

DAVID Y. IGE  
GOVERNOR

JOSH GREEN M.D.  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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ISAAC W. CHOY  
DIRECTOR OF TAXATION

To: The Honorable Sylvia Luke, Chair;  
The Honorable Ty J.K. Cullen, Vice Chair;  
and Members of the House Committee on Finance

From: Isaac W. Choy, Director  
Department of Taxation

Date: February 25, 2021  
Time: 11:00 A.M.  
Place: Via Video Conference, State Capitol

**Re: H.B. 467, H.D. 1, Relating to Public Lands**

The Department of Taxation (Department) provides the following comments regarding H.B. 467, H.D. 1, for your consideration.

With respect to taxation, H.B. 467, H.D. 1, exempts the costs of construction of work or improvements of a redevelopment project, including material and tools, from general excise and use taxes. H.D. 1 has a defective effective date of January 1, 2050.

First, the Department notes that the exemption from the general excise tax extends to labor and materials, while the exemption from the use tax applies to material, parts, or tools. The Department suggests that the exemptions be made the same for both to avoid any conflict or confusion.

Second, the Department notes that it will be difficult for a seller to determine if material, parts, or tools are being used by the purchaser on a qualified redevelopment project. The Department suggests that some means be established so that sellers can be protected from improper claims that an item is being purchased for a qualified project.

Finally, the Department requests that the general excise and use tax exemption be made applicable no earlier than January 1, 2022 to allow the Department sufficient time to make the necessary form, instruction, and computer system changes.

Thank you for the opportunity to provide comments.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
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)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 467, H.D. 1

**February 25, 2021**  
**11:00 a.m.**  
**Via Videoconference**

RELATING TO PUBLIC LANDS

The Department of Budget and Finance (B&F) offers comments on House Bill (H.B.) No. 467, H.D. 1.

H.B. No. 467, H.D. 1: establishes a framework to identify areas of public lands that are classified as commercial, industrial, resort, and hotel parcels in need of revitalization; provides for redevelopment of the parcels; creates a nine-member planning committee for each redevelopment district to provide policy direction and prepare a redevelopment plan; authorizes a local redevelopment agency to contract with a developer for construction of non-residential projects within a redevelopment area; establishes a revolving fund for each redevelopment district that would generate revenues through 50% of the income, revenues and receipts from the public lands in the redevelopment district, legislative appropriations, grants, gifts, and other funds; and creates the Waiakea Peninsula Redevelopment District on the island of Hawai'i, the Waiakea Peninsula Redevelopment District Planning Committee, and the Waiakea Peninsula Redevelopment District Revolving Fund.

As a matter of general policy, B&F does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4, HRS. 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 regard to H.B. No. 467, H.D. 1, it is difficult to determine whether the proposed source of revenues will be self-sustaining for each revolving fund that is created.

Thank you for your consideration of our comments.

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



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

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  
FINANCE

Thursday, February 25, 2021  
11:00 AM

State Capitol, Via Videoconference, Conference Room 308

In consideration of  
HOUSE BILL 467, HOUSE DRAFT 1  
RELATING TO PUBLIC LANDS

House Bill 467, House Draft 1 proposes to authorize the designation of areas or regions of public lands classified as commercial, industrial, resort and hotel use and the establishment and implementation of guidelines for the redevelopment of such areas or regions. PART III of the measure proposes to establish Waiakea Peninsula Redevelopment District in Hilo, Hawaii. PART IV proposes to amend Section 171-6, Hawaii Revised Statutes (HRS), to increase the amount of rent credits for leases of public lands that require substantial demolition or infrastructure improvement costs in order for the lessee to utilize the premises. House Draft 1 of the measure removes the seed money appropriations into and out of the Waiakea Peninsula Redevelopment District Revolving Fund, changes the effective date to January 1, 2050, to encourage further discussion, and makes technical, non-substantive amendments for the purposes of clarity, consistency, and style. **The Department of Land and Natural Resources (Department) opposes all parts of this measure, except PART IV relating to rent credits to lessees who incur significant demolition or infrastructure costs.**

