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**HOUSE COMMITTEE ON LOWER & HIGHER EDUCATION
HOUSE COMMITTEE ON WATER, LAND & HAWAIIAN AFFAIRS**

Tuesday, March 12, 2019

2:25p.m.

Conference Room 309

State Capitol

By

Stacey A. Aldrich

State Librarian

S.B. 1303 S.D.2 - Relating to Public Lands

To: Chair Justin H. Woodson
Vice Chair Mark J. Hashem
Members of the House Committee on Lower & Higher Education

Chair Ryan I. Yamane
Vice Chair Chris Todd
Members of the House Committee on Water, Land & Hawaiian Affairs

Senate Bill (S.B.) 1303 S.D. 2, in part amends Act 206, Session Laws of Hawaii (SLH) 2017, to allow for the City and County of Honolulu (City) to transfer lands under existing Department of Education (DOE) facilities directly to the DOE, rather than through the Department of Land and Natural Resources. The Hawaii State Public Library System (HSPLS) provides the following comments.

Since the start of Hawaii's public library system in 1879, libraries have been built and developed under different governmental authorities before becoming a statewide system in 1959. In the late-1960s and 1970s, the State built 12 new public libraries adjacent to public school facilities throughout the State. Three of these public libraries are on Oahu: Ewa Beach Public and School Library, Kahuku Public and School Library; and Waimanalo Public and School Library.

Construction of these types of facilities occurred at a time when the State Librarian reported directly to the DOE Superintendent, who in turn reported to the Board of Education. In 1981, Act 150 separated the DOE and HSPLS into independent organizations, with each reporting directly to the BOE.

House Committee on Lower
& Higher Education
House Committee on Water, Land
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HSPLS respectfully requests that if property under DOE facilities is transferred from the City directly to the DOE in fee simple, pursuant to Act 206, SLH 2017, that any portions upon which HSPLS building and facilities are located be transferred for the benefit of HSPLS. At this time it is unclear whether any of the three Oahu public and school libraries would be affected by Act 206, SLH 2017; however, in the event the public library properties are affected, HSPLS respectfully requests the Committee's consideration to clarify transfer of property to HSPLS as well.

Thank you for the opportunity to comment on this measure.

March 11, 2019

Joint Committee Hearing of the

THE COMMITTEE ON LOWER AND HIGHER EDUCATION, and

THE COMMITTEE ON WATER, LAND, AND HAWAIIAN AFFAIRS, STATE HOUSE OF REPRESENTATIVES

Hearing Date: March 12, 2019

Time: 2:25 p.m.

Location: Conference Room 309, Hawaii State Capitol

Re: SB 1303 SD2, Relating to Public Lands

The Council for Native Hawaiian Advancement (CNHA) testifies in opposition to this measure because it contemplates extending leases already possible under Act 155 (See: Regular Session Laws of 2013) from 55 years to 99 years, which could substantially impair the State's trust obligation vis a vis the Public Land Trust to Native Hawaiians as well as creating an expectation that these public lands are no longer part of the State's Public Land Trust.

The CNHA further opposes this measure on the grounds that it enables a transfer of property from the City and County of Honolulu directly to the Department of Education, rather than to the Department of Land and Natural Resources, and in the process seemingly avoids the requirements and protections of HRS Chapter 171-36, which already offers the state the ability to extend a lease to a maximum of 65 years if the criteria of that section are met. It is unnecessary and improvident to grant a carte blanche power to a government agency to extend a lease an additional 40 years without the protections envisioned by Chapter 171.

For these reasons, CNHA opposes SB 1303 SD2 as written.

Sincerely,



J. Kuhio Lewis
Chief Executive Officer

Democratic Party of Hawaii
HAWAIIAN AFFAIRS CAUCUS

TESTIMONY OPPOSING PART I OF SB1303 SD2
Relating to Land Use
Committee on Lower & Higher Education
Committee on Water, Land, & Hawaiian Affairs
Hearing: Tuesday, March 12, 2019, 2:25. P.m., Conference Room 309

Aloha, Chair Woodson, Vice-Chair Hashem, Vice Chair Perruson and members of the Committee on Lower & Higher Education; and Chair Yamane, Vice Chair Todd and members of the Committee on Water, Land, & Hawaiian Affairs

The Hawaiian Affairs Caucus of the Democratic Party of Hawaii opposes SB1303 SD2, Part I that would allow the Dept of Education to lease public school lands for a term of not more than an unspecified number of years per lease.

We note in this legislative session at least 12 bills that propose to remove/exempt lands from the Public Land Trust or extend leases up to 99 years. We are concerned with the erosion of the trust and the impact that it will have on the pro rata share of PLT revenues to the Office of Hawaiian Affairs, and subsequently on the impact such actions will have on funding programs and services necessary to address the needs of Native Hawaiians.

