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OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1469, H.D. 1, S.D. 1

March 31, 2017
9:30 a.m.
Room 211

RELATING TO PUBLIC LANDS

House Bill No. 1469, H.D. 1, S.D. 1, establishes a framework to identify areas of commercial, industrial, resort, and hotel parcels in need of revitalization and redevelopment of the parcels. The bill creates a nine-member planning committee for each redevelopment district to provide policy direction and prepare a redevelopment plan. The bill authorizes establishment of a revolving fund for each redevelopment district that would generate revenues through: 50% of the income, revenues, and receipts from the public lands in the redevelopment district; legislative appropriations; and grants, gifts, and other funds. The bill appropriates an unspecified sum of general funds for FY 18 and FY 19 for this effort. House Bill No. 1469, H.D. 1, S.D. 1, also creates the Waiakea Peninsula Redevelopment District on the island of Hawaii, the Waiakea Peninsula Planning Committee, and the Waiakea Peninsula Redevelopment District Revolving Fund under the framework established by the bill.

The Department of Budget and Finance, as a matter of general policy, does not support the creation of any revolving fund which does not meet the requirements of

Section 37-52.4 of the HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 1469, H.D. 1, S.D. 1, it is difficult to determine the number of revolving funds that will be created and whether the proposed source of revenues will be self-sustaining for each revolving fund that needs to be statutorily established.

The department also has a concern on the general fund revenue impact of the bill since half of the revenue, income, and receipts from public lands in each designated redevelopment district will be diverted away from the Special Land and Development Fund. Pursuant to Section 171-19, HRS, excess moneys in the Special Land and Development Fund lapse to the credit of the State general fund.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Friday, March 31, 2017
9:30 A.M.
State Capitol, Conference Room 211**

**In consideration of
HOUSE BILL 1469, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO PUBLIC LANDS**

House Bill 1469, House Draft 1, Senate Draft 1 proposes in PART I to establish procedures for designating public land redevelopment districts, planning committees, district redevelopment plans, and designated redevelopment district revolving funds. The bill additionally proposes to establish the powers and duties of the planning committees, including the power to renew or renegotiate leases in the designated district. Senate Draft 1 of the measure removes provisions of the bill that would have required every lease issued by the Board of Land and Natural Resources (Board) to set forth the exact commencement and termination dates of leases, and the type of notice required for lessees to exercise any renewal option. Senate Draft 1 also removes provisions of the bill that would have amended restrictions on options to renew leases, and allowed indefinite extensions of leases. Senate Draft 1 further incorporates the contents of House Bill 1310, House Draft 1, relating to the Waiakea Peninsula Redevelopment District in PART II of the measure. **The Department of Land and Natural Resources (Department) offers the following comments on this bill.**

Under Chapter 171, HRS, the Board is authorized to issue leases up to a maximum term of 65 years. Section 171-32, HRS, provides that it is the policy of the State to issue leases by public auction. As the preamble to this bill indicates, at the end of their lease terms, lessees have little incentive to invest in improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued pursuant to the public auction process. As a result, the properties frequently fall into disrepair.

In 2015, the Legislative Reference Bureau (LRB) issued Report No. 2, Commercial Leasing of Public Lands: State Policies Regarding Leases Near End of Term. LRB identified those states

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

KEKOA KALUHIWA
FIRST DEPUTY

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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

with maximum lease terms and reviewed how these states' leasing practices dealt with end of the term leases. LRB concluded its report in stating:

While some states have policies that generally address the maintenance and improvement of leased public lands, these policies appear to arise when a lease agreement is initially drafted and entered into, or within the context of negotiations for a lease renewal, rather than during the last few years of an existing lease. In comparison, commercial leases of public lands in Hawaii include a general covenant that requires lessees to maintain the property. The Bureau offers no conclusions regarding which, if any, of the policies employed by the other states represents practices that should be incorporated into the commercial leasing of public lands in Hawaii.

This bill seeks to promote the redevelopment of public lands with commercial, industrial, hotel and resort uses. The Department's primary hotel and resort landholding is located on Banyan Drive in Hilo. The Department's main industrial landholdings are located at Sand Island, Oahu, and Kanoiehua Industrial Area in Hilo.

