

DAVID Y. IGE  
GOVERNOR  
STATE OF HAWAII

JOSH GREEN  
LT. GOVERNOR  
STATE OF HAWAII



WILLIAM J. AILA, JR.  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES  
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879  
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TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
DECISION MAKING ON MARCH 4, 2021 AT 1:40PM VIA VIDEOCONFERENCE

**SB 86, SD2, RELATING TO HAWAIIAN AFFAIRS**

March 4, 2021

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) submits comments on this bill which requires the Department of Health to issue medical cannabis dispensary licenses to DHHL allowing for increased revenue for beneficiaries.

DHHL appreciates the motivation behind this bill and notes that a similar measure was presented for consideration by the Hawaiian Homes Commission (HHC). DHHL solicited proposals for the 2021 Legislative Session in July 2020. In response, a lessee proposed that DHHL allow beneficiaries to grow cannabis to be sold in dispensaries managed by community associations. Based on this request, DHHL prepared a draft legislative proposal requiring the Department of Health (DOH) to issue dispensary licenses to DHHL allowing for increased revenue for beneficiaries. The proposal would have expanded the medical cannabis dispensary program administered by DOH on Hawaiian Home Lands to add 8 additional licenses – (2) City and County of Honolulu, (3) County of Hawaii – (1) East Hawaii, (1) North Hawaii, and (1) West Hawaii, (2) County of Maui – (1) Maui and (1) Molokai, and (1) Kauai. The justification for this proposal was that the Department's purpose of rehabilitating native Hawaiians would be furthered by affording DHHL the opportunity to enter this highly profitable and successful market. Under the current pilot program, only eight (8) licenses were issued Statewide, which limits competition and the opportunity for native Hawaiian communities to participate. Additionally, in furtherance of the Department's vision for agricultural development, this would provide greater opportunity for utilization of agricultural lands and diversification of the State's economic revenue streams. The legislative proposal did not have the support of the HHC, so the proposal was removed from DHHL's 2021 Legislative Proposals and the HHC voted to approve the remaining proposals in September 2020.

Thank you for your consideration of our testimony.



**WRITTEN TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2021**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 86, S.D. 2, RELATING TO HAWAIIAN AFFAIRS.

**BEFORE THE:**

SENATE COMMITTEE ON WAYS AND MEANS

**DATE:** Thursday, March 4, 2021 **TIME:** 1:40 p.m.

**LOCATION:** State Capitol, Room 211 and Videoconference

**TESTIFIER(S):** **WRITTEN TESTIMONY ONLY.**  
(For more information, contact Craig Y. Iha or Tara K. Molnar,  
Deputy Attorneys General, at 587-3050 or 587-2978)

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Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General has strong concerns regarding this bill and offers the following comments.

The purpose of this bill is to add a new section to chapter 329D, Hawaii Revised Statutes (HRS), to require the Department of Health (DOH) to issue eight licenses to the Department of Hawaiian Home Lands (DHHL) to engage in the operation of medical cannabis dispensaries. This bill also requires DOH to advise and assist DHHL in establishing a license application procedure and verification and the selection process in accordance with sections 329D-4 and 329D-5, HRS. This bill also specifies requirements for individual license applicants.

This bill is unclear as to whether DHHL is intended to be a co-licensee along with individual native Hawaiian licensees, or whether DHHL is intended to be an intermediary regulatory agency that is supposed to re-issue the dispensary licenses to native Hawaiian applicants. If DHHL is intended to be a co-licensee and somehow share in the proceeds of dispensary operations, this bill is concerning because DHHL is one of 18 principal agencies in the executive branch of state government. Cannabis, while authorized and regulated under state law for medical use, is nonetheless classified as a Schedule I substance under the federal Controlled Substances Act. See 21 U.S.C. § 812(c)(10) (listing "marihuana"). Cannabis – even if intended for medical

purposes – is therefore illegal to manufacture, distribute, dispense, or possess under federal law. See, e.g., 21 U.S.C. §§ 841(a), 844(a). By authorizing DHHL to operate medical cannabis dispensaries, this bill could transform the State of Hawai'i from a regulator into an active participant in an enterprise that is illegal under federal criminal law.

It is also a crime under federal anti-money laundering laws for banks and other financial institutions to knowingly engage in monetary transactions involving proceeds of certain unlawful activity, including the sale of cannabis and other controlled substances. See, e.g., 18 U.S.C. § 1956; see also 18 U.S.C. § 1957. If a state agency such as DHHL were to earn direct proceeds from medical cannabis dispensaries, those proceeds could adversely impact the State's ability to utilize banks and other institutions to manage the State Treasury, and to otherwise access the financial system to conduct State business.

DHHL's operation of medical cannabis dispensaries could also impact the State's ability to receive federal grants and other funds where eligibility is based in part on compliance with federal laws.

Because DOH regulates medical cannabis, as opposed to operates and profits from medical cannabis dispensaries, its involvement in the medical cannabis industry does not create the same concerns.

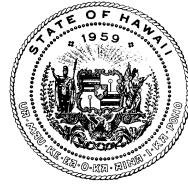
If the intent is for DHHL to be an intermediary regulatory agency, rather than a co-licensee or recipient of dispensary proceeds, this bill raises different concerns. The bill does not specify whether DHHL or DOH would be tasked with regulating these licensees or make clear whether the licensees must meet the same statutory requirements regarding licensure, operation, and inspection as other medical cannabis dispensary licensees. Of note, the bill specifically prohibits these licenses from being sold or transferred (page 4, lines 13-14), whereas section 329D-5.5, HRS, outlines the sale or transfer process for other medical cannabis dispensary licensees. If the Committee is inclined to move this bill forward, we recommend amending the bill to clarify which department is responsible for regulating the eight licensees and whether

the licensees must meet the same statutory requirements regarding licensure, operation, and inspection as other medical cannabis dispensary licensees.

