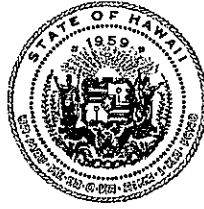


NEIL ABERCROMBIE
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CONSERVATION AND RESOURCES ENFORCEMENT
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATEPARKS

Testimony of
WILLIAM J. AILA, JR
Chairperson

Before the House Committee on
WATER, LAND, & OCEAN RESOURCES

Monday, March 12, 2012
9:15 AM
State Capitol, Conference Room 325

In consideration of
SENATE BILL 3011, SENATE DRAFT 2
RELATING TO PUBLIC LANDS

Senate Bill 3011, Senate Draft 2 proposes to direct the Department of Land and Natural Resources (Department) to transfer title in certain designated agricultural lands under the Department's jurisdiction to the Agribusiness Development Corporation (ADC). The Department has concerns about the current version of the bill, and offers the following comments.

First, the bill may be unnecessary. The Board of Land and Natural Resources (BLNR) and the Board of Agriculture (BOA) have already approved a set-aside of these lands for agricultural purposes to the Department of Agriculture (DOA) by executive order pursuant to Act 90, Session Laws of the State of Hawaii, 2003. By way of Executive Order No. 4403 signed by the Governor on February 20, 2012, the above-referenced lands were transferred to DOA and are now under its management and control pursuant to Section 171-11, Hawaii Revised Statutes (HRS).

Second, Senate Bill 3011, Senate Draft 2 continues to conflict with Act 90. Act 90 directed the Department to transfer non-agricultural park lands to DOA. Non-agricultural park lands include lands that are within the agricultural land use district. A substantial amount of land has already been transferred to DOA pursuant to Act 90, including the parcels identified above. If Senate Bill 3011, Senate Draft 2 were to be enacted, it would impose inconsistent statutory obligations on the Department with no guidance on how to resolve the conflict.

Further, land transfers from the Department to another agency are generally made pursuant to Section 171-11, HRS, on executive orders. Just as have been adequate and done in the past, land management transfers to ADC should be in the form and in accordance with Section 171-11, HRS, and not by a deed or similar conveyance.



SB3011 SD2
RELATING TO PUBLIC LANDS
House Committee on Water, Land, & Ocean Resources
House Committee on Energy & Environmental Protection

March 12, 2012

9:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB3011 SD2, which would require the Department of Land and Natural Resources to transfer title to public agricultural lands under its jurisdiction to the Agribusiness Development Corporation.

The Agribusiness Development Corporation was created as a rapid-response agency to stabilize deteriorating plantation water systems and transition vacant plantation lands to use for diversified agriculture. It enjoys broad exemptions from existing processes when disposing of and developing upon land. Specifically, it is not subject to HRS 171-64.7, which requires a 2/3 majority vote of the legislature to sell certain public lands and requires that OHA be notified of such land disposals.

HRS 171-64.7, which was enacted as a result of a ceded lands settlement between the state and OHA, seeks to ensure that Public Land Trust lands for which OHA is entitled a pro rata portion of revenues will not be diminished without opportunity for public comment, legislative approval, and notification to OHA. Removing agricultural lands from the purview of this law would circumvent the system created to ensure state accountability for public trust lands and diminish a source from which OHA is constitutionally entitled to receive a pro rata portion of revenues. In short, this bill would effectively controvert the state's trust obligation to Native Hawaiians.

Therefore, OHA urges the committee to HOLD SB3011 SD2. Mahalo for the opportunity to testify on this important measure.