

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

WILLIAM M. TAM
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

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
WATER, LAND, AND OCEAN RESOURCES

Monday, February 14, 2011
9:00 AM

State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1269
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

House Bill 1269 conveys ownership of all Department of Land and Natural Resources' (Department) land on Sand Island to the Hawaii Community Development Authority (HCDA). The Department strongly opposes this measure as it would have a devastating impact on the Department's ability to manage Hawaii's land, water, and natural and cultural resources. Departmental land on Sand Island includes the Sand Island State Recreation Area, the Division of Aquatic Resources' Anuenue Fisheries facility, the Division of Boating and Ocean Recreation's Sand Island Boat Ramp, and, most importantly, the Sand Island Industrial Park.

The Department is responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board of Land and Natural Resources determined the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. This is especially critical at this time due to the current condition of the State's economy. The industrial lands on Sand Island included in this bill have been identified by the Department (and supported by the Board) as revenue producing assets and represent one of the Department's primary sources of

revenues. The lease revenues generated by the Sand Island leases constitute roughly 60% of all lease revenues currently supporting the Special Land and Development Fund ("SLDF").

As detailed in the Department's report to this Legislature, the balance of the SLDF has steadily decreased in recent years (from \$8.1 million in FYE 2008 to \$4.6 million in FYE 2010) and is projected to be a deficit three to four years unless the Department is able to substantially decrease expenditures or increase revenues, or both.

The Department is constantly considering and pursuing other sources of revenue. However, the loss of a consistent revenue source through transferring Sand Island industrial land to HCDA would deprive the Department of a substantial portion of its revenue source and seriously jeopardize the Department's operations. Such transfer would not be in the best interest of the beneficiaries of the public land trust and Hawaii's valuable natural and cultural resources.

The SLDF is a critical and increasingly important funding source for the entire Department of Land and Natural Resources to deal with emergency response to natural catastrophe such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of state match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

The following are examples of the impacts to certain programs should funding support from the SLDF be curtailed:

Division of Forestry and Wildlife

For the last five years, the SLDF has provided approximately \$800,000 annually to the Division of Forestry and Wildlife to support the recovery of threatened and endangered species and the control of invasive species. These funds match approximately \$1,500,000 in federal grants from the Endangered Species Act Section 6 Recovery Program and the State Wildlife Grants Program to recover the state's most critically endangered species. Examples of this work includes successful captive propagation of Alala, Palila, Puaiohi, and Maui Parrotbill, establishing new populations of Palila on Mauna Kea, fencing and eradicating ungulates from Puu Waawaa Forest Bird Sanctuary, habitat restoration on leeward Haleakala for Maui's forest birds, wetland and waterbird conservation at Hamakua, Kawai Nui, and Puhala wetlands on Oahu, studies on Kauai's nesting seabirds, and reintroduction of Puaiohi into the Alakai Wilderness Area. This funding is helping make significant progress toward preventing the loss of native species, habitats, and biodiversity and the Division urges the continued generation and collection of revenues for these purposes.

Engineering Division

The SLDF is critical for operations of the Engineering Division, as it supports staffing and expenses for multiple programs. In fiscal year 2009-2010, the fund provided: over \$570,000 for the Mineral Resources/Geothermal program to manage the geothermal resource to protect public health and safety and to ensure its continued viability for the future; over \$815,000 for the Dam Safety/Flood Control Program to regulate dams and reservoirs to protect life and property, and administer the National Flood Control Program to ensure the availability of flood insurance to property owners; and over \$350,000 for the Land Maintenance Crew to manage and maintain

various State-owned lands, remove vegetation and debris from streams, and perform evictions on state lease lands. Without these funds, the Engineering Division will not be able to ensure the safety of all dams and reservoirs and respond to dam emergencies or perform other mandated duties.

Division of State Parks

The SLDF is critical for operations of the Division of State Parks, which has previously received nearly \$500,000 from the SLDF to make up for consistent general fund budget shortfalls for operation and payroll that keep our parks open. In recent years, the SLDF provided an additional \$584,216 for lifeguard services at Ka'ena Point State Park for public health and safety of park users. In addition to managing and protecting natural and cultural resources, the Division of State Parks serves to provide recreational access for both residents and visitors. Our Hawai'i State Park system serves as a significant destination of Hawai'i's visitor industry, with 6.7 million out-of-state visits annually.