Further, the bill's wording with respect to licensee applicants' criminal history (page 3, line 7; page 4, lines 11-12) also raises concerns, because the bill does not authorize DHHL to conduct criminal history record checks on prospective applicants and applying entities in accordance with section 846-2.7, HRS. We recommend amending the bill to amend section 846-2.7, HRS, and add a new section to chapter 329D, HRS, to allow DHHL to conduct criminal history record checks on prospective applicants and applying entities.

Finally, section 3 of this bill is unnecessary because amendments to the Hawaiian Homes Commission Act, 1920, as amended, have been removed from the current draft of the bill. We therefore recommend deleting section 3 for clarity and consistency.

Thank you for the opportunity to provide these comments.



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**Testimony COMMENTING on S.B. 86, S.D.2  
RELATING TO HAWAIIAN AFFAIRS.**

SENATOR DONOVAN M. DELA CRUZ, CHAIR  
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: Thursday, March 4, 2021

Room Number: Video Conf.

1 **Fiscal Implications:** This measure may require additional resources and may impact the  
2 priorities identified in the Governor’s Executive Budget Request for the Department of Health’s  
3 appropriations and personnel priorities.

4 **Department Testimony:** S.B. 86, S.D. 2 amends Chapter 329D, HRS, to require the  
5 Department of Health (DOH) to issue eight dispensary licenses to the Department of Hawaiian  
6 Home Lands (DHHL) and to advise and assist DHHL in establishing a license application  
7 procedure and verification and selection process in accordance with sections 329D-4 and 329D-  
8 5, HRS. However, DOH is unclear as to how the licenses issued to DHHL would work within  
9 the existing medical cannabis dispensary licensing system and the medical use of cannabis by  
10 qualifying patients, specifically: (1) whether the DHHL licensees would be regulated by DOH  
11 or DHHL; (2) whether qualifying patients would be allowed to make purchases from the DHHL  
12 dispensaries; and if so, (3) how DHHL licensees will ensure that patients remain within their  
13 dispensing limits.

14 (1) **Dispensary operations.** Section 329D-6, HRS, states that “no person shall operate a  
15 dispensary, nor engage in the production, manufacture, or sale of cannabis or

1 manufactured cannabis products, unless the person has obtained a license from the  
2 department pursuant to this chapter.” However, it is not clear from S.B. 86, S.D. 2  
3 whether the licensed issued to DHHL would be licensed, and therefore regulated, by  
4 DOH or DHHL.

5 (2) **Authorized sources of medical cannabis.** Section 329-130(a), HRS, specifies that  
6 qualifying patients shall obtain medical cannabis and manufactured cannabis products  
7 only from a dispensary licensed pursuant to chapter 329D, HRS, or by cultivating  
8 cannabis. However, it is not clear from S.B. 86, S.D. 2 whether the DHHL dispensaries  
9 would be “a dispensary licensed pursuant to chapter 329D.”

10 (3) **Dispensing limits.** Section 329D-7(12), HRS, specifies that no dispensary shall sell or  
11 provide to qualifying patients any combination of cannabis and manufactured cannabis  
12 products that exceeds four ounces of cannabis within a consecutive period of fifteen days,  
13 or that exceeds eight ounces of cannabis within a consecutive period of thirty days. As  
14 such, all of the DOH-licensed dispensaries’ point of sale systems are required to be  
15 connected to the state’s electronic seed-to-sale tracking system to maintain a continuous  
16 record of patient purchases to ensure that they do not exceed dispensing limits. However,  
17 it is not clear from S.B. 86, S.D. 2, whether the DHHL dispensaries would be required to  
18 be connected to the DOH seed-to-sale tracking system.

19 Thank you 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*  
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**STOP LEGAL THIEVERY!**

Committee on Ways and Means

Chair Dela Cruz & Vice Chair Keith-Agaran  
Thursday, March 4, 2021 @ 1:40PM

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

SB 86, SD 2 – RELATING TO HAWAIIAN AFFAIRS. **STRONG OPPOSITION**

We, Kūpuna for the Mo'opuna, a group of kūpuna Hawaiian homestead farmers committed to the well-being of Hawai'i for the next generations to come, **strongly oppose SB 86, SD2.**

As beneficiaries of the Hawaiian Homes Commission Act (HHCA), born and raised on the homestead, we know first hand the challenges facing the Hawaiian Homes Commission, the Department of Hawaiian Home Lands (DHHL), and the beneficiaries on the land and on the waitlist. Adding the operation of medical cannabis dispensaries to the already-challenged homestead program in the face of beneficiary opposition goes against the intent of the HHCA.

Instead, DHHL must 1) collect overdue operational monies owed by the state as mandated by the State Constitution and upheld by the courts 2) overhaul general leases to maximize benefit to include airports and harbors 3) stop disposing the majority of HHCA lands to non-beneficiaries to the detriment of beneficiaries on the waitlist.

**No to SB 86, SD 2.**

***Ua mau ke ea o ka 'āina i ka pono!***