With respect to Banyan Drive, although a number of properties are in poor condition, the Department points out that the Hilo Hawaiian Hotel, the Hilo Bay Café (former Nihon Restaurant site), and the Grand Naniloa Hotel are State leasehold properties that are in good condition, with Naniloa currently undergoing an extensive renovation. The long-term leases for Uncle Billy's Hilo Bay Hotel (now the Pagoda Hilo Bay Hotel), Country Club Condominium (which is now a residential apartment building – not a condominium), and Reed's Bay Resort Hotel all expired in 2016 and have been converted to month-to-month revocable permits. No new leases for these sites have issued yet because the Department has been working the County of Hawaii Banyan Drive Hawaii Redevelopment Agency (BDHRA), and prior to that the Banyan Drive Task Force, to develop a long term plan for the area. Once a long-term plan for Banyan Drive is settled on, the Department can issue new long-term resort leases for these properties, if that is what BDHRA ultimately supports.¹

With respect to the Kanoiehua Industrial Area, many of the leases of public lands in that area were issued in a two or three year period following the 1960 tsunami for terms of 55 years. Most of the lessees in this area applied for ten-year extensions of their lease terms under Section 171-36(b), HRS, which requires the lessee to make substantial improvements to the premises to qualify for a lease extension. Although some of the leasehold improvements are not in good condition, a number of them are well maintained, such as HPM Building Supply, Bank of Hawaii and Big Island Toyota on Kanoiehua Avenue, Central Supply on Makaala Street, Paradise

¹ The Department procured a consultant to conduct a number of studies to facilitate planning for Banyan Drive including a market study on tourism to determine if the area could support a new hotel, and studies on sea level rise, the viability of master leasing multiple parcels in the area, and the remaining useful life of existing structures on expiring lease premises. These studies are publicly available on the Department's website at <http://dlnr.hawaii.gov/ld/kanoiehua-and-banyan-drive-studies/>. Another consultant, Erskine Architects, conducted a much more detailed architectural and engineering study on whether existing improvements on the expired lease premises should be demolished or rehabilitated.

Plants, and Kitchen and Bath Supply on Wiwoole Street, and the Coca-Cola bottling plant on Holomua Street.

In the past, the Department has generally opposed legislative bills that proposed to allow existing lessees to acquire new lease terms on leases that are scheduled to expire soon, following instead general public policy to promote fairness in competition in access to public property. One reason for the Department's position was the statutory policy mentioned above favoring issuance of leases by public auction. Another reason was to preserve the State's legal right to the remaining value of the improvements after the lease term; when leases expire, the lessees' improvements on the land revert to State ownership pursuant to the express terms of the lease, unless the State directs the lessee to remove the improvements. Assuming the improvements have some remaining useful life, the State is then in a position to auction leases of improved properties at potentially greater rents than the State would receive for a ground lease alone,² which amounts can in turn be applied to public purposes.

The Department notes that there are bills before the Legislature this session that would allow for the extension of existing leases.³ If one of these measures becomes law, the Legislature will have established a new policy for the Department to follow in the leasing of its public lands. Additionally, the Department recognizes that a prior legislative act providing for extensions of resort leases did have a beneficial effect on one State lease on Banyan Drive. The lessee of Hilo Hawaiian Hotel property took advantage of Act 219 Session Laws of Hawaii (2011) to extend its lease from 2031 to 2068, making substantial improvements to the property pursuant to a development agreement negotiated between the State and the lessee.

The Department thus acknowledges different public policy benefits from different approaches. Based on this, the Department now takes a neutral stance on legislative proposals to extend existing leases.

The Department respectfully suggests that extensions of existing leases for a specified number of years in exchange for lessees making substantial improvements may be the better way to deal with end of lease issues and redevelopment of the State's commercial, industrial, hotel and resort lands. The Department believes, however, that indefinite extensions of leases that preclude the public from ever having an opportunity to bid on a lease at auction are not the appropriate solution.

