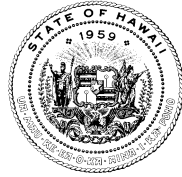


DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

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 WAYS AND MEANS
DECISION MAKING ON APRIL 5, 2022 AT 10:15AM VIA VIDEOCONFERENCE

HB 2288, HD2, SD1, RELATING TO LAND

April 5, 2022

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

The Department of Hawaiian Home Lands (DHHL) supports this bill transferring certain land to DHHL. The Oahu Island Plan was developed to provide recommendations for the future uses of DHHL land on the island of Oahu to meet beneficiary and department needs over the next 20 years. The Oahu Island Plan identified a land shortage and a large number of applicants looking for homesteading opportunities on Oahu, concluding that acquisition of new lands is necessary to award homesteads to all Oahu Applicants. This measure is a first step to meeting this need.

Thank you for your consideration of our testimony.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
April 5, 2022 at 10:15 a.m.

By
Michael S. Shibata
Director of Strategic Development and Partnership
and
Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

HB 2288 HD2 SD1 – RELATING TO LAND

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

Thank you for the opportunity to present testimony today.

The University of Hawai'i (University) opposes House Bill No. 2288 HD2 SD1, relating to the transfer of real property designated as Tax Map Key (TMK) (1) 3-2-030: 002 to the department of Hawaiian home lands. The bill does not explicitly identify the current title fee-simple owner of the property. The University owns this parcel in fee-simple. The transfer of the subject parcel would significantly affect the University's plans to increase its educational and innovation opportunities, as well as the ability to generate additional revenue streams through the monetization of University real property.

The University has already initiated plans for this parcel, including discussions of its disposition with the University Board of Regents since 2020, and recently procuring property reports, appraisals, and studies to support the University's target of future development at the site. The University was already in process to solicit for a private partner or partners interested in developing the subject parcel that would offer alignment with at least one area of the University's educational programs. Based on the inquiries that the University has received thus far, we believe that there is sufficient private sector interest in developing the parcel as a kupuna care facility. Such an arrangement would have made sense and synergy with Lē'ahi Hospital next door along with University's nursing, medical, and geriatric programs. Another area of interest has been for multi-family housing. Based on the inquiries thus far, housing concepts look like they could be faculty housing, student housing, or other workforce housing. The University wants to find the right partner that could offer a concept that meets community needs, but also provides some learning or research/innovation opportunities for University students, faculty, and staff. Health sciences and other supporting fields seem like a leading candidate. The University needs for the project to be independently, financially sustainable. The project would aim to create a live, work, play, and learn environment.

The University would negotiate and enter into a development agreement and long-term ground lease with the selected developer, subject to review and final action by the University Board of Regents. The University intends to own the fee simple interest in the parcel throughout the development and operation of the project and at no time will the University's interest be pledged or subordinated to any project financing. The selected developer would be expected to design, build, finance, operate, and maintain the project throughout the term of the ground lease, and the project is not expected to require future State funds to support the construction and its long-term operations/maintenance.

The subject parcel is vested in the University, a public body corporate, in fee simple absolute as part of the University trust, and is not part of the ceded land trust or the public natural resource trust. Therefore, the decision to transfer the subject parcel can only be made by the University Board of Regents, whose fiduciary responsibility includes ensuring the use and disposition of real property in the University trust for University purposes.

For these reasons, we respectfully oppose House Bill No. 2288 HD2 SD1.

Thank you for this opportunity to testify.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2288, H.D. 2, S.D. 1, RELATING TO LAND.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 5, 2022 **TIME:** 10:15 a.m.

LOCATION: State Capitol, Room 211 and Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact Craig Iha,
Deputy Attorney General, at (808) 587-2978)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill requires the state agency holding the fee simple title to property designated as TMK (1) 3-2-030-002-0000-000 to transfer the fee simple interest to the Department of Hawaiian Home Lands (DHHL). The bill further appropriates an unspecified sum to DHHL for condemnation proceedings to transfer the land from the University of Hawai'i to DHHL.