There are a number of long-term leases of public lands in the Waiakea Peninsula area originally entered into in the 1940s that have expired in recent years. Some of these leases were used for hotels, and significant hotel improvements were constructed on the premises during the lease term. In some cases, the leasehold improvements have exceeded their useful life and require costly demolition in the range of \$8-10 million for a single property. However, the lease forms used for these leases did not require the lessee to remove the improvements at the expiration of the lease term. As a result, the demolition cost falls on the State unless new lessees are willing to rehabilitate and operate the properties under new long-term leases. In this regard, the Department is close to selecting proposals for the repair and renovation of two properties on

Banyan Drive under new 65-year leases, and plans to present the selected proposals to the Board of Land and Natural Resources soon.

Additionally, the Department is currently conducting planning for projects to develop State lands for resort, commercial, industrial, and other business or residential use on various islands, for the purpose of generating income to support the Department's resource management and protection programs. However, substantial investments in infrastructure including drainage, sewer, water, electricity, and other utilities will be required to facilitate development of the lands with costs in the tens of millions of dollars. As with the previous scenario, rather than rely solely on public funds, the State seeks to defer, either whole or in part, the infrastructure and other development costs of these lands on to a future lessee of the lands. PART IV of this measure would facilitate that objective, while also helping to ensure the long-term success of projects that benefit the Department and the State as a whole.

The remaining provisions of the measure are intended to promote redevelopment of the Waiakea Peninsula area. Under Chapter 171, HRS, the Board of Land and Natural Resources (Board) is authorized to issue leases up to a maximum term of 65 years. Section 171-32, HRS, provides that it is the policy of the State to issue leases by public auction. As the preamble to this bill indicates, at the end of their lease terms, lessees have little incentive to invest in improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued pursuant to the public auction process. As a result, the properties frequently fall into disrepair.

House Bill 467, House Draft 1 seeks to promote the redevelopment of public lands in commercial, industrial, resort and hotel use. The redevelopment districts would have their own nine-member planning committees to act as the policy-making body for the district. In addition to preparing redevelopment plans for the district, the planning committee would have authority to renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the district. The planning committee would also be empowered to reduce or waive the lease rental on any lease of public land for any project in the district that requires substantial improvements, provided that the reduction or waiver shall not exceed one year. The measure would further authorize the planning committee to enter into development agreements with a developer for any project contained in a development plan, and specifies the contents of the development plan.

The bill proposes to designate the Waiakea Peninsula Redevelopment District in Hilo as a redevelopment district under the measure. This area constitutes the Department's primary hotel/resort landholdings on Hawaii Island. The Department has been working with the private sector lessees and permittees to move Banyan Drive buildings on State land into redevelopment in phases. Key state parcels in which the Department is engaged in redevelopment of Banyan Drive include:

- 1) Hilo Hawaiian Hotel: ground lease from the Department; renovated.
- 2) Hilo Bay Café (former Nihon restaurant site): ground lease from the Department; renovated.

- 3) Grand Naniloa Hotel: ground lease from the Department; \$20 million in renovations completed in 2018.
- 4) Golf Course: part of Grand Naniloa ground lease from the Department; requires participation of lessee for redevelopment.
- 5) Uncle Billy's: closed in 2017 by the Board; formerly under Revocable Permit (RP) to Tower Development, Inc. (TDI), who is an affiliate of the lessee of the Grand Naniloa (RP ended in August 2020); In March 2018, the Department published a request for interest (RFI) regarding the potential demolition of existing structures and reconstruction of a hotel on the former Hilo Bay Hotel site. One response (from TDI) was received with a proposal to substantially demolish and reconstruct a branded hotel on the site consisting of approximately 125 guest rooms, fitness room, appropriate back of house spaces and food and beverage venue. TDI additionally proposed to contribute \$1.5 million toward demolition costs (projected by the Department's consultants to exceed \$8 million in total). At its meeting of December 13, 2019, the Board authorized the publication of a Request for Qualifications (RFQ)/Request for Proposals (RFP) for the demolition, renovation, or partial demolition and partial renovation of the hotel under a new long-term lease. The RFQ/RFP was published on August 23, 2020, a statement of qualifications was submitted on September 30, 2020, and a proposal was submitted on November 30, 2020. The proposal is currently under review by an evaluation committee.
- 6) Country Club: under RP. At its meeting of December 13, 2019, the Board authorized the publication of an RFQ/RFP for renovation of the hotel under a new long-term lease. The RFQ/RFP was published on August 23, 2020, statements of qualification were submitted on September 30, 2020, and proposals were submitted on November 30, 2020. Proposals are currently under review by an evaluation committee.
- 7) Reed's Bay Resort Hotel: under RP; has some remaining useful life.

Since 2014, the Department has spent approximately \$524,500 from the Special Land and Development Fund (SLDF) on consultant services and studies dedicated to the public lands at Banyan Drive.

- One consultant prepared a market study on tourism to determine if the area could support a new hotel, as well as studies on sea level rise, the viability of master leasing multiple parcels in the area, and the remaining useful life of existing structures on expiring lease premises.
- Another consultant conducted a much more detailed architectural and engineering study on whether existing improvements on the expired lease premises should be demolished or rehabilitated.
- Another consultant recently completed a study on the cost of securing the necessary permitting for demolishing the improvements on the expired leases and completing the demolition.
- Additionally, the Department procured an engineering consultant to assist in reviewing the renovation plans for the Grand Naniloa Hotel.

- Apart from the fees for consultant services, a significant amount of staff time has been invested in planning for the area including attendance at the Banyan Drive Hawaii Redevelopment Agency (BDHRA) meetings, and in preparing the RFQs/RFPs for Uncle Billy's and Country Club and reviewing the submitted proposals.

The Department requests that this measure be held. The Department is confident that the RFQ/RFP process for new leases of the former Uncle Billy's and former Country Club Condominium Hotel will go a long way in rehabilitating the Banyan Drive area.

In addition, the Department identifies the following issues with respect to this measure:

**The bill creates an additional layer of bureaucracy in government**

The bill provides that the Legislature may designate an area of public lands as a redevelopment district. Upon such designation, a nine-member planning committee is to be established as a policy-making board for the district. The planning committee, who serves without compensation, then appoints an administrator for the district who is to be compensated. The planning committee may hire additional staff as well.

With respect to Banyan Drive in Hilo, the bill would create a new layer of redevelopment process in addition to the task force and the BDHRA: the Waiakea Peninsula Redevelopment District and a planning committee to serve as a policy-making board for the district. In addition to the administrator, the planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the nine committee members. There will be added expense for the committee to comply with Chapter 92, HRS, sunshine law requirements. Further, the committee's actions may be subject to contested case hearings and appeals. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually. House Draft 1 of the measure deletes the unspecified general fund appropriation to the Waiakea Peninsula Redevelopment District revolving fund, and the unspecified appropriation out of the fund for Fiscal Year 2021-2022 that the original version included to fund the purposes of PART III of the measure. As a result of this change to the bill, the functions of the planning committee for the Waiakea Peninsula Redevelopment District would be unfunded.

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. As explained above, the Department has been working with the BDHRA regarding plans for the Banyan Drive area. In fact, two BDHRA staff presently serve on the evaluation committee reviewing proposals submitted under the Department's RFQ/RFP for the two Banyan Drive properties. Additionally, as mentioned above, the Department has procured consultants for Banyan Drive to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After the 2013 legislative session, former Governor Abercrombie approved the formation of a Banyan Drive Task Force that met a number of times to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members included representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and

representatives from the Hawaii County Mayor's Office and state legislators also attended the meetings. This informal task force worked well and at limited expense to the State.

**There are practical problems with the bill**

As noted above, the measure allows the Legislature to designate redevelopment districts on public lands. As defined in Section 171-2, HRS, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in the Banyan Drive area of Hilo, it does not own or manage the roads, which often include utility lines and other infrastructure.

Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Legislature would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

**The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties**

The bill proposes to deposit 50% of the revenues, income and receipts of the Department from the public lands in the Waiakea Peninsula Redevelopment District into the District's revolving fund. These lands are ceded and the Office of Hawaiian Affairs is currently receiving 20% of the revenues and is seeking to increase its share above the \$15.1 it receives annually. Neither this bill nor the redevelopment agency bills relieve the Department of the lease management duties. Therefore, if these measures were all to pass and become law, the Department would be left in the very unfortunate situation of having to manage all of those leases (bill, collect, inspect, procure and pay for professionals for rental and reopening valuations) but receive nominal revenue in return.

The Department and the Board are responsible for managing approximately 1.3 million acres of public lands comprising sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the SLDF, with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophes such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of State match for federally funded endangered species and invasive species initiatives that otherwise would not go forward. The Department opposes transferring



funds from the SLDF to planning committees formed under this measure for redevelopment purposes.

**The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under Section 46-80.5 and Chapter 53, HRS.**

The bill seeks to redevelop the infrastructure and facilities within designated redevelopment districts. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements, as evidenced by the County of Hawaii's creation of BDHRA under Chapter 53, HRS. The measure appears to recognize the ability of a Chapter 53 agency to assist in the redevelopment of the Banyan Drive area, but goes too far in delegating authority to such an agency without oversight by the Board to negotiate and enter into a development agreement with a developer for commercial, business, or hotel or resort uses on public lands within a redevelopment area. Moreover, the measure does not explain how a Chapter 53 agency would coordinate with the Waiakea Peninsula Redevelopment District planning committee in formulating a development plan for the area. This could lead to conflicting development goals being established by the planning committee and Chapter 53 for the same lands. In dealings between the Department and BDHRA to date, it has been understood that BDHRA's role would be to develop a plan for the area and possibly assist in streamlining the County zoning and entitlement process for any redevelopment.

Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by this bill.

Under the authority of Section 46-80.5, HRS, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Finally, Chapter 171, HRS, limits the amount of rent reduction or waiver that a lessee of public lands can receive for redeveloping or improving public lands to one year's rent for land leased for resort, commercial, industrial or other business use. In many cases, a rent reduction or waiver equal to one year of ground rent would be an insufficient incentive to induce a developer to invest in the demolition of aged improvements on and redevelopment of public land, or in the provision of basic infrastructure necessary to facilitate the further development of unimproved public land. The Department supports PART IV of this measure that seeks to authorize the Board to approve a rent reduction or waiver for up to twenty years not to exceed the amount of the lessee's total expenditures for demolition of improvements or provision of infrastructure.

Thank you for the opportunity to comment on this measure.



**HB467 HD1**  
RELATING TO PUBLIC LANDS  
Ke Kōmike Hale o ka ‘Oihana ‘Imi Kālā

Pepeluali 25, 2021

11:00 a.m.

Lumi 308

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB467 HD1, highlighting concerns and **offering amendments** to 1) address provisions that could allow for extremely long-term, multigenerational leases of public lands, including public land trust and “ceded” lands; 2) ensure a proper accounting of public land revenues potentially subject to percentage set asides for OHA and the Department of Hawaiian Home Lands (DHHL); 3) ensure that any reductions or waivers of rent for the demolition of improvements or provision of infrastructure appropriately account for OHA’s and DHHL’s potential shares of revenues and are commensurate with the actual value such activities would provide for the state.

