



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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GOVERNOR

THEODORE E. LIU
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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES
AND HAWAIIAN AFFAIRS
AND
AGRICULTURE**
Friday, February 1, 2008
8:30 AM
State Capitol, Conference Room 325

in consideration of
HB 2607
RELATING TO LAND USE.

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committees on Water, Land, Ocean Resources and Hawaiian Affairs, and Agriculture.

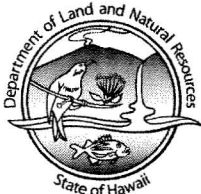
The Office of Planning (OP) does not support the proposed bill which directs OP to petition the State Land Use Commission to reclassify lands along the North Kohala coastline from the State Agricultural District to the State Conservation District. OP fully supports protection of the State's cultural, historic, and scenic resources. However, the identified properties all appear to be in government ownership, with nearly all of the parcels belonging to the State.

Placing land into the State Conservation District may serve to limit the type and intensity of uses but is not always the most effective strategy to protect and manage our

resources. The State can most effectively regulate uses and protect resources on State lands through provisions or restrictions in executive orders transferring property to the County of Hawaii, lease agreements, by withdrawing certain resource lands from a lease, or through public and private management activities. These types of decisions would be made by both the Department and Board of Land and Natural Resources in consultation with its staff, the County, and in certain cases a lessee. In the case of Federal properties, the State can negotiate inter-governmental agreements that serve to protect and maintain such resources.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

On House Bill 2607 – Relating to Land Use

**BEFORE THE HOUSE COMMITTEES ON
WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS
AND AGRICULTURE**

February 1, 2008

House Bill 2607 directs the Office of Planning to petition the State Land Use Commission to reclassify certain lands along the North Kohala coastline in the County of Hawaii from the agricultural district to the conservation district. These lands are identified by Tax Map Keys: 5-6-01: 11, 36, 37 and 60; 5-7-01: 21 and 22; 5-7-03: 04, 13 and 15; 5-8-01: 12 and 13; and 5-9-03: 01, and contains sites such as the Mahukona Park and Lighthouse, Kapaa County Park, and Lapakahi State Historical Park. Although the Department of Land and Natural Resources (Department) supports the protection and preservation of cultural and historic resources on lands throughout the State, the Department does not support this proposed bill.

With the exception of parcel 15 of 5-7-03 and portions of parcel 11 of 5-6-01, the rest of the properties are State-owned. As such, the State can regulate uses via the conditions imposed through land dispositions for leases, revocable permits, executive orders, and easements. Other mechanisms for resource protection can be found through public and private management agreements. The Department further notes that parcel 04 of 5-7-03 and parcel 22 of 5-7-01 are already in the Conservation District.


OFFICE OF HAWAIIAN AFFAIRS
Legislative Testimony

HB 2607, RELATING TO LAND USE

House Committees on Agriculture and
Water, Land, Ocean & Hawaiian Affairs

February 1, 2008

8:30 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) SUPPORTS HB 2607 which would direct the Office of Planning to petition the Land Use Commission to reclassify certain lands along the North Kohala coastline in Hawai'i County from the agriculture district to the conservation district.

Community efforts for the protection of the North Kohala coastline have been ongoing for many years now, and yet development via the subdivision of large tax map key (TMK) parcels has continued with additional development planned in the future.

Upon initial viewing, one is immediately impressed by the scenic natural beauty of the area from the valleys of Polulu, Honokane and Awini along the rugged coastline around Upolu Point and into the lee of the island, with the bordering 'Alenuihaha Channel constantly demonstrating the awesome power of nature.

These lands also hold an immeasurable significance to the culture and heritage of the generations who have called it home. The preservation of the numerous Native Hawaiian cultural sites found along this coastline is critical in ensuring that the history, traditions and practices of the area are passed down to future generations and perpetuated. In modern times, paniolo have worked cattle along this coastline, and it is here that laborers from around the world first landed to toil in the fields during the plantation era. It is also important to note that these lands continue to provide resources for those in the North Kohala community who hunt, fish and gather for subsistence.

By placing these lands into the conservation district, uses within them would be limited and any proposal for use would require a conservation district use application, which

provides the public, and public agencies such as OHA, with the opportunity to review and comment on the proposed use.

OHA urges the Committee to PASS HB 2607. Thank you for the opportunity to provide testimony.

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES,
AND HAWAIIAN AFFAIRS, AND AGRICULTURE
FRIDAY, FEBRUARY 1, 2008
8:30 a.m.
Room 325**

**HOUSE BILL 2607
RELATING TO LAND USE**

Chairpersons Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2607 which seeks to prevent development of lands along North Kohala's western coast (Kawaihae to Pololu Valley) by having the Office of Planning petition the State Land Use Commission to reclassify 12 State-owned parcels from the Agricultural District to the Conservation District. Upon approval, the county shall not issue any Special Permit or other land use, subdivision, building, or other permit for the affected parcels. The Department of Agriculture defers to the State Land Use Commission, the Office of Planning, and the Department of Land and Natural Resources regarding the reclassification of land and the effect on existing lessees, if any.

