



**TESTIMONY PROVIDING COMMENTS ON SENATE BILL 2363**  
RELATING TO THE COUNTIES

Ke Kōmike Hale o ka Wai a me ka ‘Āina  
(House Committee on Water & Land)

Ke Kapitala ‘o Hawai‘i  
(Hawai‘i State Capitol)

Malaki 17, 2026

9:00am

Lumi 411

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Aloha e Chair Hashem, Vice Chair Morikawa, and Members of the Committee on Water and Land:

The Office of Hawaiian Affairs (OHA) provides the following **COMMENTS on SB2363**, which authorizes the counties to close or restrict access to public lands when necessary to protect public health, ensure public safety, or preserve natural or cultural resources.

OHA is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians.<sup>1</sup> In carrying out its mandates, OHA regularly assesses the policies and practices of other agencies that may impact Native Hawaiian traditional and customary rights, including rights related to resource gathering and the stewardship of lands and natural resources.<sup>2</sup>

OHA understands that counties may already exercise a degree of implicit authority under their general powers which provide broad health, safety, and maintenance authority.<sup>3</sup> In this respect, OHA understands this measure to clarify and make explicit an authority that counties may already exercise in practice to an extent. Accordingly, OHA takes no position on the measure, but offers the following comments regarding its implementation.

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<sup>1</sup> Haw. Const. Art. XII § 5.

<sup>2</sup> See HRS § 10-3(4).

<sup>3</sup> See HRS §§ 46-1.5.

SB2363 authorizes counties to close or restrict public lands to protect public health, ensure public safety or preserve natural or cultural resources. While such closures may sometimes be necessary to protect sensitive resources, decisions affecting culturally significant lands should also consider the protected rights of Native Hawaiians to access and use lands and natural resources for traditional and customary practices under Article XII, Section 7 of the Hawai'i Constitution and HRS Section 1-1.

Further, Native Hawaiians possess deep genealogical and cultural connections to specific places, and many Native Hawaiian practitioners and cultural descendants maintain longstanding knowledge of the proper stewardship and management of those lands. To help ensure that closures are culturally informed and appropriately tailored, OHA recommends incorporating a consultation provision into the bill. Specifically, OHA suggests adding language such as the following at line 1, page 3 as a new subsection (c):

“Prior to implementing a closure, or as soon thereafter as practicable, the county shall consult with Native Hawaiian organizations, including the office of Hawaiian affairs, the relevant island burial council established pursuant to section 6E-43.5, and the relevant aha moku advisory committee established pursuant to section 171-4.5, to minimize adverse impacts to the exercise of traditional and customary practices in the area.”

Mahalo for the opportunity to testify. We appreciate the careful consideration of our **COMMENTS on SB2363**.

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

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

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CONSERVATION AND COASTAL LANDS  
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ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
RYAN K.P. KANAKA'OLE  
Acting Chairperson

Before the House Committee on  
WATER AND LAND

Tuesday, March 17, 2026  
9:00 AM

State Capitol, Conference Room 411

In consideration of  
SENATE BILL 2363  
RELATING TO THE COUNTIES

Senate Bill 2363 would authorize the counties to temporarily or permanently restrict or close public access to county-controlled lands when necessary to protect public health, ensure public safety, or preserve natural or cultural resources. The measure provides the counties with flexibility to respond to hazardous conditions such as flooding, erosion, wildfire risk, and other threats, while also requiring reasonable public notice of any closure or restriction. **The Department of Land and Natural Resources (Department) supports this bill.**

The Department appreciates the intent of this measure to clarify county authority and provide an additional tool to manage public access during unsafe conditions. Ensuring that counties can act promptly to address hazards is important for protecting residents and visitors.

The Department respectfully defers to the counties regarding implementation and looks forward to continued coordination on matters involving public access and safety.

Mahalo for the opportunity to comment on this measure.

**DEPARTMENT OF FACILITY MAINTENANCE**  
**KA 'OIHANA MĀLAMA HALE**  
**CITY AND COUNTY OF HONOLULU**

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RICK BLANGIARDI  
MAYOR  
*MEIA*



March 13, 2026

GENE C. ALBANO, P.E.  
DIRECTOR AND CHIEF ENGINEER  
*PO'O A ME LUNA NUI 'ENEKINIA*

WARREN K. MAMIZUKA  
DEPUTY DIRECTOR  
*HOPE PO'O*

IN REPLY REFER TO:  
26-065

The Honorable Representative Mark J. Hashem, Chair  
The Honorable Representative Dee Morikawa, Vice Chair  
and Members of the Committee on Water & Land  
House of Representatives  
415 South Beretania Street, Room 411  
Honolulu, Hawai'i 96813

Dear Chair Hashem, Vice Chair Morikawa, and Committee Members:

Subject: Testimony in Support of Senate Bill 2363

On behalf of the City and County of Honolulu, Department of Facility Maintenance, we strongly **support** SB2363 to restrict or close unencumbered public lands under County's jurisdiction when necessary to protect public health, ensure public safety, and preserve natural and cultural resources.