In addition, the Department identifies the following issues with respect to this measure:

2 The Department also examined the possibility consolidating smaller parcels in this area to put out to lease at auction as larger lots. The Department's consultant conducted a market study on the demand for industrial parcels in Hilo, a lot consolidation analysis, and a master lease analysis of multiple parcels. These studies are also publicly available on the Department's website at <http://dlnr.hawaii.gov/ld/kanoiehua-and-banyan-drive-studies/>

3 For example, House Bill 575, House Draft 1, Senate Draft 1 scheduled before this Committee to today's hearing.

The bill creates an additional layer of bureaucracy in government

The bill provides that the Legislature may designate an area of public lands as a redevelopment district. Upon such designation, a nine-member planning committee is to be established as a policy-making board for the district. The planning committee, who serves without compensation, then appoints a district administrator for the district who is to be compensated. The planning committee may hire additional staff as well. PART II of the measure creates the Waiakea Peninsula Redevelopment District (WPRD) for the Banyan Drive area of Hilo.

The bill creates a new layer of redevelopment process in addition to the task force and the BDHRA: the WPRD and a planning committee to serve as a policy-making board for the district. In addition to the administrator, the planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the eleven committee members. There will be added expense for the committee to comply with HRS Chapter 92's sunshine law requirements. Further, the committee's actions may be subject to contested case hearings and appeals. The bill provides for a general appropriation in an unspecified amount to carry out the purposes of the measure. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually. If the appropriation is set an amount lower than that figure, then the difference would apparently be covered by the Department's revenues from leases in the designated district.

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. As explained above, the Department has been working with the BDHRA regarding plans for the Banyan Drive area. Additionally, as mentioned above, the Department has procured consultants for Banyan Drive and the Kanoelehua Industrial Area in Hilo to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After 2013 legislative session, former Governor Abercrombie approved the formation of a Banyan Drive Task Force that met a number of times to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members included representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and representatives from the Hawaii County Mayor's Office and State legislators also attend the meetings. This informal task force has worked well and at limited expense to the State.

There are practical problems with the bill

As noted above, House Bill 1469 allows the Legislature to designate redevelopment districts on public lands. As defined in Section 171-2, HRS, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in both the Banyan Drive area and Kanoelehua Industrial Area in Hilo, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Legislature would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties

This bill proposes that 50% of the revenues from properties in a development district are to be deposited into a development revolving fund, and that moneys in the fund shall be used solely to promote the purposes of the bill. The Department and the Board are responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the Special Land and Development Fund (SLDF), with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophes such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of state match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under Section 46-80.5 and Chapter 53, HRS.

The bill seeks to redevelop the infrastructure and facilities within designated redevelopment districts. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements, as evidenced by the County of Hawaii's creation of BDHRA under Chapter 53, HRS.

Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by this bill.

Under the authority of Section 46-80.5, HRS, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County of Hawaii to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County of Hawaii. Most, if not all, of the public roadways and

utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Thank you for the opportunity to comment on this measure.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 1469, H.D. 1, S.D. 1, RELATING TO PUBLIC LANDS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, March 31, 2017

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Linda L.W. Chow,
Deputy Attorney General, at 587-2988)

Chair Tokuda and Members of the Committee:

The Department of the Attorney General submits comments on the bill as drafted in S.D. 1 regarding technical issues with the bill.

This bill proposes to establish a policy-making redevelopment district planning committee (committee) that would be placed within the Department of Land and Natural Resources for administrative purposes. The committee would be responsible for developing a redevelopment plan for the Waiakea peninsula redevelopment district that is established in section 6 of the bill. The powers of the committee would include those powers and duties that are delegated to the committee by the Board of Land and Natural Resources ("Board"). In addition, the committee may renew or renegotiate any public land lease in connection with any project contained in the redevelopment plan for the designated district on terms and conditions the committee deems advisable.

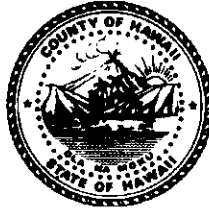
Under section 26-35(a)(8), Hawaii Revised Statutes (HRS), when a board or commission is placed within a department for administrative purposes, the head of the department shall not have the power to supervise or control the board or commission in the exercise of its functions, duties, and powers. However, proposed section 171-E provides that the committee shall have the powers and duties that are delegated to the committee by the Board. The Board may only delegate its powers and duties to the chairperson or employees of the DLNR that are subject to the Board's control and

responsibility. HRS section 171-6(8). The Board cannot delegate its powers and duties to the committee.

