

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON P.E.
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER & LAND

Wednesday, February 12, 2016
9:30 A.M.
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 2407, HOUSE DRAFT 1
RELATING TO LAND DISPOSITIONS

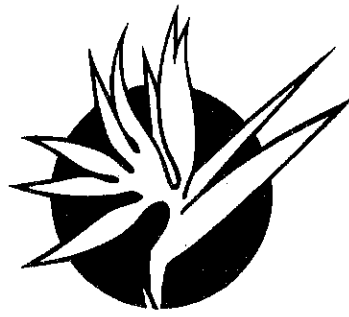
House Bill 2407, House Draft 1, proposes to amend the public lands statute, Hawaii Revised Statutes (HRS) Chapter 171, to exempt the Department of Transportation's (DOT) issuance of leases and other dispositions on state lands from prior approval by the Board of Land and Natural Resources (Board). **The Department of Land and Natural Resources ("Department") offers the following comments on this measure.**

The lands that comprise the airports and harbors under DOT's jurisdiction are set aside to it by Governor's executive order approved by the Board pursuant to HRS Section 171-11. That section provides that when lands are so set aside, the agency holding the executive order must obtain the approval of the Board for any dispositions longer than 14 days.

DOT currently brings proposed dispositions at its airports and harbors to the Board for approval at the Board's regularly scheduled public meetings. Under House Bill 2407, House Draft 1, DOT seeks to amend existing law to provide that Board approval of these dispositions will no longer be required. Instead, DOT will have sole decision-making authority regarding dispositions on lands set aside to it, and can make these dispositions by direct negotiation if DOT finds that such action encourages competition.

The Department notes that the public policy purpose for all land dispositions, especially those issued by direct negotiation outside the public auction process, is to ensure independent review by the Board at an open meeting held pursuant to HRS Chapter 92. The State has limited land

resources, and decisions affecting these lands are intended to be made in the open and subject to public testimony. This provides a transparent public process for important decision-making.



AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Ryan Yamane, Chair
Committee on Water and Land
House of Representatives
State of Hawaii

Room 325, 9:30 a.m.

February 12, 2016

Re: HB 2407, HD 1 Relating to Land Disposition

Dear Chair Yamane and Honorable Committee Members:

My name is Peter Fithian and I am the Chair of the Legislative and Governmental Affairs Committee of the Airports Concessionaires Committee.

Our Committee represents the majority of the concession operators at the public airports throughout the State of Hawaii. Members of our group contribute about 50% of the operating revenues of the airports along with the airlines who also contribute about 50%.

Our Committee strongly supports this bill.

Recently it has been the experience of one or more of our members that after months of analysis, negotiation and reaching agreements with Hawaii's Department of Transportation (DOT) the DLNR now questions the negotiations and wants to re-visit the details of the negotiations. Thus, negotiate all over again?

There have been at least 2 instances where agreements negotiated would have been permanently lost due to the DLNR's probing and delays.

Further, the DLNR has sought to impose conditions on its approvals not imposed by the DOT and in our opinion contrary to federal laws which governs the airports.

Still further, at least one member of the DLNR Board has questioned the authority granted by the Legislature to the DOT to fast-track and enhance airport improvements.

DLNR in our opinion has gone beyond its appropriate role and the law at least as to DOT matters need to be clarified. We thank you for allowing us to testify.



TESTIMONY OF HAWAIIAN AIRLINES ON H.B. 2407 HD1 RELATING TO LAND DISPOSITIONS

House Committee on Water & Land
DATE: Friday, February 12, 2016
TIME: 9:30 am
PLACE: State Capitol, Room 325

Aloha Chairman Yamane, Vice Chairman Cullen and members of the House Committee on Water and Land,

Mahalo for the opportunity to testify in support of H.B. 2407 HD1 Relating to Land Dispositions, which allows the State of Hawaii Department of Transportation to negotiate the disposition of lands under its control. The DOT-Airports Division works very closely with all of the users of Hawai'i's airports and has been an important partner in the badly-need modernization of our facilities. Hawaiian Airlines fully support this measure as a way to allow efficient and expedient long-term planning and management of airport facilities.

We urge your committee to approve this legislation.

