

STAND. COM. REP. NO.

891

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 1251
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committees on Water and Land and Ways and Means, to which was referred S.B. No. 1251 entitled:

"A BILL FOR AN ACT RELATING TO LEASE EXTENSIONS ON PUBLIC LAND,"

beg leave to report as follows:

The purpose and intent of this measure is to authorize the Board of Land and Natural Resources (Board) to extend commercial, industrial, or resort leases that have not been transferred or assigned within the last twenty years, for lessees who commit to making substantial improvements to the existing improvements.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, Hilo Fish Company, Kanoelehua Industrial Area Association, and five individuals. Your Committees received testimony in opposition to this measure from the Office of Hawaiian Affairs, Kailapa Community Association, Laulima Paho, Na Ao Koa, Ka Ohana O Na Pua, Ohana Ho'opakele, and over two hundred fifty individuals. Your Committees received comments on this measure from one individual.

Your Committees find that many of the leases for commercial, industrial, and resort properties on public land statewide may be nearing the end of their lease terms. Faced with the uncertainty of continued tenancy, lessees have little incentive to make major



investments in infrastructural improvements and therefore the infrastructure on these properties has been deteriorating. Your Committees further find that Act 149, Session Laws of Hawaii 2018 (Act 149), established a ten year pilot program that, among other things, authorizes the Board to extend or modify the terms of certain public land leases within the Hilo Community Economic District upon approval by the Board of a lessee's development agreement to make substantial improvements to or construct new improvements on the land as long as the length of any extension granted does not extend the original lease term by more than forty years. Your Committees find that the provisions of Act 149 are a proper model by which to allow extensions of industrial and commercial leases approaching their expiration date.

Accordingly, your Committees have amended this measure by:

- (1) Limiting the provisions to industrial and commercial leases that are subject to the management, administration, or control of the Board and will expire within an unspecified number of years of receipt of an application for a lease extension;
- (2) Deleting references to resort leases;
- (3) Amending the Board's authority regarding extension of leases;
- (4) Specifying that the length of any extension granted, in the aggregate, shall not extend the original lease term by more than forty years;
- (5) Inserting language to require an extension of the rental period or lease term to be based on the economic life of the substantial improvements as determined by the Board or an independent appraiser and subject to other specified requirements;
- (6) Deleting language that would have prohibited assignments and transfers of leases during the extension period;
- (7) Inserting language that establishes causes of economic hardship for which the Board may modify or eliminate any of the existing statutory restrictions, extend or modify



the rental period, or extend the term of industrial and commercial public land leases, and amends the conditions for the Board's approval of any such modification, elimination, or extension;

- (8) Specifying that substantial improvements are certain improvements, the cost of which equals or exceeds thirty percent, rather than fifty percent, of the market value of the existing improvements;
- (9) Inserting an effective date of December 31, 2050, to encourage further discussion;
- (10) Inserting a blank repeal date; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1251, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1251, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Ways and Means,



DONOVAN M. DELA CRUZ, Chair


KAIALA KANELE, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

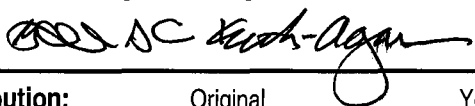
Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB1251	Committee Referral: WTL/WAM	Date: 2/28/2019		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KAHELE, Kaiali'i (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
NISHIHARA, Clarence K.				X
RIVIERE, Gil		X		
FEVELLA, Kurt				X
TOTAL	2	1		2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 1251	Committee Referral: WTL/WAM	Date: 2/28/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene	X			
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil		X		
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.	X			
FEVELLA, Kurt				X
TOTAL	11	1		1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes