

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 Senate Committees on
WATER AND LAND
and
GOVERNMENT OPERATIONS**

**Tuesday, March 22, 2022
3:05 PM**

State Capitol, Conference Room 016 and Via Videoconference

**In consideration of
HOUSE BILL 2332, HOUSE DRAFT 1
RELATING TO EASEMENTS**

House Bill 2332, House Draft 1 proposes to allow for the exemption of the granting of easements on public lands from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. House Draft 1 of the measure proposes to allow, rather than require, the granting of easements on public lands to be exempted from formal subdivision process and approval requirements, allow the government agency that grants the easements to notify in writing the county with jurisdiction to process and approve the easements of the government agency's intent to invoke the exemption, change the effective date to July 1, 2050, to encourage further discussion, and make technical, non-substantive amendments for the purposes of clarity, consistency and style. **The Department of Land and Natural Resources (Department) 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 the Department to the Department of Agriculture 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. The Department appreciates the bill potentially providing another tool to facilitate the Act 90 land transfer process. In some cases, a formal survey to delineate the easement corridor may still be in the best interests of the public, such as to establish public access to forest reserves or hunting areas. With respect to the subdivision requirement for easements, the Department's understanding is that, at the present time, only the City and County of Honolulu requires subdivision approval for easements.

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-2332-HD-1

Submitted on: 3/21/2022 11:20:54 AM

Testimony for WTL on 3/22/2022 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kevin Moore	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

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

HB-2332-HD-1

Submitted on: 3/21/2022 11:23:05 AM

Testimony for WTL on 3/22/2022 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Ian Hirokawa	Testifying for DLNR	Support	Remotely Via Zoom

Comments:

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

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
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON
WATER AND LAND
AND GOVERNMENT OPERATIONS**

**MARCH 22, 2022
3:05 P.M.
VIA VIDEOCONFERENCE**

**HOUSE BILL NO. 2332, HD 1
RELATING TO EASEMENTS**

Chairpersons Inouye and Moriwaki and Members of the Committees:

Thank you for the opportunity to testify on House Bill 2332, HD 1. This bill allows the granting of easements on public lands to be exempted from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. The Department of Agriculture ("Department") supports the intent of the measure offers comments.

The Department supports any effort to optimize and expedite the transfer of agricultural lands from the Department of Land and Natural Resources ("DLNR") to the Department pursuant to Act 90, Session Laws of Hawaii (2003), codified as Chapter 166E, Hawaii Revised Statutes.

Some of the hurdles facilitating transfers identified by the Act 90 Working Group are the challenges encountered by public agencies in obtaining various types of easements due to subdivision approval requirements for easements and significant investment of time and resources for surveying and mapping. While easing of requirements for establishment of public easements on public lands is an excellent means of facilitating implementation of interagency programs, priorities, and goals, the Department believes there is a legitimate concern to retain accuracy in the location of easement boundaries for those encumbrances creating private rights of usage. Consequently, the Department respectfully recommends that the effect of this measure be limited to easements on public or government-controlled lands benefiting the general



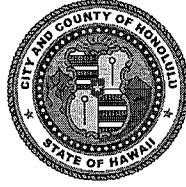
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public, governmental agencies, or serving a public purpose, to ensure that the more relaxed standards do not interfere with any individually vested private use rights.

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR

DEAN UCHIDA
DIRECTOR

DAWN TAKEUCHI APUNA
DEPUTY DIRECTOR

EUGENE H. TAKAHASHI
DEPUTY DIRECTOR

March 22, 2022

The Honorable Lorraine R. Inouye, Chair
and Members of the Committee on Water and Land
The Honorable Sharon Y. Moriwaki
and Members of the Committee on Government Operations
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Inouye, Chair Moriwaki and Committee Members:

**Subject: House Bill No. 2332, HD 1
Relating to Easements**


The recommendations of the Department of Planning and Permitting (DPP) have been incorporated into House Bill No. 2332, HD 1.

This Bill permits the granting of easements on all public lands to be exempted from the formal subdivision process, and associated survey mapping and description. The amendments suggested by the DPP allow the county and/or agencies to opt out of the exemption when warranted. The county relies on the subdivision process to identify and avoid conflicts when easements containing county facilities overlap with easements proposed by other users, such as utility companies or private entities. A survey map is necessary for this purpose, and also to determine the exact land area encumbered by a private easement and the appropriate fee to be charged for such easement.

Accordingly, we have no objections to this Bill in its present form.

Thank you for the opportunity to testify.

Very truly yours,


Dean Uchida
Director

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
COMMITTEE ON WATER AND LAND

Senator Sharon Y. Moriwaki, Chair
Senator Donovan M. Dela Cruz, Vice Chair
COMMITTEE ON GOVERNMENT OPERATIONS

March 18, 2022

Esteemed Senators:

I am a Hawaii licensed land surveyor with 30 years of experience. I am testifying in strong opposition to HB 2332 as written.

The county subdivision requirements for reviewing and approving the designation of easements over public lands are vital for the purposes of protecting public interest in real property. Each county has these requirements in place to protect the public's interests in land, whether private or public. Exempting all easements granted over public lands from formal county subdivision review and approval is an egregiously broad overreach, and will, foreseeably, have catastrophic ramifications.

I do, however, support facilitating the transfer of undeveloped state lands between DLNR and DOA for jurisdictional purposes and the best management practices to which they are entrusted. I would support this bill if the following provisions were included

- Limiting the exemption of easements granted over public lands from formal county subdivision process to those affecting the transfer of undeveloped public lands between DLNR and DOA, pursuant to Act 90.
- Approval of all such exemptions by the county agency responsible for subdivision compliance be required prior to the land transfer.

I am available for further comment or clarification. Thank you for your time and consideration.

Sincerely,

Joanne Williamson, LPLS
(808) 436-6725

Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
COMMITTEE ON WATER AND LAND

Senator Sharon Y. Moriwaki, Chair
Senator Donovan M. Dela Cruz, Vice Chair
COMMITTEE ON GOVERNMENT OPERATIONS

March 21, 2022

Esteemed Senators:

My name is Meyer Cummins and I am a land surveyor licensed to practice in the State of Hawaii with over 20 years of experience. I am testifying on behalf of the Hawaii Land Surveyors Association (HLSA) as a Board Director and Past President. The HLSA Board of Directors is strongly opposed to House Bill 2332 (HB 2332) as written.

The Hawaii Land Surveyors Association, which represents the majority of the licensed surveyors in Hawaii, has strong objections to HB 2332 as written. The county subdivision requirements for reviewing and approving the designation of easements over public lands are vital for the purposes of protecting public interest in real property. Exempting all easements granted over public lands from formal county subdivision review and approval, merely for the purposes of convenience and expediency, is a broad overreach and will lead to complications pertaining to use rights and development rights on public lands.

HLSA does support the objective of facilitating the transfer of undeveloped state lands between DLNR and DOA for jurisdictional purposes. To that end, a process allowing limited exemptions of certain easements granted over public lands from the subdivision process is warranted for such purposes but should be preceded with mandatory notice to the Department of Planning and Permitting, or any county agency responsible for subdivision compliance, identifying the easements being granted and exempted from county review and approval. As such, HLSA recommends a redraft of the bill with the following provisions:

- Limiting the exemption of easements granted over public lands from formal county subdivision process to those affecting the transfer of undeveloped public lands between DLNR and DOA, pursuant to Act 90.
- The county agency responsible for subdivision compliance must be notified anytime a government agency grants an easement over undeveloped public lands and exercises the exemption option of such an easement from county subdivision requirements.

I am available for questions or comments at your convenience.

Sincerely,

Meyer Cummins, LPLS
(808) 294-3051

HB-2332-HD-1

Submitted on: 3/21/2022 2:06:58 PM

Testimony for WTL on 3/22/2022 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

They should have to do what everyone else has to do NO EXCEPTIONS!!

HB-2332-HD-1

Submitted on: 3/21/2022 3:03:17 PM

Testimony for WTL on 3/22/2022 3:05:00 PM

Submitted By	Organization	Testifier Position	Testify
J Ashman	Individual	Support	Written Testimony Only

Comments:

I am testifying in **STRONG SUPPORT** of this measure. While easements for conservation and other important uses can be a necessary part of an State agricultural lease, they currently require undergoing the formal subdivision process. This is an extremely expensive and time-consuming process which may take many years and hundreds of thousands of dollars to complete, if it is completed at all.

Without the easements, farmers and ranchers may be forced to operate their businesses in a perpetual state of limbo as their State agricultural leases may be delayed indefinitely. Please pass this measure. Thank you.

HB-2332-HD-1

Submitted on: 3/21/2022 6:05:34 PM

Testimony for WTL on 3/22/2022 3:05:00 PM



Submitted By	Organization	Testifier Position	Testify
Ronald Weidenbach	Testifying for Hawaii Aquaculture & Aquaponics Association	Support	Written Testimony Only

Comments:

The Hawaii Aquaculture and Aquaponics Association (HAAA) representing aquaculture and aquaponics farmers statewide strongly supports HB2332 HD1 to allow an exemption for the granting of easements on public lands from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. Since the indicated exemption is limited to public lands, there should be sufficient agency oversight to prevent any potential abuse. A significant portion of these public lands are in generally inaccessible and often mountainous terrain which would be very costly and potentially hazardous to survey, and a poor use of our limited public funds that could be better spent on facilitating timely implementation of badly needed conservation and agricultural practices. Modern GIS technology is readily available to State departments and is sufficiently accurate for such subdivision boundary purposes without continuing the costly and time-consuming requirement of surveying. Given these multiple compelling reasons, the HAAA strongly supports HB 2332 HD1.