

SB

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From: mailinglist@capitol.hawaii.gov
To: [WTLTestimony](#)
Cc: amel.s.chun@hawaii.gov
Subject: Submitted testimony for SB1173 on Feb 11, 2015 14:45PM
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SB1173

Submitted on: 2/10/2015

Testimony for WTL/TSI on Feb 11, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Carty S. Chang	DLNR	Comments Only	Yes

Comments: DLNR will comment.

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DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
TOURISM AND INTERNATIONAL AFFAIRS**

**Wednesday, February 11, 2015
2:45 P.M.
State Capitol, Room 225**

**In consideration of
SENATE BILL 1173
RELATING TO THE ACQUISITION OF SCENIC LANDS AT KAPUA IN MILOLI'I ON
THE ISLAND OF HAWAII**

Senate Bill 1173 proposes to require the Department of Land and Natural Resources (Department), in consultation with the Hawaiian Islands Land Trust, to engage in negotiations to acquire land located at Kapua, Island of Hawaii. The measure also proposes to: 1) Require the acquisition to be funded wholly or in part by transient accommodations tax revenues; and 2) Make an appropriation for any additional amounts required for the acquisition. **The Department appreciates the intent of this bill and provides the following comments.**

Although the Department is not actively seeking to acquire these lands, we recognize there are significant natural and cultural resources in this area that warrant protection. The Department currently lacks the financial and personnel resources necessary to manage these lands, but would be interested in further discussions should management funding be available. Although the bill doesn't specifically identify the parcels to be acquired, the preamble notes that the "lands of Kapua comprise at least 6,000 acres in South Kona that are classified as agricultural or conservation land." Identification of the specific parcels and ownership would be helpful for the Department.

The Department also notes that the proposed acquisition would be subject to Section 171-30, Hawaii Revised Statutes (HRS), which requires approval by both the Board of Land and Natural Resources and the Department of the Attorney General. Section 171-30, HRS, also limits the State from acquiring the land at no more than fair market value as determined by state-contracted, independent appraisal, regardless of the amount of funding appropriated. In addition, as stated

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AQUATIC RESOURCES
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

above, the measure does not identify the specific properties to be acquired. As part of the acquisition process, the Department conducts an extensive due diligence which includes, in addition to the appraisal, a title review, environmental hazard studies, and a survey map and description. Without specifying the parcels and conducting the appropriate due diligence, the Department lacks the appropriate information to provide a more thorough analysis

WRITTEN ONLY

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON TOURISM AND INTERNATIONAL AFFAIRS
AND WATER AND LAND
ON
SENATE BILL NO. 1173

February 11, 2015

RELATING TO THE ACQUISITION OF SCENIC LANDS AT KAPUA IN MILOLI'I
ON THE ISLAND OF HAWAII

Senate Bill No. 1173 requires: the Department of Land and Natural Resources, in consultation with the Hawaiian Islands Land Trust, to engage in negotiations to acquire land located at Kapua, island of Hawaii; the acquisition to be funded wholly or in part by transient accommodations tax revenues; and makes an unspecified general fund appropriation for the acquisition.

The Department of Budget and Finance recommends that funding for this land acquisition be appropriated directly from the general fund instead of diverting revenues from the transient accommodations tax because the net effect to the general fund is the same.

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SB1173

Submitted on: 2/9/2015

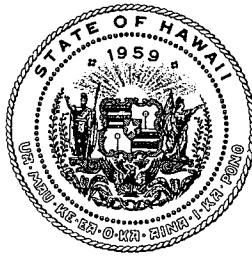
Testimony for WTL/TSI on Feb 11, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Pat Mukai	State-County Functions Working Group (Office of the Auditor)	Comments Only	Yes

Comments: Chair Simeon Acoba/Acting State Auditor Jan Yamane will be appearing before the committee and providing comments.

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**TESTIMONY OF SIMEON R. ACOBA, CHAIR,
STATE-COUNTY FUNCTIONS WORKING GROUP, ON
SENATE BILL NO. 1173,
RELATING TO THE ACQUISITION OF SCENIC LANDS AT KAPUA IN MILOLI'I
ON THE ISLAND OF HAWAI'I**

**Senate Committees on Tourism and International Affairs and Water and Land
February 11, 2015**

Chair Kahele, Chair Thielen, and Members of the Committee:

I am Simeon R. Acoba, Chair of the State-County Functions Working Group. Thank you for the opportunity to comment on Senate Bill No. 1173, relating to the acquisition of scenic lands at Kapua in Miloli'i on the island of Hawai'i. This measure would require the Department of Land and Natural Resources, in consultation with the Hawaiian Islands Land Trust, to engage in negotiations to acquire land located in Kapua, island of Hawai'i.

