

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON FINANCE

**FEBRUARY 28, 2022
12:30 P.M.
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 1658, HD 1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS**

Chairperson Luke and Members of the Committee:

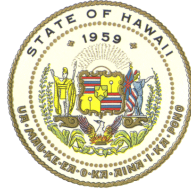
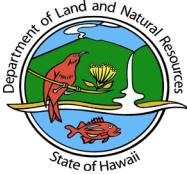
Thank you for the opportunity to testify on House Bill 1658, HD 1. This measure authorizes the HDOA to request information from DLNR related to the establishment of necessary and reasonable easements prior to the transfer of non-agricultural park lands. The Department of Agriculture ("Department") supports this measure and offers a comment.

The Department notes that the department is currently allowed to and does consult with DLNR regarding their needs and priorities for any lands subject to transfer prior to such transfer occurring. As such, this measure may be unnecessary.

Thank you for the opportunity to testify.



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 Committee on
FINANCE**

**Monday, February 28, 2022
12:30 PM**

State Capitol, Conference Room 308 and Via Videoconference

**In consideration of
HOUSE BILL 1658, HOUSE DRAFT 1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS**

House Bill 1658, House Draft 1, proposes to authorize the Department of Agriculture (DOA) to request information from the Department of Land and Natural Resources (DLNR) related to the establishment of necessary and reasonable easements upon the lands before the transfer of non-agricultural park lands. House Draft 1 replaces the phrase “easements by necessity” with “necessary and reasonable easements,” changes the effective date to July 1, 2050, and makes technical, non-substantive amendments for the purposes of clarity, consistency and style. **DLNR supports this measure and provides the following comments.**

As noted in the bill’s preamble, this measure is intended in part to facilitate the transfer of non-agricultural park lands from DLNR to DOA pursuant to Act 90, Session Laws of Hawaii 2003, where both agencies have agreed to the transfer but the lack of a documented easement across the land impedes the transfer. DLNR appreciates the bill potentially providing another tool to facilitate the Act 90 land transfer process.

DLNR appreciates the amendment in House Draft 1 that strikes the phrase “easements by necessity,” which would have set a very high standard for DLNR to secure an easement under this bill. With respect to the large tracts of forest reserve DLNR manages, a single parcel may cover tens of thousands of acres and may have several existing accesses miles apart from each other. However, DLNR may still want to establish additional public accesses to forest reserves or hunting areas to enhance public recreational uses or cultural and traditional practices. DLNR believes that these kinds of easements would qualify as both “necessary and reasonable” within the meaning of the measure as amended in House Draft 1.

Thank you for the opportunity to comment on this measure.

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

HB-1658-HD-1

Submitted on: 2/27/2022 11:47:58 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Russell Tsuji	DLNR	Support	Yes

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

HB-1658-HD-1

Submitted on: 2/27/2022 11:51:35 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ian Hirokawa	DLNR	Support	Yes

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

HB-1658-HD-1

Submitted on: 2/28/2022 8:01:04 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Brian Kau	Dept of Ag - Ag Resource Management Division	Comments	Yes

Comments:

I will be available for questions, if necessary.



February 25, 2022

Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair
House Committee on Finance

Comments Regarding HB 1658, H.D. 1, Relating to the Transfer of Non-agricultural Park Lands (Before the transfer of non-agricultural park lands, authorizes the Department of Agriculture [DOA] to request information from the Department of Land and Natural Resources [DLNR] related to the establishment of necessary and reasonable easements upon the lands; effective 7/1/2050.)

Monday, February 28, 2022, 12:30 p.m.; Conference Room 308, Via Videoconference

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers, and utility companies. LURF's mission is to advocate for reasonable, rational, and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates the opportunity to present comments regarding HB 1658, H.D. 1 in support of the various agricultural stakeholder groups who defend the goals of viable agricultural operations and the conservation and protection of agriculture in Hawaii.

HB 1658, H.D. 1. The underlying intent of this bill is to effectuate and facilitate the transfer of certain public lands classified for agricultural use from the DLNR to the DOA pursuant to Act 90, Session Laws of Hawaii (2003) (Act 90); Chapter 166E, Hawaii Revised Statutes; and for the purposes and in a manner consistent with Article XI, Section 10, of the Hawaii Constitution, which establishes that "the public lands shall be used for the development of farm and homeownership on as a widespread a basis as possible, in accordance with procedures and limitations prescribed by law."