Office of Conservation and Coastal Lands

The Office of Conservation and Coastal Lands (OCCL) has been entirely funded by the SLDF. Our annual allocation for salaries and fringe benefits is approximately \$450,000 (6.5 FTP), with operating costs running approximately \$200,000. Most of the operating costs are from Contested Case Hearings, supplies, and equipment. A severe reduction in the income generating capacity of the SLDF could result in the elimination of OCCL functions. OCCL is the State's zoning authority for all Conservation District lands in the State of Hawai'i, this includes terrestrial and marine areas out to three miles in the ocean, including fast and submerged lands. This entails processing permits for land uses involving private and public entities and prosecuting land use violations, with the intent to ensure the conservation of these unique and fragile areas. In terms of land area, we are responsible for more area than all of the counties combined (albeit less population density). The OCCL has been able to perform its function efficiently and effectively even with a relatively small staff, and any reduction in staffing would severely limit our ability to service the public. Loss of this government function would essentially result in the loss of projects within conservation lands because there would be no one available to process regulatory permits pursuant to Chapter 183C, Hawaii Revised Statutes. This would have a major impact to business; 1000's of private landowners, government agencies, the university, marine users for energy and mariculture, just to name a few. These entities need OCCL to process their applications for use of conservation district lands, such as in the case of telescopes, renewable energy projects, single-family homes, and public infrastructure.

Commission on Water Resource Management

The SLDF supports critical activities and essential programs undertaken by the Commission on Water Resource Management (Commission). Annual supplemental funding of \$300,000 from the SLDF provides payroll costs for three key Planning Branch positions: State Drought and Water Conservation Coordinator, Hydrologist VI, and Hydrologist IV. These three positions comprise the entire professional non-supervisory staff of the Planning Branch, which is responsible for the establishment of an integrated program for the protection, conservation, and management of the waters of the State. The Commission's General Fund Personal Service budget is not adequate to pay for these three positions at this time. Efforts to convert these special-funded personnel to general-funds in the past were denied. In addition, future pay raises,

pay adjustments (e.g., reallocations and step movements) and increases in the fringe benefit rates for these positions will require additional funding.

The SLDF is also used to fund Commission programs, activities, and the implementation of Commission priority projects, such as the 20-year Water Use Permit Review; Estimating Plant Water Use for Water Use Permitting; Modified RAM2 for Estimating Sustainable Yields; and Implementation of Interim Instream Flow Standards in East Maui. Due to the limitations of Commission's general fund, funding from the SLDF is also used for advancing invoice payments for reimbursable federal grants for projects and to fulfill non-federal cost share obligations required under some federal grants. The uncertainty of grant opportunities requires that Commission funding be available in order to qualify for these federal grants.

Funding allotted from the SLDF enables the Commission to implement the State Water Code's declaration of policy by funding personnel, programs activities, and projects that are essential for water resource planning and fulfillment of State Water Code mandates. To date, the Commission has effectively utilized its SLDF allotments to further the management of our most precious public trust resource.

In addition to the loss of revenue from transferring the industrial park, this measure will also impact other Department programs and facilities.

The Sand Island State Recreation Area was developed using federal Land and Water Conservation Funds (LWCF) which requires that land to be used for outdoor recreation purposes in perpetuity. Any other use of that land will trigger a requirement for conversion, or provision of replacement land of equal recreational value.

This measure would also displace the Division of Aquatic Resources' Anuenue Fisheries facility which includes the Division's only operating baseyard facility, which houses offices, a laboratory, a workshop, and storage. The facility contains trucks and boats, and storage for other large equipment that is essential to the division's programs. Other assets include a mariculture facility which at present is used to grow and mass produce sea urchins, a newly established biological tool used in the fight against invasive algae. Offices house operations for recreational fisheries, culturing work, division staging area for numerous projects, whale sanctuary staff, and are an alternative site for temporary housing of injured marine mammals.

The Division of Boating and Ocean Recreation maintains and operates a boat ramp and related facilities at Sand Island which will become HCDA responsibilities under this measure.

The Department notes that the University of Hawaii Marine Education Center also will be impacted by this measure as it is on Department land.

For the reasons given above, the Department strongly opposes House Bill 1269.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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KALAELOA

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON WATER, LAND & OCEAN RESOURCES

MONDAY, FEBRUARY 14, 2011

9:00 A.M.

