

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 House Committee on
JUDICIARY**

**Wednesday, February 13, 2019
2:01 PM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1025, HOUSE DRAFT 1
RELATING TO LEASE EXTENSIONS ON PUBLIC LAND**

House Bill 1025, House Draft 1, proposes to authorize the Board of Land and Natural Resources (Board) to extend leases of public lands for commercial, industrial, or resort use upon approval of a proposed development agreement to make substantial improvements to the existing improvements. House Draft 1 of the measure makes substantial amendments to the original Administration bill by removing a number of conditions the Department of Land and Natural Resources (Department) had included to make lease extensions available to long-term lessees who intended to continue to utilize the lease premises for their businesses. The amended measure would repeal on June 30, 2029. **Due to the amendments contained in House Draft 1, the Department must now oppose this measure.**

As originally introduced, House Bill 1025 was an Administration proposal that would have authorized the Board, on a "statewide basis", and for a limited period (to be repealed on June 30, 2024), to extend commercial, industrial, or resort leases that have not been sold or assigned within 20 years prior to receipt of an application for a lease extension under the measure, when the lessee commits to substantial improvement to the existing improvements, provided that lease extensions cannot exceed 40 years, and additionally, the lessee cannot transfer or sell the lease during the extension period, except by devise, bequest, or intestate succession.

House Draft 1 of the measure extends the sunset date of the bill to June 30, 2029, and would make extensions available to lessees who have not assigned their leases within the last five years. Additionally, House Draft 1 removes the restrictions on assignments of leases extended under the measure, and expressly permits subleasing. The Department's intent in introducing House Bill 1025 as originally drafted was to acknowledge the commitment of long-term lessees to locating

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

their business on State lease lands and to ensure that such lessees could continue to operate those businesses for the duration of the extension period authorized under the measure. The Department is concerned that making lease extensions available as widely as House Draft 1 proposes will lead to speculators acquiring State leases, obtaining extensions after five years, and flipping the leases for a profit. The Department does not believe such speculation is in the best interests of the State, and therefore opposes the measure.

Thank you for the opportunity to comment on this measure.

HB-1025-HD-1

Submitted on: 2/12/2019 3:40:10 PM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jacqui Hoover	Hawaii Leeward Planning Conference	Oppose	No

Comments:

HB1025 has been modified to include language “Making leases held by any department or agency of the State or a county, other than the University of Hawaii or any department, agency, or attached entity of the University of Hawaii system, eligible for extension pursuant to this measure.”

We find this exclusion to be problematic as rather than a firm foundation, a very slippery slope is set forth. When one state agency is specifically targeted and excluded, the message of subjectivity versus objectivity is issued and leaves open opportunities for future selective and subjective exclusions absent logic and basis in law. As such, we humbly request that ALL state and county departments and agencies be included.

Respectfully submitted

Jacqui Hoover



BEFORE THE HOUSE JUDICIARY COMMITTEE
February 13, 2019

House Bill No. 1025 HD1
Relating to Public Lands and Lease Extension

Aloha Chair Lee, Vice Chair San Buenventura and Members of the Committee,

KPAC submits the following written testimony in opposition to House Bill 1025 HD1 following up on oral testimony submitted at the public on February 13, 2019 at 2:01 pm room 325 at the Capitol. This bill would provide the Board of Land and Natural Resources the power to extend leases of public lands for commercial, industrial, resort, or government use.

The majority of the lands held in the public lands trust are “ceded lands” or Hawaiian Kingdom crown and government lands. Professor Williamson Chang stated in a lecture given on October 1, 2014 entitled “Hawaii’s ‘Ceded Lands’ and the Ongoing Quest for Justice in Hawai’i” that the Joint Resolution was incapable of acquiring these Hawaiian Kingdom public lands. Despite this analysis, the former Crown and government lands of the Kingdom of Hawai’i were illegally transferred to the US and as a condition of Statehood was transferred to the State of Hawai’i to be held as a public trust for 5 purposes including the betterment of the conditions of native Hawaiians as defined in the Hawaiian Homes Commission Act, 1920. The Admissions Act further states that any other object besides the 5 purposes shall constitute a breach of trust for which suit may be brought by the United States.