In furtherance of said transfer of public lands, an Act 90 working group was established by Act 139, Session Laws of Hawaii, which group has determined that lands under the DLNR used for "the primary and substantial management objective of agricultural production" should be transferred to the DOA.

The specific purpose of this bill is to adopt a recommendation from the Act 90 working group that authorizes the DOA to inquire with the DLNR, prior to offering a lease, regarding any easements required on the lands that are subject to the lease.

LURF's Position. LURF members include property owners, farmers and ranchers who own, maintain, and engage in agricultural enterprises, and who consider efforts to protect and support agriculture significant to the continued conduct of their operations and to help sustain and preserve farming and ranching businesses into the future.

Many farmers and ranchers have been awaiting the transfer of their land leases from the DLNR to the DOA pursuant to Act 90, which was enacted to ensure long-term productive use of public agricultural lands to be managed by the DOA, which department is better suited to administer agricultural lands. The now 19-year delay of the anticipated transfers, however, has impaired the ability of farmers and ranchers to establish and implement long-term plans for their operations.

LURF appreciates the intent of this measure as it promotes cooperation between the DOA and DLNR; understands the significance of effectuating and facilitating the transfer of certain public lands classified for agricultural use from the DLNR to the DOA pursuant to Act 90; and acknowledges the need of the DOA to be provided with information relating to the establishment of reasonable and necessary easements upon those lands in order that it can best advance and sustain the needs of agriculture and the agricultural industry in this State.

LURF believes, however, that the term "easement" should be further clarified and defined so as to preclude any access authorized pursuant to the easement from causing any negative impacts on agricultural production, such as infestation by invasive species which may arise from mismanagement of the access area.

By recognizing the importance of, and need to assist the local agriculture industry, and implement measures which help to support the viability and maintenance of agriculture in the State, this bill, if clarified and further amended, can significantly help to promote economically viable agriculture, increased food production, and food self-sufficiency in Hawaii.

Thank you for the opportunity to present comments and concerns regarding this measure.



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February 28, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON HB 1658, HD1
RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS

Conference Room 309 & Videoconference
12:30 PM

Aloha Chair Luke, Vice-Chair Yamashita, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau supports HB 1658, HD1, which authorizes HDOA to request information from DLNR related to the establishment of easements by necessity upon the lands before the transfer of non-agricultural park lands.

HFB greatly appreciates the work of the Act 90 working Group and the efforts that have been made to accomplish the transfer of DLNR lands in agriculture production to DOA. We respectfully request amending HB 1658, HD1, to include a deadline for the transfer of DLNR lands in agriculture production to DOA. Producers whose leases have not been transferred after the nearly 19 years since Act 90 continue to be in a state of limbo, without the security and stability necessary to make investments and infrastructure improvements, or even contemplate long-term plans. No business can operate this way.

Hawai'i's food producers are also land stewards who are an important part of Hawai'i's goals of greater self-sufficiency and conservation efforts. Enabling their continued work is in the best interest of the public. They should not be trapped in decades of debate about which agency controls their existence when it is the mission of one agency, DOA, to foster agriculture in Hawai'i. Supporting agriculture and conserving natural resources are not mutually exclusive. Producers should not be forced into waiting additional years while DLNR works to adjust its priorities, policies, and rules to expand its mission to support food production.

Thank you for your consideration and for your continued support of Hawai'i agriculture.



Email: communications@ulupono.com

HOUSE COMMITTEE ON FINANCE
Monday, February 28, 2022 — 12:30 p.m.

Ulupono Initiative supports the intent of HB 1658 HD 1, Relating to the Transfer of Non-Agricultural Park Lands.

Dear Chair Luke and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono supports the intent of HB 1658 HD 1, which, before the transfer of non-agricultural parklands, authorizes the Department of Agriculture (DOA) to request information from the Department of Land and Natural Resources (DLNR) related to the establishment of necessary and reasonable easements upon the lands.

Ulupono appreciates the efforts of the Working Group established by Act 139, SLH 2021, which was established to find potential remedies to fulfill the purposes of Act 90, SLH 2003. We recognize the importance of this group's task in helping the State address the appropriate management of active agricultural leases.

This bill specifically allows the DOA to request information from the DLNR regarding necessary easement establishments prior to any land transfer. Ulupono supports the collaboration between the DOA and DLNR. While we believe that this may already be occurring, it may be beneficial to place this within statute.