It seems that the purpose of this bill is to facilitate the implementation of Act 155 that established a pilot program to “generate revenue” from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools, and create more school-centered communities. The pilot program laid important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities. The legislature found that in subsequent discussions with government agencies and private developers, the existing fifty-five year lease term allowed in Act 155 would be problematic in financing redevelopment projects.

While we understand longer leases may be more attractive to developers, likewise, we believe that leasing public land for an undetermined number of years or 99 years does not make good business sense since it will limit the flexibility of the State to address new and ever changing needs, inflationary costs, and also it is highly unlikely that the lessee will willingly turn over property they have held and developed over a long period of time.

We ask the legislature to please assure that any measures passed that exempts lands from the Public Land Trust or that extends leases keep in mind the current legislative approval requirements for the sale or alienation of any state lands, as found in HRS §171-64.7. This statutory requirement is critical to maintaining the “ceded” lands corpus. The Hawaiian

Affairs Caucus objects to the sale of “ceded” lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS § 171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state’s limited land base, and to protect “ceded” lands from being sold prior to the resolution of Native Hawaiians’ unrelinquished claims.

Mahalo for your consideration of our comments.

Respectfully

LEIMOMI KHAN, Chair

SB-1303-SD-2

Submitted on: 3/8/2019 4:16:10 PM

Testimony for LHE on 3/12/2019 2:25:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Oppose	No

Comments:

SB-1303-SD-2

Submitted on: 3/9/2019 9:41:42 AM

Testimony for LHE on 3/12/2019 2:25:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Regina Gregory	Individual	Oppose	No

Comments:



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804



Date: 03/12/2019

Time: 02:25 PM

Location: 309

Committee:

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 1303, SD2 RELATING TO PUBLIC LANDS.

Purpose of Bill: Part I: Allows the department of education to lease public school lands for a term of not more than an unspecified number of years per lease. Part II: Amends Act 206, Session Laws of Hawaii 2017, to allow the city and county of Honolulu to transfer lands under existing department of education facilities directly to the department of education, rather than through the department of land and natural resources. Takes effect 12/31/2050. (SD2)

Department's Position:

The Department of Education (Department) supports SB 1303, SD2. Through Act 155, Session Laws of Hawaii (SLH) 2013, the Department was directed to develop underutilized assets to help facilitate twenty-first century school improvements. With the passage of Act 206, SLH 2017 and Act 210, SLH 2018, the fee for specified public school properties is to be transferred to the state and Department, respectively.

The Department recognizes the value of an extended lease term for project financing and the efficiency of conveying public school lands to the Department for direct authority over property development. This bill seeks to amend these Acts to better accommodate both. The Department believes these changes will ensure more timely results and greater potential for development.

Thank you for the opportunity to provide testimony on this measure.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.



LATE

SB1303 SD2
RELATING TO PUBLIC LANDS
House Committee on Lower & Higher Education
House Committee on Water, Land, & Hawaiian Affairs

March 12, 2019

2:25 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) **OPPOSES** Part 1 of SB1303 SD2, which may inadvertently result in leases that inhibit the state's fiduciary obligations under the public trust and the Public Land Trust, and that may facilitate the alienation of "ceded" lands to which Native Hawaiians maintain unrelinquished claims.

Part I of this measure, which currently allows lease terms of indeterminate length for public and potentially "ceded" and Public Land Trust lands under the Act 155 (Reg. Sess. 2013) pilot program, had previously proposed to extend the maximum lease length term for such lands from 55 years to 99 years. While OHA appreciates the general intent to support our public school system, **OHA cannot support such a proposal and respectfully requests the Committees to delete Part 1 as an unnecessary and unjustified expansion of authority.**

Act 155, now codified in Haw. Rev. Stat. (HRS) §302A-1151.1, created a **pilot program** to allow the Department of Education (DOE), in consultation with the Board of Education (BOE), to encumber and lease three public school land sites for up to 55 years, to generate funds for "21st century" schools. The DOE has since used Act 155's pilot program to successfully lobby last year's legislature to have the City and County of Honolulu transfer title to the DOE certain county lands on which DOE schools are located, and to also exclude all lands to which DOE holds title from the definition of public lands in HRS §171-2. Notably, this latter exclusion removed many of the safeguards in HRS Chapter 171, such as appraisal, public auction, and lease term requirements, that otherwise help to ensure the appropriate management and disposition of public lands. See Act 210, Session Laws Hawai'i 2018. The previous version of the instant measure, SB1303 SD1, sought to further amend Act 155's pilot program to dramatically increase the Act's maximum allowable lease period from 55 years to 99 years. Although the current SD2 was amended to blank out the 99 year maximum lease length, OHA believes that any increase to the maximum lease length are unwarranted.

