



**SB2 SD2**  
**RELATING TO THE PUBLIC LAND**  
House Committee on Hawaiian Affairs

March 23, 2011

8:30 a.m.

Room 329

The Office of Hawaiian Affairs (OHA) offers the following comments on SB2 SD2, which seeks to facilitate the establishment of a comprehensive information system for inventorying and maintaining information about the lands of the public land trust described in section 5(f) of the Admission Act and article XII, section 4 of the state constitution.

First, OHA values an accurate inventory of public lands and their disposition as a foundation for successful management of the public land trust. Current databases are useful but do not provide a complete and accurate picture.

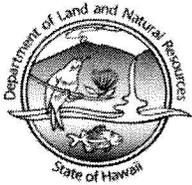
Second, this bill would require the Department of Land and Natural Resources (DLNR) to conduct many tasks regarding the inventory that may already have been performed by the State Auditor pursuant to Act 125, Session Laws of Hawaii 2000. Although the State is far from having a comprehensive and accurate inventory, the Auditor took the first steps, including the issuance of her report entitled *Establishment of a Public Land Trust Information System, Phase One* (March 2001). That report concluded among other things that a geographic information system (GIS) is the preferred method to develop an information system.

Third, OHA appreciates that SB2 SD2 provides the opportunity for all state agencies, including OHA, to work with DLNR in the development of the proposed information system. We look forward to participating in this effort.

Fourth, however, we have grave concerns regarding the bill's funding mechanism, a mechanism that would bar any general fund appropriation made by the bill from being expended unless matched dollar-for-dollar by OHA. In light of recent deliberations and discussions among OHA Trustees, we must respectfully inform your committee that if this funding mechanism becomes law, OHA, exercising its lawful discretion, will not match all or any part of the appropriation. The State, as trustee of the public land trust, should be responsible for funding the public land trust database. We hope that your committee will not interpret our position on this matter as a lack of belief in the importance of a complete and accurate database, for such is not the case.

Mahalo for the opportunity to testify on this important measure.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

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**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
HAWAIIAN AFFAIRS**

**Wednesday, March 23, 2011  
8:30 AM**

**State Capitol, Conference Room 329**

**In consideration of  
SENATE BILL 2, SENATE DRAFT 2  
RELATING TO THE PUBLIC LAND**

Senate Bill 2, Senate Draft 2, requires the Department of Land and Natural Resources (Department) to initiate and coordinate all efforts to establish a public lands information system; requires all state agencies to report to the Department each parcel of land to which it holds title, the disposition of each parcel to which the agency holds title or is acquiring title, and any inaccuracies in reports to the Department; requires the Department to submit a progress report to the legislature; and appropriates funds to create and maintain a comprehensive statewide public land trust inventory database and to provide funding for one staff position for a database and application developer. The Department supports and favors Senate Draft 2 over the original version of the bill, and offers the following comments.

The Department believes the appropriation and the one and one-half year implementation timeline suggested in the bill is reasonable, but ambitious. It is likely that there will be some significant time required after this initial period to backfill specific data elements that may be missing from agency inventories and to fully develop a Geographic Information System interface to facilitate viewing and querying the data.

**WILLIAM J. AILA, JR.**  
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



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SIXTH LEGISLATURE, 2011**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2, S.D. 2, RELATING TO THE PUBLIC LAND.

**BEFORE THE:**

HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

**DATE:** Wednesday, March 23, 2011 **TIME:** 8:30 a.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Charleen M. Aina, Deputy Attorney General

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Chair Hanohano and Members of the Committee:

The Attorney General takes no position on whether this measure should be enacted.

We testify only to recommend that section 1 of the bill be revised, and to suggest that two years may not be sufficient time for the Department of Land and Natural Resources to establish the computerized information system the bill requires.

With respect to section 1 of the bill, we recommend that the Committee delete the first four paragraphs of section 1, because they could erroneously imply that the State is not presently fulfilling its responsibilities under section 5(f) of the Admission Act, and article XII, section 4, of the State Constitution. It could also erroneously imply that the Office of Hawaiian Affairs has not received, what the Legislature has determined, is the portion of the receipts from the ceded lands that it is to expend to better the conditions of native

Hawaiians under article XII, section 6, of the State  
Constitution.<sup>1</sup>

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<sup>1</sup>In addition, the second paragraph of section 1, on page 1, lines 12-16, is incorrect to the extent it asserts that "the State's trust obligation in regards to the land, and the office of Hawaiian affairs, as representative of native Hawaiian beneficiaries' right to receive twenty per cent of the income and proceeds from the public land trust."

In 2006, the Legislature enacted Act 178, which replaced section 10-13.5's "twenty per cent" with the requirement that OHA annually receive \$15,100,000 of the ceded lands receipts. Section 2 of the act provided:

Notwithstanding the provisions of chapter 10, Hawaii Revised Statutes, including section 10-13.5, Hawaii Revised Statutes, and until further action is taken by the Legislature for this purpose, the income and proceeds from the pro rata portion of the public land trust under article XII, section 6 of the state constitution for expenditure by the office of Hawaiian affairs for the betterment of the conditions of native Hawaiians for each fiscal year beginning with fiscal year 2005-2006 shall be \$15,100,000.

## clee2 - Matt

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**From:** Hardy Spoehr [HSpoehr@papaolalokahi.org]  
**Sent:** Monday, March 21, 2011 7:41 AM  
**To:** HAWtestimony  
**Subject:** Testimony: SB 2, SD2, Relating to Public Land

TESTIMONY: SB 2, SD2, Relating to Public Land

Wednesday, March 23, 2011  
8:30 am  
Conference Room 329  
State Capitol

Papa Ola Lokahi, the Native Hawaiian Health Board, strongly supports this legislation. This inventory should have been completed many years ago and was originally mandated by the 1978 Constitutional Convention. This inventory is particularly critical as the state is custodian for lands once held by the kingdom and portions of revenues derived from the public land trust go to support Native Hawaiian programs.

Thank you

Hardy Spoehr, Executive Director  
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