A second issue is that the proposed section 171-D(b) states that the committee shall be a policy-making committee. However, the powers of the committee, as set forth in section 171-E(4), includes the authority to renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the designated district, on terms and conditions as the committee deems advisable, without the need to comply with any other provisions contained in chapter 171, HRS. The power of the committee to actually renew or renegotiate leases may be inconsistent with the establishment of the committee as a policy-making committee.

Lastly, although the committee has the power to renew or renegotiate leases within the designated district, there is no provision in the bill that would allow for the transfer of the leases in the designated district to the committee. Until and unless the leases are transferred to the committee, the committee would have no authority to amend the terms of the lease. The lessor, for many of the leases in the designated district, would still be the Board. The committee cannot amend a lease to which it is not a party.

Harry Kim
Mayor



Wil Okabe
Managing Director

Barbara J. Kossow
Deputy Managing Director

County of Hawai'i
Office of the Mayor

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March 30, 2017

Senator Jill N. Tokuda, Chair
Committee on Ways and Means
Hawai'i State Capitol
Honolulu, HI 96813

Dear Chair Tokuda and Members:

**RE: HB 1469 HD 1, SD 1
Relating to Public Lands**

I would like to thank the Legislature for its attempts to resolve the dilemma of State leases on commercial properties that are nearing the end of their lease term. One prime example of an area currently affected by this problem is the commercial or light industrial part of Hilo, which could be viewed as comprising at least two distinct geographic neighborhoods, the Waiakea peninsula and the Kanoelehua Industrial Area.

My Administration has been supporting the efforts of Big Island legislators to make special provisions for an economic district in Hilo, reflected in early drafts of HB 575, SB 1292, and HB 1479. We have wanted to mirror the community wishes, and have been very impressed with the way in which the community has worked together and rallied behind these proposals, particularly the original SB 1292.

The full Senate approved SB 1292, SD2, but its contents have been gutted in the House in favor of alternate approaches to dealing with public leases. It seems clear that this issue will be going to conference, and we think the best way to assure that the collaborative efforts of state, county, and community leaders are not put at risk would be to keep alive as many reasonable alternatives as possible.

Therefore, we would like to suggest that HB 1469 be further amended by adding the language from SB 1292, SD2 as a separate part. Among other things, SB1292 has the advantage of addressing both the tourist/ocean oriented Waiakea peninsula, and the small entrepreneurs who comprise the Kanoelehua Industrial Area.

If such a bill were to continue on to conference (along with HB 575, also on this hearing's agenda) it would give the stakeholders more time to fully evaluate the options and collaborate on a final approach. Lessees might appreciate having many options, or might reject one or another, but the hard work of building consensus would be rewarded rather than lost.

Thank you for your consideration.

Respectfully submitted,



Harry Kim
Mayor

March 29, 2017

COMMITTEE ON WAYS AND MEANS

Senator Jill N. Tokuda, Chair

Senator Donovan M. Dela Cruz, Vice Chair

Testimony in Support of HB1469 HD1, SD1

Aloha Chair Tokuda,

Hawaii Planing Mill, Ltd. dba HPM Building Supply will be celebrating its 96th anniversary on August 8, 2017. We have over 320 employees and operate 8 facilities across Hawaii Island, Oahu and Kauai. Today we are a 100% employee-owned company and proud that all our success is returned to the communities we serve. Our roots are in Hilo, where HPM was founded in 1921. Since 1961, we have been a lessee of the State of Hawaii and were a recipient of one of the original “tidal wave” leases. The original 55-year lease term came up in 2016 and we have since been granted a 10-year lease extension which expires in 2026.

We respectfully ask for your support of HB1469 HD1, SD1. In this latest version, the opportunity to establish and designate public land redevelopment districts, such as the Waiakea Peninsula Redevelopment District, brings forward an effective framework to revitalize our Hilo community. Also important to this bill is the establishment of procedures for designating planning committees, district redevelopment plans, and redevelopment district revolving fund appropriations.