Ann Botticelli
SVP Corporate Communications and Public Affairs
Hawaiian Airlines



Pier 40, P.O. Box 3288, Honolulu, HI 96801-3288
Ph: (808) 543-9311 Fax: (808) 543-9458
www.youngbrothershawaii.com

HOUSE COMMITTEE ON WATER AND LAND

**THE HONORABLE RYAN I. YAMANE, CHAIR
THE HONORABLE TY J.K. CULLEN, VICE CHAIR**

**HOUSE BILL NO. 2407, HOUSE DRAFT 1
February 12, 2016, 9:30 a.m., Conference Room 325**

Written Testimony in Support

By

**Roy Catalani, Vice President of Strategic Initiatives and External Affairs
Sandra Y.B. Hoshida, Manager of Government Affairs
Young Brothers, Limited**

Chair Yamane, Vice Chair Cullen, and Members of the House Committee on Water and Land:

Young Brothers, Limited (*Young Brothers*) supports House Bill No. 2407, House Draft 1 (*HB2407 HD1*).

HB2407 HD1 proposes to amend and add statutory provisions relating to lands under the control of the Department of Transportation (*DOT* or the *Department*) to clarify that the Department may dispose of such lands without the approval of the Board of Land and Natural Resources (*BLNR*).

The bill acknowledges that the DOT is best and ably suited to manage lands under its jurisdiction, including disposition of such lands, particularly with respect to those used for aeronautic, airport-related, maritime, and maritime-related purposes. For maritime and maritime-related lands, the Department collaborates very closely with the Hawai'i Harbor Users Group in planning for modernization of harbor lands and facilities. With individual harbor users such as Young Brothers, the DOT keeps abreast of each of their operational and facility needs. Young Brothers believes, accordingly, that, with respect to maritime and maritime-related lands, the Department has the expertise and managerial history to control disposition of such lands without the approval of the BLNR.

Thank you for this opportunity to testify.



BEFORE THE HOUSE COMMITTEE ON WATER & LAND

February 12, 2016

House Bill No. 2407
Relating to Land Dispositions

Aloha Chair Yamane, Vice Chair Cullen and Members of the Committee:

The Ka Lāhui Hawai‘i Political Action Committee (KPAC) affirms and defends our Hawaiian peoples’ right to over 1.8 million acres of our national lands.

KPAC submits the following testimony in opposition to HB 2407. This bill would allow the Department of Transportation to negotiate the disposition of lands under its jurisdiction and control without the approval of the Board of Land and Natural Resources.

Professor Williamson Chang of the UH Law School has detailed his analysis that the Joint Resolution was incapable of acquiring Hawaii at http://blog.hawaii.edu/aplpj/files/2015/09/APLPJ_16_2_Chang.pdf. Despite this analysis, the former Crown and government lands of the Kingdom of Hawaii were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawaii to be held as a public trust for 5 purposes including the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920. The Admissions Act further states that any other object besides the 5 purposes shall constitute a breach of trust for which suit may be brought by the United States.

Much of the lands under the jurisdiction and control of the Department of Transportation are public trust lands currently under State control that should require additional oversight and approval.

Respectfully Submitted,

A handwritten signature in black ink that reads "M. Healani Sonoda-Pale". The signature is fluid and cursive.

Healani Sonoda-Pale
KPAC Chair

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 11, 2016 10:19 AM
To: waltestimony
Cc: sundownertoni@yahoo.com
Subject: Submitted testimony for HB2407 on Feb 12, 2016 09:30AM

HB2407

Submitted on: 2/11/2016

Testimony for WAL on Feb 12, 2016 09:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Withington	Individual	Oppose	No

Comments: I strongly oppose the leasing, disposing or any transfer of any State land without public hearing and review. I am ashamed at the governor for introducing this. DOT can follow the rules of public disclosure and hearings like all other agencies. Bad Bill. Throw it out. Toni Withington, Hawi, HI

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Denise Boisvert
225 Kaiulani Ave #1604
Honolulu, HI 96815
February 11, 2016

House Committee on Water & Land
Hearing on February 12, 2016 at 9:30AM

Re: HB 2407 HD1 Relating to Land Dispositions

To Whom It May Concern:

I oppose HB 2407 because it:

- * **Eliminates** any opportunity for public review and involvement in the disposal of public land
- * **Allows** DOT to **fast-track** disposal of public land
- * **Allows** the **director of transportation to decide by negotiation** that the use of public land "encourages competition within the aeronautical, airport-related, maritime-related operations"
- * **Allows** DOT to directly negotiate and dispose of **public lands** under its control and jurisdiction without any public review or involvement
- * **Allows** the **director of transportation** to directly **negotiate leases of public land** for up to **35 years** for maritime uses and **up to 70 years** for maritime-related operations.
- * **Allows** DOT to lease or use other methods to dispose of public land

All the reasons above are morally and ethically wrong.

