

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



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  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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 Committee on  
WATER AND LAND

Monday, February 8, 2021  
1:00 PM

State Capitol, Via Video Conference, Conference Room 229

In consideration of  
SENATE BILL 1000  
RELATING TO PUBLIC LANDS

Senate Bill 1000 proposes to authorize the designation of areas or regions of public lands classified as commercial, industrial, resort and hotel use and the establishment and implementation of guidelines for the redevelopment of such areas or regions. PART III of the measure proposes to establish Waiakea Peninsula Redevelopment District in Hilo, Hawaii. PART IV proposes to amend Section 171-6, Hawaii Revised Statutes (HRS), to increase the amount of rent credits for leases of public lands that require substantial demolition or infrastructure improvement costs in order for the lessee to utilize the premises. **The Department of Land and Natural Resources (Department) opposes all parts of this measure, except PART IV relating to rent credits to lessees who incur significant demolition or infrastructure costs.**

There are a number of long-term leases of public lands in the Waiakea Peninsula area originally entered into in the 1940s that have expired in recent years. Some of these leases were used for hotels, and significant hotel improvements were constructed on the premises during the lease term. In some cases, the leasehold improvements have exceeded their useful life and require costly demolition in the range of \$8-10 million for a single property. However, the lease forms used for these leases did not require the lessee to remove the improvements at the expiration of the lease term. As a result, the demolition cost falls on the State unless new lessees are willing to rehabilitate and operate the properties under new long-term leases. In this regard, the Department is close to selecting proposals for the repair and renovation of two properties on Banyan Drive under new 65-year leases, and plans to present the selected proposals to the Board of Land and Natural Resources soon.

Additionally, the Department is currently conducting planning for projects to develop State lands for resort, commercial, industrial, and other business or residential use on various islands, for the purpose of generating income to support the Department's resource management and protection programs. However, substantial investments in infrastructure including drainage, sewer, water, electricity, and other utilities will be required to facilitate development of the lands with costs in the tens of millions of dollars. As with the previous scenario, rather than rely solely on public funds, the State seeks to defer, either whole or in part, the infrastructure and other development costs of these lands on to a future lessee of the lands. PART IV of this measure would facilitate that objective, while also helping to ensure the long-term success of projects that benefit the Department and the State as a whole.

The remaining provisions of the measure are intended to promote redevelopment of the Waiakea Peninsula area. Under Chapter 171, HRS, the Board of Land and Natural Resources (Board) is authorized to issue leases up to a maximum term of 65 years. Section 171-32, HRS, provides that it is the policy of the State to issue leases by public auction. As the preamble to this bill indicates, at the end of their lease terms, lessees have little incentive to invest in improvements to their leasehold properties because the leases cannot be extended further. Rather, new leases of the lands must be issued pursuant to the public auction process. As a result, the properties frequently fall into disrepair.

Senate Bill 1000 seeks to promote the redevelopment of public lands in commercial, industrial, resort and hotel use. The redevelopment districts would have their own nine-member planning committees to act as the policy-making body for the district. In addition to preparing redevelopment plans for the district, the planning committee would have authority to renew or renegotiate any lease in connection with any project contained in the redevelopment plan for the district. The planning committee would also be empowered to reduce or waive the lease rental on any lease of public land for any project in the district that requires substantial improvements, provided that the reduction or waiver shall not exceed one year. The measure would further authorize the planning committee to enter into development agreements with a developer for any project contained in a development plan, and specifies the contents of the development plan.

The bill designates the Waiakea Peninsula Redevelopment District in Hilo as a redevelopment district under the measure. This area constitutes the Department's primary hotel/resort landholdings on Hawaii Island. The Department has been working with the private sector lessees and permittees to move Banyan Drive buildings on State land into redevelopment in phases. Key state parcels in which the Department is engaged in redevelopment of Banyan Drive include:

- 1) Hilo Hawaiian Hotel: ground lease from the Department; renovated.
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- 5) Uncle Billy's: closed in 2017 by the Board; formerly under Revocable Permit (RP) to Tower Development, Inc. (TDI), who is an affiliate of the lessee of the Grand Naniloa (RP ended in August 2020); In March 2018, the Department published a request for interest (RFI) regarding the potential demolition of existing structures and reconstruction of a hotel on the former Hilo Bay Hotel site. One response (from TDI) was received with a proposal to substantially demolish and reconstruct a branded hotel on the site consisting of approximately 125 guest rooms, fitness room, appropriate back of house spaces and food and beverage venue. TDI additionally proposed to contribute \$1.5 million toward demolition costs (projected by the Department's consultants to exceed \$8 million in total). At its meeting of December 13, 2019, the Board authorized the publication of a Request for Qualifications (RFQ)/Request for Proposals (RFP) for the demolition, renovation, or partial demolition and partial renovation of the hotel under a new long-term lease. The RFQ/RFP was published on August 23, 2020, a statement of qualifications was submitted on September 30, 2020, and a proposal was submitted on November 30, 2020. The proposal is currently under review by an evaluation committee.
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Since 2014, the Department has spent approximately \$524,500 from the Special Land and Development Fund (SLDF) on consultant services and studies dedicated to the public lands at Banyan Drive.

