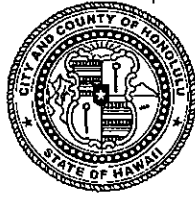


OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR

February 7, 2011

The Honorable Roy Takumi, Chair
House Committee on Education
Twenty-Sixth Legislature
Regular Session of 2011
State of Hawaii

RE: Testimony of Mayor Peter Carlisle on H.B. 952, Relating to Public School Lands

Chair Takumi and members of the House Committee on Education, Mayor Peter Carlisle submits the following testimony in opposition H.B. 952.

The purpose of this bill is to establish a public school land trust composed of all lands under the management of the state department of education as of July 1, 2011, except for lands owned by the Department of Hawaiian Home Lands, the federal government and any private persons or entities. Lands owned by the state and the counties would be included in the public school land trust. Deeds documenting the transfers are to be executed no later than July 1, 2013. The purpose of the trust is to maximize the use of the lands and to generate income to construct, repair, and retrofit public schools.

Although I certainly support the funding of public education, I do have concerns about the loss of county lands ostensibly without compensation or consideration. A significant portion of public schools on Oahu, sit on land owned by the county; the Department of Education has the use of a possessory interest in the school facilities and grounds located on county land. However, as the Department of Education (DOE) has on occasion relinquished its possessory interest in these properties as the DOE has realigned its schools to meet district demands. When those properties have been returned to the county, we have been able to find other uses for them which improve the surrounding communities or assist the county in carrying out its functions.

For these reasons, I respectfully ask that this bill be held and thank you for this opportunity to testify.

Date: 02/07/2011

Committee: House Education

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0952 RELATING TO PUBLIC SCHOOL LANDS.

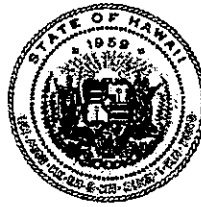
Purpose of Bill: Establishes the public school lands trust to provide for the maximum use of public school lands in order to generate income to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and beyond.

Department's Position: The DOE appreciates the intent of the bill and agrees that adequate funding continues to be a challenge. However, the DOE has major concerns regarding the bill's implementation and practicality:

1. The fractured nature of current ownership of school lands, between the counties and the state makes consolidation of lands under a single entity challenging.
2. The relative value of schools lands are undetermined and may not be substantial enough to generate any substantial revenue.
3. Under the State Constitution, the Department of Land and Natural Resources already has this responsibility as the Landowner for the State. The creation of a separate school land trust may be duplicative.

Thank you for the opportunity to provide testimony.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the House Committee on
EDUCATION

Monday, February 7, 2011
2:00 P.M.
State Capitol, Conference Room 309

In consideration of
HOUSE BILL 952
RELATING TO PUBLIC SCHOOL LANDS

House Bill 952 authorizes the creation of a public school lands trust tasked with the management of public school trust lands. The trust would manage the lands for the purpose of maximizing the use of public school lands to generate income to fund improvements of school infrastructure. In addition, the bill provides for the transfer of title of all lands under State or County ownership, set aside by executive order to the Department of Education (DOE), to the trust for no compensation. The bill also provides for the creation of a public school lands trust commission to manage, administer and exercise control over the public school trust lands. The Department of Land and Natural Resources (Department) has several concerns with this bill as written.

The bill has a potential conflict in the use of income derived from public trust lands owned by the trust. The bill mandates that income derived from public trust lands are dedicated solely to DOE. As mandated the State Constitution Article XVI, Section 7 and Section 5(b) of the Admission Act, income from public trust lands shall be dedicated to five enumerated public trust purposes. However, this bill appears to unfairly favor only one public trust beneficiary (public education) at the expense of the other four beneficiaries, such as the twenty percent (20%) share owed to the Office of Hawaiian Affairs.

