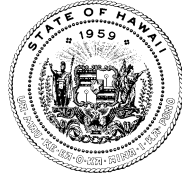


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TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE

Providing comments on

**HB 2501 HD2 RELATING TO THE WATER RIGHTS**

March 21, 2016

Aloha Chair Gabbard and members of the Committee,

The Department of Hawaiian Home Lands (DHHL) respectfully provides the following comments at this time:

The State and its subdivisions have duties to protect DHHL's rights in water resources as enumerated in the Hawaiian Homes Commission Act, 1920, as amended, §§ 101(4), 220, 221; the Hawai'i Constitution, Article XI, §§ 1 and 7; and Chapters 171 and 174C, Hawaii Revised Statutes (HRS).

This bill proposes amendments to HRS § 171-58(c), which provides in pertinent part:

Disposition of water rights may be made by lease at public auction as provided in this chapter or by permit for temporary use on a month-to-month basis under those conditions which will best serve the interests of the State and subject to a maximum term of one year and other restrictions under the law[.]

It is important to note that DHHL has both the right and duty to seek reservations of water for its foreseeable needs and to derive revenue from the state when the Board of Land and Natural Resources

leases or licenses water resources. Those reservations are supposed to be identified and created via HRS § 171-58(g), when rights are auctioned via the provisions of HRS § 171-58(c). As it is, the state has not reliably followed the provisions of 171-58(c) in many years, which means that the reservation process in part (g) has not been followed. Likewise, DHHL is also concerned that the fees for licenses and/or leases of water are set artificially low and that DHHL has not received a fair share of the revenue generated from such dispositions. Adding a repeal date of five (5) years, does not change that the proposed amendments would allow this deferral of the State's obligations to native Hawaiians under this statute to continue.

These concerns are not merely theoretical in nature. DHHL holds lands on Hawai'i, Maui, Moloka'i, Kaua'i and O'ahu islands in trust. Many of these lands adjoin the location of revocable water permits, and are in need of water also used for those same permits. The continued permitting of these water resource uses implicates significant DHHL interests and rights.

Thank you for the opportunity to provide testimony on this measure.