OHA reiterates its general opposition to long-term, multi-generational leases for public lands, which would likely include Public Land Trust lands as well as "ceded" lands, taken through the unlawful overthrow of the Hawaiian Kingdom, and to which Native Hawaiians maintain unrelinquished claims. Such long-term leases, including the

99 year leases previously proposed by the previous draft of this measure, may inhibit multiple future generations from ensuring the best and most appropriate use of public lands and Public Land Trust lands; the lack of transparency and accountability mechanisms included under HRS Chapter 171 for all DOE lands exacerbates such concerns. In addition, extremely long leases of public lands by private entities may inadvertently create a sense of entitlement on the part of lessees that has led and may continue to lead to the alienation of public lands, including “ceded” lands. **OHA objects to the sale or alienation of “ceded” lands except in limited circumstances, and has significant concerns over any proposal that may facilitate the diminution of the “ceded” lands corpus.**

OHA notes that Act 155 already allows for Act 155 leases to be extended pursuant to HRS §171-36, which authorizes lease extensions for commercial leases in order to qualify lessees for any state or private lending institution loan, private loan guaranteed by the State, or other financing purposes. Notably, HRS §171-36 would still limit the aggregate length of a lease and any extension to 65 years, to avoid granting private entities such extensive control and use of public lands and resources.

For the foregoing reasons, OHA urges the Committees to **REMOVE** Part I from SB1303 SD2.

Mahalo nui for the opportunity to testify on this measure.



**Testimony to the House Committees on Lower and Higher Education, and
Water, Land and Hawaiian Affairs
Tuesday, March 12, 2019 at 2:25 P.M.
Conference Room 309, State Capitol**

LATE

RE: SB 1303 SD2, RELATING TO PUBLIC LANDS

Chairs Woodson and Yamane, Vice Chairs Hashem, Perruso and Todd, and Members of the Committee:

The Chamber of Commerce Hawaii (“The Chamber”) **supports** SB 1303 SD2, which proposes to amend prior legislation. The bill proposes the following:

- Part I: Allows the department of education to lease public school lands for a term of not more than ninety-nine years per lease.
- Part II: Amends Act 206, Session Laws of Hawaii 2017, to allow the city and county of Honolulu to transfer lands under existing department of education (DOE) facilities directly to the department of education, rather than to the department of land and natural resources.

The Chamber is Hawaii’s leading statewide business advocacy organization, representing about 2,000+ 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.

We understand that the purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. Specifically, Act 155 established a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools, and create more school- centered communities. The pilot program laid important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities.

The bill addresses some of the challenges the DOE faces in attempting to redevelop its school facilities. One of the major challenges was the ownership of the land under the DOE facilities. Act 206 addressed this by allowing DOE to own lands in fee. It is our understanding that DOE has been working with the Hawaii Housing Finance and Development Corporation (HHFDC) to assist in the redevelopment of the DOE facilities.



Chamber *of* Commerce HAWAII
The Voice of Business

DOE's success in the implementation of Act 155 will provide opportunities increase the supply of housing on existing urban lands throughout the state.

Thank you for the opportunity to testify.



**TESTIMONY TO THE HOUSE COMMITTEES ON LOWER AND HIGHER EDUCATION, AND
WATER, LAND AND HAWAIIAN AFFAIRS
State Capitol, Conference Room 309
415 South Beretania Street
2:25 PM**

March 12, 2019

RE: SENATE BILL NO. 1303 SD 2, RELATING TO PUBLIC LANDS

Chairs Woodson and Yamane, Vice Chairs Hashem, Perruso and Todd, and members of the committees:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

BIA-Hawaii is in **strong support** of S.B. 1303 SD2, which proposes to amend prior legislation. The bill proposes the following:

- Part I: Allows the Department of Education (DOE) to lease public school lands for a term of not more than ninety-nine years per lease.
- Part II: Amends Act 206, Session Laws of Hawaii 2017, to allow the City and County of Honolulu to transfer lands under existing DOE facilities directly to the DOE, rather than to the Department of Land and Natural Resources.

We understand that the purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century, and to improve the overall quality of education in Hawaii. In particular, Act 155 established a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools, and create more school-centered communities. The pilot program laid important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities.

This bill addresses some of the challenges the DOE faces in attempting to redevelop its school facilities. One of the major challenges was the ownership of the land under the DOE facilities. Act 206 addressed this by allowing DOE to own lands in-fee. As a landowner, we understand that DOE has been working with the Hawaii Housing Finance and Development Corporation (HHFDC) to assist in the redevelopment of the DOE facilities. DOE's success in the implementation of Act 155 will provide opportunities increase the supply of housing on existing urban lands throughout the state.

We are in strong support of S.B. 1303 SD2, and appreciate the opportunity provide comments.