Please vote against it.

Yours sincerely,

Denise Boisvert

Kim Jorgensen
225 Kaiulani Ave #1604
Honolulu, HI 96815
February 11, 2016

House Committee on Water & Land
Hearing on February 12, 2016 at 9:30AM

Re: HB 2407 HD1 Relating to Land Dispositions

To Whom It May Concern:

This is testimony to oppose HB 2407 because of the obvious:

- * the bill **eliminates** any opportunity for public review and involvement in the disposal of public land
- * the bill **allows** DOT to **fast-track** disposal of public land
- * the bill **allows** the **director of transportation to decide by negotiation** that the use of public land "encourages competition within the aeronautical, airport-related, maritime-related operations"
- * the bill **allows** DOT to directly negotiate and dispose of **public lands** under its control and jurisdiction without any public review or involvement
- * the bill **allows** the **director of transportation** to directly **negotiate leases of public land** for up to **35 years** for maritime uses and **up to 70 years** for maritime-related operations.
- * the bill **allows** DOT to lease or use other methods to dispose of public land

Sincerely,

Kim Jorgensen

Kim Jorgensen
225 Kaiulani Ave #1604
Honolulu, HI 96815
February 11, 2016

House Committee on Water & Land
Hearing on February 12, 2016 at 9:30AM

Re: HB 2407 HD1 Relating to Land Dispositions

To Whom It May Concern:

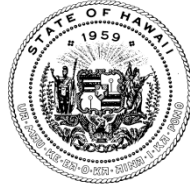
This is testimony to oppose HB 2407 because of the obvious:

- * the bill **eliminates** any opportunity for public review and involvement in the disposal of public land
- * the bill **allows** DOT to **fast-track** disposal of public land
- * the bill **allows** the **director of transportation to decide by negotiation** that the use of public land "encourages competition within the aeronautical, airport-related, maritime-related operations"
- * the bill **allows** DOT to directly negotiate and dispose of **public lands** under its control and jurisdiction without any public review or involvement
- * the bill **allows** the **director of transportation** to directly **negotiate leases of public land** for up to **35 years** for maritime uses and **up to 70 years** for maritime-related operations.
- * the bill **allows** DOT to lease or use other methods to dispose of public land

Sincerely,

Kim Jorgensen

DAVID Y. IGE
GOVERNOR



LATE

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

February 12, 2016
9:30 a.m.
State Capitol, Room 325

**H.B. 2407 H.D. 1
RELATING TO LAND DISPOSITIONS**

House Committee on Water and Land

The Department of Transportation (DOT) **strongly support** H.B. No. 2407, H.D.1 as part of the Administration's Package.

Currently, HRS §171-59 allows the DOT to directly negotiate the disposition of lands for maritime-related and airport-related activities. The procedure is for the DOT after completing its negotiations to THEN obtain approval from the Board of Land and Natural Resources (BLNR) for the disposition.

This measure aims to clarify and address the original intent of HRS §171-59(b), to protect and promote small or threatened maritime-related businesses and operations by delegating to the DOT greater flexibility to lease harbor and airport lands and facilities through direct negotiation. It affirms DOT's authority to directly negotiate the disposition of lands for maritime-related and airport-related activities and forgo the BLNR approval process. Approval after the fact creates uncertainty whether the negotiation terms will be approved, and undermines the State's negotiations for the disposition of maritime-related and airport-related activities.

The DOT is best suited to manage lands under its jurisdiction, especially with regard to land dispositions for aeronautic, airport-related, maritime, and maritime-related uses. The department is directly connected to these industries and operations and best understands the industries' needs.

Additionally, to dispel fears over the transparency of decision making and a perceived lack of public input, Airports and Harbors lands are under strict oversight by the U.S. Federal Aviation Administration (FAA) and the U.S. Coast Guard, respectively.

DOT Airports must comply with the property management and grant assurance funding requirements established by the FAA regarding the leasing and management of its lands, which in most cases must be aviation related uses and compatible with airport

operation requirements. Likewise, DOT Harbors must meet the U.S. Coast Guard's demand for strict facility security plans on lands that are not accessible to the general public and must meet the maritime related I-3 zoning and use requirements established by the Counties.

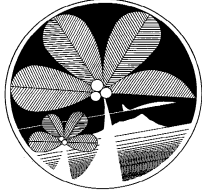
Use of state funds and state lands also require the filing of an Environmental Assessment or Environmental Impact Statement open for public review and scrutiny through the Office of Environmental Quality Control (OEQC). Those applicants who receive exemptions from this process are required to be filed on line with the OEQC.

