

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 Committee on  
WATER AND LAND**

**Wednesday, February 2, 2022  
1:00 PM**

**State Capitol, Via Videoconference, Conference Room 229**

**In consideration of  
SENATE BILL 3375  
RELATING TO PUBLIC LANDS**

Senate Bill 3375 proposes to repeal the requirement of Board of Land and Natural Resources (Board) approval for lease extensions in the Hilo Community Economic District and require the Department of Land and Natural Resources (Department) to use the current tax assessed value when offering lease extensions to lessees. **The Department opposes this measure.**

This measure apparently intends to eliminate the ability of the Board to review and approve requests for lease extensions in the Hilo Community Economic District (HCED) on their merits and instead provide for the automatic extension of leases in the HCED based on any application for extension submitted to the Department.<sup>1</sup> The bill goes even further proposing that extended leases in the HCED be exempted from paying fair market rent and instead pay a rent based on the tax assessed value of their leased lands. This bill would take the Department in a completely opposite direction from that recommended in the recently released Final Report of the House Investigative Committee Established under House Resolution 164 [2021].

---

<sup>1</sup> Under current law, a lessee must commit to making substantial improvements to the existing structures on the lease premises to qualify for a lease extension under Section 171-192, Hawaii Revised Statutes (HRS). The term "substantial improvements" is defined in Section 171-191, HRS, to mean, "any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development." But because Senate Bill 3375 proposes to strike the term "substantial improvements" in many places throughout Section 171-92, HRS, it is not clear under the bill that a lessee must even meet the 30% substantial improvement of existing law.

**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

The Board has a statutory and fiduciary duty to collect fair market rents on leases of public lands. There is a narrow exception in the statute for eleemosynary organizations who are Internal Revenue Code 501(c)(1) or (3) non-profit organizations. The Board can approve nominal rents for these lessees who often perform important community services. All other for-profit lessees pay fair market rent as determined by independent appraisal pursuant to Section 171-17, Hawaii Revised Statutes (HRS). Tax assessed values are determined through the use of mass appraisal software used by the respective county tax offices, are not equivalent to market value as determined by a licensed appraiser, and are often well below market rates.

The Department relies on the fair market rents generated by the commercial and industrial leases in the HCED (and elsewhere in the State) to support the operations of the Department. The revenues collected by the Department's Land Division cover the entire annual operating budget for the Land Division, the Department's Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including five positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, wildland firefighting and lifeguard services. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. In addition, the Department has provided lands to other agencies in support of a variety of agricultural, educational, transportation and affordable housing projects, often at the expense of generating revenue to support its own programs.

This bill would hamstring the Board's ability to fulfill its public trust obligations and relegate the Department to a "rubber stamp" approver of any lease extension application under Section 171-192, HRS. The improvements proposed in lease extension applications need to be scrutinized carefully to ensure that they actually constitute valuable improvements to the property and not routine maintenance work that has been deferred. Moreover, another lease extension law passed last year, Act 236, Session Laws of Hawaii 2021, garnered significant public attention as it worked its way through the legislative process with strong opinions expressed about long-term extensions of leases of public lands. The Department believes that the best practice is to present lease extension requests to the Board at open, public meetings so that the public has an opportunity to testify. For every lessee of public lands who believes it is entitled to a lease extension at discounted rental rates, there are many opposing views including those of observers who would like to see the land returned to the State with improvements at the end of the original lease term or who would charge a premium to the lessee as a condition to a lease extension.

The House Investigative Committee Investigating Compliance with Audit Nos. 19-12 and 21-01 (Committee) explored these and other issues relating to lease extensions in the Kanoiehua Industrial Area (which is part of the HCED) and issued a number of findings and recommendations in its report. The Committee's recommendations include that the Legislature should make statutory changes to ensure not only that the Department receive fair market rent on lease extensions, but that it share in sublease rents, charge a premium for the extension, and

preclude lessees from disputing rents determined by appraisal for the extension period.<sup>2</sup> Following is an excerpt from the report:

For DLNR, the Committee recommends that the Legislature:

(1) Make consistent the various lease extension statutory language in Chapter 171, Hawaii Revised Statutes (HRS), specifically by:

(A) Allowing all types of leases to be extended, but requiring that all lease extensions, regardless of whether those leases were obtained through direct negotiation or the public auction process, use the most current lease form and leasing practices and policies, including provisions to allow the State to be paid its fair share of sublease income;

(B) Allowing the State to charge rent premiums on extended leases to compensate the State for forgoing the reversionary interest and incorporate the value of the improvements on the property; and

(C) Requiring a lessee to pay for the appraisal required for the reopening of rent in the extended lease term and precluding the lessee from protesting the rent so determined . . . .

There is no compelling justification to grant the commercial/industrial lessees in the HCED a special dispensation for subsidized rent contrary to the recommendations in the Committee's report. Lessees of public lands everywhere else in the State will continue to be required to pay fair market rent for their leases. The Department respectfully requests this bill be held.

Thank you for the opportunity to comment on this measure.

---

<sup>2</sup> The Department notes that if legislation were passed to enact this latter recommendation, it would address the concerns expressed in the preamble to the bill about delays associated with disputes over lease rents in the extension period.

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 Committee on  
WATER AND LAND**

**Wednesday, February 2, 2022  
1:00 PM**

**State Capitol, Via Videoconference, Conference Room 229**

**In consideration of  
SENATE BILL 3375  
RELATING TO PUBLIC LANDS**

Senate Bill 3375 proposes to repeal the requirement of Board of Land and Natural Resources (Board) approval for lease extensions in the Hilo Community Economic District and require the Department of Land and Natural Resources (Department) to use the current tax assessed value when offering lease extensions to lessees. **The Department opposes this measure.**

This measure apparently intends to eliminate the ability of the Board to review and approve requests for lease extensions in the Hilo Community Economic District (HCED) on their merits and instead provide for the automatic extension of leases in the HCED based on any application for extension submitted to the Department.<sup>1</sup> The bill goes even further proposing that extended leases in the HCED be exempted from paying fair market rent and instead pay a rent based on the tax assessed value of their leased lands. This bill would take the Department in a completely opposite direction from that recommended in the recently released Final Report of the House Investigative Committee Established under House Resolution 164 [2021].

---

<sup>1</sup> Under current law, a lessee must commit to making substantial improvements to the existing structures on the lease premises to qualify for a lease extension under Section 171-192, Hawaii Revised Statutes (HRS). The term "substantial improvements" is defined in Section 171-191, HRS, to mean, "any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development." But because Senate Bill 3375 proposes to strike the term "substantial improvements" in many places throughout Section 171-92, HRS, it is not clear under the bill that a lessee must even meet the 30% substantial improvement of existing law.

**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

The Board has a statutory and fiduciary duty to collect fair market rents on leases of public lands. There is a narrow exception in the statute for eleemosynary organizations who are Internal Revenue Code 501(c)(1) or (3) non-profit organizations. The Board can approve nominal rents for these lessees who often perform important community services. All other for-profit lessees pay fair market rent as determined by independent appraisal pursuant to Section 171-17, Hawaii Revised Statutes (HRS). Tax assessed values are determined through the use of mass appraisal software used by the respective county tax offices, are not equivalent to market value as determined by a licensed appraiser, and are often well below market rates.

The Department relies on the fair market rents generated by the commercial and industrial leases in the HCED (and elsewhere in the State) to support the operations of the Department. The revenues collected by the Department's Land Division cover the entire annual operating budget for the Land Division, the Department's Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including five positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, wildland firefighting and lifeguard services. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. In addition, the Department has provided lands to other agencies in support of a variety of agricultural, educational, transportation and affordable housing projects, often at the expense of generating revenue to support its own programs.

This bill would hamstring the Board's ability to fulfill its public trust obligations and relegate the Department to a "rubber stamp" approver of any lease extension application under Section 171-192, HRS. The improvements proposed in lease extension applications need to be scrutinized carefully to ensure that they actually constitute valuable improvements to the property and not routine maintenance work that has been deferred. Moreover, another lease extension law passed last year, Act 236, Session Laws of Hawaii 2021, garnered significant public attention as it worked its way through the legislative process with strong opinions expressed about long-term extensions of leases of public lands. The Department believes that the best practice is to present lease extension requests to the Board at open, public meetings so that the public has an opportunity to testify. For every lessee of public lands who believes it is entitled to a lease extension at discounted rental rates, there are many opposing views including those of observers who would like to see the land returned to the State with improvements at the end of the original lease term or who would charge a premium to the lessee as a condition to a lease extension.

The House Investigative Committee Investigating Compliance with Audit Nos. 19-12 and 21-01 (Committee) explored these and other issues relating to lease extensions in the Kanoiehua Industrial Area (which is part of the HCED) and issued a number of findings and recommendations in its report. The Committee's recommendations include that the Legislature should make statutory changes to ensure not only that the Department receive fair market rent on lease extensions, but that it share in sublease rents, charge a premium for the extension, and

preclude lessees from disputing rents determined by appraisal for the extension period.<sup>2</sup> Following is an excerpt from the report:

For DLNR, the Committee recommends that the Legislature:

(1) Make consistent the various lease extension statutory language in Chapter 171, Hawaii Revised Statutes (HRS), specifically by:

(A) Allowing all types of leases to be extended, but requiring that all lease extensions, regardless of whether those leases were obtained through direct negotiation or the public auction process, use the most current lease form and leasing practices and policies, including provisions to allow the State to be paid its fair share of sublease income;

(B) Allowing the State to charge rent premiums on extended leases to compensate the State for forgoing the reversionary interest and incorporate the value of the improvements on the property; and

(C) Requiring a lessee to pay for the appraisal required for the reopening of rent in the extended lease term and precluding the lessee from protesting the rent so determined . . . .

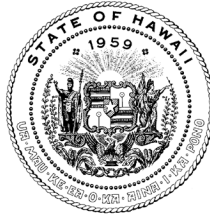
There is no compelling justification to grant the commercial/industrial lessees in the HCED a special dispensation for subsidized rent contrary to the recommendations in the Committee's report. Lessees of public lands everywhere else in the State will continue to be required to pay fair market rent for their leases. The Department respectfully requests this bill be held.

Thank you for the opportunity to comment on this measure.

---

<sup>2</sup> The Department notes that if legislation were passed to enact this latter recommendation, it would address the concerns expressed in the preamble to the bill about delays associated with disputes over lease rents in the extension period.

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 Committee on  
WATER AND LAND**

**Wednesday, February 2, 2022  
1:00 PM**

**State Capitol, Via Videoconference, Conference Room 229**

**In consideration of  
SENATE BILL 3375  
RELATING TO PUBLIC LANDS**

Senate Bill 3375 proposes to repeal the requirement of Board of Land and Natural Resources (Board) approval for lease extensions in the Hilo Community Economic District and require the Department of Land and Natural Resources (Department) to use the current tax assessed value when offering lease extensions to lessees. **The Department opposes this measure.**

This measure apparently intends to eliminate the ability of the Board to review and approve requests for lease extensions in the Hilo Community Economic District (HCED) on their merits and instead provide for the automatic extension of leases in the HCED based on any application for extension submitted to the Department.<sup>1</sup> The bill goes even further proposing that extended leases in the HCED be exempted from paying fair market rent and instead pay a rent based on the tax assessed value of their leased lands. This bill would take the Department in a completely opposite direction from that recommended in the recently released Final Report of the House Investigative Committee Established under House Resolution 164 [2021].

---

<sup>1</sup> Under current law, a lessee must commit to making substantial improvements to the existing structures on the lease premises to qualify for a lease extension under Section 171-192, Hawaii Revised Statutes (HRS). The term "substantial improvements" is defined in Section 171-191, HRS, to mean, "any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development." But because Senate Bill 3375 proposes to strike the term "substantial improvements" in many places throughout Section 171-92, HRS, it is not clear under the bill that a lessee must even meet the 30% substantial improvement of existing law.

