

LATE



SB2558
RELATING TO ECONOMIC DEVELOPMENT

Senate Committee on Economic Development, Government Operations & Housing

February 10, 2014

2:45 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB2558, which would allow state agencies and departments to lease underused properties and facilities to private partners through an enhanced use lease program.

OHA appreciates the intent of this measure, to increase community benefits from the state's public lands. OHA notes that SB2558 specifically addresses concerns raised by OHA in the past over public private partnerships, in that it:

- Does not authorize broad land use and zoning exemptions;
- Explicitly prohibits state agencies from selling property or facilities to private partners; and
- Requires Chapter 91 rulemaking procedures for state agencies interested in leasing properties through the enhanced use lease program.

OHA notes, however, that the establishment of an enhanced use lease program continues to raise other concerns. While OHA is still gathering information and researching the potential impacts of SB2558, OHA's present concerns include the following:

- **Management and disposition of public lands.** By authorizing state agencies and departments to each develop their own lease process, SB2558 allows for brand new land disposition processes whereby all state agencies and departments can lease a broad class of public lands without regard for the more established and comprehensive approach under HRS Chapter 171. This is concerning because Chapter 171 provides a complete statutory scheme governing how the state should manage and dispose of its most valuable resources – our public lands – which are held in trust for Native Hawaiians and the public. Specifically, Chapter 171 sets up the processes by which the State can issue leases, licenses and permits for the use of public lands, and includes public auction and appraisal requirements to assist the state in upholding its fiduciary responsibilities in the management of our public trust lands.. As the Hawai'i Supreme Court has explained, "[t]he overall purpose of this chapter [HRS 171] and particularly of those sections dealing with the lease of public lands is to preserve the assets of the State" and to guide the state "in the

Native Hawaiians. As currently drafted, state agencies could create a process by which a small group of individuals benefit at the significant expense of others.

Accordingly, while an “enhanced use lease program” may provide a more flexible and quicker means to lease public land, OHA has concerns that such a program may also compromise the state’s fiduciary obligations regarding public lands and public land trust lands.

Therefore, OHA urges the Committee to **HOLD** SB2558. Mahalo for the opportunity to testify on this important measure.