Given the critical role that these facilities, and the lands under these facilities play in the State's economy, it is prudent for the function of the disposition of the public lands that support these operations be controlled by the DOT.

For these reasons, we ask that the sunset date be removed and the effective date be restored to the original draft to affirm the DOT's authority to directly negotiate the disposition of lands for maritime-related and airport-related activities to support its efforts to negotiate in good faith, remove the business uncertainty that the negotiations will not be approved, and to avoid delays in the execution of the dispositions of these lands.

Thank you for the opportunity to provide testimony.

AIRLINES COMMITTEE OF HAWAII



Honolulu International Airport
300 Rodgers Blvd., #62
Honolulu, Hawaii 96819-1832
Phone (808) 838-0011
Fax (808) 838-0231

LATE

February 12, 2016

Honorable Ryan Yamane, Chair
Honorable Ty Cullen, Vice Chair
House Committee on Water & Land

Re: HB 2407 HD1 – RELATING TO LAND DISPOSITIONS – IN SUPPORT
Conference Room 325 – 9:30 AM

Aloha Chair Yamane, Vice Chair Cullen, and Members of the Committee:

The Airlines Committee of Hawaii* (ACH), which is made up of 20 signatory air carriers that underwrite the State Airport System appreciates the opportunity to offer testimony supporting HB 2407 HD1.

This measure clarifies the statute that authorizes the Department of Transportation (DOT) to negotiate disposition of lands under its control for specific purposes.

The ACH supports this measure as it would enable the DOT to lease and develop airport property to meet the needs of the airport, versus awarding leases to the highest bidder which may not be compatible or the best use of airport property.

Thank you for the opportunity to submit testimony.

Sincerely,

Blaine Miyasato
ACH Co-chair

Matthew Shelby
ACH Co-chair

**ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Island Air, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, Virgin America and WestJet.*



Conservation Council
for Hawai'i

Hawai'i's voice for wildlife

Kō Hawai'i leo no nā holoholona lōhiu

LATE

Testimony Submitted to the House Committee on Water and Land
Hearing: Friday, February 12, 2016 9:30 am
Conference Room 325

In Opposition to HB 2407 Relating to Land Dispositions

Chair Yamane, Vice Chair Cullen, and Members of the Committee.

Aloha. Conservation Council for Hawai'i opposes HB 2407, HD 1, which clarifies the statute that authorizes the Department of Transportation to negotiate disposition of lands under its control for specific purposes.

It is not in the public's or the State's interest to authorize the disposition of public land without public oversight and participation. HB 2407, HD 1 would eliminate both. Furthermore, we question how this bill would affect revenue generated by ceded lands for the benefit of the public and Native Hawaiian people.

HB 2407, HD 1 is probably proposed to facilitate transit-oriented development for the rail project on O'ahu. It is foolish to allow the DOT to dispose of public land without the approval of the Board of Transportation and public participation. This type of public policy-making encourages litigation and further alienates the people from their land.

Please oppose HB 2407, HD 1.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

LATE



Hawaii's Thousand Friends

25 Maluniu Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

COMMITTEE ON WATER & LAND

Rep. Ryan I. Yamane, Chair
Rep. Ty J.K. Cullen, Vice Chair

HB 2407 HD1
RELATING TO LAND DISPOSITIONS

February 12, 2016

Hawaii's Thousand Friends opposes HB 2407 HD1 that authorizes DOT to issue revocable permits without approval of the Board and Land and Natural Resources.

HB 2407 HD1 *exempts* DOT from issuing a public notice and holding a public auction for the disposal of i.e. transfer of public land to a private entity. (HRS 171-16 Notices)

HB 2407 HD1 *exempts* DOT from getting BLNR approval and public input before negotiating long-term leases, 35 to 70 years, for the private use of public land.

Giving DOT total control over the disposing of public land undermines BLNRs public trust responsibility to determine that leasing of public land is in the public interest. (HRS 171-59)

The rationale for giving DOT unfettered negotiating power is to "encourage competition" not to ensure that leases are given in the public interest.

Line 4. What "other instruments of disposition" are being considered?

HRS 261-7 already grants DOT the ability to "enter into contracts, leases, licenses, and other arrangements..."

Couple these negotiating capabilities with issuance of revocable permits and DOT becomes an entity unto itself and **not accountable to anyone** on how public lands under its control are used.

DOT already has major negotiating power. Do not give away the one opportunity for public input and state oversight by holding HB 2307 HD1 in committee.