

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
FINANCE**

**Wednesday, February 28, 2018
12:00 PM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 1985, HOUSE DRAFT 1
RELATING TO LAND USE**

House Bill 1985, House Draft 1 proposes to require the Board of Land and Natural Resources (Board) to provide an annual report to the Legislature with information regarding the value, current zoning and status of resource value public lands held by the Department of Land and Natural Resources (Department). **The Department offers the following comments and concerns on the measure.**

The Department has concerns with the ambiguity of the measure. The Department reads this measure as to apply only to lands under Chapter 173A, Hawaii Revised Statutes (HRS). If such is the case, then the Department has no issue with reporting that information. However, it could be asserted that paragraph (b) of SECTION 1 may apply to lands outside of Chapter 173A, HRS. To the extent such is the case, the Department strongly objects to such a broad application of the reporting requirements.

If the measure applies to all lands held by the Department, then the reporting requirements would be unduly burdensome and yield minimal information for the purpose of this bill. For lands that have been disposed by lease or permit, the rents collected are already reported to the Legislature if they are ceded lands.¹ Other lands held by the Department include vast unencumbered lands such as mountainous regions and shoreline areas, and lands set aside for resource value, conservation, forest reserves, and parkland purposes. Those lands have not been valued and to do so would provide no meaningful information. Most of these lands are either unsuitable for or prohibited by regulation from private development and leasing. Valuing these lands would be

¹ See Department's annual Act 178 Report entitled Accounting of All Receipts from Lands Described in Section 5(f) of the Admissions Act. In addition, the legislature has access to the Department's Public Land Trust Information System (PLTIS) that has current tenant and rental information from the Department and other State agencies. The link to the PLTIS is pltis.hawaii.gov.

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

ROBERT K. MASUDA
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

exceedingly expensive and would be of virtually no economic value to the State, as there is no demand or desire to develop and lease these lands.

At present, just five properties are held by the Department as resource value public lands under Chapter 173A, HRS. These five properties are not under lease; are not ceded lands; are mostly if not entirely within the Conservation Land Use District; and are managed by the Department as forest reserve, wildlife sanctuary, and state park lands. It would be challenging if not impossible for the Department to lease these lands for agricultural use or affordable housing given the intended, combined strength of restrictions on leasing and usage that are imposed by Chapter 173A, HRS, and by associated deed restrictions and federal interests, all of which run with the land in perpetuity, regardless of its ownership.

However, if the Committee wishes to continue with this measure, it may wish to consider a few amendments that would clarify the intent and scope of the proposed measure, as discussed below:

- (1) The Board already provides an annual report to the Legislature as required by Section 173A-5(1), HRS. The Department would suggest an amendment that places additional reporting requirements (page 1, line 12 *et seq.*) within that same subsection.
- (2) Some of the terminology in the proposed measure is somewhat open-ended, and would benefit, perhaps, from clarification, particularly with regard to parameters for describing “current zoning status” (page 1, line 16); “status of the [] land” (page 2, lines 6 and 11); “near the end of its term” (page 2, lines 6-7); “portfolio” (page 2, line 20); and “immediately” (page 2, line 20).
- (3) The term “land banked” (page 2, line 8), is not defined in Chapter 173A, HRS. The Department’s research indicates that this term does not appear elsewhere in HRS with regard to land status, and appears in a different form (“land bank”) only with regard to a financial organization, such as a “Federal Land Bank.” Therefore, the Department suggests an amendment that would define the term “land banked” or delete it from the measure.
- (4) References to “current market value” (page 2, line 10) and “value of [] ceded lands” (page 2, lines 15 and 17), would be challenging to interpret and implement without further clarification, and could require additional resources to estimate. The Department suggests an amendment that clarifies the sources of land valuation data that the Department would use to fulfill additional reporting requirements, if any.

As summarized above, and in the interest of condensing the bill contents and conforming it with the existing structure of the statute, the Department recommends the following reconstituted version of SECTION 1 of this measure, amending Section 173A-5, HRS, rather than Section 173A-7, HRS.

SECTION 1. Section 173A-5, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) The board shall:

- (1) Track amounts disbursed from the fund;
- (2) Prepare and submit an annual report to the governor and the legislature at least twenty days prior to the convening of each regular session. The annual report shall include:
 - (A) A summary of all interests or rights in land acquired during the preceding fiscal year;
 - (B) A summary of what value each newly acquired land has as a resource to the State;
 - (C) Proposals for future land acquisitions, including a summary of the resource value that the land may possess;
 - (D) A financial report for the preceding fiscal year;
[and]
 - (E) Objectives and budget projections for the following fiscal year; and
 - (F) A list of all of the lands that are held by the department under this chapter and that identifies the current zoning, leasing, and ceded lands status of each parcel and that indicates the suitability and availability of each parcel that can be leased for agricultural use or for

affordable housing. The list of lands that are held by the department shall also include:

(i) For lands that are under lease, the current lease rent for the land; the amount of years remaining under the lease; and the management status and general condition of the land if the lease is within three years of the end of its term; and

(ii) For ceded lands and lands that are not under lease, the estimated market value of the land, based on the most recent purchase price, appraisal, or county assessment, and management status and general condition of the land; and

(3) Make copies of the annual report available to the public.”

In closing, the Department notes that the Legacy Land Conservation Program posts a fact sheet on its website about each property conserved with program funds, as well as an annual report to the legislature that includes information about each property conserved and each property approved for conservation funding. The Department can easily add the information identified in the proposed measure to the fact sheet posted, and the annual report submitted, for each property held by the Department as resources value public lands under Chapter 173A, HRS.

Thank you for the opportunity to comment on this measure.

HB-1985-HD-1

Submitted on: 2/27/2018 11:52:05 AM

Testimony for FIN on 2/28/2018 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

HB-1985-HD-1

Submitted on: 2/26/2018 10:34:48 PM

Testimony for FIN on 2/28/2018 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments: