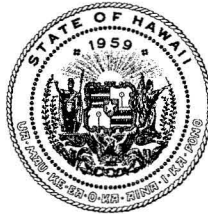


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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

ON

House Bill 3272– RELATING TO PUBLIC LANDS

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

February 6, 2008

House Bill 3272 proposes to permit a current lessee of public land to be disposed by public auction to match the winning bid under certain circumstances. The Department of Land and Natural Resources opposes this bill.

Leasing of public lands by public auctions is done to ensure that all applicants are given the opportunity to apply for such lands on equal footing with full disclosure of all material terms. The fundamental principle underlying the use of public auctions is to ensure that no applicant is given an undue advantage over any other applicant. Allowing a current lessee to circumvent that process when a new lease is issued seriously undermines that principle and produces a chilling effect on the willingness of potential applicants to bid on such leases. Serious applicants must usually invest significant time and resources that are not reimbursable in order to qualify as an applicant and to conduct due diligence investigations before participating in a public auction. The possibility, if not probability, that an existing lessee will match the winning bid and deprive the successful bidder in public auction of the new lease will clearly be a significant deterrent to potential applicants.

Under the standard terms of leases for public lands, any improvements on the lands are owned by the State at the termination of the lease. Additionally, all lessees have a duty to maintain any improvements on the land and to ensure that such improvements do not fall into disrepair. When accepting a lease for public lands, all lessees are aware of those conditions, which are a standard practice in both private and public real estate sectors. Allowing current lessees to match the winning bid solely based on their knowing and willing compliance with the standard terms of the lease gives the misleading perception, or worse, creates a legal presumption that installing improvements of a certain value will give rise to a proprietary interest in future lease dispositions.