



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
Executive Officer

SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
Chief Clerk/Planner

NATASHA A. QUIÑONES
Program Specialist

FRED A. TALON
Drafting Technician

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

Before the
House Committee on
Judiciary and Hawaiian Affairs

Thursday February 11, 2021
2:00 PM
State Capitol, Conference Room 325 Via Videoconference

In consideration of
HB 972
RELATING TO CONTESTED CASES

Chair Nakashima; Vice Chair Matayoshi; and members of the House Committee on
Judiciary and Hawaiian Affairs:

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 HB 972, paragraph (c) on page 2, lines 20-212 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 by opening their doors to the public risk 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 reminder 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 11, 2021
Rm. 325, 2:00 p.m.
Videoconference

To: The Honorable Mark M. Nakashima, Chair
The Honorable Scot Z. Matayoshi, Vice Chair
Members of the House Committee on Judiciary and Hawaiian Affairs

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

Re: H.B. No. 972

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 H.B. No. 972, 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 H.B. No. 972.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary and Hawaiian Affairs
February 11, 2021 at 2:00 p.m.

By
Kalbert K. Young
Vice President for Budget and Finance/Chief Financial Officer
and
Carrie K.S. Okinaga
Vice President for Legal Affairs/University General Counsel
University of Hawai'i System

HB 972 – RELATING TO CONTESTED CASES

Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

Thank you for the opportunity to provide testimony on HB 972.

The University of Hawai'i supports the intent and purpose of HB 972, which is to provide for more efficient, cost-effective and accessible contested case hearings by allowing for the use of interactive conference technology. Such technology is already in use by the courts and could improve accessibility and efficiencies for other departments that have to conduct contested case hearings.

While permitting tele- or video-conferencing alternatives to in-person hearings will not always be the most practical or could present additional logistical issues, the option to have the capability as alternatives should be a general improvement. Especially given the challenges brought about by the COVID-19 pandemic, the use of interactive conference technology to conduct contested case hearings will promote participant safety as well as efficiency for such proceedings.

Thank you for the opportunity to submit testimony on this bill.



Maunakea Observatories

To: Representative Mark Nakashima, Chair
Representative Scot Matayoshi, Vice-Chair
Committee on Judiciary & Hawaiian Affairs

From: Maunakea Observatories

Subj: **HB 972 Relating to Contested Cases – In Support**
February 11, 2021; 2:00 p.m.; Via Videoconference

Date: 10 February 2021

Aloha Chair Nakashima, Vice Chair Matayoshi and Members of the Committee,

Through this letter the Maunakea Observatories **support** HB 972 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 HB 972 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.

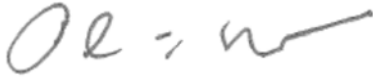
The timeliness concern is pertinent to the observatories in the following way: the current Master Lease for the Mauna Kea Science Reserve expires at the end of 2033, and the timely renewal of this land authorization, reflecting a long-term commitment by the State of Hawai‘i to support astronomy, is essential. 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

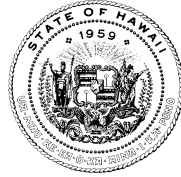


Director Michitoshi Yoshida, Subaru Telescope



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

DAVID Y. IGE
GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII

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 HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 11, 2021 AT 2:00PM VIA VIDEOCONFERENCE

HB 972 RELATING TO CONTESTED CASES

February 11, 2021

Aloha Chair Nakashima, Vice Chair Matayoshi, 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.

HB-972

Submitted on: 2/11/2021 9:24:23 AM

Testimony for JHA on 2/11/2021 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Democratic Party of Hawaii, Hawaiian Affairs Caucu	Oppose	No

Comments:

Oppose. 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.

Lastly, if in fact, the provisions of this bill are not intended to preclude public participation or observation, request that the committee clarify this point on the record by expressly confirming public access will be allowed.