In this version, we also request your consideration of reinstating sections 4 and 5 of the original version of HB1469, as this modifies public land lease restrictions, which will benefit the Kanoelehua industrial area where our primary 5-acre Hilo customer center exists. This is important to us as this may allow HPM and other companies currently under lease with the DLNR to potentially renew our lease terms and make substantial improvements to our properties and facilities. Most importantly, we have confidence that the comprehensive nature of HB1469 and its mechanisms for funding provide the right ingredients to make meaningful and timely impact and will establish the economic foundation and engine for our future generations of our Hilo community to thrive.

Thank you for your support of this bill.

Mahalo,



Robert M. Fujimoto, Chairman of the Board Emeritus



Michael K. Fujimoto, Chairman and Chief Executive Officer



Jason R. Fujimoto, President & Chief Operating Officer



HB1469 HD1 SD1

Senate Committee, WAM
Chair Jill N. Tokuda
Vice Chair Donovan M. Dela Cruz

Aloha Chair Tokuda,

I am Garth Yamanaka, Committee chair for Government affairs for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.

KIAA supports the purpose of this measure which is to identify areas of commercial, industrial, resort, and hotel parcels in need of revitalization and to establish guidelines for the redevelopment of those parcels. The current framework for management of public lands in the East Hawaii area has created an environment that is sub-par to market expectations. The passing of HB 1469 HD1 SD1 will help to push policy in the right direction as local expertise has an opportunity to be a part of a redevelopment district that will allow public lands to be managed property which in turn will help these sites to be revitalized and relevant in today's market.

We urge you to pass HB 1469 HD 1 SD1 and Mahalo for this opportunity to provide testimony.

Mahalo,

Garth Yamanaka
Committee Chair for Government Affairs
KIAA



Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Godfrey Maeshiro, Senior Vice-President

March 29, 2017

Hawaii Senate, Committee on Ways and Means
Hawaii State Legislature
State Capitol
415 South Beretania Street

Testimony in strong opposition to HB 1469 HD1 SD1

Chair Tokuda and Committee Members,

UNITE HERE Local 5, a local labor organization representing 11,000 hotel, health care and food service workers throughout Hawaii, would like to register our **strong opposition** to HB 1469, HD1. We believe it does not serve the state's financial interests. Moreover, it runs counter to everything a democratic society should be doing with regard to procurement, public land sales & leases, public input over development, county control over development, transparency, avoiding conflicts of interest and sound land use planning.

This legislation puts significant decisions about state land use into the hands of unaccountable, unelected committees to an extent that goes far beyond what existing state and county boards and commissions have. Through the requirements in the bill about who may serve on such committees, they will tend to be biased toward the unchecked, profit-driven short-term interests of developers, real estate salespeople and bankers. Hawaii is a small state, and people in these circles work together frequently - because of this, committee members are almost certain to have direct or indirect conflicts of interest.

This legislation gives these unaccountable, unelected, conflicted committees the power to lease out state land for as long as they choose at whatever rates they choose, which runs directly counter to good procurement practice. Specifically, it gives the committees power to:

“Notwithstanding any other law to the contrary, renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the designated district, on terms and conditions as the committee deems advisable;”

Lease expirations serve the public good. They drive renegotiations that allow the state to be compensated on an ongoing basis for allowing private companies to use our public lands. While there may be a need to balance the state's best interests against the risk that developers will be unwilling to commit to capital improvements on lands for which leases are coming due, there are ways of finding a middle ground, some of which are already encoded into state law. This bill gets rid of those provisions in favor of virtually unlimited leases. That is very short-sighted, it hurts the public interest, and it also shifts economic risks from developers back onto the people of Hawaii.

The risk-shifting becomes even more one-sided. The bill allows the committees to “Reduce or waive the lease rental on any lease of public land for any project in the designated district that requires substantial improvements; provided that the reduction or waiver shall not exceed one year in duration”. This is one-sided in that there do not appear to be any provisions that allow the state to share in any unexpected up-sides a developer might find. Beyond that, this

language is ambiguous in ways that hurt the state. It is clear that the committees can waive lease rents for a year, but there does not appear to be any language restricting the number of waivers a lessee can get, or any minimum length of time between waivers.

The phrase “The designated district redevelopment plan shall supersede all other inconsistent ordinances and rules related to the use, planning, development, and construction on public land in the designated district” takes away the power of county councils and other accountable public agencies to have any control over the process if that control would conflict with anything a committee is given the power to do via this bill.

Paradoxically, this bill even creates one of the problems it intends to solve. The introduction to the bill states “The legislature further finds that because of restrictions imposed by various land management policies, there is little incentive for lessees of various parcels to make improvements to the leased parcels.” However, despite the powers the bill gives these new unaccountable committees to make leases, it also gives them broad power to cancel the very same leases, by stating “The district redevelopment plan may provide for the withdrawal or taking for public purposes of the public land or portion of the public land under a lease.” It does go on to state “The rental shall be reduced in proportion to the value of the portion of the premises condemned, and the lessee shall be entitled to receive the proportionate value of the permanent improvements legally made to or constructed upon the land by the lessee taken in the proportion that it bears to the unexpired term of the lease.” However, lessees may not find that language particularly reassuring.

The legislation proposes just one hearing before an unaccountable, unelected body at which the public can voice its concerns about a redevelopment project. There is no binding language that would give that public input any influence at all over a committee’s plans. There is no language mandating where, when, or at what point in the redevelopment process such a hearing would take place. There is no language ensuring the public would even have access to information necessary to give informed testimony about a redevelopment plan. In fact, there is language that would allow the committee to change the redevelopment plan at any time - the committee can “Prepare or cause to be prepared plans, design criteria, landscaping, and estimates of costs for the construction, rehabilitation, or repair of any project contained in the redevelopment plan for the designated district, **and from time to time modify the plans or estimates”**.

We are in the midst of a real estate development bubble. There is no reason this legislation should artificially prop up developers or add to the incentives they already have. On the contrary, creating artificial incentives to build in places not supported by market demand is very risky for the state long-term. It is likely to create even more blight than whatever may already exist in a given area. This bill is written in such a way that this risk will be borne entirely by Hawaii’s citizens, not by developers. Developers will not have an ongoing, long-term responsibility to the success of the projects they may build with the help of this bill.

It is additionally perplexing that this bill does not even mention housing, much less contemplate or allow for housing to be a part of any redevelopment plans. Considering that the lack of affordable housing is one of the biggest crises Hawaii residents face, the absence of any discussion about housing in this bill is a glaring problem.

Thank you.



Senate Ways and Means Committee
Chair Jill Tokuda, Vice Chair Donovan Dela Cruz

03/31/2017 at 9:30 AM in Room 211
HB1469 HD1 SD1 –Relating to Public Lands

TESTIMONY –OPPOSE
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Tokuda, Vice Chair Dela Cruz, and committee members:

Common Cause Hawaii opposes HB1469 HD1 SD1 which would establish procedures to designate public land redevelopment districts, planning committees, and district redevelopment plans; establish the powers and duties of planning committees; and modifies public land lease restrictions.

As this bill seems reminiscent of the Public Lands Development Corporation (PLDC), we are reminded that one of the many issues raised was the lack of transparency and access. Thus, because planning committees are given broad powers including the ability to renew or renegotiate leases, and the ability to make and execute contracts, it should be clearly specified that all planning committees and their meetings are subject to our Sunshine Laws to ensure that the public has every opportunity to participate and voice their opinions on plans and activities, throughout the entire process. HB1469 HD1 SD1 specifies that planning committees “shall hold a public hearing” (emphasis added) on their draft plan and incorporate feedback as necessary. We believe that the public should be involved from the outset, not after a plan has already been drafted, as these plans and how they’re implemented will affect their neighborhoods and daily lives.

We respectfully urge the committee to **defer this bill**.

Thank you for the opportunity to offer testimony **opposing HB1469 HD1 SD1**.



49 South Hotel Street, Room 314 | Honolulu, HI 96813
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

SENATE COMMITTEE ON WAYS AND MEANS
Friday, March 31, 2017, 9:30 AM, Conference Room 211
House Bill 1469, HD1, SD1 Relating to Public Lands

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tokuda and Committee Members:

The League of Women Voters of Hawaii strongly opposes HB 1469, HD1, SD1 which establishes procedures for designation of public land redevelopment districts and unaccountable “committees” with authority to negotiate non-bid long-term leases to existing lessees, override unspecified public land use “ordinances and rules”, and earmark use of public lease revenues, and waive public collection of lease revenues within redevelopment districts.

