

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE COMMITTEES ON WATER & LAND & AGRICULTURE &
ENVIRONMENT

FEBRUARY 13, 2017
2:45 p.m.
CONFERENCE ROOM 224

SENATE BILL NO. 1309
RELATING TO LAND EXCHANGE

Chairpersons Rhoads and Gabbard and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill No. 1309. This measure allows the governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production and requires a report to the legislature. The Department supports the intent of this measure provided it does not impact the Department's priorities listed in the Executive Budget.

This measure asks the Governor to look into multiple issues the State is facing and find a way to service both the agricultural and housing issues that Hawaii faces today in an innovative land exchange method. The Department supports the idea of land exchange to the extent it provides additional agricultural land to the State in order to increase food self-sufficiency.

Thank you for the opportunity to present our testimony on this measure.



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 Committees on
AGRICULTURE AND ENVIRONMENT
and
WATER AND LAND**

**Monday, February 13, 2017
2:45 PM
State Capitol, Room 224**

**In consideration of
SENATE BILL 1309
RELATING TO LAND EXCHANGE**

Senate Bill 1309 proposes to allow the Governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production. The measure would also require a report to the Legislature. **The Department of Land and Natural Resources (Department) opposes this bill.**

The Department has four parcels adjacent or in close proximity to the planned University of Hawaii West Oahu (UHWO) rail station in East Kapolei, which would be impacted by this measure. The Department's long term objective is to lease the parcels for income generating purposes to support the Department's natural resource management and protection programs. The income generated from this project is intended to fund such programs as:

- Operation and beach restoration projects through the Office of Conservation and Coastal Lands;
- Funding of key positions and implementation of priority projects and programs of the Commission on Water Resource Management;
- Lifeguard services for the Division of State Parks;
- Dam safety initiatives and flood control programs through the Engineering Division; and
- Threatened and endangered species protection, invasive species control, wildland fire suppression, watershed protection and restoration, and natural area reserves through the Division of Forestry and Wildlife.

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

In addition to the Department, lands managed by University of Hawaii, the Aloha Stadium Authority and other public agencies located along the rail line are also intended to be developed for income generation purposes. The revenue generated from these agencies goes to support green programs and other public recreational and educational programs.

The Department considers the bill's language deficient in regards to providing adequate safeguards to protect the public interest with the alienation of State land. To ensure that the public purpose of affordable housing is fulfilled by the private party, a covenant or reversionary interest in favor of the State should be required as part of any exchange. Also, section 2, subsection (e)(3) of the bill as written appears to sterilize the discretionary authority of the Land Use Commission and the appropriate County agency to reclassify or rezone lands. Rather, the measure seems to compel such action by gubernatorial fiat. Furthermore, section 2, subsection (e)(4) states that "Private development of housing or mixed-uses on private lands, as contemplated by this Act, shall be exempt from all applicable state and county procurement requirements, impact fees, and other exactions". This seems to confer an additional, unwarranted benefit on lands exchanged by the State by exempting waiving impact fees (such as for school construction) over similar projects constructed on other private land. Finally, the Department opposes any potential obligation to incur costs of reclassifying and rezoning State owned lands, only to convey ownership of such lands to a private entity that will ultimately reap the benefit of such action.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

**TESTIMONY OF JAMES J. NAKATANI
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION**

**BEFORE THE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
AND
THE COMMITTEE ON WATER AND LAND**

Monday, February 13, 2017
2:45 p.m.

**SENATE BILL NO. 1309
RELATING TO LAND EXCHANGE**

Chairperson Gabbard, Chairperson Rhoads, and Members of the Joint Committees:

My name is James Nakatani, Executive Director of the Agribusiness Development Corporation (“ADC”). The ADC strongly supports Senate Bill No. 1309 which allows the Governor to negotiate land exchange to acquire lands that are suitable for long-term diversified agricultural production.

Land is the most critical component in enhancing the State’s food security. Obtaining agricultural lands through a land exchange will significantly increase the available agricultural land for food production and may offer many possibilities to boost the economic viability of the agriculture industry as a whole.

Today, many local farmers are struggling to stay in business, or are contemplating giving up their farm operations due to a number of challenges.

The high cost of agricultural land and the inability to secure a long-term land agreement continue to be major barriers that inhibit local farms from thriving in Hawaii.

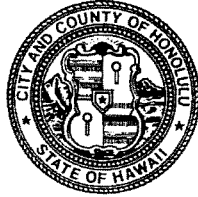
There are several contiguous and non-contiguous parcels around the State that have been fallow for years that are of high-value for agricultural and conservational purposes. The ADC believes keeping these agricultural lands in agriculture by any means should be considered as a high priority because of the potential benefits and economic development opportunities it presents.

Thank you for the opportunity to testify, and for your consideration of this bill.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
ACTING DEPUTY DIRECTOR

February 13, 2017

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Water and Land
The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture
and Environment
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs Rhoads and Gabbard,
and Committee Members:

Subject: Senate Bill No. 1309
Relating to Land Exchange

The Department of Planning and Permitting (DPP) **supports the intent of** Senate Bill No. 1309, which would authorize the Governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural economic development, in exchange for offering developable lands to the private sector for affordable housing projects. The City supports a vibrant agricultural economy and the production of more affordable housing.

However, as we understand the proposal, the governor would be able to change the state land use district and county zoning of subject lands by merely sending a letter to the Land Use Commission and applicable county planning department. We agree that we need to consider "courageous and novel legislation," but this goes too far. This proposal would, at minimum, allow the following State laws to be set aside:

- Chapter 343, Environmental Impact Statements
- Chapter 205, Land Use Commission
- Chapter 205A, Coastal Zone Management

In addition, many county ordinances would be set aside, including zoning, shoreline management area use permits, and shoreline setbacks. Compliance with federal laws, such as flood hazard districts, may be in jeopardy. There would be no

The Honorable Karl Rhoads, Chair
and Members of the Committee
on Water and Land

The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture
and Environment

Hawaii State Senate

Senate Bill No. 1148

February 13, 2017

Page 2

public hearing, therefore no public input, other than an after-the-fact report to the Legislature, and comments on the actual land exchange. It is surmised that at that point in the entitlement process, the above land use regulatory changes would have already been changed by the governor.

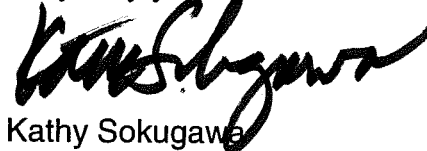
For the department to support this Bill, all provisions granting the governor unilateral decision-making on land use approvals should be deleted. We would be willing to look at other "fast track" strategies that recognize the City's homerule. For example, "automatic approval" deadlines could be imposed on land use decisions.

Consideration should also be given to assure consistency between the lands to be exchanged, and the objectives and strategies of the Hawaii Interagency Council for Transit-Oriented Development, established by Act 130 (2016). It appears that private lands would not be obliged to follow plans and recommendations of the TOD council.

Please revise Senate Bill No. 1309 so that we can support it.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written over a printed name.

Kathy Sokugawa
Acting Director

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 9:20 PM
To: WTL Testimony
Cc: admin@kauaicountyfarmbureau.org
Subject: Submitted testimony for SB1309 on Feb 13, 2017 14:45PM

SB1309

Submitted on: 2/10/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Kauai County Farm Bureau	501(c)5 ~ agricultural Not-for-profit	Support	No

Comments: Thank you for the opportunity to provide testimony on SB1309. We strongly support this bill because it will secure land that will be used for agriculture. Increasing our agricultural production first begins with securing farmable lands. The State can offer long-term leases to help farmers obtain financing for their operations, once these lands are secured in perpetuity. Our understanding is that the State can provide rent credits to farmers. This would allow farmers to spend their money on their operation and required infrastructure and this investment would be credited to their rent. This greatly increases the chances for a successful farming operation. We would like to suggest the State acquire these lands and promptly designate them as Important Agricultural Lands (IAL), and that the Governor be authorized to designate the acquired land as IAL. Food sustainability is of utmost importance to our State and this bill will help to achieve this goal. Again, we strongly support this bill. Thank you for the opportunity to provide testimony via email messaging. Laurie Ho, President Kauai County Farm Bureau

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**SB 1309
RELATING TO LAND EXCHANGE**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 13, 2017

Chair Rhoads, Chair Gabbard, and Members of the Senate Committees on
Water & Land and Agriculture & Environment:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on SB 1309,
“A BILL FOR AN ACT RELATING TO LAND EXCHANGE.” We support this bill.

The purpose of this bill is to authorize the Governor to negotiate land exchanges
for the purpose of acquiring private lands that are suitable for long term diversified
agricultural production in exchange for State lands for the construction of affordable,
workforce, and other housing units.

One of the critical components of a successful agricultural operation is the
availability of productive agricultural lands at an affordable cost. The acquisition of
quality agricultural lands by the State via land exchanges and subsequent leasing of
these lands to farmers at affordable and predictable lease rents will greatly enhance the
economic viability of Hawaii’s agricultural industry. In addition, with the City & County of
Honolulu in the process of constructing a fixed rail transit system, there arises a unique
opportunity to provide lands via land exchanges to enable new affordable, workforce,
and other housing units to be situated in the vicinity of transit stations.

We support this bill as we believe that it will provide a viable alternative that will enable the State to negotiate a mutually beneficial exchange of State lands for the purpose of constructing housing units for residents and privately owned agricultural lands for farming and other agricultural opportunities.