Because the parcel is owned by the University of Hawai'i, the University Board of Regents must approve the transfer. If the Board of Regents does not approve the transfer, the property must be condemned in order to transfer it to DHHL. DHHL, however, does not have express statutory authority to exercise the power of eminent domain. To avoid any uncertainty, we recommend amending section 2 of the bill on page 1, lines 4 to 9, to read as follows:

Notwithstanding any law to the contrary, the fee simple interest in the parcel of land designated as TMK (1) 3-2-030-002-0000-000 with the existing improvements thereon, shall be conveyed by the appropriate state agency currently holding the fee simple interest to the parcel to the department of Hawaiian home lands. The department of Hawaiian home lands is authorized to exercise the power of eminent domain to cause the conveyance of the parcel.

We also note that section 101-53, Hawaii Revised Statutes, requires that whenever public property has already been appropriated for a public purpose, it can only be acquired by eminent domain if "the use to which the property is sought to be put

is more necessary than the purpose to which it has already been appropriated." That issue may need to be addressed.

Thank you for the opportunity to provide comments on this bill.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
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 SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 2288, H.D. 2, S.D. 1

**April 5, 2022
10:15 a.m.
Room 211 and Videoconference**

RELATING TO LAND

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2288, H.D. 2, S.D. 1, transfers the parcel of land designated as TMK (1) 3-2-030-002-0000-000 to the Department of Hawaiian Home Lands (DHHL); conveys the fee simple interest in the parcel of land; and appropriates an unspecified amount of general funds in FY 23 to DHHL for condemnation proceedings to transfer the land from the University of Hawai'i to DHHL.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

LEGISLATIVE TESTIMONY

Senate Committee on Ways and Means

HB2288 HD2 SD1 - RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

Tuesday, April 5, 2022, 10:15am, Rm 211 & Videoconference

The Council for Native Hawaiian Advancement submits testimony in **STRONG SUPPORT** of HB2288, HD2 SD1, which would transfer property on the island of O‘ahu to the Department of Hawaiian Home Lands (DHHL) for use by qualifying Hawaiian Home Commission Act (HHCA) beneficiaries to acquire a residence, thus enabling DHHL to fulfill the State of Hawai‘i’s fiduciary duty to these beneficiaries.

Due primarily to inadequate State funding, DHHL has amassed a waitlist of over 28,700 beneficiary-applicants, with countless applicants having passed away while awaiting the State to fulfill its obligation to them. Over 11,000 of these total waitlist applications are for the island of O‘ahu, where more available land for HHCA beneficiaries means greater capacity for DHHL to create the necessary housing inventory to reduce the waitlist and house qualifying Native Hawaiians.

CNHA emphasizes that the State of Hawai‘i holds a fiduciary obligation to Hawaiian Homes Commission Act (HHCA) beneficiaries, as part of its compact with the United States in exchange for admission into the Union and subsequently upon adopting the HHCA as a provision of the State’s Constitution. Subsequently, the State expanded its obligations to include enabling qualifying Native Hawaiians “to return to their lands in order to fully support self-sufficiency” and to support “the self-determination of Native Hawaiians.”¹

Prince Jonah Kūhiō Kalaniana‘ole advocated for the passage of HHCA in 1921 on behalf of the Native Hawaiian people. After a century during which over 84% of the indigenous population was decimated by foreign-introduced diseases, pushing them to near extinction, ‘Ōiwi leaders determined that the only way to rehabilitate Native Hawaiians,

¹ Hawaiian Homes Commission Act, 1920, as amended, §101 (Purpose).



who the U.S. government characterized as “landless and dying,”² was to “place them back upon the soil.”³

Accordingly, the Council for Native Hawaiian Advancement urges the Committee to **PASS** HB2288, HD2 SD1. Mahalo nui for the opportunity to provide testimony on this measure.

Respectfully,

J. Kūhiō Lewis, CEO
Council for Native Hawaiian Advancement

² The findings of Pub. L. 106-569, title V, §512, Dec. 27, 2000.

³ The testimony of Prince Jonah Kūhiō Kalaniana’ole as quoted in the Department of Hawaiian Home Lands 2021 Legislative Fact Sheet.