

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

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

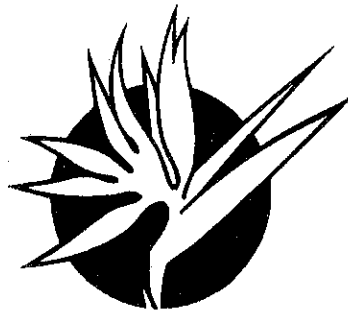
**In consideration of
HOUSE BILL 2408, HOUSE DRAFT 1
RELATING TO LAND DISPOSITIONS**

House Bill 2408, 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 revocable permits 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 2408, House Draft 1, DOT seeks to amend existing law to provide that Board approval of revocable permits issued by DOT will no longer be required. Instead, DOT will have authority to issue revocable permits on lands set aside to it "by direct negotiation and without public auction, under conditions and rent which will best serve the interests of the State."

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 by DOT.



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 2408, HD1 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.

The Department of Transportation (DOT) regular deals with many hundreds of commercial leases and space permits each year and thus needs the discretion and flexibility to award and extend when the DOT deems appropriate revocable permits on a month to month basis. Please continue to trust the judgment of the DOT.

The DOT does not automatically grant or extend such month to month permits and does so only when it deem it to be appropriate. The DOT has been fair in granting such permits.

To require the DOT and concession operator to attend a public hearing for a month to month extension on matters that are obviously justifiable has made no sense and has been a waste of time and resources that the DOT should not be required to waste.

We respectfully urge you to return to the past practice as proposed in this bill. Please also correct the defective date.

We thank you for allowing us to testify.



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HOUSE COMMITTEE ON WATER AND LAND

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

**HOUSE BILL NO. 2408, 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. 2408, House Draft 1 (*HB2408 HD1*).

HB2408 HD1 proposes to amend statutory provisions to authorize the Department of Transportation (*DOT* or the *Department*) to issue revocable permits covering lands under its jurisdiction 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 issuance of revocable permits covering such lands. Particularly with respect to 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 the Department has the expertise and managerial history to issue revocable permits covering maritime and maritime-related lands under its jurisdiction 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. 2408
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 2408. This bill would allow the BLNR to delegate the authority to approve revocable permits for the use of public lands under the jurisdiction of the DOT to the Director of Transportation and exempts the revocable permits issued by the DOT from BLNR approval requirements as well as public auction and public advertisement for sealed tender requirements.

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 DOT 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 written in a cursive, flowing style.

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 HB2408 on Feb 12, 2016 09:30AM

HB2408

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 2408 HC1 Relating to Land Dispositions

To Whom It May Concern:

I oppose HB 2408 because it:

- * **Gives** the Dept. of Transportation (DOT) the **authority** to **approve revocable permits** for **public lands** under DOT's control
- * **Eliminates** Board of Land and Natural Resources (BLNR) approval for a revocable permit
- * **Eliminates** the present required public hearing process
- * **Eliminates** any opportunity for public testimony and involvement on the use of public land
- * **Eliminates** any public auction or public advertisement for sealed bids for use of public land
- * **Eliminates** any opportunity for BLNR or the public to place conditions and/or restrictions on a revocable permit

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 2048 HD1 Relating to Land Dispositions

To Whom It May Concern:

This is testimony to oppose HB 2408 because of the obvious:

- * the bill **gives** the Dept. of Transportation (DOT) the **authority** to **approve revocable permits** for **public lands** under DOT's control
- * the bill **eliminates** Board of Land and Natural Resources (BLNR) approval for a revocable permit
- * the bill **eliminates** the present required public hearing process
- * the bill **eliminates** any opportunity for public testimony and involvement on the use of public land
- * the bill **eliminates** any public auction or public advertisement for sealed bids for use of public land
- * the bill **eliminates** any opportunity for BLNR or the public to place conditions and/or restrictions on a revocable permit

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 2048 HD1 Relating to Land Dispositions

To Whom It May Concern:

This is testimony to oppose HB 2408 because of the obvious:

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- * the bill **eliminates** Board of Land and Natural Resources (BLNR) approval for a revocable permit
- * the bill **eliminates** the present required public hearing process
- * the bill **eliminates** any opportunity for public testimony and involvement on the use of public land
- * the bill **eliminates** any public auction or public advertisement for sealed bids for use of public land
- * the bill **eliminates** any opportunity for BLNR or the public to place conditions and/or restrictions on a revocable permit

Sincerely,

Kim Jorgensen



Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

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

IN REPLY REFER TO:

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

February 12, 2016
10:30 a.m.
State Capitol, Room 325

H.B. 2408
RELATING TO LAND DISPOSITIONS

House Committee on Water and Land

The Department of Transportation (DOT) **strongly supports** H.B. No. 2408 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 Director the ability to award revocable permits for harbor and airport lands and facilities through direct negotiation 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 through revocable permits.

The DOT is best suited to manage lands it owns and controls, especially with regard to land dispositions for aeronautic, airport-related, maritime, and maritime-related uses because it is most directly connected to these industries and operations and can best adapt and adjust to accommodate industry needs. The bill facilitates more efficient use of lands owned and controlled by DOT that support and sustain the State's economy.

Additionally, to dispel fears raised 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 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.

In 1993, the BLNR approved the delegation of authority to DOT to issue revocable permits for uses that are consistent with the purpose and intent of the public lands set aside through Executive Orders. It has recently been determined that this delegation of authority was not proper.

This bill clarifies the statutes to allow the disposition of revocable permits without approval by BLNR. The time constraints associated with presenting short-term land dispositions to BLNR result in unnecessary delays and loss of rental revenues. In addition, the work hours to prepare each submittal to BLNR for each revocable permit is labor intensive, time consuming and repetitious. Finally, this delegation will reduce the work load on BLNR.

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
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LATE

February 12, 2016

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

Re: HB 2408 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 2408 HD1.

This measure authorizes the Department of Transportation (DOT) to issue revocable permits without approval of the Board of Land and Natural Resources.

The ACH supports this measure, but prefers HB 2407 HD1 which also is applicable to leases 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 2408, HD 1 Relating to Land Dispositions

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

Aloha. Conservation Council for Hawai'i opposes HB 2408, HD 1, which authorizes the Department of Transportation to issue revocable permits without approval of the Board of Land and Natural Resources, effective July 1, 2050, repealed on July 1, 2019.

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 2408, 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 2408, 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 Land and Natural Resources and public participation. This type of public policy-making encourages litigation and further alienates the people from our land.

Please oppose HB 2408, HD 1.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

Marjorie Ziegler