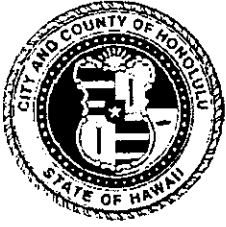


LATE TESTIMONY



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3085 / TELEPHONE 768-5010

TULSI GABBARD TAMAYO
HONOLULU CITY COUNCIL, DISTRICT 6
PHONE: 768-5006 FAX: 768-1199
EMAIL: TGABBARD@HONOLULU.GOV

March 3, 2011

Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair
House Committee on Finance
Hawai'i State Capitol
Honolulu, Hawai'i 96813

RE: OPPOSITION TO HB 952 – EDUCATION; PUBLIC SCHOOL LANDS TRUST AND

Dear Chair Oshiro, Vice Chair Lee, and Members of the Committee on Finance:

Thank you for the opportunity to provide testimony in opposition of HB 952, which would establish a public school lands trust.

HB 952 is a well intentioned effort to provide significant funding to help take Hawaii's public schools into the twenty-first century. I believe I can speak for all Honolulu City Councilmembers when I say that we wholeheartedly support this goal. We are similarly united in our belief that HB 952 is not the vehicle that will achieve this goal. I have attached for your information a copy of Council Resolution 11-60, which was adopted unanimously at the February 23, 2011 council meeting. This resolution urges the State Legislature to shelve the Senate and House versions of the bill.

Our opposition to HB 952 can be summarized into four points:

1. **The loss of city park space.** Many schools with adjoining city parks are co-located on one parcel of land. The bill is silent about any desire to subdivide these lands or to protect the park use. The current amount of park space is not sufficient to meet the current level of demand. The loss of park space will affect afterschool programs, organized sports, community activities, and will result in the loss of community green space. In urban areas, there are no vacant lands that could be used to replace the lost park space.

2. **The bill only provides minimum oversight.** According to the bill, the land trust's commission and staff will be responsible for overseeing hundreds of millions of dollars of assets and cash. The commission will also be expending monies to hire private consultants, enter into agreements, and manage assets. The only oversight mechanism put forth in the bill is a requirement for an annual report to the Legislature and a super majority vote by the Legislature to approve the sale of any land. With so much money and assets at stake, we are extremely concerned about the lack of a more robust oversight mechanism.
3. **The public participation requirement is weak.** The bill only requires two public hearings, one in the study phase and one in the decision phase. With the potential impacts to the community, we urge you to require the commission to notify and engage the public, including the school, residential and business communities, at every step of the way.
4. **The financial gain to the state does not pencil out.** The bill cites the potential of generating \$120,000,000.00 with the redevelopment of ten parcels. In page 4 of the Hawaii Institute for Public Affairs' (HIPA) Project Narrative, *Considering the Value of Underutilized Public School Lands*, a similar example is cited using 15 schools, in which approximately 40 acres of land results in \$250,000,000.00 to the trust. Without the specific details used in both of these calculations, I must only speak in general terms. I do not understand how substantial monies can be realized from the redevelopment of school properties unless these properties were sold and the new owner was allowed to develop the land to its highest and best use, which normally means a commercial development or a highrise building. The bill restricts the use of lands sold. These lands can only be developed for single residential use and only if that use is deemed to be the highest and best use for the lands. Under that condition, how will any significant funds be generated for the trust? Furthermore, if the land is leased for commercial use, the trust will only realize lease income on a monthly basis. It would take an inordinately long period of time before the trust realizes \$120,000,000.00, let alone \$250,000,000.00.

I want to thank you for this opportunity to convey my thoughts on this legislation. If you have any questions about my testimony, please do not hesitate to contact me.

Mahalo nui loa,



Tulsi Gabbard Tamayo, Chair
Committee on Safety, Economic Development, and Government Affairs



RESOLUTION

URGING THE LEGISLATURE OF THE STATE OF HAWAII TO SHELVE SENATE BILL 1385 AND HOUSE BILL 952 CONCERNING THE PUBLIC SCHOOL LAND TRUST.

