

Hawaii

Hawaii Senate Approves Water Rights Bill Over Loud Protests

An amendment failed that would have ensured the measure wouldn't continue Alexander & Baldwin's stream diversions in East Maui.

By Chad Blair    / April 12, 2016

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The Hawaii State Senate passed a heavily debated water rights bill Tuesday on a 17-6 vote after deliberations that were sometimes drowned out by protesters banging on empty jugs of water with wooden sticks.

[House Bill 2501](#) now awaits private negotiations between House and Senate conferees during which it could be dramatically altered without public knowledge before a final vote in early May — the last week of the legislative session.

The bill proposes to amend the permitting process for access to water from public lands. The key sticking point is whether landowner [Alexander & Baldwin](#) will be allowed to continue a “holdover” status with the state when it comes to diverting East Maui streams for Central and Upcountry Maui agricultural use.

Senate leaders say HB 2501 was amended last week in such a way as to exclude A&B but allow 10 other companies with water interests — farmers, ranchers and cattlemen statewide —to receive annual authorizations from the state until the summer of 2019.

But even that is in dispute, as supporters of East Maui taro farmers, environmentalists and some senators say that A&B could simply reapply for the water permits.

Indeed, the company is still diverting 160 million gallons of water from 100 streams a day to its agricultural interest in Central Maui, despite a court decision in January finding A&B in violation of state law.



Sen. Gil Riviere speaks on the Senate floor in support of amendments to a controversial water rights bill.

First Circuit Court Judge Rhonda Nishimura invalidated the company's four revocable permits that the state Board of Land and Natural Resources granted A&B and subsidiary East Maui Irrigation Co. in 2014. The permits

expired at the end of 2015 but were allowed to continue under a holdover status granted by the BLNR.

The Maui County Department of Water Supply, which relies on East Maui Irrigation's stream diversion to provide water to 80 percent of Upcountry Maui, filed an appeal, which both A&B and the Land Board supported, [according to Environment Hawaii](#).

The issue of Upcountry water is important because senators had said they wanted to make sure that water continued to be delivered to the region. But in fact, East Maui Irrigation's water continues to flow to the residents because public use doctrine does not allow essential services to be disrupted without good reason.

A&B had argued that it needed to continue supplying the water as part of its rationale for its continued water permit.

Water, Land And Power

HB 2501 is co-sponsored by three Maui lawmakers, including Speaker Joe Souki. Critics say it was written in order to get around the court ruling, which is probably headed to the Hawaii Supreme Court.

A&B is a powerful player on Maui. Its 36,000-acre sugar plantation, owned by subsidiary Hawaiian Commercial & Sugar Company, is being closed in Puunene. A&B says it needs to continue bringing water to Central Maui to forward its plans for diversified agriculture.

Enter HB 2501, which organizations like the [Sierra Club of Hawaii](#) argue would benefit only one company — A&B. Even though the bill has been amended, House lawmakers could work to make sure the company is taken care of.



Hauula resident Josh Noga used a bullhorn to get the attention of senators regarding HB 2501. It did, but they passed the bill anyway.

On Tuesday, Sen. Russell Ruderman introduced a floor amendment to change the bill once again.

If his colleagues were so concerned about not offering A&B special legislation, he said, they should close the loophole that would allow the company to reapply for the water permits. He said the amendment would also show that the Legislature was not trying to bypass the court's ruling.

Ruderman had the support of Sen. Gil Riviere, who said that, while he supports keeping Central Maui green, A&B has not demonstrated that it has an actual plan to diversify its operations there after the sugar plantation closes.

What is clear, said Riviere, is that East Maui farmers are still longing for water. He warned that the passage of HB 2501 might prolong that wait.

The floor amendment failed 15-8, with five senators voting yes "with reservations" and senators Sam Slom and Laura Thielen excused. Slom, the only Republican in the Senate, was absent because of heart surgery set for Wednesday.

Riviere voted “no,” while Ruderman, whose Big Island district includes five of the 10 companies referenced in the bill, voted yes with reservations.



Sierra Club Director Marti Townsend said HB 2501 seeks to circumvent a recent court ruling against Alexander & Baldwin’s diversion of millions of gallons of water from East Maui streams.

‘Hey, Hey, A&B’

The Senate’s deliberations were interrupted repeatedly by a protest in the Rotunda outside the chamber. The [Sierra Club of Hawaii](#) organized the rally, which included walking the halls of the Senate to encourage lawmakers to “end the political ping-pong” over HB 2501.

The dozens of protesters held signs that read “Stop Stealing Our Resources” and shouted out “Hey, hey, A&B, we don’t need your corporate greed!” and “E Ola I Ka Wai!” — “water is life.”

The Sierra Club’s director, Marti Townsend, said what is happening with HB 2501 is “transactional politics” and “horse trading” between lawmakers

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