We support public planning for redevelopment of public lands and transparent, competitive procedures for award of long-term commercial leases on public lands. We oppose HB 1469, HD1, SD1 because this bill contains provisions which would encourage existing commercial lessees of public lands to “play politics” to gain special unfair treatment.

Thank you for the opportunity to submit testimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 8:39 AM
To: WAM Testimony
Cc: griffrost@gmail.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Grif Frost	OceanFront 121 Residential Hotel	Support	No

Comments: Aloha! OceanFront 121, is a residential hotel located at 121 Banyan Drive (AOAO Country Club Hawaii, DBA OceanFront 121). Our association of apartment owners supports HB 1469. A 142 apartment residential hotel, which is under new management by the volunteer board of directors, of the not for profit AOAO, is excited about turning this "blighted" area into a thriving community welcoming visitors and residents to embrace a healthy lifestyle.

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Sent: Thursday, March 30, 2017 8:45 AM
To: WAM Testimony
Cc: griffrost@gmail.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Grif Frost	Hilo Health Cooperative	Support	No

Comments: Aloha! The Hilo Health Cooperative, the first not for profit consumer cooperative fitness center in the U.S., with 200 members, partnered with the East Hawaii Independent Physicians Association, is located at the entrance of Banyan Drive. The Health Co-op is excited about turning this "blighted" area into a thriving community welcoming visitors and residents to embrace a healthy lifestyle.

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Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Friday, March 31, 2017 at 9:30 A.M.
Conference Room 211, State Capitol**

RE: HOUSE BILL 1469 HD1 SD1 RELATING TO PUBLIC LANDS

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1469 HD1 SD1, which establishes procedures for designating public land redevelopment districts, planning committees, district redevelopment plans, and designated redevelopment district revolving funds. It also establishes powers and duties of planning committees and modifies public land lease restrictions. Finally, it establishes the Waiakea Peninsula Redevelopment District, Planning Committee, and Revolving Fund.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Historically, the State would allow for a maximum lease term of 65 years for the use of any state owned lands. The principle being that because it is a public asset, there should be a fair and open competition for the use of these assets.

The problem, which is not unique to the State of Hawaii, is that when lease have a fixed termination date, the lessee has no economic incentive to invest in the property over the last 10 to 15 years of the lease term. Lenders will also not loan funds for improvements to the lease hold property unless the remaining lease term is sufficient to secure the mortgage on the property. The result is a "disincentive" to the lessee to invest in the property and thus allowing for conditions to deteriorate at the end of the lease term.

While there needs to be concern on the open and competitive nature on the disposition of public lands, there also needs to be some realization that healthy businesses, many of whom are significant contributors to the community, are unable to invest in improvements to their lease hold properties as the lease term near expiration.

We believe the original bill provides a fair and equitable solution to the problem by having the existing lessee invest in "substantial improvements" to the lease hold property in order to qualify for a lease extension.



Chamber *of* Commerce HAWAII
The Voice of Business

The proposed amendments to Chapter 171 HRS are long overdue. We are in strong support of this bill. Thank you for the opportunity to express our views on this matter.

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 12:15 PM
To: WAM Testimony
Cc: craig@takamineconstruction.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Craig Takamine	Takamine Construction, Inc.	Support	No

Comments: My name is Craig Takamine and I am the President of a small general contracting firm based in Hilo. I am in strong support of HB1469 HD1,SD1. The creation of the Waiakea Peninsula Redevelopment District would be the catalyst for economic revitalization in what is currently a blighted area. The revitalization of Banyan Drive would set off a chain of events which would positively affect tourism, opportunities for more direct flights to and from the mainland and a healthier economy which means healthier families.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 10:54 AM
To: WAM Testimony
Cc: sue.leeloy@hawaiicounty.gov
Subject: *Submitted testimony for HB1469 on Mar 31, 2017 09:30AM*

HB1469

Submitted on: 3/29/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Council Woman Sue Lee Loy	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 7:22 AM
To: WAM Testimony
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Oppose	No

Comments: Esteemed Chair and members of the committee, I stand in **STRONG OPPOSITION** to this bill. This bill supersedes other departments and allows bypass of regulations intended to protect Hawai'i's precious natural resources. I urge you to vote **NO** on this bill. Mahalo for the opportunity to submit testimony on this vitally important matter.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 7:28 PM
To: WAM Testimony
Cc: Merway@hawaii.rr.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/29/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
marjorie erway	Individual	Oppose	No

Comments: Please oppose taking away Counties' control of land use.