**1. The long-term, multigenerational leases that could be issued for the Waiākea and future legislatively-designated redevelopment districts may inhibit the State’s fiduciary obligations under the public trust and the public land trust, and may lead to the sale of public and “ceded” lands.**

First, OHA notes that this measure could lead to extremely long-term, multigenerational public land leases that substantially inhibit the state’s ability to uphold its fiduciary obligations to Native Hawaiians and the public. Under Article 11, section 1 of the Hawai‘i State Constitution and Chapter 171, Hawai‘i Revised Statutes (HRS), the State, through the Board of Land and Natural Resources (BLNR), 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. Much of these lands are also subject to the public land trust created by Article 12 of the Hawai‘i State Constitution and section 5(f) of the Admission Act, which require 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. The trust statuses of these lands impose upon the BLNR specific fiduciary obligations of due diligence and undivided loyalty, in making its trust corpus productive and maximizing its benefits for the trust’s Native Hawaiian and public beneficiaries. **By authorizing redevelopment district planning committees to issue, renew, or renegotiate public land leases in designated redevelopment districts “notwithstanding any law to the contrary,” this measure may invite the creation of century-long leasehold interests that substantially inhibit the BLNR and future generations from ensuring the best and most appropriate uses of public trust and public land trust lands, which may otherwise provide much greater benefits to both Native Hawaiians and the public.**

Second, in addition to tying the state’s and future generations’ hands in ensuring the appropriate disposition of public trust and public land trust lands, the long-term leases that

would be authorized under this measure may lead to a sense of entitlement amongst lessees that can result and has resulted in the sale 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, should the Committee choose to move this measure forward, OHA strongly recommends amendments to protect against the creation of extremely long-term leasehold interests and the issuance, renewal, or renegotiation of other lease terms that may compromise the state’s fiduciary obligations to Native Hawaiians and the public. To this end, OHA respectfully offers language to ensure that any redevelopment district planning committee follows the general public land lease safeguards found in HRS § 171-36, unless and until a redevelopment committee adopts, in the transparent chapter 91 rulemaking process, administrative rules to specifically replace the provisions in HRS § 171-36:

By amending page 9, lines 9-14, to read as follows:

“(4) Notwithstanding any other law to the contrary, lease public lands in a designated district and renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the designated district, on terms and conditions pursuant to section 171-E and consistent with the redevelopment plan, provided that any new, renewed, or renegotiated leases shall be subject to the terms, conditions, and restrictions found in section 171-36 for the leasing of public lands, unless otherwise specifically provided in administrative rules adopted pursuant to chapter 91.”

## **2. Redevelopment district and redevelopment area revenues should account for the constitutional shares of OHA and DHHL.**

While OHA appreciates the apparent intent to have some portion of redevelopment district revenues to be recommitted to the activities of the district, OHA does express concern regarding language that may inadvertently fail to account for the percentage of revenues from certain public lands that must be set aside for transfer to OHA and DHHL. Specifically, the allocation of fifty percent of redevelopment district public land revenues into redevelopment district revolving funds, “notwithstanding section 171-19,” may result in the failure to account for the shares of OHA and DHHL under the public land trust and Hawaiian Homes Commission Act, as specifically noted in that section. Similar language in this measure regarding revenues specifically generated from public lands in the Waiākea peninsula redevelopment district also raises the same concerns.

Moreover, absent express statutory notice, this measure’s contemplated authorization of county-based local redevelopment agencies to negotiate development agreements for state-held

public lands could also result in negotiated agreements that fail to account for OHA's and DHHL's shares.

Accordingly, OHA respectfully urges amendments that would provide explicit statutory acknowledgement and notice to redevelopment district and redevelopment area decisionmakers and participants, regarding the need to account for OHA's and DHHL's share of certain public land revenues:

By amending page 15, lines 5-7, to read as follows:

"(1) Notwithstanding section 171-19, and subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, fifty per cent of the revenues, income, and receipts of the department from the public lands in the designated district;"

By amending page 17, line 8, to read as follows:

"(1) Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, fifty per cent of the revenues, income, and receipts"

And by amending the language found on page 27, lines 3-5, to read as follows:

"(1) Describe the land subject to the development agreement, including the location, area, and size of the land, and whether the land is subject to section 5(f) of the Admission Act of 1959 or section 1 of the Hawaiian Homes Commission Act of 1920, as amended;"