WHEREAS, Senate Bill 1385 and House Bill 952 (hereinafter referred to as the "Bills") seek to establish a public school land trust; and

WHEREAS, the public school land trust will include all the public school lands and the trust will maximize the use of the lands and use the lands to generate income; and

WHEREAS, under the terms of the Bills, where the title to public school lands is held by a county, the title to the public school lands is transferred from the county to the public school lands trust by operation of law; and

WHEREAS, on Oahu, the title to many of the public school lands is held by the City and County of Honolulu and these lands are not only used for public schools but also for public parks which are adjacent to the schools; and

WHEREAS, the City already suffers from a shortage of park lands for active play and any loss of park lands would exacerbate this problem; and

WHEREAS, the Council feels that while the Bills may be well-intentioned, the council strongly believes that the steps necessary for the implementation of the Bills are not specified. Among the Council's concerns with the Bills are:

1. The Bills do not specify which lands will be affected; and
2. The Bills do not provide for adequate public input and participation throughout the redevelopment process; and
3. The Bills do not specify the process by which public school lands to be sold or developed would be selected or the criteria for the selection;

and

WHEREAS, if one of the Bills is enacted and the title of the public school lands were transferred to the public school land trust, the council has many concerns including:



RESOLUTION

1. All existing schools may be subject to possible closure or redevelopment, thereby disrupting the vital fabric of the surrounding community; and
2. The city would lose a considerable number of public parks which are adjacent to schools with no compensation being provided to the city and no provision for providing the city with replacement park lands; and
3. The closing of those parks will result in the cancellation of many after school parks programs, organized sports, and community programs held there;

now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it urges the state legislature to shelve Senate Bill 1385 and House Bill 952; and



RESOLUTION

BE IT FINALLY RESOLVED that this Resolution be transmitted to the Speaker of the House and all members of the House of Representatives of the Hawaii State Legislature and the Senate President and all members of the Senate of the Hawaii State Legislature.

INTRODUCED BY:

Miki Hakkar Tamayo
Brene Kunit

11-60-11-03-11

DATE OF INTRODUCTION:

FEB 18 2011
Honolulu, Hawaii

Councilmembers

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

RESOLUTION 11-60

Introduced: 02/18/11 By: TULSI GABBARD TAMAYO

Committee: COUNCIL

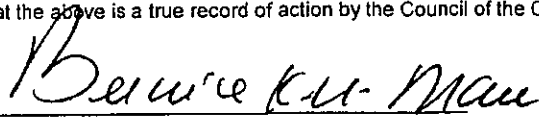
Title: RESOLUTION URGING THE LEGISLATURE OF THE STATE OF HAWAII TO SHELVE SENATE BILL 1385
AND HOUSE BILL 952 CONCERNING THE PUBLIC SCHOOL LAND TRUST.

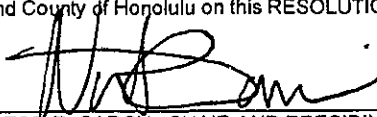
Links: [RES11-60](#)

Voting Legend: Y= Aye, Y* = Aye w/Reservations, N = No, A = Absent, ABN = Abstain

| | | | | | | | | | |
|-------------------------------|----------|---------------------------------------|---|-----------|---|--------|---|----------------|---|
| COUNCIL | 02/23/11 | RESOLUTION 11-60 ADDED TO THE AGENDA. | | | | | | | |
| ANDERSON | Y | BERG | Y | CACHOLA | Y | CHANG | Y | GABBARD TAMAYO | Y |
| GARCIA | Y | HARIMOTO | Y | KOBAYASHI | Y | MARTIN | Y | | |
| RESOLUTION 11-60 WAS ADOPTED. | | | | | | | | | |
| ANDERSON | Y | BERG | Y | CACHOLA | Y | CHANG | Y | GABBARD TAMAYO | Y |
| GARCIA | Y | HARIMOTO | Y | KOBAYASHI | Y | MARTIN | Y | | |

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this RESOLUTION.


BERNICE K. N. MAU, CITY CLERK


NESTOR R. GARCIA, CHAIR AND PRESIDING OFFICER

LATE TESTIMONY



LAND USE RESEARCH
FOUNDATION OF HAWAII

1100 Alakea Street, 4th Floor
Honolulu, Hawaii 96813
(808) 521-4717
www.lurf.org

March 2, 2011

Representative Marcus R. Oshiro, Chair and Representative Marilyn B. Lee, Vice Chair
House Committee on Finance

Support of HB 952, Relating to Public School Lands. (Establishes the public schools land trust to provide maximum use of public school lands in order to generate income to improve public school facilities and infrastructure.)

Thursday, March 3, 2011 at 10:00 a.m. in CR 308

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

HB 952. This bill establishes the public school lands trust to provide for the maximum use of public school lands in order to generate income required to improve public school facilities and infrastructure to meet the challenges of the future. The bill also establishes the public school lands trust commission within the Department of Land and Natural Resources for administrative purposes, to manage and control the public school lands trust.

Background. HB 952 recognizes that the considerable amount of underutilized public school lands on the State's 257 school campuses may be used as a resource (e.g., redeveloped) to enable the building of public school infrastructure to make classes fit for learning in the twenty-first century and beyond. The beneficiaries would be Hawaii's public school children, especially the native Hawaiian population, which currently comprises 28 percent of the students in the State's public school system.

LURF's Position. LURF supports this bill because it establishes an innovative method through which the State may use its assets to obtain funding to benefit Hawaii's public school children.

LURF has consistently supported creative legislation, particularly legislation targeted to further education in this State. In 2007, LURF testified in support of legislation proposed to establish a two-year pilot project which would authorize reallocation of resources among the schools in a designated complex area to achieve greater efficiency and cost-effectiveness. Other prior education-related efforts by the State Department of Education (DOE), LURF and other stakeholders over the past years include:

- **SB 292 (2005) proposal to grant DOE asset management authority.** In 2005, pursuant to SB 972, the Legislature considered establishing the authority of the Board of Education (Board) and the DOE to own and administer all of the lands and facilities being used for the public schools of Hawaii.
- **SB 611 (2007) proposal to transfer lands and facilities to DOE.** In 2007, a similar version of SB 292 was presented as SB 611, which proposed to transfer all public lands and facilities in use for public schools to the DOE. That bill also empowered the Board and the DOE to acquire, sell, lease, transfer, hypothecate, develop, and enter into agreements for the improvement of lands and facilities under its control for the support of the public schools.
- **DOE Advisory Council: SB 611 (2007).** SB 611 was the result of one of the working groups from the DOE Advisory Council, which was created to evaluate the merits of various proposals being implemented by the DOE, and to make recommendations on establishing measurable goals and objectives.
- **SB 690 (2007) proposal for DOE cost-benefit analysis and additional school funding based on savings from school closures or consolidation.** This proposal would have required the DOE to do a cost-benefit analysis to determine the cost savings of school closures or consolidations, and would have required that 50% of the savings be retained by the affected schools for a period of not less than five years.

As noted in LURF's 2007 testimony in support of the above measures, the DOE has approximately the same number of students today (+/-180,000) as it did 30 years ago; the difference being that the concentration of the student population has moved. This creates situations prompting the present bill, where existing assets are underutilized and provides opportunities to reposition these real estate assets for future needs. Possibilities include redevelopment of the site for a new school; allowing for mixed use with a redeveloped school and possibly teacher housing; or providing for new revenue sources based on long term leasing of the property.

The following are various other initiatives that the DOE, stakeholders, and the Legislature may wish to pursue in the future:

- **Capital Improvement Projects ("CIP") Public Private Partnership Group.** One of the working groups from the DOE Advisory Council was the CIP Public Private Partnership Group, which explored "non-traditional" alternatives for building new schools, or redeveloping existing schools. The term "non-traditional" was intended to describe the processes or methods not presently being used by the DOE.
- **Common School Fund Program.** The idea of giving the DOE the power and authority to own the land under the school facilities is based on the "Common School Fund" programs or "Land Grant Schools" on the mainland. Much of the school lands in the western United States were conferred by Congress to each of the states via "land grants" at the time each state joined the United States. The land grants were originally made for a single explicitly stated purpose - to support common schools and similar public institutions. These granted lands are generally known as "Common School Fund Lands," held by the states together with any permanent funds and revenues generated from the lands, and all of those assets together are generally viewed as a "trust." Most of the western states manage the Common School Fund Lands either for use as school sites, or to generate revenues for the schools. The corpus of the trust is determined by the value of the land, any permanent funds, and any revenues generated by the lands. Hence, the trust land managers in those states approach and handle their management

responsibilities under the same rules and enforcement mechanisms that surround any legal trustee with fiduciary duties.

- **Management of DOE lands as “trust” lands for the benefit of DOE schools and programs.** The prior Hawaii legislation referenced above was based on an idea similar to the “Common School Fund Lands” program - that the existing DOE school lands could be used to create a trust for the DOE public schools. The DOE lands could then be managed as a “trust,” somewhat like Kamehameha Schools Bishop Estate, with the DOE having the ability to leverage underutilized land assets for redevelopment, joint venture, revenue production and other opportunities, similar to a real estate corporation. Considering the need to attract and retain teachers, together with the prospects of a fixed-guide-way system for Oahu, the bill would allow for the repositioning of some of the “underutilized school sites” in the City’s Primary Urban Center which could be redeveloped to provide teacher housing and/or generate income for the DOE as a center for a mixed-use transit oriented development.

Conclusion. LURF supports HB 952 as an inventive means of using underutilized assets to generate funding for the benefit of public school children, and hopes that this Committee moves it forward.

Thank you for the opportunity to present testimony regarding this matter.