- One consultant prepared a market study on tourism to determine if the area could support a new hotel, as well as studies on sea level rise, the viability of master leasing multiple parcels in the area, and the remaining useful life of existing structures on expiring lease premises.
- Another consultant conducted a much more detailed architectural and engineering study on whether existing improvements on the expired lease premises should be demolished or rehabilitated.
- Another consultant recently completed a study on the cost of securing the necessary permitting for demolishing the improvements on the expired leases and completing the demolition.
- Additionally, the Department procured an engineering consultant to assist in reviewing the renovation plans for the Grand Naniloa Hotel.
- Apart from the fees for consultant services, a significant amount of staff time has been invested in planning for the area including attendance at the Banyan Drive Hawaii Redevelopment Agency (BDHRA) meetings, and in preparing the

RFQs/RFPs for Uncle Billy's and Country Club and reviewing the submitted proposals.

The Department requests that this measure be held. The Department is confident that the RFQ/RFP process for new leases of the former Uncle Billy's and former Country Club Condominium Hotel will go a long way in rehabilitating the Banyan Drive area.

In addition, the Department identifies the following issues with respect to this measure:

***The bill creates an additional layer of bureaucracy in government***

The bill provides that the Legislature may designate an area of public lands as a redevelopment district. Upon such designation, a nine-member planning committee is to be established as a policy-making board for the district. The planning committee, who serves without compensation, then appoints an administrator for the district who is to be compensated. The planning committee may hire additional staff as well.

With respect to Banyan Drive in Hilo, the bill would create a new layer of redevelopment process in addition to the task force and the BDHRA: the Waiakea Peninsula Redevelopment District and a planning committee to serve as a policy-making board for the district. In addition to the administrator, the planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the nine committee members. There will be added expense for the committee to comply with Chapter 92, HRS, sunshine law requirements. Further, the Committee's actions may be subject to contested case hearings and appeals. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually. The bill makes an unspecified general fund appropriation to the Waiakea Peninsula Redevelopment District revolving fund, and then authorizes an unspecified appropriation out of the fund for Fiscal Year 2021-2022 for purposes of PART III of the measure. Additional funds would be made available to the planning committee through the Department's lease revenues in the designated district.

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. As explained above, the Department has been working with the BDHRA regarding plans for the Banyan Drive area. In fact, two BDHRA staff presently serve on the evaluation committee reviewing proposals submitted under the Department's RFQ/RFP for the two Banyan Drive properties. Additionally, as mentioned above, the Department has procured consultants for Banyan Drive to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After the 2013 legislative session, former Governor Abercrombie approved the formation of a Banyan Drive Task Force that met a number of times to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members included representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and representatives from the Hawaii County Mayor's Office and state legislators also attended the meetings. This informal task force worked well and at limited expense to the State.

**There are practical problems with the bill**

As noted above, the measure allows the Legislature to designate redevelopment districts on public lands. As defined in Section 171-2, HRS, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in the Banyan Drive area of Hilo, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Legislature would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

**The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties**

The bill proposes to deposit 50% of the revenues, income and receipts of the Department from the public lands in the Waiakea Peninsula Redevelopment District into the District's revolving fund. These lands are ceded and the Office of Hawaiian Affairs is currently receiving 20% of the revenues and is seeking to increase its share above the \$15.1 it receives annually. Neither this bill nor the redevelopment agency bills relieve the Department of the lease management duties. Therefore, if these measures were all to pass and become law, the Department would be left in the very unfortunate situation of having to manage all of those leases (bill, collect, inspect, procure and pay for professionals for rental and reopening valuations) but receive nominal revenue in return.

The Department and the Board are responsible for managing approximately 1.3 million acres of public lands comprising sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the Board determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the SLDF, with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophes such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an important source of State match for federally funded endangered species and invasive species initiatives that otherwise would not go forward. The Department opposes transferring funds from the SLDF to planning committees formed under this measure for redevelopment purposes.

**The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under Section 46-80.5 and Chapter 53, HRS.**

The bill seeks to redevelop the infrastructure and facilities within designated redevelopment districts. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements, as evidenced by the County of Hawaii's creation of BDHRA under Chapter 53, HRS. The measure appears to recognize the ability of a Chapter 53 agency to assist in the redevelopment of the Banyan Drive area, but goes too far in delegating authority to such an agency without oversight by the Board to negotiate and enter into a development agreement with a developer for commercial, business, or hotel or resort uses on public lands within a redevelopment area. Moreover, the measure does not explain how a Chapter 53 agency would coordinate with the Waiakea Peninsula Redevelopment District planning committee in formulating a development plan for the area. This could lead to conflicting development goals being established by the planning committee and Chapter 53 for the same lands. In dealings between the Department and BDHRA to date, it has been understood that BDHRA's role would be to develop a plan for the area and possibly assist in streamlining the County zoning and entitlement process for any redevelopment.

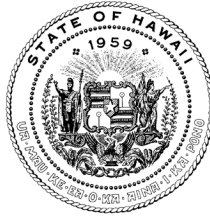
Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by this bill.