**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

The Board has a statutory and fiduciary duty to collect fair market rents on leases of public lands. There is a narrow exception in the statute for eleemosynary organizations who are Internal Revenue Code 501(c)(1) or (3) non-profit organizations. The Board can approve nominal rents for these lessees who often perform important community services. All other for-profit lessees pay fair market rent as determined by independent appraisal pursuant to Section 171-17, Hawaii Revised Statutes (HRS). Tax assessed values are determined through the use of mass appraisal software used by the respective county tax offices, are not equivalent to market value as determined by a licensed appraiser, and are often well below market rates.

The Department relies on the fair market rents generated by the commercial and industrial leases in the HCED (and elsewhere in the State) to support the operations of the Department. The revenues collected by the Department's Land Division cover the entire annual operating budget for the Land Division, the Department's Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including five positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, wildland firefighting and lifeguard services. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. In addition, the Department has provided lands to other agencies in support of a variety of agricultural, educational, transportation and affordable housing projects, often at the expense of generating revenue to support its own programs.

This bill would hamstring the Board's ability to fulfill its public trust obligations and relegate the Department to a "rubber stamp" approver of any lease extension application under Section 171-192, HRS. The improvements proposed in lease extension applications need to be scrutinized carefully to ensure that they actually constitute valuable improvements to the property and not routine maintenance work that has been deferred. Moreover, another lease extension law passed last year, Act 236, Session Laws of Hawaii 2021, garnered significant public attention as it worked its way through the legislative process with strong opinions expressed about long-term extensions of leases of public lands. The Department believes that the best practice is to present lease extension requests to the Board at open, public meetings so that the public has an opportunity to testify. For every lessee of public lands who believes it is entitled to a lease extension at discounted rental rates, there are many opposing views including those of observers who would like to see the land returned to the State with improvements at the end of the original lease term or who would charge a premium to the lessee as a condition to a lease extension.

The House Investigative Committee Investigating Compliance with Audit Nos. 19-12 and 21-01 (Committee) explored these and other issues relating to lease extensions in the Kanoiehua Industrial Area (which is part of the HCED) and issued a number of findings and recommendations in its report. The Committee's recommendations include that the Legislature should make statutory changes to ensure not only that the Department receive fair market rent on lease extensions, but that it share in sublease rents, charge a premium for the extension, and



preclude lessees from disputing rents determined by appraisal for the extension period.<sup>2</sup> Following is an excerpt from the report:

For DLNR, the Committee recommends that the Legislature:

(1) Make consistent the various lease extension statutory language in Chapter 171, Hawaii Revised Statutes (HRS), specifically by:

(A) Allowing all types of leases to be extended, but requiring that all lease extensions, regardless of whether those leases were obtained through direct negotiation or the public auction process, use the most current lease form and leasing practices and policies, including provisions to allow the State to be paid its fair share of sublease income;

(B) Allowing the State to charge rent premiums on extended leases to compensate the State for forgoing the reversionary interest and incorporate the value of the improvements on the property; and

(C) Requiring a lessee to pay for the appraisal required for the reopening of rent in the extended lease term and precluding the lessee from protesting the rent so determined . . . .

There is no compelling justification to grant the commercial/industrial lessees in the HCED a special dispensation for subsidized rent contrary to the recommendations in the Committee's report. Lessees of public lands everywhere else in the State will continue to be required to pay fair market rent for their leases. The Department respectfully requests this bill be held.

Thank you for the opportunity to comment on this measure.

---

<sup>2</sup> The Department notes that if legislation were passed to enact this latter recommendation, it would address the concerns expressed in the preamble to the bill about delays associated with disputes over lease rents in the extension period.

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  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
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

Wednesday, February 2, 2022  
1:00 PM

State Capitol, Via Videoconference, Conference Room 229

In consideration of  
SENATE BILL 3375  
RELATING TO PUBLIC LANDS

Senate Bill 3375 proposes to repeal the requirement of Board of Land and Natural Resources (Board) approval for lease extensions in the Hilo Community Economic District and require the Department of Land and Natural Resources (Department) to use the current tax assessed value when offering lease extensions to lessees. **The Department opposes this measure.**

This measure apparently intends to eliminate the ability of the Board to review and approve requests for lease extensions in the Hilo Community Economic District (HCED) on their merits and instead provide for the automatic extension of leases in the HCED based on any application for extension submitted to the Department.<sup>1</sup> The bill goes even further proposing that extended leases in the HCED be exempted from paying fair market rent and instead pay a rent based on the tax assessed value of their leased lands. This bill would take the Department in a completely opposite direction from that recommended in the recently released Final Report of the House Investigative Committee Established under House Resolution 164 [2021].