Based on the aforementioned, we respectfully request your favorable consideration on this bill.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2017 11:25 AM
To: WTL Testimony
Cc: millera012@hawaii.rr.com
Subject: Submitted testimony for SB1309 on Feb 13, 2017 14:45PM

SB1309

Submitted on: 2/12/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Antya Miller	Individual	Support	No

Comments: The constitution mandates that the state support diversified Ag. This bill will help the state to acquire lands suitable for diversified agriculture by swapping state lands for Ag lands. The high cost of land in Hawaii is one of the main obstacles to getting farmers on the land farming. The state can remove this obstacle by supporting this bill to acquire more Ag land. I urge you to vote yes on SB 1309. Mahalo, Antya Miller

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To: Senate Committee on Agriculture and Environment, Committee on Water and Land

From: Charles Kaaiai (cmkaai@hawaiiintel.net)

RE: Testimony providing comments to SB1309

Regarding SB1309

Thank you for the opportunity to provide comment on SB1309, relating to land exchange.

I would like to request that the legislature in approving any land exchange or any measure that changes the disposition of the ceded lands review HRS 171-64.7 that I quote here below in part. Any change in the disposition of ceded lands requires a two-thirds vote of the legislature. This is a high bar that was set to protect native beneficiaries as well as the public from reduction and devaluation of the public land trust.

“2013 Hawaii Revised Statutes

TITLE 12. CONSERVATION AND RESOURCES

171. Public Lands, Management and Disposition of

171-64.7 Legislative approval of sale or gift of lands.

Universal Citation: HI Rev Stat § 171-64.7 (2013)

(b) Notwithstanding any law to the contrary, no sale of lands described in subsection (a) in fee simple including land sold for roads and streets, or gift of lands described in subsection (a) in fee simple to the extent such gift is otherwise permitted by law, shall occur without the prior approval of the sale or gift by the legislature by concurrent resolution to be adopted by each house by at least a two-thirds majority vote of the members to which each house is entitled in a regular or special session at which a concurrent resolution is submitted for approval of the sale; provided that the provisions of this section shall not apply to remnants, as that term is defined in section 171-52, or portions thereof; provided further that this section shall not apply to the issuance of licenses, permits, easements, and leases executed in conformance with the laws applicable to the lands listed in subsection (a); provided further that this section shall not apply to non-ceded lands conveyed to the University of Hawaii after December 31, 1989 to which the University of Hawaii holds title.

(c) The state department or agency proposing to sell or give any state land described in subsection (a) shall submit for introduction to the legislature a concurrent resolution for review of the proposed sale or gift. The concurrent resolution shall contain a list of all sales or gifts of state land proposed by the state department or agency. The concurrent resolution shall contain the following information:

- (1) The specific location and size in square feet or in other precise measure of the parcels of land to be sold or given;
- (2) The appraisal value of the land to be sold or given;
- (3) The names of all appraisers performing appraisals of the land to be sold or given;
- (4) The date of the appraisal valuation;
- (5) The purpose for which the land is being sold or given;
- (6) A detailed summary of any development plans for the land to be sold or given; and
- (7) A statement of whether the land is, or is not, land that was classed as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands, and a detailed explanation of how the state department or agency made this determination.

A draft of the concurrent resolution for the prior approval of a sale or gift of land shall also be submitted to the office of Hawaiian affairs at least three months prior to the convening of a regular or special session of the legislature to allow the office to determine whether the land was classed as government or crown lands previous to August 15, 1895, or was acquired by the State in exchange for such lands.

(d) If the legislature fails to approve the concurrent resolution by at least a two-thirds majority vote of both houses, the transaction shall be abandoned by the state department or agency.

(e) Prior to finalizing any proposal for the sale or gift of lands described in subsection (a) to a person or entity other than the State, its agencies, or its entities, and prior to submission of the concurrent resolution to the legislature under subsection (c), the State, agency, or entity, as appropriate, shall hold an informational briefing on the proposed sale or gift in the community where the land to be sold or given is located.

(f) This section shall not apply to sales or gifts of lands described in subsection (a) between state departments or agencies, to sales of available lands under the Hawaiian Homes Commission Act, or to the fee simple sale of affordable homes on lands not classified as government or crown lands previous to August 15, 1895, or exchanged subsequent to August 15, 1895, for lands classified as government or crown lands previous to August 15, 1895, that are subject to resale restrictions as set forth in section 201H-47 and that were acquired by the Hawaii housing finance and development corporation either at a foreclosure sale or under a buyback as authorized in section 201H-47. [L 2009, c 176, §2; am L 2010, c 56, §1 and c 174, §2; am L 2011, c 169, §2; am L 2012, c 282, §3; am L 2013, c 38, §3]”

Thank you for the opportunity to provide this testimony.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 12:09 PM
To: WTL Testimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB1309 on Feb 13, 2017 14:45PM*

SB1309

Submitted on: 2/10/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Armstrong	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 9:23 PM
To: WTL Testimony
Cc: laurieho1@hawaiiantel.net
Subject: Submitted testimony for SB1309 on Feb 13, 2017 14:45PM

SB1309

Submitted on: 2/10/2017

Testimony for WTL/AEN on Feb 13, 2017 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Ho	Individual	Support	No

Comments: I strongly support SB1309. LOVE the forward thinking of the introducers of this bill! No land . . . No agriculture . . . no agriculture . . . no food! any questions? Mahalo!

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