keep the time and attention of our existing
9 environmental protection staff focused on our mission. Some programs are already struggling to
10 perform their regular functions and deal with the extra load of major crises/special projects. The
11 management of the Red Hill closure and remediation as well as the debris cleanup and recovery
12 efforts for the Maui wildfires require the sustained time and attention of some of the same key
13 staff who would also need to be involved in the work of a major reorganization.

14 **Offered Amendments:** None.

15 Thank you for the opportunity to testify.

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
KA 'OIHANA MAHI'AI
1428 South King Street
Honolulu, Hawai'i 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION AND
COMMITTEE ON WATER & LAND**

**FEBRUARY 6, 2024
9:45 A.M.
CONFERENCE ROOM 325 AND VIDEOCONFERENCE**

**HOUSE BILL NO. 2166
RELATING TO AGRICULTURE**

Chairpersons Lowen and Ichiyama, Vice-Chairs Cochran and Poepoe, and Members of the Committees:

Thank you for the opportunity to testify on House Bill 2166 relating to the Hawaii environmental protection agency. The bill establishes the Hawaii environmental protection agency within the department of land and natural resources. The Department respectfully opposes this bill.

The Department has concerns related to the single person, appointed by the Governor, facilitating the transfer of the targeted functions, programs, and authorities from the Department of Health, Department of Agriculture, and the Department of Business, Economic Development and Tourism to the new agency. The Department is unsure of the rationale for establishing centralized authority, especially within the Department of Land and Natural Resources (DLNR). The DLNR is currently regulated by many of these programs creating potential conflicts within the Department.



The Pesticides Branch functions directly to assist farmers, ranchers, and other industries directly related to agricultural production. The Branch provides education, certification, and specialized registrations which may not be prioritized if the Branch is transferred to a new agency with a different mandate.

Extensive work related to invasive species provides the Department with needed regulatory guidance and oversight for proposed solutions to pest management. Pesticides, pesticide applications, and other regulatory requirements are a hugely important factor for the Department and are required in direct decision-making discussions for major biosecurity implementation.

The Department also notes Section 4, page 8 of the bill is missing a statement that “All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.”

The Department feels that extensive discussions between HDOA, DLNR, HDOH, and DBEDT should take place prior to any legislation requiring transfer of positions, duties, programs, and laws occur. Full implementation of the bill’s stated programs is premature without due diligence and administrative discussions.

Thank you for the opportunity to testify on this measure.

Cynthia K.L. Rezendes

rezentesc@aol.com

February 6, 2024

Committee on Energy & Environmental Protection
Committee on Water & Land
February, 2024, 9:45 a.m.

SUBJECT: HB 2166 RELATING TO THE HAWAII ENVIRONMENTAL PROTECTION AGENCY

Aloha Chairs Lowen and Ichiyama and members of the committees,

Thank you for the opportunity to provide testimony and comments on this proposed bill. I am in STRONG SUPPORT of this bill and would encourage strengthening it even further by adding an individual to represent environmental justice for disadvantaged communities within the state.

Speaking as someone who has been a member of the EPA National Environmental Justice Advisory Council (NEJAC) for six years, it is very evident to me that the State of Hawaii could benefit its constituents with a member on the proposed Environmental Protection Agency as proposed in HB 2166.

The time I served was a very enlightening experience in understanding the detrimental effects of living in a disadvantaged community to many people around the country. It became evident that even here in Hawaii we have disadvantaged communities that are not represented appropriately or adequately with respect to environmental justice, including the community that I come from.

At one time, the Department of Health did have a full-time person assigned to this position that eventually became a half-time of their time and now does not appear to be identified in any directory I have searched in. In fact the DOH website have an environmental justice plan which went from 2015-2020 and then has not been addressed again.

If it is important enough for the EPA and the White House to establish and support an advisory council at each level to support EO 12898, EO 14008, and the Civil Rights Act of 1964, it should be important for Hawaii to support those directives and provide even more protection and support for our own constituents.

Therefore, I respectfully request that you add another position to be part of this proposed agency.

Respectfully submitted,

Cynthia K.L. Rezendes
Wai`anae Coast Resident