



DAVID Y. IGE  
GOVERNOR

STACIE A. ALDRICH  
STATE LIBRARIAN

STATE OF HAWAII  
HAWAII STATE PUBLIC LIBRARY SYSTEM  
OFFICE OF THE STATE LIBRARIAN  
44 MERCHANT STREET  
HONOLULU, HAWAII 96813

**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. 976 S.D.2 - Relating to Public Libraries**

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.) 976 S.D.2 establishes a pilot program to generate revenue through the leasing of public library lands to meet the mission of the public libraries. The Hawaii State Public Library System (HSPLS) **supports** the intent of S.B. 976 S.D.2.

HSPLS appreciates the S.D.2 amendments to clarify the process and eligibility of public library property for the pilot program, as well as the inclusion of a provision for an unspecified appropriation for FY2019-2021 for a comprehensive planning study to review all public library property and facilities.

HSPLS notes that it has been almost 50 years since all HSPLS properties have been reviewed. This type of planning study would greatly assist HSPLS and the Board of Education in identifying properties for the pilot program as proposed by this measure, as well as help HSPLS in developing a strategic plan for the long-term needs of HSPLS properties that may not be eligible for the pilot program.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE  
GOVERNOR



RODERICK K. BECKER  
DIRECTOR

ROBERT YU  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

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

TESTIMONY BY RODERICK K. BECKER  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEES ON LOWER AND HIGHER EDUCATION AND  
WATER, LAND AND HAWAIIAN AFFAIRS  
ON  
SENATE BILL NO. 976, S.D. 2

**March 12, 2019  
2:25 p.m.  
Room 309**

RELATING TO PUBLIC LIBRARIES

Senate Bill (S.B.) No. 976, S.D. 2, establishes a pilot program to generate revenues through the lease of public library lands to meet the mission of the public libraries. The bill also creates the Library Facilities Fund to collect revenues generated from the pilot program, including proceeds, leases, permits, interest income, and other revenues.

As a matter of general policy, the department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4, HRS, respectively. Special and 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 S.B. No. 976, S.D. 2, it is difficult to determine whether the proposed special fund would be self-sustaining.

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 House Committees on  
LOWER & HIGHER EDUCATION  
and  
WATER, LAND, & HAWAIIAN AFFAIRS**

**Tuesday, March 12, 2019  
2:25 PM  
State Capitol, Conference Room 309**

**In consideration of  
SENATE BILL 976, SENATE DRAFT 2  
RELATING TO PUBLIC LIBRARIES**

Senate Bill 976, Senate Draft 2 proposes to establish a pilot program to generate revenue through the lease of public library lands to meet the mission of the public libraries. The measure also proposes to establish a library facilities fund, and requires the State Librarian and Board of Education to report to the Legislature. Senate Draft 2 of the measure replaces the reference to Section 171-13, Hawaii Revised Statutes (HRS), with a reference to Section 171-11, HRS, requires the Board of Education (BOE) to consult with the State Librarian in the identification and selection of public library land sites for participation in the pilot program, clarifies that the BOE may lease public library land without review or approval of the Board of Land and Natural Resources (BLNR), inserts an appropriations of unspecified sums for Fiscal Years 2019-2020 and 2020-2021, changes the effective date to July 1, 2050 to facilitate further discussion, and makes technical non-substantive changes. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and provides the following comments.**

Lands being used for public libraries are typically set aside to the Department of Education (DOE) for use by the Hawaii State Public Libraries System (HSPLS) by Governor's executive order. Any change in or additional use of the land would normally require the executive order to be amended or cancelled and reissued, which would be subject to the approval of the BLNR and the Governor. Additionally, BLNR consent is normally required for leases issued under an executive order pursuant to Section 171-11, HRS. However, Senate Draft 2 of the measure expressly exempts DOE/HSPLS from securing BLNR approval of leases under Section 171-11, HRS.

Senate Draft 2 of the measure proposes to set the maximum lease term for library sites included in the pilot project to 99 years, unless further extended pursuant to Section 171-36, HRS. The

**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

Department notes that there is currently a 65-year limit on lease terms pursuant Section 171-36(a)(2), HRS. The intent of the bill seems to be to override the 65-year limit. However, even if the measure properly allows for the issuance of 99-year leases, the Department points out that there is currently no mechanism in Section 171-36, HRS, to extend a lease beyond 65 years (or beyond 99 years).

