

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
FINANCE**

**Friday, February 21, 2014
12:00 P.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2634, HOUSE DRAFT 1
RELATING TO CHAPTER 171, HAWAII REVISED STATUTES**

House Bill 2634, House Draft 1, proposes to authorize the Board of Land and Natural Resources to extend commercial and industrial leases based on substantial improvements to be made by the lessees, and extends the repeal date of Act 219, Session Laws of Hawaii (SLH) 2011, to December 31, 2017. **The Department of Land and Natural Resources (“Department”) opposes this bill.**

Act 219, SLH 2011 provides for the extension of hotel and resort leases on state lands if the lessee commits to investing at least 50% of the value of existing improvements in renovations or new improvements to the property. As explained in the preamble of Act 219, the measure was intended to promote the rehabilitation of areas such as Banyan Drive in Hilo, which is the site of the major hotel accommodations in East Hawaii. The leases in the Banyan Drive area cover relatively large areas, and the renovation of one property can go a long way in rehabilitating the general vicinity.

In contrast, the State’s commercial and industrial leases are generally smaller parcels. In the Kanoelehua Industrial Area (KIA) in Hilo, for example, the parcels were created in the 1960s in the aftermath of the tsunami that struck in the State in May 1960. By modern standards, the parcels are quite small for industrial uses, with many in the range of one-quarter to half an acre. The structures originally built on the parcels would not be allowed today under the County of Hawaii’s current zoning code with more stringent requirements for lot size, building setbacks, parking, etc. The State has many clusters of contiguous parcels in KIA, and has retained a consultant to assess market demand for industrial and commercial lands in KIA, and specifically whether the small parcels should be consolidated and resubdivided to increase their utility and income-generating potential. A large percentage of the KIA leases will terminate in the period of

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LAND
STATE PARKS

2016-2026, and the Department intends to redevelop the area upon termination of the leases. If House Bill 2634, House Draft 1 becomes law, it will allow for the extension of many of these leases for up to 55 years and will perpetuate the substandard lot sizes and underperformance of the assets.

Additionally, under Chapter 171, Hawaii Revised Statutes, the maximum term of a lease is 65 years. When the lease is issued, the lessee and any potential successors or assigns know that they have up to the lease termination date to utilize the land and recoup their investment, at which time the land goes back out to public auction. Adding a 55-year extension to a 65-year lease results in an aggregate term of 120 years. This would in effect serve to privatize public lands, conveying a benefit to a privileged few at the expense of the public, who are effectively prohibited from obtaining a state lease. A 65-year lease term has shown to be more than sufficient in order to serve the life of a business, as the vast majority public land leases have been assigned at least once prior to the expiration of the lease. If a potential assignee decides to obtain a public land lease with a limited term remaining, it does so voluntarily assuming the risk. Chapter 171 is indicative of the public policy that public land leases shall be of a limited duration in order to provide the public fair and open opportunities to acquire a lease. Furthermore, allowing such lease extensions prevents fair and open competition to acquire public land leases, resulting in long-term dispositions that do not realize the economic potential of the land.



HB2634 HD1
RELATING TO CHAPTER 171, HAWAII REVISSED STATUTES
House Committee on Finance

February 21, 2014

12:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2634 HD1, which authorizes the Board of Land and Natural Resources (BLNR) to extend hotel, resort, commercial and industrial leases up to 55 years upon approval of a development agreement.

OHA has concerns whether the BLNR is fulfilling its fiduciary duty to the public trust by granting hotel, resort, commercial and industrial leases special status over all public land leases by allowing favored lessees the right to have exclusive use of public land for up to 120 years. Fifty-five year leases exceed the length of a generation, effectively tying the hands of communities and future generations of land and resource managers and unduly restricting their ability to make sound decisions. Also, long-term leases often lead to a sense of entitlement on the part of the lessee that can and has resulted in alienation of leased land in Hawai'i.

Moreover, the BLNR is responsible for managing approximately 1.3 million acres of public lands, which are largely comprised of lands that belonged to the last Hawaiian monarch and the sovereign Hawaiian nation and ultimately taken following the United States-aided illegal overthrow of the Hawaiian Kingdom. The Native Hawaiian people have never relinquished their claims to these lands and to the extent that HB2634 HD1 could allow lessees to have exclusive use of public land for up to 120 years, OHA notes that this may impact the ability of an impending Native Hawaiian Governing Entity to reach a just and fair resolution of Native Hawaiian claims to these ancestral lands.

Mahalo for the opportunity to testify on this measure.

finance1

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HB2634

Submitted on: 2/19/2014

Testimony for FIN on Feb 21, 2014 12:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Garth Yamanaka	Individual	Support	No

Comments:

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HB2634

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Garth Yamanaka	Individual	Support	No

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