**3. Rent reductions or waivers for public land leases that require the removal of improvements should be applied only after the set aside of the amounts to which OHA and DHHL may be entitled, and rent reductions or waivers for the provision of infrastructure should be commensurate with the equity in such improvements to be recaptured by the state.**

Finally, OHA appreciates this measure's intent to provide the Board of Land and Natural Resources with flexibility in adjusting or waiving lease rent, based on a lessee's investments in removing old improvements or installing basic infrastructure. However, OHA notes that reductions in rent to facilitate the removal of old or dilapidated improvements that the state, as a prudent landowner and fiduciary, should have required of previous lessees, should not diminish public land revenue amounts to which OHA or DHHL would be otherwise entitled. As noted above, the state holds specific fiduciary obligations in its administration of lands, including public trust lands and "ceded" lands, with Native Hawaiians and the public as

specifically named beneficiary classes. A failure on the state's part to apply basic principles of due diligence and prudence in requiring previous lessees to remove old and unwanted improvements should not be used to reduce the benefits that would otherwise be realized by its beneficiaries. Accordingly, **OHA respectfully requests amendments that ensure that any reduction or waiver in rent for lessee's removal of improvements take place only after the set aside of amounts to which OHA and DHHL may be entitled.**

In addition, OHA notes that in some instances, rent reductions or waivers of up to 20 years may approach or exceed the useful life of certain types of infrastructure installed by lessees. In such cases, the full benefit of such infrastructure would be realized by lessees, with little to no equity left for the state to have justified its reduction or waiver of lease rent. Accordingly, OHA respectfully requests amendments that would ensure a consideration of the useful life of installed infrastructure in the reduction or waiver of rent, so that any reductions or waivers are commensurate with the benefits that would be realized by the state.

Accordingly, OHA recommends amending the language found on page 19, lines 13-21 through page 20, lines 1-2, to read as follows:

"provided further that if a lease for resort, commercial, industrial, other business, or residential purposes requires a lessee to demolish existing improvements or provide basic infrastructure including drainage, sewer, water, electricity, and other utilities before the lessee can make productive use of the land, the board may approve a reduction or waiver of lease rental for a period of up to twenty years that shall not exceed the amount of the lessee's total expenditures for demolition or provision of the infrastructure or the value of the remaining useful life of the infrastructure at the end of the lease term, whichever is less, and provided that any reduction or waiver of lease rental for the demolition of existing improvements shall not reduce or waive any lease rent amounts required to be set aside or transferred pursuant to section 5(f) of the Admission Act of 1959 or section 1 of the Hawaiian Homes Commission Act of 1920, as amended;"

Mahalo for the opportunity to testify on this measure.

**Kūpuna for the Mo'opuna**  
*committed to the well-being of Hawai'i for the next generations to come*  
kupuna4moopuna@gmail.com



**STOP LEGAL THIEVERY!**

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

Date: Thursday, February 25, 2021

Rep. Ty J.K. Cullen, Vice Chair

Time: 11:00 a.m.

**Testimony of Kūpuna for the Mo'opuna**

HB 467 HD 1 - RELATING TO PUBLIC LANDS. **STRONG OPPOSITION**

HB 467 HD 1 inhibits the State from fulfilling its fiduciary obligations in the disposition of public lands. Before voting on this measure, **we urge you to watch the video "PUBLIC LAND TRUST: JUSTICE DELAYED IS JUSTICE DENIED"** to know what you are voting on. *(Click on link to Public Land Trust video produced by Kamakako'i.)*

<https://www.kamakakoi.com/plt>



Now that you KNOW, vote NO to HB 467 HD 1.

*Ua mau ke ea o ka 'āina i ka pono!*



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
[www.lwv-hawaii.com](http://www.lwv-hawaii.com) | 808.531.7448 | [voters@lwv-hawaii.com](mailto:voters@lwv-hawaii.com)

HOUSE COMMITTEE ON FINANCE  
Thursday, February 25, 2021, 11 AM, Conference Room 308  
House Bill 467, HD 1, Relating to Public Lands

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Luke and Committee Members:

The League of Women Voters of Hawaii opposes HB 467, HD 1 which establishes procedures for designation of “redevelopment districts” for public lands and unaccountable “planning committees”, mostly exempt from public financial disclosure requirements, with authority to negotiate leases and development agreements, earmark use of public lease revenues, and waive public collection of public lease revenues within “redevelopment districts”.