For these reasons Ka Lāhui Hawai’i Political Action Committee (KPAC) has concerns over the use of these lands outside of the 5 purposes set out in the Hawai’i State constitution and actions that could be interpreted as land grabbing especially when the claims of the Kanaka Maoli people to 1.8 millions acres of these lands have yet to be settled. Allowing an appointed Board to make extensions of leases of “public lands” (with little or no public input or notice) for commercial, industrial, resort and even government use up to 99 years would set up lessees as pseudo landowners that may eventually lead down the slippery slope of lease to fee conversions.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC

HB-1025-HD-1

Submitted on: 2/12/2019 7:01:36 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary	Individual	Support	No

Comments:

Chair & Committee Members,

I am in support of HB 1025 HD1 but curious why the University of Hawaii leases would be intentionally removed from this measure. UH is a government agency just like all other government agencies. The taxpayers of Hawaii have invested in UH and its programs the same as we invest in all other government agency programs. Why would UH be carved out of a process that has already been legislated to be appropriate means of the state managing its lands? Please amend this measure to include the University of Hawaii.

Thank you for this opportunity. Mary Begier

HB-1025-HD-1

Submitted on: 2/12/2019 9:47:24 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Oppose	No

Comments:

Though it says this does not include those leases by UH, this bill is highly suspect coming from the Governor's office recommendation. Are we to believe that there will be no changes, guts or ways to put leases by UH into this bill? It is horrific that the general public has to scour through the legislative bills, spending hours trying to understand, follow and comment on bills that no one will listen to them about anyway. Anything to do with Mauna Kea in the legislature has bias, lots of information that is not correct and a push from places that have not followed the legal steps.

So back to this bill, perhaps it's a good one for someone but it leaves too much open for more misdirection from too many places. THEREFORE, I do not support this bill. I also HUMBLY request that the legislature take the time to be informed, truly informed about Mauna Kea.

McCully Works
40 Kamehameha Ave.
Hilo, Hi. 96720

January 31, 2019

HB 1025; Support with Comments

House Committee, Judiciary
Chair Chris Lee

Aloha Chair Lee,

HB 1025 seeks to extend the reforms that the Legislature established in Act 149, 2018 beyond the Hilo Economic District to similar economic leases statewide. Act 149 restricted the amending of HRS171 to only lands zoned commercial, industrial, and resort. This bill similarly restricts its amendments to only those types of lands. This bill was preceded by the December 24, 2018 report made to the Legislature as required by Act 149 in which the department recommended what is essentially contained in this bill.

HB1025 was drafted, submitted, and enjoyed the Strong Support of the Department of Land and Natural Resources. The department testimony that the WLH reviewed included the Departments concerns that Act 149 may constitute special legislation and that this bill would provide a corrective for that. In addition the department believes that any policy that the Legislature establishes for any district should be available to all public land leases of the same type, in this case commercial, industrial, and resort zoned Urban lands.

The original version of the bill modified the statutory provisions now contained in HRS 171-192. The House Committee on Water, Land, and Hawaiian Affairs amended this bill in its HD1 version to reflect the 2018 Legislatures intent when drafting what became Act 149, 2018. The modifications contained in HB1025, HD1 would further the legislatures purpose and intent when debating and passing SB3058, CD1, now Act 149.

Please move this bill to the benefit of small businesses throughout the state and to improve the utilization of economic public lands in the public's interest.

Mahalo,

James McCully
McCully Works
40 Kamehameha Ave., Hilo, Hi. 96720
808-933-7000

HB-1025-HD-1

Submitted on: 2/12/2019 10:20:47 AM

Testimony for JUD on 2/13/2019 2:01:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Ross Wilson Jr.	Individual	Support	No

Comments:

Government agencies should absolutely include all government agencies including the University of Hawaii. Extending leases on public lands including the lands UH controls provide the mechanism for long term state benefits. It's the right thing to do.