In addition, the administrative responsibility for the commission is placed with the Department. The Department is extremely concerned with this provision. As these lands would not generate income immediately, this would impose a tremendous administrative burden on the Department, which it currently cannot afford. The Department continues to face severe budget cutbacks. The Department's general fund appropriations and special fund revenues have dropped significantly over the last several years, and the Department lost more than 10% of its positions over the past three years. The bill imposes duties that would require a substantial amount of staff time and funding. The Department simply does not have the resources and staffing necessary to undertake the additional duties that would be required under this bill.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
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

Furthermore, the Department would like to note that the commission is akin to a development authority, but the bill does not provide the commission with special powers as granted to similar development agencies. This may hamper the commission in its ability to successfully develop the lands and fully realize revenue generation potential.

belatti1 - Judy

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 04, 2011 4:05 PM
To: EDNtestimony
Cc: sterlingw@oha.org
Subject: Testimony for HB952 on 2/7/2011 2:00:00 PM
Attachments: HB 952 Public School Land Trust.pdf

Testimony for EDN 2/7/2011 2:00:00 PM HB952

Conference room: 309
Testifier position: oppose
Testifier will be present: No
Submitted by: Sterling Wong
Organization: Office of Hawaiian Affairs
Address: 711 Kapiolani Blvd Ste 500 Honolulu, HI
Phone: 594-1834
E-mail: sterlingw@oha.org
Submitted on: 2/4/2011

Comments:



HB 952
RELATING TO PUBLIC SCHOOL LANDS
House Committee on Education

February 7, 2011

2:00 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) offers the following comments on HB 952, which transfers title of public land currently held by the Department of Education (DOE) to a public school land trust.

The OHA Administration will recommend that the OHA Board of Trustees oppose HB952 because the proposed public school land trust would be given the authority to sell public land under certain circumstances, including ceded land and public trust land.

A cursory review of the State Land Information Management System (SLIMS) shows that at least 1,222 acres of the land currently held by the DOE, or approximately 68% of the total, are classified Admission Act section 5(b) lands, which are subject to the public land trust. Another 179 acres are classified as Admission Act section 5(a) lands. Much of the section 5(a) and 5(b) lands are former government and crown lands that were ceded by the Republic of Hawai'i to the United States in 1898. We note that SLIMS includes only encumbered lands, and the Department of Land and Natural Resources, which maintains the system, has acknowledged the database is incomplete.

OHA maintains that the state cannot diminish the ceded lands corpus until the Native Hawaiian people's claim to ceded lands has been resolved. See, e.g., P.L. 103-150 (1993) ("the Republic of Hawaii . . . ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government").

OHA further notes that Admission Act section 5(f), Hawai'i Constitution, article XII, Chapter 10, Hawai'i Revised Statutes, Act 178, SLH (2006), and Executive Order 06-06 impose trust obligations with respect to public trust land on all state agencies. Restricting the use of revenues generated on public trust land solely for the use of public schools would violate the state's obligations.

The OHA Administration will make this recommendation to our Board at its meeting on Feb. 10, 2011. Mahalo for the opportunity to testify on this important measure.

Owen Miyamoto
3209 Paty Drive
Honolulu, HI 96822-1439

February 4, 2011

Honorable Roy M. Takumi, Chair
Honorable Della Au Belatti, Vice Chair
Honorable Members of the House Committee on Education

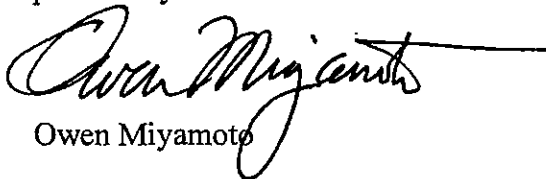
I am testifying in support for HB 952 Relating to Public School Lands

I am a member of the Technical Review Committee for the Hawaii 3R's Program, which provides funding for small repairs and renovations to our public schools. I am not speaking on its behalf. The Technical Review Committee examines proposals from the school. Funding has been provided through Senator Inouye's efforts and each project must leverage the financial contribution with the sweat equity of volunteers.

It is clear that the 3R's program cannot possibly meet the huge backlog of repairs and upgrades needed for the school system. Further, the deficit of the federal budget makes it unlikely that the US government can be counted on continuing its support.

Although the details of how the proposed Public Schools Land Trust will operate, it represents an opportunity to capture revenues from lands that are presently unused. With careful planning and organizing, there are clearly locations where such an opportunity could result in needed revenues for our schools. Possibly, legislation could be written to authorize a pilot program to test the concept.

I urge your favorable action to approve HB 952. Thank you for the opportunity to present my views.



Owen Miyamoto