

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 Senate Committee on**  
**JUDICIARY AND LABOR**

**Thursday, March 31, 2011**  
**9:45 AM**  
**State Capitol, Conference Room 016**

**In consideration of**  
**HOUSE BILL 922, SENATE DRAFT 1**  
**RELATING TO PUBLIC LANDS**

House Bill 922, Senate Draft 1 combined three separate and previously distinct bills into one, and divides it into three parts. The Department of Land and Natural Resources (Department) discusses each part separately.

**PART I, 999-year Homestead Leases**

House Bill 922, Senate Draft 1 proposes in PART I to allow 999-year homestead leases to be assigned to land trusts that are created for managing and holding the homestead leasehold estate for the benefit of the lessee and lessee's family members. The Department does not object to this part allowing the leases to be held by a land trust instrument.

**PART II, Coconut Island**

House Bill 922, Senate Draft 1 proposes in PART II to authorize exemptions from state and county permits for the Hawaii Marine Laboratory Refuge for repair and maintenance of its facilities on Coconut Island. Given the immediate need for repair and maintenance of facilities at Coconut Island, the Department does not oppose the five (5) year exemption from obtaining permits issued by the Department as proposed in PART II of this measure.

**Part III, Land Inventory System**

House Bill 922, Senate Draft 1 proposes in PART III to require the Department to initiate and coordinate all efforts to establish a public lands information system; requires all state agencies to

**LATE TESTIMONY**  
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

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 is in support of this PART III as long as SECTION 9 is amended to add back the \$300,000 appropriation<sup>1</sup> that is necessary to implement this part bill. The Department offers SECTION 9 to read in its entirety as follows:

"There is appropriated out of the general revenues of the State of Hawaii the sum of \$ 300,000.00 or so much thereof as may be necessary for fiscal year 2011-2012 and the same sum or so much thereof as may be necessary for fiscal year 2012-2013 for the establishment and maintenance of a computerized, comprehensive statewide public land trust inventory database and funding for one staff position for a database and application developer; provided that no funds appropriated shall be expended unless matched on a dollar-for-dollar basis by the office of Hawaiian affairs and paid to the department. The sums appropriated shall be expended by the department of land and natural resources for the purposes of this part."

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<sup>1</sup> The genesis of this PART III on the Land Inventory System is Senate Bill 2, Senate Draft 1, wherein the Senate Water, Land and Housing Committee worked with the Department in crafting language that, although ambitious, is doable by the Department with the minimum required \$300,000 appropriation.



**HB 922 SD1**

**RELATING TO PUBLIC LANDS**

Senate Committee on Judiciary and Labor

March 31, 2011

9:45 a.m.

Room 016

The Office of Hawaiian Affairs (OHA) offers the following **comments** on HB922 SD1. While the original intent of this measure was to address concerns regarding 999-year lessees, it has been significantly amended from its previous version to include provisions that OHA has concerns with.

OHA supports the intent of Part I of HB 922 SD1 to provide 999-year homestead lessees and their families the option of utilizing a land trust to collectively and cooperatively share in the responsibilities and benefits. As a majority of the lessees are of Native Hawaiian ancestry, OHA supports the possibility that this measure could provide an appropriate mechanism for these families to keep these lands for future generations.

However, OHA is concerned with Part III of HB 922 SD1, 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 provision in the 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 HB 922 SD1 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.



## UNIVERSITY OF HAWAII SYSTEM Legislative Testimony

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Written Testimony Presented Before the  
Senate Committee on Judiciary and Labor  
Thursday, March 31, 2011 at 9:45 a.m.

by

Virginia S. Hinshaw, Chancellor

and

Jo-Ann Leong, Director

Hawai'i Institute of Marine Biology

School of Ocean & Earth Science & Technology

University of Hawai'i at Mānoa

HB 922, SD1 Relating to Public Lands.

Aloha Senator Clayton Hee, Senator Maile Shimabukuro, and Members of the Committee. I thank you for the opportunity to testify in support of HB 922, SD1.

My name is Jo-Ann Leong and I am the Director of the Hawai'i Institute of Marine Biology. I submit this testimony in support of HB922, SD1 that temporarily exempts the University of Hawai'i from permitting requirements for the repair and maintenance of the facilities of the Hawai'i Marine Laboratory Refuge. The bill calls for amendments to Hawai'i Revised Statutes 187A-12 and 188-36.

