

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
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEE ON JUDICIARY
HEARING ON FEBRUARY 12, 2021 AT 9:15AM VIA VIDEOCONFERENCE

SB 873 RELATING TO CONTESTED CASES

February 12, 2021

Aloha Chair Rhoads, Vice Chair Keohokalole, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) strongly supports this bill that authorizes contested case hearings to use interactive conference technology. This bill was approved by the Hawaiian Homes Commission (HHC) and included in the Governor's administrative package by request of our department.

The use of interactive conference technology is becoming more common. The HHC holds contested case hearings on certain islands on an annual basis when the HHC is conducting its meeting on island. Allowing contested case hearings to be held via interactive conference technology could allow for hearings to be held on a more timely basis allowing for greater efficiency.

Thank you for your consideration of our testimony.



DAVID Y. IGE
Governor

JOSH GREEN
Lieutenant Governor

MIKE MCCARTNEY
Director

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
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Drafting Technician

Statement of
Daniel E. Orodenker
Executive Officer
State Land Use Commission

Before the
Senate Committee on
Judiciary

Friday February 12, 2021
9:15 AM
State Capitol, Virtual Video Conference

In consideration of
SB 873
RELATING TO CONTESTED CASES

Chair Rhoads; Vice Chair Keohokalole; and members of the Senate Committee on Judiciary:

The Land Use Commission supports SB 873 with comments. The use of virtual technology is key to cost saving measures that are required to meet the current budget crisis. While optimal public participation is ensured when the Commission holds hearings in person in the county in which the land is located, if properly implemented, virtual technology does and will, allow significant and meaningful public participation via virtual meeting platforms.

During the course of the pandemic the LUC has been utilizing advanced forms of virtual platform technology to hold meetings on significant land use issues and to make significant land use decisions. Employing virtual technology, notifying interested parties of when and how to join virtual meetings and posting clear and concise instructions on how to join and participate in the meetings has proven extremely effective in maintaining complete transparency.

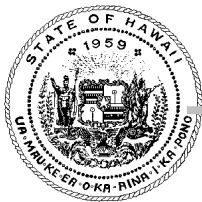
We would note however, that section 2 of SB 873, paragraph (c) on page 2, lines 20-21 and page 3 line one contain a requirement that the location of the parties and their attorneys must be noticed. The LUC is concerned that if hearings become contentious counsel and their clients may be subjected to harrasement or opening their doors to the public thereby risking the spread of COVID-19. There is also a concern that this could lead to hearings getting unwieldy if

numerous public participants chose to attend the meeting at attorneys offices or client homes. This language should be stricken and the remainder of the bill conformed to its deletion.

In addition, the requirement of identifying a public location for participation, while well intentioned, will result in additional expense, may not be feasible and may not be manageable. While this section was intended to ensure that participants who may be limited technologically or have access to technology can participate in the proceedings, our experience is that such is not necessary and may not even be possible. It is therefore suggested that the measure be clarified to state that if virtual technology is utilized, the public may access the meeting in that manner and the agency may, in its notice, provide that there public attendance at the agency location may not be allowed.

It should be noted that public libraries could be utilized to allow participation for those who do not have personal all computers

Thank you for the opportunity to testify on this matter.



HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

February 12, 2021
Videoconference, 9:15 a.m.

To: The Honorable Karl Rhoads, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Members of the Senate Committee on Judiciary

From: Liann Ebesugawa, Chair
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 873

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

The HCRC supports S.B. No. 873, which amends H.R.S. § 91-9 to allow the use of interactive conference technology for contested case hearings.

The courts have successfully been using interactive conference technology throughout the pandemic. Many agencies have held board meetings using remote interactive conference technology, and some have used it hearings. The HCRC supports the continued use of interactive conference technology for hearings, particularly as Hawai‘i is an island state and this will decrease the need for travel between islands. The bill does not mandate the use of remote technology, so hearings may still be held in person as needed.

The HCRC supports S.B. No. 873.

SB-873

Submitted on: 2/5/2021 3:09:53 PM

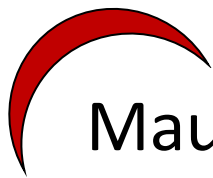
Testimony for JDC on 2/12/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Comments	No

Comments:

Comments

While it seems reasonable during these times to think that having a contested case on line would be a positive approach. This does not include those for whom internet services/computers are unavailable. I believe this should be taken into consideration



Maunakea Observatories

To: Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice-Chair
Committee on Judiciary

From: Maunakea Observatories

Subj: **SB 873 Relating to Contested Cases – In Support**
Friday, February 12, 2021; 9:15 a.m.; Via Videoconference

Date: 10 February 2021

Aloha Chair Rhoads, Vice Chair Keohokalole and Members of the Committee,

Through this letter the Maunakea Observatories **support** SB 873 which would authorize contested case hearings to be conducted through the use of interactive conference technology.

The Maunakea Observatories are supportive of efforts to improve the timeliness of fair and just resolutions to BLNR land use decisions. As SB 873 states, “more efficient, yet still effective, contested case hearings can be conducted by interactive conference technology, which is already being utilized for public meetings in accordance with section 92-3.5, Hawaii Revised Statutes.” Improving the efficiency of contested cases will provide for more timely decision-making, while achieving the important objective of providing access for the public to have their voices heard.

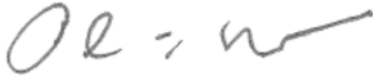
The timeliness concern is pertinent to the observatories in the following way: the current Master Lease for the Mauna Kea Science Reserve expires at the end of 2033, and the timely renewal of this land authorization, reflecting a long-term commitment by the State of Hawai'i to support astronomy, is essential. Everything from facility upgrades to new instrumentation and long-term operations planning depend on timely decisions. Continued support from numerous international federal funding agencies and research institutions which sponsor the Maunakea Observatories, including the US National Science Foundation, Canadian National Research Council, NASA, MEXT of Japan, and universities, also depends on timely decisions.

Thank you for the opportunity to provide testimony in support.

Mahalo,



Director Doug Simons, Canada-France-Hawaii Telescope



Director Paul Ho, James Clerk Maxwell Telescope (East Asian Observatory)



Director John Rayner, NASA Infrared Telescope Facility



Director Michitoshi Yoshida, Subaru Telescope



Director Hilton Lewis, W.M. Keck Observatory (Keck I and Keck II)



February 11, 2021

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Testimony in Opposition of SB873

Related to Contested Cases

Honorable Senator Karl Rhoads, Chair and Senator Jarrett Keohokalole, Vice Chair.

We understand that COVID-19 has made it difficult to hold in person contested case hearings, but we are concerned that this measure appears to limit attendance to only the agency, the party, and counsel. Such a hearing would be considered a “closed” hearing.

If this bill is to proceed, we suggest amendments that would do the following:

- Provide for rules for accessibility and participation or observance by the public.
- The use of Interactive conference technology be limited to situations where law prohibits the gathering of groups of people, such as is currently the case where gatherings are limited to no more than five people

Please know that we are also concerned about accommodating kupuna, the keepers of our cultural practices, whose testimony in contested case hearings may be necessary. Generally, they prefer to be accompanied to these hearings and also, they might not possess the skills to use the interactive conference technology for the hearing.

Mahalo for the opportunity to testify.

Me ka mana’o nui,

Juanita Mahienaena Brown Kawamoto

Luna Ho’omalū

Hawaiian Affairs Caucus

Democratic Party of Hawaii