State Capitol, Conference Room 325

**H.B. 1269 - RELATING TO THE HAWAII COMMUNITY DEVELOPMENT
AUTHORITY.**

Purpose: Transfers title, revenue and obligations of the Department of Land and Natural Resources (DLNR) Sand Island lands to the Hawaii Community Development Authority (HCDA). Also transfers all rights, powers, functions and duties of the DLNR or the City & County of Honolulu to the HCDA.

Position: The HCDA offers the following comments.

Sections 1 to 3 – The wording of section 3 transfers ALL rights, powers, functions and duties of the DLNR and the City & County of Honolulu to the HCDA. A literal interpretation would suggest that there might be some unintended consequences. Besides planning and zoning authority, the HCDA would also be responsible for subdivision, building, taxation, roadway maintenance and other functions which are clearly beyond the capacity of the HCDA to satisfy.

Sections 4 and 6 - Besides all appropriations, the HCDA would receive existing contracts and obligations which are not quantified. It is likely that these obligations are beyond the scope of the HCDA's administrative, fiscal and program staffing levels.

Stakeholder Input – The area specified in the proposal includes lands occupied by the City & County of Honolulu Wastewater Treatment Site, the U.S. Coast Guard, container freight stations operated by Sea Land and Matson, a community of light industrial tenants, the Sand Island State Recreation Area and Park and other stakeholders. Any change to the landholding and governmental

regulations over this area would require that the area stakeholders are consulted as to the purpose and objective for such a transfer of responsibility. Without such consultation and clarity of purpose, implementation of such a proposal might be severely handicapped so as to foreclose any of the proposed benefits of such a proposal.

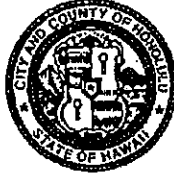
Vision and Purpose – The HCDA was established as a public corporate instrumentality of the State of Hawaii to plan and implement community redevelopment programs in areas designated by the State Legislature. Given the currently established settlement pattern of Sand Island, there would appear to be little opportunity to develop a “community” other than for those staff and personnel who currently reside at the U.S. Coast Guard site. Lacking clarity as the potential vision for Sand Island to be redeveloped as a “community” the HCDA requests that this proposal is deferred until more clarity and stakeholder support is demonstrated for the proposal.

Thank you for the opportunity to provide comments on this proposal.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

February 14, 2011

The Honorable Jerry L. Chang, Chair
and Members of the Committee on Water, Land,
and Ocean Resources
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Chang and Members:

**Subject: House Bill 1269
Relating to Sand Island**

The Department of Planning and Permitting (DPP) **opposes** House Bill 1269, which transfers all city "rights, powers, functions and duties" applicable to Sand Island to the Hawaii Community Development Authority (HCDA).

We are not opposed to the transfer of land titles from the Department of Land and Natural Resources to HCDA. However, we believe county jurisdiction should continue to apply to Sand Island, particularly planning, zoning and subdivision and other ministerial land use reviews. We do not believe there is a compelling State interest regarding these functions over Sand Island. Further, the Bill provides no determination that Sand Island meets the requirements of a community development district under Chapter 206 E-5, HRS; namely that "there is need for replanning, renewal, or redevelopment". This is a home rule issue.

Given the current limited resources of HCDA, we would prefer the Authority concentrate on the redevelopment of Kakaako and Kalaeloa, rather than spread its attention to additional areas.

For these reasons, please file House Bill 1269. Thank you for this opportunity to comment on this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "DKT", is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT:jfm

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Honorable Jerry Chang, Chair,
Committee on Water, Land and Ocean Resources
415 So. Beretania St. rm 325
Honolulu, HI 96813

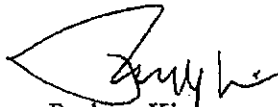
Re: H.B. 1269

Dear Chair Chang and Committee Members:

The Sand Island Business Association and its members are opposed to H.B. 1269. We are the sub lessees under an lease agreement with the Department of Land and Natural Resources. Such a transfer as required under this bill of our lease may have an adverse consequence. Without knowing the reason for such a transfer, it causes uncertainty for our sub lessees. Also, removing the city jurisdiction also, causes uncertainty for us.

Until we know the reasons for this transfer and the affect it will have on us, we stand opposed to this bill.

Mahalo,



Rodney Kim
Executive Director
Sand Island Business Association