

Hawaii

Life And Death Drama— For Bills — At The Hawaii Legislature

A look at some of the survivors and casualties in the unpredictable waning days of the session.

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By Chad Blair    Anita Hofschneider    / May 2, 2017

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[Senate Bill 655](#), and the access it promised members of the media covering emergencies, looked like it was in trouble.

Known as the “media-access bill,” it had not been assigned Senate negotiators as of April 24, though the House conferees had been appointed a week earlier.

With a Thursday deadline for non-money bills looming, SB 655 appeared to be on life support, [as Civil Beat reported](#). But the Senate did end up picking negotiators for the measure, and by mid-afternoon on the deadline day the two sides compromised on the bill’s final language.

“I think we have agreement on this bill,” said Sen. Clarence Nishihara.

“Yes,” said Rep. Gregg Takayama, who noted that the only change was removing the word “credentialed” — as in credentialed media — from the bill.



Rep. Gregg Takayama championed a bill allowing the media access to natural disaster scenes, with some restrictions.

What happened to SB 655 in the waning days of the Legislature underscores just how difficult it is to predict the outcome of legislation, especially during the conference committee period, which mostly occurs behind closed doors.

Scores of other bills *were* killed late last week — some with explanations (such as House or Senate leaders of the money committees not giving their OK), and many with none at all.

Takayama said SB 655 was never really in trouble. While the Senate walked away from the table last year, this time around, he said, “There has not ever been real big disagreements among us” regarding the issue.

Reporters And Volcanos

Final passage of the bill would be a victory for the media and the public, as it allows reporters access to areas that are otherwise closed because they are under emergency management. Its backers include three Big Island senators who said the volcanic lava flow that threatened Puna communities in 2014 and 2015 showed how important it is for the public to know what's going on.

Takayama, a former television and print reporter, agreed.

“It’s a truly important function,” he said



State courts administrator Rod Maile tracked a bill to trim the pensions of judges, which died on the last day of conference committee.

The bill contains a caveat, however: It’s up to the emergency department or agency in charge to grant the media access.

“And we think that’s a reasonable limitation, because all the reporters in Hawaii are used to operating under certain restrictions,” said Takayama, citing as examples crime scene and covering U.S. presidents. “I think it’s a

natural thing and not unreasonable to allow our emergency responders to decide when the media can have access and under what conditions.”

As for removing the word “credentialed,” Takayama explained that press credentials are not given out anymore in such circumstances.

Lifeguards Can't Save Bill

SB 655 stayed alive, but that was not the case with a proposal to make permanent the existing liability protections for lifeguards.

[Senate Bill 562](#) started out asking for exactly that, and had the emphatic support of county officials who worried that they would not be able to afford putting lifeguards on beaches after the current liability expires June 30. [As Civil Beat has reported](#), drowning is a serious problem in Hawaii, especially for visitors.

And yet, SB 562 was amended by the House to delete its reference to the sunset date and to instead require that the state attorney general “defend any civil action against the county based on negligence, wrongful act, or omission of a county lifeguard for services at a designated state beach park” under agreement between the state and a county.



Lifeguards rallied last week to persuade lawmakers to extend their legal immunity, but the House did not go for it.

SB 562 went down to the final day of the conference committee period, but not before the Senate actually took the step of discharging its conferees — a way of saying in frustration, “We give up.”

Thus the Senate blinked and agreed to the House version.

Senate Majority Leader J. Kalani English, who introduced the bill, issued a press release stating, “I will continue to pursue this issue and introduce a bill next session to try to restore immunity for the lifeguards.”

His statement also explained, “it was made clear the House was steadfast in their position.”

What was not stated, but what seems clear, is that personal injury lawyers will now be able to sue the counties on behalf of clients harmed in ocean incidents. [The Maui News reported](#) that the personal injury lawyers’ association supported the House amendments.

Here's what Stacy Crivello, a Maui County Council member and president of the Hawaii State Association of Counties, had to say about SB 562:

HSAC, which represents the four counties, is extremely disappointed at the Legislature's decision not to extend the liability protection for our lifeguards at county beaches past the sunset date of June 30, 2017. This move is devastating to the counties and the morale of lifeguards, who risk their lives everyday in keeping our residents and visitors safe at our Hawaii beaches.