We support public planning for redevelopment of public lands and “transparent” procedures for DLNR award and extension of long-term commercial leases on public lands. We oppose HB 467, HD 1 because this bill contains provisions which would encourage existing commercial lessees of public lands to “play politics” to gain special unfair treatment.

Thank you for the opportunity to submit testimony

**HB-467-HD-1**

Submitted on: 2/24/2021 10:44:54 AM

Testimony for FIN on 2/25/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kerry A. Umamoto	Hilo Fish Company	Support	No

Comments:

Dear Committee and Chair,

I'm writing to you in support of HB467. thank you for working with us to create and improve our local community.

Aloha



**HB-467-HD-1**

Submitted on: 2/23/2021 10:13:56 PM

Testimony for FIN on 2/25/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James McCully	Individual	Support	No

Comments:

Aloha Chair Luke, Vice Chair Cullen and House Finance Committee

I write on behalf of Hilo's future to request your FULL SUPPORT for this vital bill. It has taken many years to get here, and the Banyan Drive leases continue to deteriorate with the exceptions of the two large hotels who have each had their leases extended or renewed by way of now lapsed legislation.

The Banyan Peninsula is the "face" and could easily be the "heart" for tourism in East Hawaii. Your Support for HB467 is an important next step in the process of determining Hilo's future economy to the betterment of both our community and our culture.

There is no better time than now to enable East Hawaii's redevelopment and renewal by passing HB467

Mahalo

James McCully

**HB-467-HD-1**

Submitted on: 2/24/2021 10:31:51 AM

Testimony for FIN on 2/25/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
David S. De Luz, Jr.	Individual	Support	No

Comments:

Aloha!

We are a local business on the Big Island for over 65 years and employ 125+ team members, with our primary business on the East side of the Big Island. one of the key economic area that have been steadily decling over the last 20 years have been the business/hotel/resort properties on the Waiake peninsula/Banyan Drive,

HB 467 has the oppurtunity, with the designation of and authorization of a redevlopment agency to move forward on the revitilation of this important economic area of the Big Island and more importantly and specifically on the East side and for these reasons I STRONGLY SUPPORT HB 467 and ask for your consideration in the SUPPORT of this importatn legislation, especially in this current envionment of the need to expand our economic capactiy in East Hawaii.

Mahalo,

David S. De Luz, Jr.

808-895-4284

**LATE**

**HB-467-HD-1**

Submitted on: 2/24/2021 11:28:09 AM

Testimony for FIN on 2/25/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Garth Yamanaka	Individual	Support	No

Comments:

In support to bring in better management to the Banyan Drive area. DLNR is to big of an organization to effectively manage property. Hilo deserves better and this bill will move us in the right direction.



**LATE**

February 24, 2021

HB467 HD1

WAL Chair David A. Tarnas  
JHA Chair Mark M. Nakashima  
FIN Chair Sylvia Luke

Aloha Chairs Tarnas, Nakashima, and Luke

My name is Cory Aguiar and I am the Administrator for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.

KIAA supports the purpose of this measure which is to establish the Waiakea peninsula redevelopment district, planning committee and revolving fund. The current framework for management of the Waiakea peninsula has been sub-par to market expectations, which is having a harmful effect on the economy of East Hawaii. The passing of HB 467 HD 1 will help to push policy in the right direction as local expertise has an opportunity to be a part of a redevelopment district that will allow public lands to be managed properly which in turn will help the sites on the Waiakea peninsula to be revitalized and relevant in today's market.

We urge you to pass HB 467 HD 1 and mahalo for this opportunity to provide testimony.

Mahalo,

Cory C. Aguiar  
Administrator, KIAA