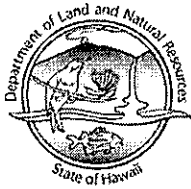


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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

GUY H. KAILUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

**Before the Senate Committee on
WATER, LAND AND HOUSING**

**Tuesday, February 8, 2011
1:15 PM
State Capitol, Conference Room 225**

**In consideration of
SENATE BILL 1523
RELATING TO WAIHAOLE AND WAIKANE VALLEYS**

Senate Bill 1523 proposes to transfer jurisdiction of Waiahole-Waikane Valley and leases therein from the Hawaii Housing Finance and Development Corporation to the Hawaii Community Development Authority and designate lands in Waiahole Valley as important agricultural lands. While the Department of Land and Natural Resources (Department) supports this bill in principle, the Department provides the following comment and concern. Consolidating the State's landholdings in the area under one development and management authority is a meritorious concept. Most of the lands under the jurisdiction of the Department in the subject area have been transferred to the Hawaii Housing Finance and Development Corporation by previous fiat.

The Department is concerned, however, that the transfer of lands contemplated by this measure may inadvertently include forest reserve lands that should remain under the jurisdiction of the Department's Division of Forestry and Wildlife (DOFAW). The Department recommends that the measure be amended to specifically exclude from the transfers, any watershed and forested areas that have been formally set aside to DOFAW by Governor's Proclamations and/or Governor's Executive Orders for the Waiahole Forest Reserve.

NEIL ABERCROMBIE
GOVERNOR



KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON WATER, LAND AND HOUSING

February 8, 2011 at 1:15 p.m.
Room 225, State Capitol

In consideration of
S.B. 1523 RELATING TO WAIAHOLE AND WAIKANE VALLEYS.

Chair Dela Cruz, Vice Chair Solomon, and Members of the Committee on Water, Land and Housing,

HHFDC ***supports the intent*** of S.B. 1523 which transfers HHFDC's ownership of lands in Waiahole Valley to better promote diversified agriculture and preserve the rural farming lifestyle in the valley. We believe, however, that revisions to the bill are needed to accomplish these objectives.

Waiahole Valley is an important state resource. In 1977, Governor Ariyoshi authorized the then, Hawaii Housing Authority (now HHFDC), to purchase approximately 590 acres of land in Waiahole Valley from the Elizabeth Marks Estate to preserve the rural agricultural nature of the valley. In 1978, the HHA's Board of Commissioners adopted a resolution to establish the following policies for the future use of lands in Waiahole:

- The valley would be developed as predominately a farming community, also including residential, commercial, and community and public facilities.
- Viable agricultural lands and the Valley's water resources would be developed to the fullest feasible potential.
- People living in the Valley as of March 1, 1977 or at the time of purchase by the HHA would be given first-priority preference in securing leases, with due regard to location, size and use of parcels occupied prior to the purchase.

In 1993, through passage of Act 330, an additional 100+ acres of land in Waiahole Valley was transferred from the Department of Land and Natural Resources to the then

Housing and Community Development Corporation of Hawaii (now HHFDC); bringing HHFDC's total holdings in the valley to approximately 690 acres. About 460 acres are for agricultural use, 192 acres are for other uses (such as open space, water reservoir, Waiahole Stream), and 38 acres for residential use.

While the former goal of protecting Waiahole Valley from urban development was met, the full potential of these agricultural lands has yet to be realized. One of the major problems is that land ownership and responsibility for management vests with HHFDC. While we have significant experience in the financing and development of affordable housing, we do not have expertise in the management of rural or agricultural lands.

S.B. 1523 launches the first step of drawing attention to the need to improve the management of lands in Waiahole Valley in order to promote diversified agriculture and support the rural farming lifestyle in the valley. The measure also opens the door for community discussion on this important issue. In its current form, the bill falls short in following areas:

- It addresses the 100+ acres of land that was transferred to HHFDC via Act 330, SLH 1993. However, it does not include the former Marks Estate lands comprising 590+ acres in Waiahole Valley or adequately identifies the lands in Waikane Valley.
- The Hawaii Community Development Authority (HCDA) could have a significant role in overseeing rural zoning and advocating for infrastructure improvements should a special community development district be created. Unfortunately and like HHFDC, the HCDA is not the appropriate agency for agricultural stewardship of the valley.
- Among other things, section 5 of the bill transfers "all officers and employees whose functions are transferred by this Act" to the HCDA. This provision is problematic because HHFDC does not have any such dedicated employees to transfer.

Waiahole Valley could be part of the "Agricultural Renaissance" in Hawaii. We are willing to work with the Committee, HCDA and other stakeholders on revision to this or another measure to help meet the overall objectives of promoting diversified agriculture and preserving the rural farming lifestyle of the valleys.

Thank you for the opportunity to testify.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



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STATEMENT OF

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

BEFORE THE

SENATE COMMITTEE ON WATER, LAND, AND HOUSING

TUESDAY, FEBRUARY 8, 2011

1:15 P.M.

State Capitol, Conference Room 225

**S.B. 1523 - RELATING TO WAIAHOLE AND WAIKANE
VALLEYS.**

Purpose: Transfers jurisdiction of Waiahole-Waikane Valley and leases from the Hawaii Housing Finance and Development Corporation (HHFDC) to the Hawaii Community Development Authority (HCDA). Establishes the lands of the Waiahole and Waikane Valleys as subject to the powers generally given to the Authority under §206E-4. Also designates the land comprising Waiahole Valley as Important Agricultural Lands (IAL).

Position: The HCDA requests that given the history and importance of these lands to the community, this matter be deferred until such time that the community, stakeholders and various government agencies can be consulted and a comprehensive strategy and legislative proposal that defines what role that the HCDA has (if any) in being a part of the solution can be articulated. The HCDA also defers to the HHFDC and the Department of Land and Natural Resources (DLNR) on those matters affecting their agencies.

Section 1- Lands of the Waiahole and Waikane Valleys. This section places the lands under the jurisdiction of the HCDA (§206E-4), but does not establish a community development district [(CDD) (as allowed by §206E-5)]. The benefit of establishing a CDD for these lands would provide the HCDA with the authority to establish rural residential and agricultural zoning rules that are more in sync with the historic and desirable pattern of human settlement in the area.

Section 2 – Amendment of Act 330 SLH 1993. The language of the proposed transfer of lands needs to be clarified. A literal interpretation might conclude that only the parcels described in Act 330 as that of HHFDC and an additional 10 parcels attributed to the DLNR is included. In addition, it is my understanding that the parcels attributed to the DLNR were actually already transferred to the HHFDC. Section 2 (b) also specifies that “all other lands comprising the Waiahole and Waikane Valleys are transferred from the department of land and natural resources to the Hawaii community development authority” without other specifications. The proposal does not describe any lands within Waikane Valley. Any proposal to transfer lands to the HCDA should be specific in identifying those lands being transferred.

Technical Note. The sections of the proposal may have inadvertently been mis-numbered. Section numbers are repeated in the current draft.

Section 3 -- Requirement to offer new leases. The proposal requires that the HCDA lease lands to a particular subset of individuals/entities. In addition to a possible constitutional challenge that prohibits laws being enacted for the benefit of specific benefitting entities, clarification is needed as to why the HCDA is required to offer leases to lessees who have not negotiated with the HHFDC as of July 1, 2011.

Section 7 – Designation of Important Agricultural Lands. This section designates the “lands comprising Waiahole valley on Oahu is hereby designated important agricultural lands.” The proposal also notes that “Waiahole valley shall be deemed to include the related Waikane valley, which together form the greater area commonly referred to as Waiahole-Waikane.” As I have previously noted, it

is important that the boundaries of any lands being afforded IAL designation or being transferred be described as specifically as possible. This would include the use to tax map key identifiers or use of other landmarks.

An unintended consequence of this designation of IAL for the lands of Waiahole-Waikane may be to include residential parcels with no IAL characteristics. This may necessarily subject these residential parcels to a zoning classification to which they cannot perform to.

Need for Community Consultation and Greater Specification as the Lands that are Involved. Recognizing that the renaissance of community activism in the State of Hawaii may have been stimulated by the fertile lands of Waiahole and Waikane Valleys, it is my belief that while it is important to address issues relating to tenure, promotion of diversified agriculture and preservation of IAL lands, it is also critically important that the State of Hawaii “measure twice and cut once” less, the mistakes of the past continue for this community.

It is my belief that the community would be better served if the matter was deferred until a plan supported by community stakeholders, landowners and various government agencies is developed. To ensure that this important discussion takes place with clear parameters, a concurrent resolution of the Legislature might offer a clearer path forward.

Thank you for the opportunity to provide testimony on this matter.

NEIL ABERCROMBIE
GOVERNOR



SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

February 7, 2011

TESTIMONY TO THE
COMMITTEE ON WATER, LAND, AND HOUSING
For Hearing on Tuesday, February 8, 2011
1:15 p.m., Conference Room 225

BY

SUNSHINE P.W. TOPPING
INTERIM DIRECTOR

**Senate Bill No. 1523
Relating to Waihole-Waikane Valley**

WRITTEN TESTIMONY ONLY

TO CHAIRPERSON DONOVAN DELA CRUZ AND COMMITTEE MEMBERS:

The purpose of S.B. 1523 is to transfer jurisdiction of Waiahole-Waikane valley and leases therein from the Hawaii Housing Finance and Development Corporation to the Hawaii Community Development Authority. It also designates lands in Waiahole valley as important agricultural lands.

The Department of Human Resources Development has **comments** on the proposed transfer. To protect the rights and benefits of the employees to be transferred, we prefer the following proposed transfer language be used in place of the second and third paragraphs of Section 5 of the bill:

"All employees who occupy civil service positions
and whose functions are transferred to the Hawaii

community development authority by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class and/or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation laws. The executive director of the Hawaii community development authority may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes."

Thank you for opportunity to offer comments on this measure.