

SB3025

SB3025



Submit Testimony

Measure Title: RELATING TO DEVELOPMENT DISTRICTS.

Report Title: DLNR; Development and Redevelopment Districts; Appropriation (\$)

Description: Authorizes the DLNR to designate public lands as a development or redevelopment district and establish and implement guidelines for the development or redevelopment of the district. Authorizes the DLNR to receive improvement district petitions from the various counties. Makes an appropriation. Effective 07/01/2014.

Companion: [HB2636](#)

Package: None

Current Referral: WTL/EGH/PSM, WAM

Introducer(s): SOLOMON, Kahele

<u>Sort by Date</u>		Status Text
1/23/2014	S	Introduced.
1/23/2014	S	Passed First Reading.
1/27/2014	S	Referred to WTL/EGH/PSM, WAM.
2/6/2014	S	The committee(s) on WTL/EGH/PSM has scheduled a public hearing on 02-10-14 3:15PM in conference room 16.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
WILLIAM J. AILA, JR
Chairperson

Before the Senate Committees on
WATER AND LAND
and
ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
and
PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Monday, February 10, 2014
3:15 PM
State Capitol, Conference Room 16

In consideration of
SENATE BILL 3025
RELATING TO DEVELOPMENT DISTRICTS

Senate Bill 3025 proposes to authorize the designation of development or redevelopment districts for commercial, industrial, resort and hotel areas on State lands, and the creation of planning committees to serve as policy-making boards for such districts. **The Department of Land and Natural Resources (Department) opposes this bill for the following reasons.**

The bill creates an additional layer of bureaucracy in government

The bill provides that the Department may designate an area of public lands as a redevelopment district, and that the legislature, by concurrent resolution, may designate an area (apparently including lands other than public lands) as a redevelopment district. Upon such designation, an eleven-member planning committee is to be established as a policy-making board for the district. The planning committee, who serves without compensation, then appoints a district administrator for the district who is to be compensated. The planning committee may hire additional staff as well, and is apparently to be attached to the Department for administrative purposes.

In addition to the administrator, the planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the eleven committee members. There will be added expense for the committee to comply with Hawaii Revised Statutes (HRS) Chapter 92's sunshine law requirements. Further,

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

the committee's actions may be subject to contested case hearings and appeals. The bill provides for a general appropriation in an unspecified amount to carry out the purposes of the measure, and it is therefore unclear whether the expense of maintaining the committee would be partially borne by the Department. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually.

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. The Department already has planning and development staff to assess appropriate uses of land in its inventory. Additionally, the Department has procured a consultant for Banyan Drive and the Kanoelehua Industrial Area in Hilo to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After last year's legislative session, the Governor approved the formation of a Banyan Drive Task Force that met three times in 2013 to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members include representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and representatives from the Hawaii County Mayor's Office and State legislators also attend the meetings. This informal task force has worked well and at limited expense to the State.

There are practical problems with the bill

As noted above, Senate Bill 3025 allows the Department to designate redevelopment districts on public lands. As defined at HRS Section 171-2, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in both the Banyan Drive area and Kanoelehua Industrial Area in Hilo, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Department would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties

Senate Bill 3025 proposes that an undetermined percentage of the revenue from properties in a development district are to be deposited into a development revolving fund, and that moneys in the fund shall be used solely to promote the purposes of the bill. The Department and Board of Land and Natural Resources (BLNR) are responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the BLNR determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's

operations and management of public lands/programs. Annual lease revenues currently support the Special Land and Development Fund (SLDF), with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophe such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of state match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under §46-80.5, HRS

The bill seeks to redevelop the infrastructure and facilities within designated redevelopment districts. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements.

Section 46-80.5, Hawaii Revised Statutes (HRS), authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by Senate Bill 3025.

Under the authority HRS Section 46-80.5, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County of Hawaii to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County of Hawaii. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Existing law allows for lease extensions under certain conditions

To the extent Senate Bill 3025 is intended to facilitate the extension of existing State leases, the Department would point out that Act 219, Session Laws of Hawaii (SLH) 2011 and Act 207, SLH 2011 already provide for the extension of leases under certain conditions. Act 219 allows hotel or resort leases to be extended for an additional term of up to 55 years if the lessee commits to investing at least 50% of the value of existing improvements in renovations to the property. Act 207 allows for the extension of commercial, industrial and other leases up to an aggregate term (original term plus extension) of up to 65 years if the lessee requires mortgage financing or self-finances substantial improvements to the property. All such extensions are at the discretion of the BLNR.

For the reasons above, the Department opposes this bill.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON WATER AND LAND, ECONOMIC
DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING, AND PUBLIC
SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS
ON
SENATE BILL NO. 3025

February 10, 2014

RELATING TO DEVELOPMENT DISTRICTS

Senate Bill No. 3025 authorizes the Department of Land and Natural Resources to designate public lands as a development or redevelopment district with legislative concurrence. Upon such designation, an 11-member planning committee is to be established as a policy-making board for the district and the planning committee is authorized to hire a district administrator and additional staff to manage the district. Senate Bill No. 3025 also creates the Designated Development District Revolving Fund to support operations. Additionally, the bill appropriates an unspecified sum of general funds for FY 15 to establish and administer the program.

