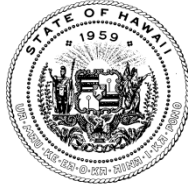


DAVID Y. IGE
GOVERNOR



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

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

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

IN REPLY REFER TO:

February 3, 2016
10:30 a.m.
State Capitol, Room 309

H.B. 2407
RELATING TO LAND DISPOSITIONS

House Committee on Transportation

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

This measure aims to clarify and address the original intent of section 171-59(b), Hawaii Revised Statutes, 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.

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. The interpretation of section 171-59 as written requires Board of Land and Natural Resources approval of these dispositions and this approval process minimizes the DOT's control of these dispositions and delays the award of these dispositions.

Approximately 80 percent of all goods consumed in Hawaii are brought in through the state through a harbor facility. 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 Department of Transportation.

Thank you for the opportunity to provide testimony.

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
TRANSPORTATION

Wednesday, February 3, 2016
10:30 A.M.
State Capitol, Conference Room 309

In consideration of
HOUSE BILL 2407
RELATING TO LAND DISPOSITIONS

House Bill 2407 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 of Land and Natural Resources 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 of Land and Natural Resources 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, 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 purposes for all land dispositions, especially those issued by direct negotiation outside the public auction process, is to ensure independent review by the Board of Land and Natural Resources 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.



HB2407
RELATING TO LAND DISPOSITIONS
House Committee on Transportation

February 3, 2016

10:30 a.m.

Room 309

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position of **OPPOSE** for HB2407, which authorizes the Hawai'i Department of Transportation (HDOT) to negotiate the disposition of lands under its control for certain uses, without the approval of the Board of Land and Natural Resources (BLNR).

OHA expresses serious concern regarding this measure, because it may deprive the public and other agencies of any opportunity to review and comment on the potential long-term disposition of some of our state's most lucrative public lands, including public land trust lands held in trust for the benefit of Native Hawaiians and the general public.

As a state board, the BLNR is subject to Hawai'i's Public Agency Meetings and Records Law (the "Sunshine Law"), which requires prior notice of nearly all board and commission meetings, and which provides the public with the right to review and testify on meeting agenda items.¹ Accordingly, land leases subject to BLNR approval must be considered in an open BLNR meeting, where they may be reviewed and vetted by experts, agencies, stakeholders, and other members of the public. Such review can ensure that decisions are fully informed, and made in the best interest of the state and its people. Furthermore, public and agency review can facilitate accountability and compliance with important legal requirements, including environmental review processes, constitutional obligations with respect to Native Hawaiian rights, and the fiduciary obligations of the state in administering public lands and the public land trust.

By exempting certain HDOT leases from BLNR approval, HB2407 could effectively revoke the public's ability to review and participate in the disposition of some of our most lucrative public lands, including airport and commercial harbor lands within the public land trust. Unlike the BLNR, HDOT does not have a

¹ According to Hawai'i Revised Statutes Section 92-1, the legislature declared that "[o]pening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and action of governmental agencies - shall be conducted as openly as possible." See HRS § 92-1.

governing board or commission subject to the open meeting requirements of our Sunshine Law. Therefore, by removing all BLNR oversight over HDOT airport and maritime leases, such leases could be negotiated and issued by the HDOT with no opportunity for public review or comment. Given the length of time for which leases could be issued -- including seventy years in the case of maritime leases -- any oversights or lost opportunities resulting from the lack of public participation may carry ramifications that last for generations.

In light of these concerns, OHA urges the Committee to **HOLD** HB2407. Mahalo for the opportunity to testify.



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

HOUSE COMMITTEE ON TRANSPORTATION

DATE: Wednesday, February 3, 2016

TIME: 10:30 am

PLACE: State Capitol, Room 309

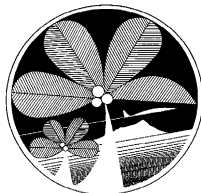
Aloha Chairman Aquino, Vice Chairman LoPresti and members of the House Committee on Transportation,

Mahalo for the opportunity to testify in support of H.B. 2407 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

AIRLINES COMMITTEE OF HAWAII



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



February 3, 2016

Honorable Henry Aquino, Chair
Honorable Matthew LoPresti, Vice Chair
House Committee on Transportation

Re: HB 2407 – RELATING TO LAND DISPOSITIONS - SUPPORT
Conference Room 309 – 10:30 AM

Aloha Chair Aquino, Vice Chair LoPresti, 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.

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.*



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LATE

HOUSE COMMITTEE ON TRANSPORTATION

**THE HONORABLE HENRY J.C. AQUINO, CHAIR
THE HONORABLE MATTHEW S. LoPRESTI, VICE CHAIR**

**HOUSE BILL NO. 2407
February 3, 2016, 10:30 a.m., Conference Room 309**

Written Testimony in Support

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

Chair Aquino, Vice Chair LoPresti, and Members of the House Committee on Transportation:

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

HB2407 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.



LATE

AIRPORT CONCESSIONAIRES COMMITTEE

Honorable Henry Aquino, Chair
Committee on Transportation
House of Representatives
State of Hawaii

Late Testimony

Room 309, 10:30 a.m.

February 3, 2016

Re: HB 2407 Relating to Land Disposition

Dear Chair Aquino 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 it appropriate role and the law at least as to DOT matters need to be clarified. We thank you for allowing us to testify.

From: Amy Sherburne-Manning <Amy_Manning@pashanet.com>
Sent: Wednesday, February 03, 2016 11:25 AM
To: TRNtestimony
Subject: HB 2407 and HB 2408

Pasha Hawaii believes that the Hawaii DOT is best suited to manage the lands under its jurisdiction and supports both HB 2407 and HB 2408 to give Hawaii DOT greater authority and control of the lands under its jurisdiction for maritime or airport-related uses.

Amy Sherburne Manning | Senior Vice President and General Counsel | The Pasha Group
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