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 7:27 PM
To: WAM Testimony
Cc: katc31999@gmail.com
Subject: *Submitted testimony for HB1469 on Mar 31, 2017 09:30AM*

HB1469

Submitted on: 3/29/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Culina	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 29, 2017 6:37 PM
To: WAM Testimony
Cc: bill@puna.us
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/29/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Smith	Individual	Oppose	No

Comments: strongly oppose

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 8:28 AM
To: WAM Testimony
Cc: bob-marion@hawaiiantel.net
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Marion McHenry	Individual	Oppose	No

Comments: I strongly oppose this bill. We do not want our public lands redistricted or developed! Please do not pass!

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 8:25 AM
To: WAM Testimony
Cc: daniel.dano.gardner@gmail.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dan Gardner	Individual	Oppose	No

Comments: This Bill is wrong for so many reasons. Chiefly, it increases the Influence that developers will have in Hawaii's land use decisions. That must not happen.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 1:07 PM
To: WAM Testimony
Cc: paikoman@yahoo.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Hallett	Individual	Oppose	No

Comments: Thank you for taking my testimony today. I think this piece of legislation is terrible. Rules and regulations in place are there for reason. They are they're pretty to protect the public and the public interest. No funding for dlnr, I see is a problem. I find it troubling that a nine person panel be appointed by the governor without any requirement for cultural or environmental sensitivity or expertise. There must be a balance if the public will be served fairly. This legislation has the strong smell of corruption about it.

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Sent: Thursday, March 30, 2017 1:20 PM
To: WAM Testimony
Cc: jwmccully54@gmail.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
James McCully	Individual	Support	No

Comments: Aloha Chair Tokuda and Vice Chair Dela Cruz I fully support HB1469's goals and believe it will be vital for the future economic growth of both my community and our state. I am a small businessman in Hilo, since 1976, and have personally seen the corrosive effects of poor land tenure. While a Leasehold system does not necessarily mean "inefficient" as compared to a Fee Simple estate that is what has occurred under HRS171 since statehood. The public's interest has not been served as businesses have declined, dragging our East Hawaii economy with them. Some very simple solutions are contained in this bill; allowing for renewal of terms at the Boards discretion, extensions of leases when substantial improvements are financed, a locally based planning authority to look at the community as a whole and establish policies and rules to better effect change. Small things, for instance the need to have lease terms conform with modern financing requirements, can lead to a healthier and more dynamic business sector and tourism community, which is certainly a public good, and in the public's best interest. Please support HB1469 Mahalo James McCully

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 3:10 PM
To: WAM Testimony
Cc: lynnkub67@gmail.com
Subject: Submitted testimony for HB1469 on Mar 31, 2017 09:30AM

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Kubousek	Individual	Comments Only	No

Comments: I live at 121 Banyan Drive and recently was elected to the AOA Board of Directors (all volunteers). We attempt to make this residential hotel a welcoming place for residents and visitors who come to spend a night, week or several months. We have several individuals and couples who are retired, or near retirement, who return every year because they love the Banyan Drive area with its access to exercise, eating establishments and cultural events. Although now considered a "blighted" area, we are doing our best to steadily try to improve our building and the general area. Please consider legislation to give us a chance to prove that it can be done.

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 30, 2017 4:41 PM
To: WAM Testimony
Cc: scoleman@surfrider.org
Subject: *Submitted testimony for HB1469 on Mar 31, 2017 09:30AM*

HB1469

Submitted on: 3/30/2017

Testimony for WAM on Mar 31, 2017 09:30AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Coleman	Individual	Oppose	No

Comments:

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