---

<sup>1</sup> Under current law, a lessee must commit to making substantial improvements to the existing structures on the lease premises to qualify for a lease extension under Section 171-192, Hawaii Revised Statutes (HRS). The term "substantial improvements" is defined in Section 171-191, HRS, to mean, "any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds thirty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development." But because Senate Bill 3375 proposes to strike the term "substantial improvements" in many places throughout Section 171-92, HRS, it is not clear under the bill that a lessee must even meet the 30% substantial improvement of existing law.

The Board has a statutory and fiduciary duty to collect fair market rents on leases of public lands. There is a narrow exception in the statute for eleemosynary organizations who are Internal Revenue Code 501(c)(1) or (3) non-profit organizations. The Board can approve nominal rents for these lessees who often perform important community services. All other for-profit lessees pay fair market rent as determined by independent appraisal pursuant to Section 171-17, Hawaii Revised Statutes (HRS). Tax assessed values are determined through the use of mass appraisal software used by the respective county tax offices, are not equivalent to market value as determined by a licensed appraiser, and are often well below market rates.

The Department relies on the fair market rents generated by the commercial and industrial leases in the HCED (and elsewhere in the State) to support the operations of the Department. The revenues collected by the Department's Land Division cover the entire annual operating budget for the Land Division, the Department's Office of Conservation and Coastal Lands, and the Dam Safety and Mineral Resources Programs of the Department. The revenues fund over 80 Department staff positions, including five positions within the Commission on Water Resource Management, and provide funding support to the Division of State Parks and various resource protection programs administered by the Division of Forestry and Wildlife such as the protection of threatened and endangered species, removal of invasive species, wildland firefighting and lifeguard services. Revenues collected by other divisions have supported watershed protection, preservation of cultural and historical sites and public recreational resources. In addition, the Department has provided lands to other agencies in support of a variety of agricultural, educational, transportation and affordable housing projects, often at the expense of generating revenue to support its own programs.

This bill would hamstring the Board's ability to fulfill its public trust obligations and relegate the Department to a "rubber stamp" approver of any lease extension application under Section 171-192, HRS. The improvements proposed in lease extension applications need to be scrutinized carefully to ensure that they actually constitute valuable improvements to the property and not routine maintenance work that has been deferred. Moreover, another lease extension law passed last year, Act 236, Session Laws of Hawaii 2021, garnered significant public attention as it worked its way through the legislative process with strong opinions expressed about long-term extensions of leases of public lands. The Department believes that the best practice is to present lease extension requests to the Board at open, public meetings so that the public has an opportunity to testify. For every lessee of public lands who believes it is entitled to a lease extension at discounted rental rates, there are many opposing views including those of observers who would like to see the land returned to the State with improvements at the end of the original lease term or who would charge a premium to the lessee as a condition to a lease extension.

The House Investigative Committee Investigating Compliance with Audit Nos. 19-12 and 21-01 (Committee) explored these and other issues relating to lease extensions in the Kanoiehua Industrial Area (which is part of the HCED) and issued a number of findings and recommendations in its report. The Committee's recommendations include that the Legislature should make statutory changes to ensure not only that the Department receive fair market rent on lease extensions, but that it share in sublease rents, charge a premium for the extension, and

preclude lessees from disputing rents determined by appraisal for the extension period.<sup>2</sup> Following is an excerpt from the report:

For DLNR, the Committee recommends that the Legislature:

(1) Make consistent the various lease extension statutory language in Chapter 171, Hawaii Revised Statutes (HRS), specifically by:

(A) Allowing all types of leases to be extended, but requiring that all lease extensions, regardless of whether those leases were obtained through direct negotiation or the public auction process, use the most current lease form and leasing practices and policies, including provisions to allow the State to be paid its fair share of sublease income;

(B) Allowing the State to charge rent premiums on extended leases to compensate the State for forgoing the reversionary interest and incorporate the value of the improvements on the property; and

(C) Requiring a lessee to pay for the appraisal required for the reopening of rent in the extended lease term and precluding the lessee from protesting the rent so determined . . . .