The Bill allows for the City and County of Honolulu the ability to post Closed Area signs at County streams and other public areas vulnerable to public access that pose a risk to the public. Risks may cause injuries including falls due to uneven terrain, drownings, and other hazards. Critical storm water infrastructure may also be jeopardized by the trash and debris brought into the areas not intended for public access leading to possible flooding and unhealthy runoff into the ocean.

Sincerely,

Gene C. Albano, P.E.  
Director and Chief Engineer

**DEPARTMENT OF THE PROSECUTING ATTORNEY  
KA 'OIHANA O KA LOIO HO'OPI'I  
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**THE HONORABLE MARK J. HASHEM, CHAIR  
HOUSE COMMITTEE ON WATER & LAND**

**Thirty-Third State Legislature  
Regular Session of 2026  
State of Hawai'i**

March 17, 2026

**REGARDING S.B. 2363— RELATING TO THE COUNTIES**

Chair Hashem, Vice Chair Morikawa, and Members of the House Committee on Water & Land, the Department of the Prosecuting Attorney ("Department"), City and County of Honolulu, **supports** S.B. 2363. We appreciate the opportunity to testify on this matter.

The purpose of this measure is to authorize counties to regulate, restrict, or close public lands under their jurisdiction when necessary to protect public health and safety, or to preserve natural and cultural resources. The bill further clarifies that counties may establish ordinances regulating public access to streams, drainage ways, and storm drain systems.

**I. Need for Local Authority to Protect Public Safety**

County agencies frequently encounter situations where immediate action is required to keep the public safe—such as hazardous conditions, flooding, wildfire risks, landslides, erosion, or contamination. Without clear statutory authority, response efforts can be slowed by uncertainty, jurisdictional questions, or challenges to local authority.

This bill provides counties the explicit legal tools they need to act swiftly to protect residents and visitors.

**II. Protection of Natural and Cultural Resources**

Many county-managed lands contain culturally significant sites, fragile ecosystems, and natural resources that can be damaged by overuse, trespassing, illegal dumping, or unsafe activities. Allowing counties to temporarily or permanently restrict access when necessary ensures these spaces are preserved for future generations.

### **III. Clarity for Law Enforcement and Public Users**

By defining “encumbered” and “unencumbered” county property and outlining specific forms of permissible closures or restrictions, the bill creates consistency and transparency. Clear notice requirements—such as signage or online posting—ensure members of the public understand when and why access is restricted.

Providing this clarity supports enforcement actions when necessary and protects both county employees and community members.

### **IV. Support for County Infrastructure and Drainage Systems**

The inclusion of streams, drainage ways, and storm drain systems is especially important. Unauthorized entry into these systems poses major risks, including injuries, drownings, and interference with critical storm water infrastructure. This bill supports counties in preventing dangerous conduct and maintaining public safety and infrastructure integrity.

For these reasons, the Department respectfully **supports** the passage of S.B. 2363. Thank you for the opportunity to testify.

**SB-2363**

Submitted on: 3/16/2026 8:55:12 AM

Testimony for WAL on 3/17/2026 9:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ross Isokane	Individual	Oppose	Written Testimony Only

Comments:

I'm opposed to SB2363.

While counties should be able to respond quickly when conditions create legitimate threats to public safety, my interpretation is that this bill, as currently drafted, grants extremely broad and potentially discretionary authority (if the provisions are construed broadly) to close or restrict access to public property without sufficient guardrails or transparency.

My understanding is that under current practice, closures based on public safety typically occur through a formal declaration tied to a defined emergency condition. That process requires justification which allows an opportunity for public scrutiny. This bill appears to shift that standard toward something closer to a routine administrative power rather than an emergency response tool.

These are public lands held in trust for the people of Hawai'i. Government decisions to close or permanently restrict access to public lands should involve clear criteria, transparency, and appropriate oversight. Restrictions on public access should be the exception, not the default, and they should require clear justification.

For these reasons, I respectfully urge the Legislature to defer SB2363.