From our information, all the parcels are existing State or county parks or are lands adjacent to these parks. Should this measure move forward, any existing agricultural lessees, if any, on the affected parcels should be allowed to seek permits for uses directly in support of their operations.



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

H.B. NO. 2607, RELATING TO LAND USE.

BEFORE THE:

HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES AND
HAWAIIAN AFFAIRS AND ON AGRICULTURE

DATE: Friday, February 1, 2008 **TIME:** 8:30 AM

LOCATION: Conference Room 325
Deliver to: Committee Clerk, Room 427, 5 copies

TESTIFIER(S): Mark J. Bennett, Attorney General or
Bryan C. Yee, Deputy Attorney General

Chairs Ito and Tsuji and Members of the Committee:

The Department of the Attorney General takes no position on this bill except to point out that section 2(c) appears to be in conflict with article XI, section 5 of the Hawaii State Constitution.

Article XI, section 5 requires that, except for transfers of land to or for the State or county, the "legislative power over lands owned or under the control of the State . . . be exercised only by general laws." General laws are "laws which apply uniformly throughout all political subdivisions of the State . . . [or] uniformly to a class of political subdivisions." Bulgo v. Maui County, 50 Haw. 51, 58, 430 P.2d 321, 326 (1967). A law is a "special law" and not a general law if it operates upon and affects only a fraction of persons or a portion of the property encompassed by a classification, granting privileges to some and not others. Haman v. Marsh, 237 Neb. 699, 467 N.W.2d 836 (1991). A statute relating to particular persons, places, or things is a special law, not a general law.

Section 2(c) of this bill prohibits the County of Hawaii from issuing any permit that would enable the development of certain specified Tax Map Key (TMK) parcels along the North Kohala coastline. The parcels are owned by either the federal government

or the State of Hawaii. Because the provision is applicable to specifically named TMK parcels owned by the State of Hawaii, it is not a general law and conflicts with article XI, section 5 of the Hawaii State Constitution.

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
Gentry Pacific Design Center, Suite 215A
560 N. Nimitz Highway, #50
Honolulu, Hawaii 96817
(808) 524-2249 - FAX (808) 524-6893

January 31, 2008

Honorable Representative Ken Ito, Chair
Honorable Representative Jon Riki Karamatsu, Vice Chair
Members of the House Committee on Water, Land, Ocean Resources & Hawaiian
Affairs
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: IN OPPOSITION OF HB 2607
RELATING TO LAND USE
Hearing: Friday, February 1, 2008, 8:30 a.m.

Dear Chair Ito, Vice Chair Karamatsu and the House Committee on Water, Land,
Ocean Resources & Hawaiian Affairs:

For the Record my name is Buzz Hong the Executive Director for the Hawaii
Building & Construction Trades Council, AFL-CIO. Our Council is comprised
of 16-construction unions and a membership of 26,000 statewide.

The Council opposes the passage of HB 2607, which directs the office of
planning to petition the land use commission to reclassify certain lands along
the North Kohala coastline in Hawaii county from the agricultural district to
the conservation district.

Thank you for the opportunity to submit this testimony in opposition of
HB2607.

Sincerely,

William "Buzz" Hong

WBH/dg

-----Original Message-----

From: kanoa [mailto:kanoa@cfht.hawaii.edu]
Sent: Thursday, January 31, 2008 4:30 PM
To: AGRtestimony; WLHtestimony
Subject: Support for HB-2607 and HB-2606

Kamakani 'O Kohala 'Ohana, Inc dba: KAKO'O
P.O. Box 76, Hawi, HI 96719 Phone/Fax (808) 937-8226

January 27, 2008
Subject: Support for HB-2607 and HB-2606

Aloha, Kamakani 'O Kohala 'Ohana, Inc has a membership of over 300 families in North Kohala. We strongly urge you to support and pass HB-2607 and HB-2606.

North Kohala's coast has the most numerous, intact, pre-contact archeological sites in the State. HB-2607 will ensure better protection for this incredible area, while HB-2606 supports North Kohala's long history of agriculture, including grazing.

Both of these bills are direct result of a two-year community planning process. North Kohala has had the highest participation (12.3%) rate amongst all the Island's districts during this community planning process. These bills are what the community wants.

We urge you to pass HB-2606 and HB-2607.

Sincerely,

Kanoa Withington
Vice-President, Kako'o

From: FredCachola@aol.com [mailto:FredCachola@aol.com]
Sent: Thursday, January 31, 2008 3:57 PM
To: AGRtestimony; WLHtestimony
Cc: gailbyrne@hawaii.rr.com; kanoa@cfht.hawaii.edu; Adscam@aol.com; NAIHE@msn.com; sundownertoni@yahoo.com; dafrank@nhlchi.org
Subject: HB 2607 and HB 2606

Malama Na Wahi Pana O Kohala
January 31, 2008

Rep. Clift Tsuji, Chair
Committee on Agriculture
Hawaii State Capitol

Rep. Ken Ito, Chair
Committee on Water, Land, Ocean and
Hawaiian Affairs
Hawaii State Capitol

RE: Supporting Testimony for HB 2607 and HB 2606

Aloha Rep. Tsuji and Rep. Ito:

Mahalo for introducing HB 2606 and HB 2607 and scheduling a hearing for tomorrow, February 1. The Malama Na Wahi Pana O Kohala (Caring for the Historic Places Of Kohala) is a community based project in Kohala that is part of a coalition of about 40 projects sponsored by the North Kohala Community Resource Center. . .which collectively seek to improve the quality of life for the entire Kohala community.