There is no compelling justification to grant the commercial/industrial lessees in the HCED a special dispensation for subsidized rent contrary to the recommendations in the Committee's report. Lessees of public lands everywhere else in the State will continue to be required to pay fair market rent for their leases. The Department respectfully requests this bill be held.

Thank you for the opportunity to comment on this measure.

---

<sup>2</sup> The Department notes that if legislation were passed to enact this latter recommendation, it would address the concerns expressed in the preamble to the bill about delays associated with disputes over lease rents in the extension period.



1/30/2022

SENATE COMMITTEE ON WATER AND LAND

Senator Lorraine Inouye, Chair

Senator Gilbert Keith-Agaran, Vice Chair

RE: Testimony in Support of SB3375

Aloha Chair Inouye, Vice Chair Agaran, and members of the Committee,

Thank you for the opportunity to express HPM Building Supply's support of SB3375 relating to public lands, which repeals the requirement for BLNR approval for lease extensions in the Hilo Community Economic District and also requires the DLNR to use the current tax assessed value when offering lease extensions to lessees.

HPM is proud to be over 100 years old and we have a long tradition in Hawai'i of serving our community. Today we are 100% employee-owned, and have over 450 owner-employees across all 4 major islands. Our guiding philosophy is to help Hawai'i build better and live better by enhancing homes, improving lives, and transforming communities. As such, with the community's best interest at heart, we feel compelled to show our support for items that will make a positive difference in Hawaii.

Although HPM will not currently benefit by the passage of this bill, we feel compelled to show support for the benefit of other lessees in the Hilo community economic district. Since Governor Ige signed SB3058 in the summer of 2018 (and Act 149 became law) allowing lease extensions with substantial improvements, at current time, only 1 Hilo lessee has obtained its lease extension. HPM is very close to receiving what we hope is a final draft of our new lease and extension, which has been a 3-year endeavor. With this bill, our hope is other lessees will not have to spend the same amount of time, energy and costs in extending their lease.

We respectfully ask for your support of SB3375. Mahalo for the opportunity to submit testimony.

Sincerely,

Jason Fujimoto, President & CEO





SENATE COMMITTEE ON WATER AND LAND  
Wednesday, February 2, 2022, 1 pm, State Capitol Room 229 & Videoconference  
SB 3375

Relating to Public Lands

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Inouye and Committee Members:

**The League of Women Voters of Hawaii opposes SB 3375.**

The League supports public planning for redevelopment of public lands and transparent, competitive procedures for the **BLNR** to award long-term commercial leases on public lands. It is simply, obviously wrong to encourage existing lessees of public lands to “play politics” to gain special unfair treatment. The Legislature should reject all proposals to establish different criteria and/or procedures for lease of public lands in Hilo than for lease of public lands in other parts of the State. And we take the same position concerning lease of public lands at other locations.

Thank you for the opportunity to submit testimony.

**SB-3375**

Submitted on: 1/31/2022 12:59:22 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Kerry A. Umamoto	Testifying for Hilo Fish Company	Support	No

Comments:

TO Committee Chairs,

I am writing in support of SB3375 in regards to Hilo Lease extension process. I agree that the process of using tax assessed value is a good way in determining lease rent structure.

**Big Island Toyota, Inc.  
De Luz Chevrolet**

February 1, 2022

LATE TESTIMONY IN SUPPORT OF SB 3375  
RELATING TO PUBLIC LANDS

SENATE COMMITTEE WTL  
HONORABLE CHAIR SENATOR LORRAINE INOUE

Aloha Senator:

We STRONGLY support the passage of SB 3375, which would facilitate the implementation of Act 149, 2018. We are a locally owned family business in Hilo and on the Big Island for more than 65 years and a long term KIAA lessee. When the Legislature debated and passed to the Governor SB 3058, 2018, a bill which you helped introduce, we were encouraged because this bill addressed the intent to resolve these longstanding problems in the Kanoelehua Industrial area (HCED).