Under the authority of Section 46-80.5, HRS, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Finally, Chapter 171, HRS, limits the amount of rent reduction or waiver that a lessee of public lands can receive for redeveloping or improving public lands to one year's rent for land leased for resort, commercial, industrial or other business use. In many cases, a rent reduction or waiver equal to one year of ground rent would be an insufficient incentive to induce a developer to invest in the demolition of aged improvements on and redevelopment of public land, or in the provision of basic infrastructure necessary to facilitate the further development of unimproved public land. The Department supports PART IV of this measure that seeks to authorize the Board to approve a rent reduction or waiver for up to twenty years not to exceed the amount of the lessee's total expenditures for demolition of improvements or provision of infrastructure.

Thank you for the opportunity to comment on this measure.

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Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by this bill.

Under the authority of Section 46-80.5, HRS, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Finally, Chapter 171, HRS, limits the amount of rent reduction or waiver that a lessee of public lands can receive for redeveloping or improving public lands to one year's rent for land leased for resort, commercial, industrial or other business use. In many cases, a rent reduction or waiver equal to one year of ground rent would be an insufficient incentive to induce a developer to invest in the demolition of aged improvements on and redevelopment of public land, or in the provision of basic infrastructure necessary to facilitate the further development of unimproved public land. The Department supports PART IV of this measure that seeks to authorize the Board to approve a rent reduction or waiver for up to twenty years not to exceed the amount of the lessee's total expenditures for demolition of improvements or provision of infrastructure.

Thank you for the opportunity to comment on this measure.

**Kūpuna for the Mo'opuna**  
*committed to the well-being of Hawai'i for the next generations to come*  
kupuna4moopuna@gmail.com



**STOP LEGAL THIEVERY!**

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

Date: Monday, February 8, 2021    Time: 1:00P.M.    Place: Room 229

**Testimony of Kūpuna for the Mo'opuna**

SB 1000 – RELATING TO PUBLIC LANDS.    **COMMENTS**

We, Kūpuna for the Mo'opuna, a group of kūpuna Hawaiian homestead farmers committed to the well-being of Hawai'i for the next generations to come, **provide the following comments on SB 1000.**

With regard to the Waiākea Peninsula Redevelopment District, any rental reductions or waiver for certain lessee's expenses for demolition or provision of basic infrastructure **SHALL NOT in any way reduce or impact any of the 20% income that Native Hawaiians are owed.**

Mahalo.

*Ua mau ke ea o ka 'āina i ka pono!*

February 2, 2021

**The Honorable Lorraine Inouye, Chair**  
Senate Committee on Water & Land  
Via Videoconference

**RE: Senate Bill 1000, Relating to Public Lands**

**HEARING: Monday, February 8, 2021, at 1:00 p.m.**

Aloha Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs Committee, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,000 members. HAR **supports** Senate Bill 1000 which authorizes the designation of areas or regions of public lands classified as commercial, industrial, resort and hotel, and the establishment and implementation of guidelines for the redevelopment of the areas or regions.

The State currently leases state land to many entities for commercial, industrial, hotel and resort purposes. Unfortunately, lessees have virtually no economic incentive to invest in the property within the last 10 to 15 years, knowing their lease will expire. In turn, with uncertainty of one's lease extension, it has led to public lands that are underused and deteriorating.

Many of the circumstances that faced the State of Hawai'i and the City & County of Honolulu when the future of Kaka'ako was at risk can be related to the issues of the Waiakea Peninsula (Banyan Drive) and Kanoelehua Industrial Area. Existing regulations and state policies do not address the needs of Hilo businesses operating on Public Lands resulting in a less-than-thriving commercial zone.

This measure will encourage revitalization of public lands. As a result, from a taxation perspective, this measure will enhance the revenue generating potential of these properties, including increases in the Transient Accommodations Tax from revitalized hotel and resort areas.

Mahalo for the opportunity to testify.

**SB-1000**

Submitted on: 2/5/2021 2:49:09 PM

Testimony for WTL on 2/8/2021 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Miyahira	Individual	Support	No

Comments:

The Waiakea Peninsula can be a much greater economic generator for the City of Hilo and the County of Hawaii. Someone needs to pay attention to it and not let it languish as it does now. Yes, this is another layer of bureaucracy however it would involve local participants whose motivation would be hopefully to get things moving. Anything is better than what we have now.

**LATE**

**SB-1000**

Submitted on: 2/8/2021 5:14:21 PM

Testimony for WTL on 2/8/2021 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James McCully	Individual	Support	No

Comments:

Aloha Chair Inouye,

I write in support of Hilo's future to request your FULL SUPPORT for this vital bill. It has taken many years to get here, and the Banyan Drive leases continue to deteriorate with the exceptions of the two large hotels who have each had their leases extended or renewed. The Banyan Peninsula is the "face" and could easily be the "heart" for tourism in East Hawaii. Your Support for HB467 is an important next step in the process of determining Hilo's future economy to the betterment of both our community and our culture.

Mahalo,

James McCully

Hilo