The Department of Budget and Finance takes no position on the establishment of redevelopment districts. However, as a matter of general policy, the department does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.3, HRS. Special or revolving funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program;
- 2) provide an appropriate means of financing for the program or activity; and
- 3) demonstrate the capacity to be financially

self-sustaining. In regards to Senate Bill No. 3025, it is difficult to determine whether the proposed revolving fund will be self-sustaining.

The department would also like to note that the issuance of revenue bonds require, among other things, the project to generate sufficient revenues to pay debt service on the bonds.



SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS
AND HOUSING
SENATE COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY
AFFAIRS

February 10, 2014, 3:15 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO SB 3025

Aloha Chairs Solomon, Dela Cruz, Espero, and Members of the Committees:

The Sierra Club of Hawai'i, with over 12,000 members and supporters, *opposes* SB 3025. This measure allows the Department of Land and Natural Resources or the Legislature to create a development district that supersedes all local plans and regulations.

Because of the fear that agencies would fail to objectively analyze all relevant factors, our legal system created a series of checks and balances (state and county approval) and public notification requirements. This measure proposes to eliminate this balance by placing all control within DLNR or a newly-created state committee. These institutions lack staff support and the institutional knowledge necessary to ensure projects succeed. Moreover, it's unclear how responsive they'll be to county or local concerns.

Perhaps more importantly, it's unclear why this bill is necessary. DLNR already has the legal authorization to do many of the things specified therein, but lacks the funding allocations to properly staff and manage these types of projects. At last check, DLNR only had one or two property managers for the entire state. A relatively simple "fix" would be to ensure DLNR has the resources necessary to properly develop and steward our public land.

We hope you will defer this measure indefinitely. Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: mkelley323@gmail.com
Subject: Submitted testimony for SB3025 on Feb 10, 2014 15:15PM
Date: Friday, February 07, 2014 4:09:56 PM

SB3025

Submitted on: 2/7/2014

Testimony for WTL/EGH/PSM on Feb 10, 2014 15:15PM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lu Kelley	Individual	Oppose	No

Comments: Aloha. I am strongly opposed to SB3025. We got rid of the PLDC. We are still having a hard time getting the ADC to live up to its mission of diversified crops to feed the people of Hawaii. And now this bill. The DLNR does listen to the people about the Master Plan for Kokeé after years of testifying against turning Kokeé into a cash cow for the state. Don't give them this opportunity. Reject SB3025 immediately!!!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: [Robin Kaye](#)
To: [WTLTestimony](#)
Subject: SB3025
Date: Saturday, February 01, 2014 5:46:13 AM

I strongly oppose this bill. Please do NOT move it forward.

Mahalo,

Robin Kaye

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Robin Kaye
P.O. Box 631313
Lana'i City, HI 96763
808-559-6124 (m)
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From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: shannonkona@gmail.com
Subject: Submitted testimony for SB3025 on Feb 10, 2014 15:15PM
Date: Friday, February 07, 2014 4:06:38 AM

SB3025

Submitted on: 2/7/2014

Testimony for WTL/EGH/PSM on Feb 10, 2014 15:15PM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: Oppose. Pleeeeze stop with the mini HCDA's already. Hawai'i residents have told you and told you they are not comfortable with these actions that use blanket public private partnerships, with 11 members from Honolulu having so much power over public land use around the state. Please use the rules and laws that are already in place. Nothing but problems, money spent, limited public participating, and very little to show for these machinations of programs such as the HCDA. Please stop limiting our democracy. Kill this bill.

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From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: sherrianwitt@aol.com
Subject: *Submitted testimony for SB3025 on Feb 10, 2014 15:15PM*
Date: Thursday, February 06, 2014 6:11:06 PM

SB3025

Submitted on: 2/6/2014

Testimony for WTL/EGH/PSM on Feb 10, 2014 15:15PM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
sherrian witt	Individual	Oppose	No

Comments:

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To: [WTLTestimony](#)
Cc: rittew@hotmail.com
Subject: Submitted testimony for SB3025 on Feb 10, 2014 15:15PM
Date: Thursday, February 06, 2014 5:01:34 PM

SB3025

Submitted on: 2/6/2014

Testimony for WTL/EGH/PSM on Feb 10, 2014 15:15PM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Walter Ritte	Individual	Oppose	No

Comments: My name is Walter Ritte from the island of Molokai and I strongly oppose this bill. There is no need for this controversial bill, the existing laws, rules and regs allow the problems mentioned in the bill to be resolved. DLNR has a problem doing their existing mandate of protecting the natural resources of the public, adding more responsibilities of becoming a developer is not in the best interest of the public.

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