The Working Group was created by Act 174 (SLH 2014) and administratively placed within the Office of the Auditor. The Working Group, which first convened in October 2014, is comprised of 13 members appointed by the Governor, the Senate President, the Speaker of the House of Representatives, each of the county mayors, and the Chief Justice. The group is assigned the following responsibilities:

- 1) Evaluate the division of duties and responsibilities between the State and counties relating to the provision of public services; and
- 2) Submit a recommendation to the Legislature on the appropriate allocation of the transient accommodations tax revenues between the State and counties that properly reflects the division of duties and responsibilities relating to the provision of public services.

Act 174 requires the Working Group to submit two reports: 1) an Interim Report, which was delivered to the Legislature, Governor, and each of the county mayors, on December 18, 2014; and 2) a Final Report with its findings and recommendations to the same parties 20 days prior to the convening of the 2016 Regular Session.

The Working Group will continue its work through 2015 and shall cease to exist upon the adjournment sine die of the 2016 Regular Session. We note that any legislation impacting transient accommodations tax revenues passed this year may affect the on-going work of the Working Group. Accordingly, while we take no position on the merits of this bill, we respectfully request your consideration of deferring decisions on such legislation introduced this year to the 2nd year of the 28th State Legislature to enable the the Working Group to complete its work. As required by Act 174, the Working Group will report its findings and make recommendations prior to the 2016 Regular Session.

Thank you for the opportunity to offer comments on Senate Bill No. 1173. I am available for your questions.

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To: [WTLTestimony](#)
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SB1173

Submitted on: 2/10/2015

Testimony for WTL/TSI on Feb 11, 2015 14:45PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Thomas Yamachika	Tax Foundation of Hawaii	Comments Only	Yes

Comments: Here is the Tax Foundation of Hawaii testimony on SB 1173.

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TAXBILLSERVICE

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SUBJECT: TRANSIENT ACCOMMODATIONS, Disposition for lands of Kapua

BILL NUMBER: SB 1173

INTRODUCED BY: Kahele, Kidani and 7 Democrats

EXECUTIVE SUMMARY: This bill adds a new earmark on the transient accommodations tax (TAT) for funds to be allocated to the purchase of the lands of Kapua, island of Hawaii. Earmarking decreases transparency and accountability of government operations and should be avoided.

BRIEF SUMMARY: Amends HRS section 237D-6.5(b) to add a new paragraph (5) to provide that \$ _____ shall be allocated to the purchase of the lands of Kapua in north Kona on the island of Hawaii.

Directs the department of land and natural resources (DLNR), in consultation with the Hawaiian Islands Land Trust, to engage in negotiations to acquire land located at Kapua, island of Hawaii, from The Resort Group.

Appropriates \$ _____ in general revenues in each fiscal 2016 and 2017 to acquire land located at Kapua, island of Hawaii from The Resort Group pursuant to this act. The appropriations shall be expended by DLNR.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 161, SLH 2013, made permanent the TAT rate of 9.5% and changed the allocations of TAT from a percentage basis to a specific dollar amount. Currently, TAT revenues are allocated as follows: (1) \$26.5 million is deposited into the convention center enterprise special fund; (2) \$82 million into the tourism special fund; (3) \$103 million is transferred to the various counties; (4) \$3 million for debt service of the Turtle Bay conservation easement; and (5) any remaining revenues deposited into the general fund of which \$3 million is to be allocated according to the Hawaii tourism strategic plan. This measure would then divert a portion of the TAT for the purchase of lands located at Kapua on the island of Hawaii from The Resort Group.

The proposed measure would add another siphon of TAT revenues and would perpetuate the earmarking of TAT revenues. While proponents of earmarking of the TAT argue that if these projects or programs are not funded, none of the pristine beauty that visitors come to see will be preserved, one could make the argument on the other side - if there are insufficient funds to promote the industry, then visitor counts will drop and so will the income that fuels the state's economy. Lawmakers seem to have lost sight of the fact that visitors also contribute to state coffers directly through the 4% on everything they purchase including hotel rooms, visitor activities and purchases of food and souvenirs. To that extent, a good part of the general fund tax collections is contributed by visitors. If the argument is that visitors should pay for other "visitor related" programs, then paying for those programs out of general funds would be more appropriate than stealing the money from what is identified as a tax paid specifically by the visitor.

Rather than the continual earmarking of TAT revenues, a direct appropriation of general funds would be preferable. Earmarking the TAT revenues for these programs that not only benefit the visitors but the community at large, decreases transparency and accountability.

Next, it should be remembered that revenues diverted for a special purpose will not be counted against the state's spending ceiling or debt limit and will obscure the state's true financial condition.

Finally, the adoption of this measure may set a precedent that may lead to other requests for funding from the TAT for other "tourist-related" purposes.

Digested 2/10/15