We agree that the coastline of North Kohala provides cultural, historic and scenic benefits to the people of Hawaii and that this area is very significant because of the important role it had in the history of the ancient Hawaiians, the early missionaries, the paniolo and the plantation eras. The people of Kohala have a well documented 30+ years of community expressions to preserve the coastline makai of Akoni Pule Hwy as a pristine area of open space.

These two bills are primarily due to the past 2 years of serious community planning efforts that identified the preservation of Kohala's coastline and support of agricultural activities as very high priorities. HB 2606 assures that the primary activities on State land mauka of Akoni Pule Hwy will continue to be agriculture. HB 2607 will down zone State Lands along the coast from Agriculture to Conservation. These bills are a direct result of strong recommendations in the 2008 North Kohala Community Development Plan.

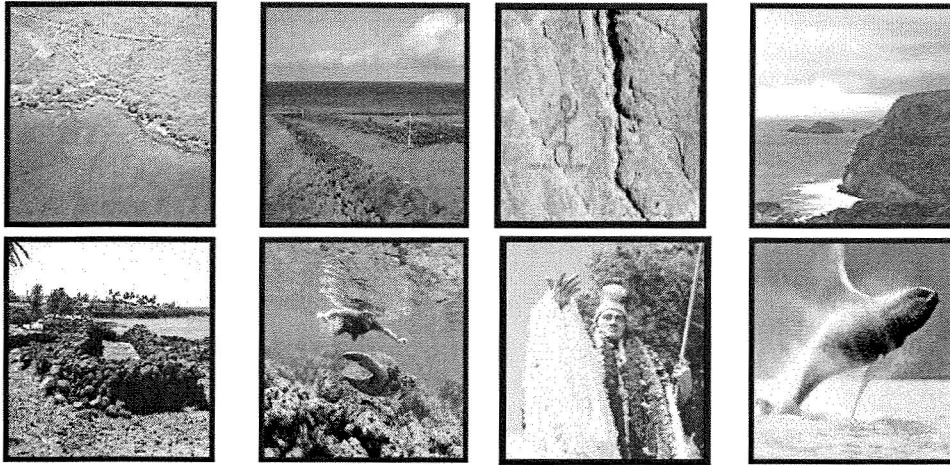
I have fished, hiked, camped and enjoyed this coastal area since I was a child growing up in Kohala. My children have done the same and now my grandchildren are also enjoying the area. . .just as many other generations from Kohala, the State and visitors throughout the world.

Your positive actions will be consistent with previous legislative actions taken in 1988, Senate Concurrent Resolution no. 179, H.D.1 and in 2001, Senate Concurrent Resolution no. 146, S.D.1. . .to protect the openness of the Kohala coast, preserve its valuable historic sites, and provide greater awareness and appreciation of the historic and cultural significance of the area. We urge you to pass these two bills.

Mahalo,

Fred Cachola
Kohala Historian

Preserving the Kohala Coast



Malama Kohala Kahakai

Clift Tsuji, Chair
Committee on Agriculture
Hawaii State Capitol, Room 403
Honolulu, HI 96813

January 30, 2008

Re: Please Pass HB 2607 and 2606 and Amend HB-2606 to direct a rezoning to AG 1,000 acre

Aloha, Mr. Tsuji:

The community of North Kohala has a well-documented, 30+ years of history to preserve its coastline makai of Akoni Pule Hwy in open space. Please see the attached document summarizing the various plans, petitions, and resolutions that support conserving the coast. Rezoning State lands *makai* of Akoni Pule Highway is a recommendation of the draft North Kohala Community Development Plan. Also, this area along the North Kohala coastline has the most numerous, intact, pre-contact cultural and archeological sites in the State.

Preserving agriculture and rezoning the State lands *mauka* of Akoni Pule Highway to AG 1,000 acres is also a high priority of the draft North Kohala Community Development Plan. The rancher who is the primary lease holder of State lands in this area suggested the AG 1,000 acre zoning. Agriculture has historically been the economic foundation of North Kohala and the extensive field systems in the area supported King Kamehameha's armies.

It is our understanding that an accidental error occurred when Representative Cindy Evans sent HB-2606 to LRB for drafting. A zero (0) was dropped from the rezoning request. The bill currently reads AG 100 acres. *HB-2606 needs to be amended to read AG 1,000 acres to be aligned with the community's request. Also the intent of the bill is to preserve agriculture and we would like to see that statement in HB-2606.*

Please pass HB-2607 AND HB-2606.

Thank you and Aloha,

Gail Byrne