As is addressed in Section 1 of this bill the implementation of ACT 149, has been slow and difficult. It's been almost 4 years since Governor Ige's endorsement and commitment to Act 149 in 2018. When he stood in front of HPM's headquarters and pledged his administrations complete support for the HCED none of us expected that in 2022 there would be only one successful extension of a lease.

We in the HCED appreciate this bills intent to improve the implementation of Act 149. With the previous three years of low interest rates not having been taken advantage of to fund the substantial improvements required in the Act the lessee's have been harmed through these delays. No one can predict the future interest rate environment, but every business knows that you do things when you can. We have not been able to utilize Act 149 and it's long past due to revitalize Hilo starting with our industrial area, the Hilo Community Economic District.

I sincerely apology for my lateness in submitting this testimony would GREATLY APPRECIATE you support SB 3375.

Mahalo,



David S. De Luz, Jr.

Vice President

808-895-4284

Email: [djr@teamedeluz.com](mailto:djr@teamedeluz.com)

811 Kanoelehua Avenue, Hilo, HI 96720



**SB-3375**

Submitted on: 1/30/2022 4:07:20 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Bronson Azama	Individual	Oppose	Yes

Comments:

This sets a bad precedent for the future of Public Lands. What is to limit this special treatment from being sought after by others with private interests. This is part of the larger fallout of HB499 and I oppose this as it will silence our voices and not allow due process to occur. The lands impacted should this precedent be set will include seized Hawaiian Government and Crown Lands, these are Public Trust lands that will now be at risk of being puppeteered by private interests. We should have the opportunity to speak towards who gets these lease extensions for they have the potential to bypass several generations from being able to raise their concerns if there are any.

Some red tape is meant to be there. Please vote no on this bill

**SB-3375**

Submitted on: 2/1/2022 11:23:14 AM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
James McCully	Individual	Support	Yes

Comments:

Aloha Chair,

I submitted testimony in Strong Support of SB3375. I note the Committee deferred hearing the bill until Wed, Feb 2. When I checked my submitted testimony list my submission was not listed.

So, I am resubmitting now. Please remove if it is redundant,

Mahalo,

Jim McCully

**SB-3375**

Submitted on: 2/1/2022 12:24:35 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Ronald Kim	Individual	Support	No

Comments:

Dear Senate Committee on Water and Land,

Thank you for providing the opportunity to testify in support of SB 3375. I am a partner in a law firm based in Hilo and we represent several lessees in the Hilo Community Economic District seeking lease extensions under Act 149, but I am submitting this testimony on my own individual behalf as a resident of Hilo.

I whole-heartedly support the intent of SB 3375, which seeks to streamline the lease extension process by allowing lessees to seek extensions directly from the Department, rather than the Board, and which establishes the value of leased land. These procedures will give clarity to and fine-tune the process to implement Act 149 (2018), which was laudable legislation but has not been implemented as hoped.

As set forth in both Act 149 and SB 3375, Hilo has faced a number of economic challenges that the State can help alleviate with this legislation. The State is a large landowner in Hilo and can have a significantly positive effect in helping to revive the economy and revitalize properties that the State has been leasing by incentivizing substantial improvements to the structures on properties originally built by lessees. The lessees are predominantly small business that are critical to Hilo's economy and provide vital services to residents. Giving these lessees certainty and reassurances that the lease extension process is a viable option will encourage these lessees to participate in the program to undertake substantial improvements. These improvements will directly benefit and increase the longevity of structures and overall values of leased properties, along with providing economic and aesthetic capabilities and incentives for the betterment of the overall Hilo community.

The lessees who have sought lease extensions to date have encountered a number of delays, which have deterred other lessees from participating in this process. It is very beneficial to streamline the process to reduce delays. Specifying the value of properties will make the process of determining rental value much more efficient and certain.

Thank you for your time and consideration of SB 3375 and this testimony in support thereof.

Sincerely,

Ron Kim



**SB-3375**

Submitted on: 1/28/2022 7:33:53 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Michael Nakashima	Individual	Support	No

Comments:

I support this bill because the land division is taking so long to process our lease extension . I've applied for this application on the beginning of February of 2021. Haven't heard anything from DLNR yet. Somebody needs to explain why they are stalling so long. Someone should be accountable for this action. Again, I support this bill greatly

**SB-3375**

Submitted on: 1/29/2022 1:11:37 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
alan nagakura	Individual	Support	No

Comments:

Hello Senator Inouye,

I support the passage of SB3375. Our business is located within the KIAA area.

With the long delays we are already working with an expired lease. DLNR has graciously allowed us to continue on a month to month basis which feels quite precarious so we hope that something can be done for us to carry on our good work.

Please support SB3375.

Respectfully yours,

Alan Nagakura, DVM

**SB-3375**

Submitted on: 1/29/2022 2:43:22 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Rodrigo Romo	Individual	Support	No

Comments:

Aloha Kakou:

I am submitting testimony in support of this Bill. The last two years have shown how delicate the economy in Hawaii is due to its strong dependency on tourism. It is important to provide support to local businesses and commerce to enable them to strengthen our economy

. This Bill would facilitate the implementation of Act 149, 2018

Mahalo

**SB-3375**

Submitted on: 1/30/2022 10:33:47 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Grace Bezilla	Individual	Oppose	No

Comments:

I oppose this bill.



**SB-3375**

Submitted on: 1/31/2022 6:07:26 AM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Michael Shewmaker	Individual	Support	No

Comments:

**SB-3375**

Submitted on: 1/31/2022 6:14:04 AM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Tara Rojas	Individual	Oppose	No

Comments:

Lawmakers-Legislators: STOP taking, stEAling, and dEAling Hawaiian Lands. Hawaiian Lands are FOR HAWAIIANS.

**SB-3375**

Submitted on: 1/31/2022 10:11:43 AM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Sherry Shimizu	Individual	Oppose	No

Comments:

Do not exploit Hawaiian people any further! This stops now.

**SB-3375**

Submitted on: 1/31/2022 5:47:12 PM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Elizabeth Hansen	Individual	Oppose	No

Comments:

I am a registered voter in Hakalau HI 96710.

Please oppose this bill. Mahalo

**SB-3375**

Submitted on: 2/1/2022 10:09:00 AM

Testimony for WTL on 2/2/2022 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Elly Sprintz	Individual	Oppose	No

Comments:

I OPPOSE SB3375!



# Hawai'i Island Chamber of Commerce

1321 Kino'ole Street  
Hilo, Hawai'i 96720  
Phone: (808) 935-7178  
Fax: (808) 961-4435  
E-mail: [admin@hicc.biz](mailto:admin@hicc.biz)  
[www.hicc.biz](http://www.hicc.biz)

February 1, 2022

Hawaii State Senate Committee on Water and Land  
Senator Lorraine Inouye, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair

**LATE**

## Testimony in Support of SB3375 Relating to Public Lands

The Hawai'i Island Chamber of Commerce (HICC) expresses our strong support for SB3375 and strongly believes it will ensure the long-term survival of businesses that are vital to our community.

Many of the businesses established in the Kanoelehua Industrial Area after the devastating 1960 tsunami that ravaged Hilo are soon facing expiring leases. Without extensions, businesses would be unable to secure financing to invest in their properties and would be forced to close at the end of their lease. SB3375 will help ensure the long-term maintenance of public lands so that they continue to generate much needed revenue for the state.

SB3375 will also protect the jobs provided by the many businesses across the state that sit on public land. Not only are current jobs protected by this measure, but future jobs will be created. This measure will help ensure that business owners who continually make investments to their properties will create jobs in construction, landscaping, HVAC, engineering and the many other peripheral industries that count on these businesses to thrive. These jobs are especially important to our neighbor island communities where every opportunity to create jobs must be considered.

Also facing economic challenges are the businesses along Banyan Drive area in East Hawaii, Wailoa State Park and the Wailoa Estuary. Businesses on many of those lands are hesitant to make major improvements due to the uncertainty of their continued tenancy.

The Hawai'i Island Chamber of Commerce will continue to advocate for our member businesses and support efforts such as SB3375 that ensure the vibrancy of our community. We respectfully urge you to pass this measure.