Background:

Moku o Lo'e, more widely known as Coconut Island, is located in southern Kāne'ohe Bay on the island of O'ahu and is home to the world-renowned research facilities of the Hawai'i Institute of Marine Biology (HIMB), a research institute within the School of Ocean & Earth Science & Technology at the University of Hawai'i at Mānoa. The island itself provides a unique living laboratory surrounded by 64 acres of coral reef designated by the State of Hawai'i as a Hawai'i marine laboratory refuge. Approximately 28 acres in size, Moko o Lo'e is also designated as a Conservation District, requiring unique security and grounds maintenance efforts far greater than most organized units on the main campus of University of Hawai'i.

### **Regarding permitting for repair and maintenance**

Permit processes related to repair and maintenance of HIMB facilities and infrastructure have become increasingly prohibitive and have begun to adversely impact our ability to conduct important work in the service of the State and the university, particularly when the repairs and funding for them are time-sensitive. Permitting regulations are arduous for projects which range from the benign to complex. For example, simple invasive plant species removal to allow for native planting projects by community service or

school groups require HIMB to prepare detailed landscaping plans before seeking authorization from DLNR, which is costly and time consuming to prepare, and can then take weeks to months for agency response.

On the other end of the spectrum, permitting to allow for repairs of existing structures, renovations and a new lab took approximately 13 years to obtain and over \$600,000 in consulting fees. The effort and financial resources HIMB faculty must invest in these permitting processes have detrimentally affected our ability to execute the important scientific research we do in service of the state. Further it can and has put funding for CIP in jeopardy because such funding generally does not have infinite timelines that can be put on hold until permits are obtained.

While some of the issues have already been addressed by the CDUA and SMA and we have finally received a letter of understanding that we negotiated with DLNR regarding a number of proposed projects, there are many important issues and projects such as critical pier, seawall and shore protection repairs that are not covered by these permits. Additionally the island is continually eroding and shore facilities, labs and other structures are deteriorating and unsafe. We are unable to proceed because permitting requirements are excessively lengthy and adversely impact funding processes. The attached photos show the severity of some of the conditions.

**Support of the intent of HB 922, SD1.**

Regarding permitting exemptions, HIMB is always working to overcome the limitations of funding to maintain our research facilities and to do this within the state's regulatory framework. We would like to emphasize that HIMB serves its own interest in making sure Moku o Lo'e's resources are protected and we seek this legislation to ensure that we can meet these obligations to the state and the university. The bill has been amended to provide a time limited exemption that would allow us to address some of the most pressing repair and maintenance issues that need immediate attention, for example falling sea walls and piers, repairs to the existing lab structures and buildings, failing bridges and roads, etc.



Fallen seawall, inner lagoon

Eroding seawall inner channel



Pier support columns are eroded,unsafe    Walkways on buildings are rusting, unsafe.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 30, 2011 6:48 PM  
**To:** JDLTestimony  
**Cc:** jeannine@hawaii.rr.com  
**Subject:** Testimony for HB922 on 3/31/2011 9:45:00 AM

**LATE TESTIMONY**

Testimony for JDL 3/31/2011 9:45:00 AM HB922

Conference room: 016  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Jeannine Johnson  
Organization: Individual  
Address:  
Phone:  
E-mail: [jeannine@hawaii.rr.com](mailto:jeannine@hawaii.rr.com)  
Submitted on: 3/30/2011

**Comments:**

The Department of Hawaiian Home Lands provides direct benefits to native Hawaiians in the form of 99-year homestead leases at an annual rental of \$1. Why is the State of Hawai'i offering 999-year homestead leases? Why are there non-native Hawaiians on this list? What is the purpose of offering low lease rents to millionaires living on Tantalus under the condition that they grow a few trees? I believe the reason was to take away these ceded lands from Kānaka maoli and the Department of Hawaiian Home Lands forever.

I am appalled that this travesty was allowed to happen. Please do not perpetuate this injustice to native Hawaiians. I respectfully ask that you do what is pono and return these ceded lands to the DHHL.