

STAND. COM. REP. NO. 466

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 1195
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 1195 entitled:

"A BILL FOR AN ACT RELATING TO WAIAHOLE VALLEY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Hawaii Housing Finance and Development Corporation to offer five-year lease extensions to certain Waiahole Valley lessees at current terms; and
- (2) Require the Hawaii Housing Finance and Development Corporation to submit a report to the Legislature regarding whether a different entity should manage Waiahole Valley.

Your Committee received testimony in support of this measure from the Environmental Caucus of the Democratic Party of Hawai'i, seven individuals, and a form letter signed by ten individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General. Your Committee received comments on this measure from the Hawaii Housing Finance and Development Corporation and one individual.

Your Committee finds that in November 1977, the State of Hawaii acquired seven hundred ninety-five acres of land in



Waiahole Valley from Elizabeth Low McCandless Marks. In 1998, the State, as lessor, entered into long-term agricultural and residential leases for lands within the valley. The Hawaii Housing Finance and Development Corporation (HHFDC) is the current lessor of ninety-two long-term ground leases for residential, agricultural, and commercial lots within the Waiahole subdivision.

Your Committee finds that the initial twenty-five-year term of the leases will end on June 29, 2023, and the lessees and HHFDC currently are in negotiations to establish increased rents for the next term of fifteen years. Your Committee further finds that the HHFDC's initial offer for the next term of the lease proposes to increase lease rents by approximately 6.6 times the current rates. While a rental rate of 6.6 times the current rate is estimated to be below the current market rate, the increase would mean that many farmers leasing more than ten acres would be forced to pay thousands of dollars in additional rent per year.

Your Committee also finds that there is no law or policy that requires the HHFDC to increase rent. Your Committee further finds that leasing land is not within the primary mission of the HHFDC, nor is supporting agriculture. Therefore, this measure requires the HHFDC to offer five-year lease extensions to certain Waiahole Valley lessees at current terms and requires the HHFDC to submit a report to the Legislature regarding whether a different entity should manage Waiahole Valley.

Your Committee has heard the testimony of the Department of the Attorney General, expressing concerns that section 2 of this measure is special legislation under article XI, section 5, of the Hawaii State Constitution, which provides, "The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof." The Department testified that because this measure targets lessees in a specific geographical region, creating an illusory class that is unlikely to consist of any members other than those presently targeted, it may be unconstitutional.

Therefore, your Committee has amended this measure by:



- (1) Deleting the requirement that the HHFDC provide a five-year lease extension at the current rate to lessees whose lease is set to expire before 2028, and instead requiring the HHFDC to submit a report to the Legislature on the progress and ultimate outcome of the ongoing lease rent renegotiations;
- (2) Amending section 1 to reflect its amended purpose;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1195, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.


Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUÉ, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 1195	Committee Referral: WTL, WAM/JDC	Date: 02/15/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.	✓			
FEVELLA, Kurt		✓		
TOTAL	4	1	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes