

Hawaii

# Protests Don't Overcome East Maui Water Diversion Bill

Legislators hand former Big Five sugar company Alexander & Baldwin water for its lands in Central Maui

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By Chad Blair    / May 4, 2016

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In the end, the bill that aroused the most vocal protests at the Hawaii Legislature this session passed rather quietly.

On Tuesday, there was the usual chanting, music and blowing of conch shells in the Rotunda. But it did not last long, and it wasn't as intense as during other rallies. The protesters seemed to know the shape of things to come and were already focused on the next battle.

As the Senate neared voting on [House Bill 2501](#) Tuesday, the water-rights bill that will allow Alexander & Baldwin to divert water from East Maui streams for three more years, the protesters gradually took seats in the gallery. By the time the final vote came, they stood, arms extended with fisted hands.

The vote was 17 to 8 in favor, with five of the “ayes” cast with reservations, meaning they weren’t crazy about their votes. HB 2501 cleared the House of Representatives last week, where some lawmakers also [expressed their worries](#) about the bill, which now heads to Gov. David Ige for his consideration.



Sen. Gil Riviere spoke out at length against House Bill 2501, which he said favored only A&B.

For supporters of the measure, its passage represents an historic shift on Maui from sugar cane to diversified agriculture. Alexander & Baldwin, one of the former Big Five companies that now focuses on agriculture and land development, said it will still need water from lush East Maui to grow crops in dry Central Maui, although it hasn’t released its plans in detail. It won’t be as much water as needed for sugar, the company promised, which currently amounts to 160 million gallons a day.

For opponents of the measure, HB 2501 was also a victory, of sorts. They showed that environmentalists and Native Hawaiians can raise a ruckus and nearly kill a piece of legislation that they described as the continuation of a great injustice. Their next battle is to pressure Ige to veto the legislation, and

they said their vigilance is heightened to watch for future such stealth measures.

But HB 2501 also revealed other important points.

The first is that, when powerful leaders want something to pass, they usually get their way. The exact horse trading that was said to be going on behind the scenes may never be revealed, but House Speaker Joe Souki of Maui made sure his most prized bill was approved.



Sen. Mike Gabbard, who opened Tuesday's floor action with a song, says HB 2501 is a good compromise.

And, while lawmakers dismiss the idea that large campaign contributions from A&B might have influenced their vote — [over half a million dollars](#) to state and county candidates since 2006 — few believe them. Yes, donations are made because of ideological reasons, but they are also made — especially by companies with lobbyists — so that lawmakers listen to them when they need to be heard.

On HB 2501, A&B needed to be heard. It was.

The [staging of a press conference](#) at the Capitol in late April, at which A&B said it would restore water to up to eight streams, illustrated that power. That very afternoon, language making clear that A&B would be covered by HB 2501 — the Senate had cut the language, perhaps to gain leverage over Souki or even out of spite — was magically restored. Meanwhile, on Sunday, [the Maui News reported](#) that “logistical issues” could delay restoration to five of the streams.

The most important thing to understand about HB 2501 is that the Legislature is circumventing a January state court ruling that found A&B has been illegally diverting water for 15 years. The case is on appeal and the Department of Land and Natural Resources must still address A&B’s invalidated diversion permits.

“As several senators noted in their speeches against the bill, this is special legislation benefiting only Alexander & Baldwin,” said Marti Townsend, director for the Sierra Club of Hawaii, which led the fight to defeat HB 2501.



Sierra Club Director Marti Townsend says the struggle to stop HB 2501 now turns to Gov. Ige.

Sens. Gil Riviere, Laura Thielen and Les Ihara were among those speaking out against the bill.

“This is a bad bill and bad policy,” said Riviere.

Thielen warned that the Legislature could come back in three years and extend the water leases “when no one is looking.”

Mike Gabbard disagreed.

He characterized HB 2501 as a compromise that strikes a balance. He reiterated that the bill has a sunset date in 2019, that there is money in the state budget to fund positions to help the permit process and to survey stream use, and that the bill also requires that so-called holdover permits with the Land Board be consistent with the public trust doctrine.

Interestingly, Gabbard also spoke Tuesday about a possible new agricultural path for the state, one that places the water battle in a different context.

Gabbard discussed the potential of industrial hemp. He noted that George Washington and Thomas Jefferson grew hemp, and that the draft of the Declaration of Independence was written on hemp paper. He said he hoped that Hawaii would become the “hemp seed capitol of the world.”



An opponent of HB 2501 carries a photograph of an impacted Maui stream.

Gabbard was speaking about the promise of [Senate Bill 2659](#), which passed unanimously in both chambers Tuesday. It establishes an agricultural hemp program that, for the first time in Hawaii's history, will allow hemp cultivation and the distribution of its seed by multiple licensed local farmers.

A press release from the House late Tuesday stated, "The timing of the bill's passage into law is significant, as Maui's sugar cane crops face demise in just weeks, because it provides hundreds of the 700-plus otherwise unemployed sugar workers with a viable crop to farm on Alexander & Baldwin's land, with minimal loss of income and transition."

Hemp, along with the licensing of medical marijuana sales, could be Hawaii's new cash crop. Another bill passing the House and Senate Tuesday [clarifies and advances](#) the state's med pot program.

Hawaii may well be in another historic shift. Is A&B is paying attention?

## About the Author



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