Thank you for the opportunity to testify on this measure.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Kyle T. Yamashita, Vice Chair

HB1658 HD1
Relating to the Transfer of Non-Agricultural Park Lands

Monday, February 28 2022, 12:30 PM
VIA VIDEOCONFERENCE

Chair Luke, Vice Chair Yamashita, and Members of the Committee,

The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

The Hawaii Cattlemen's Council **supports HB1658 HD1 with comments** to authorize HDOA to request information from DLNR related to the establishment of easement by necessity upon the lands before the transfer of non-agricultural park lands. While we believe that HDOA already has the authorization to inquire with DLNR as to easements, we support this measure. However, to avoid ambiguous language that can be interpreted too broadly, further definition is needed that clarifies that reasonable and necessary easements are those that do not negatively impact agricultural production. With this clarification, we would support this bill that would help facilitate the transfer of agricultural lands from DLNR to HDOA while balancing the needs of both departments and ensuring food production continues to be economically viable on the land.

We appreciate the Act 90 Working Group's efforts to seek solutions, and agree that HDOA and DLNR should work together to identify reasonable, necessary easements.

Nicole Galase
Hawaii Cattlemen's Council





Hawai'i Aquaculture & Aquaponics Association

Hawai'i Cattlemen's Council

Hawai'i Farm Bureau Federation

Hawai'i Farmers' Union United

Hawai'i Food Industry Association

Hawai'i Food Manufacturers Association

Kohala Center

Land Use Research Foundation of Hawai'i

Maui Farm to School Network (Maui F2SN)

Ulupono Initiative

College of Tropical Agriculture and Human Resources - University of Hawai'i at Manoa

HOUSE COMMITTEE ON FINANCE
February 28, 2022 – 12:30 p.m. – Via Videoconference

RE: HB 1658 HD1 – Relating to the Transfer of Non-Agricultural Park Lands – Support

Aloha Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Local Food Coalition **supports** HB 1658 HD1, which, before the transfer of non-agricultural park lands, authorizes the Department of Agriculture (DOA) to request information from the Department of Land and Natural Resources (DLNR) related to the establishment of necessary and reasonable easements upon the lands.

Farmers and ranchers need long-term leases in order to reasonably invest in infrastructure improvements on the leased land. Lands in active agricultural production should be transferred to the DOA, so that long-term planning can be implemented. The success of farmers and ranchers is a key component in the State's goal to double local food production.

We agree with the Act 90 Working Group's determination that certain lands would be considered eligible for transfer if necessary and reasonable easements were provided to allow the DLNR or the public to access an adjacent parcel, and the DOA and DLNR should work together to identify any easements required on lands that are subject to the lease. And while we believe this may already be occurring, it may be helpful to put this into statute.

We appreciate the work of the Act 90 Working Group during the interim to identify the challenges and potential remedies to transfer lands intended under Act 90, SLH 2003.

The Local Food Coalition is an organization comprising of farmers, ranchers, livestock producers, investors and other organizations working to provide Hawaii's food supply.

Thank you for the opportunity to submit testimony.

Kendall Matsuyoshi
808-544-8345
kmatsuyoshi@wik.com

HB-1658-HD-1

Submitted on: 2/28/2022 7:48:19 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lani Petrie	Kapapala Ranch	Oppose	No

Comments:

I oppose HB1658 as a stand alone bill from HB1657, HB1659, and HB1660. It would be like putting together a puzzle that may not have all it's pieces or worse, pieces from another puzzle.

HB-1658-HD-1

Submitted on: 2/27/2022 11:40:30 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
J Ashman	Individual	Comments	No

Comments:

Aloha Honorable Chair Luke, Vice Chair Yamashita, and Members of the Committee,

I have worked with Hawaii farmers and on agriculture policy for over thirty years. As you know, agricultural lease transfers from the DLNR to the DOA have not proceeded as Act 90 intended them to nearly 19 years ago.

The intent of this bill is to help facilitate these transfers. While the intent is sound, the language is very confusing. Unless it is amended for clarity, the measure will not achieve its purpose.

I respectfully request that Page 4, lines 6 through 10 be modified to read as follows:

(d) Before any transfer of certain qualifying non-agricultural park lands, the department may request from the department of land and natural resources information justifying the establishment of any requested easements upon the lands to ensure that they are necessary and reasonable and will not negatively impact agricultural production.

Thank you very much for your support of Hawaii's farmers and ranchers.