This decision by state lawmakers puts beachgoers' safety at risk, subjects the lifeguards to being sued personally and translates to burdensome lawsuit costs footed by local taxpayers.

Of note: Several personal injury lawyers serve in the Legislature.

Not This Session

And then there were the many bills that died outright during the conference committee period. One that drew a lot of attention was [Senate Bill 249](#), which called for reducing the pensions of state judges.

The bill [received zero testimony](#) in support and a whole lot of testimony in opposition. It was characterized as unfairly singling out the judiciary for punishment, and was the subject of a House floor fight that led Republican Rep. Gene Ward to seek an opinion from the attorney general as to whether freedom of speech had been curtailed in the course of discussion over SB 249.

Ward complained that fellow Republican Cynthia Thielen was forced by House Majority Leader Scott Saiki to retract comments she made on the House floor arguing that the Legislature was trying to “punish” the Judiciary with the bill.

(The AG opined that it was unclear and directed Ward’s inquiry to the House, which is controlled by Democrats. Ward described the opinion as a “milquetoast response.”)



Cory Lum/Civil Beat

The bill to fund Honolulu rail was the most important measure in the 2017 session, drawing attention away from other key measures.

SB 249 was deferred in the waning minutes before a Friday 6 p.m. deadline for money bills. Among those in attendance at the conference committee hearing room was Rodney Maile, administrative director of the courts, who has steadfastly followed the bill’s progress.

Maile told Civil Beat that the courts were grateful for the deferral, and expressed appreciation for the testimony that may have swayed legislators to change their minds.

Lawmakers will cast final votes on all remaining bills beginning Tuesday in advance of Thursday’s adjournment. At the top of the heap is [Senate Bill 1183](#), the measure that seeks to levy a surcharge on the state hotel tax to pay for Honolulu rail. The Senate will begin deliberations at 10 a.m. and the House at 9 a.m.

Here’s the status of other measures of interest:

- A bill that would have mandated that [employers provide sick leave](#) died Friday. Many businesses argued the proposal was too costly, while advocates for low-income communities said the proposal didn't go far enough.
- Negotiators agreed on a final version of [House Bill 213](#), which would expand the state's family leave policy to allow workers to take four weeks of unpaid time to take care of a sibling. The bill initially sought to allow employees to take off time after the death of a close relative, but the proposal was watered down in a conference committee led by Reps. Aaron Johanson and Ty Cullen, and Sens. Jill Tokuda and Gil Keith-Agaran.
- Senate negotiators failed Friday to convince House negotiators to pass a ban on oxybenzone in sunscreen, which scientists say hurts coral reefs. Deliberations dragged on until late Friday afternoon but ultimately lawmakers couldn't reach an agreement.
- The Sierra Club celebrated after House and Senate lawmakers killed a bill that they feared would have removed [public oversight of water utilities](#). Rep. Ryan Yamane and Sen. Mike Gabbard couldn't agree on a version of the bill late Friday afternoon. That's disappointing to farmers who argued the bill was necessary to make it easier for them to access water.
- Lawmakers agreed Friday to reinstate higher income taxes on the wealthiest taxpayers. But despite urging from advocacy groups for low-income people, the revenue won't be entirely offset by tax credits for poor families. A negotiating committee led by Tokuda and Luke approved [House Bill 209](#) to create a nonrefundable state earned income tax credit that's 20 percent of the federal earned income tax credit to help low-income people.
- Hawaii lawmakers are on track to pass a bill to make it easier to force people to undergo psychiatric treatment. [House Bill 554](#) would create an administrative process for involuntary hospitalization that is supposed to work more efficiently than the current judicial system. The measure is a response to concerns about mentally ill homeless people.
- Among the proposals that died were measures to study the impact of [sunscreen on coral reefs](#), to set up a [photo imaging system](#) to catch

drivers running red lights, to allow [Airbnb to be a broker](#) for hotel tax collections and to fund [developing and testing of drones](#).

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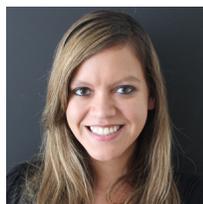
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