Thank you for the opportunity to comment on this measure.



**LATE**

**SB976 SD2**

**RELATING TO PUBLIC LIBRARIES**

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** SB976 SD2, which would allow the Board of Education (BOE) to determine the long-term disposition of state-owned lands, including lands to which neither the Department of Education (DOE) nor the Hawai'i State Public Library System (HSPLS) holds title. **By circumventing the procedural safeguards found in Chapter 171, this measure may inadvertently result in leases that inhibit the state's fiduciary obligations under the public trust and the public land trust, allowing for extremely long-term private use of public and public land trust lands that fail to provide a fair return to the public and Native Hawaiians; in addition, the century-long leases contemplated under this measure may ultimately facilitate the permanent alienation of public and "ceded" lands.**

While OHA appreciates that the DOE and the HSPLS may benefit from greater flexibility and autonomy over the management and disposition of lands that may potentially fall within their control, OHA has significant concerns regarding language in this measure that would allow for leases without critical procedural or substantive mechanisms safeguarding the public's and Native Hawaiians' interests in the disposition of public lands, including public land trust lands held for the specific benefit of Native Hawaiians and the general public. Moreover, OHA has particular concerns regarding the generations-long, 99-year leases contemplated under the current draft of this measure.

Under Article 11, section 1 of the Hawai'i State Constitution and HRS Chapter 171, the State holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. The vast majority of these lands are "ceded" lands, most of which are also subject to the public land trust created by Article 12 of the Hawai'i State Constitution and the section 5(f) of the Admission Act; the public land trust requires that a portion of revenues derived from public land trust lands be dedicated to OHA, for the purpose of bettering the conditions of Native Hawaiians. OHA notes that the trust status of these lands imposes on the State specific fiduciary obligations of due diligence and undivided loyalty, in making the trust corpus productive and maximizing its benefits for the trust's Native Hawaiian and public beneficiaries.

**By exempting lands chosen by the BOE for the proposed pilot program from the leasing provisions of Chapter 171 and by not requiring alternative leasing safeguards, this bill would completely circumvent critical laws that protect the interests of Native Hawaiians and the public in the disposition of public lands, including public land trust and “ceded” lands.** OHA notes that the leasing provisions of Chapter 171, including public auction requirements, appraisal requirements, limits on lease length and parcel use, and lessee qualifications, provide for a level of accountability and transparency that protect the interests of Native Hawaiians and the public in the private use of our limited public land base. Exempting lands chosen for the proposed pilot program from these requirements may invite potential violations of the public trust and public land trust, eliminating mechanisms that ensure an appropriate return for the use of public lands, and inhibiting present and future generations from ensuring the best use of these lands. **Accordingly, should the Committees choose to move this measure forward, in order to ensure the protection of Native Hawaiian and public interests in our limited public land base, OHA respectfully urges the Committees to amend this measure by explicitly requiring any land leases to be made pursuant to administrative rules specifically establishing requirements for lease appraisal and valuation, public auction or similar public accountability mechanism(s), lessee qualifications, lease length and renewal restrictions, and parcel use, analogous to the requirements of Chapter 171.**

In addition, extremely long-term multi-generational leases, such as the 99-year leases currently proposed under this measure, may also lead to 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 to which Native Hawaiians have never relinquished their claims. **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.** Accordingly, OHA respectfully urges the Committees to reinstate SB976’s original lease term length of fifty-five years, by amending the language on page 2, line 11 to read as follows:

“term of not more than fifty-five years per lease,”

Accordingly, OHA urges the Committees to **HOLD** SB976 SD2, or, at minimum, include the above-recommended amendment to better protect the interests of Native Hawaiians and the public in the DOE’s receipt, administration, and disposition of public lands this measure may place under its control. Mahalo for the opportunity to testify on this measure.

**LATE**

**SB-976-SD-2**

Submitted on: 3/12/2019 7:25:21 AM

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

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments: