



SB298
RELATING TO THE HAWAII EMERGENCY MANAGEMENT AGENCY
Senate Committee on Ways and Means

February 22, 2023

9:30 AM

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB298, which would amend the definition of “public lands” to no longer include lands that the Hawai‘i Emergency Management Agency (HIEMA) owns. **OHA has concerns that this measure would facilitate the permanent alienation of public land trust lands from which OHA receives a pro rata share for the betterment of conditions of Native Hawaiians.**¹

OHA wishes to emphasize that over the years, the public land trust has been gradually eroded to afford a ‘work-around’ for public entities to own lands outside of the jurisdiction of the Department of Land and Natural Resources (DLNR). The unintentional consequences of this erosion directly result in the undermining of the State’s trust obligations to the Native Hawaiian people – one of the most critical of these obligations being the appropriation of adequate funding to address, in significant part, the inequities and disparities faced by Native Hawaiians.

If HIEMA can acquire public lands and then those lands become alienated through this measure’s proposal, then it would be to the detriment of the Native Hawaiian people. Should the Legislature proceed with this measure, OHA offers the following amendment, which would mitigate OHA concerns:

(16) Lands to which the Hawaii Emergency Management Company hold title, except for crown and government lands commonly referred to as “ceded lands” that were conveyed to the State by virtue of section 5(b) and 5(f) of the Act of March 18, 1959 (73 Stat. 4, the Admissions Act).

OHA appreciates this opportunity to provide comments on SB298 and respectfully asks the Legislature to uphold its obligations to the Native Hawaiian people. Mahalo nui loa.

¹ Pub. L. 86-3, 73 Stat. 4; Hawai‘i Admissions Act of 1959; Haw. Stat. Con. Article XII, Sec. 4-6 (1978).



**Hawaiian
Electric**

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WAYS AND MEANS**

**SB 298
Relating to the Hawaii Emergency Management Agency**

Wednesday, February 22, 2023
10:00 am, Agenda Item #5
State Capitol, Conference Room 211

Dave Nagata
Land Agent
Hawaiian Electric

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

My name is Dave Nagata and I am testifying on behalf of Hawaiian Electric with concerns on SB 298 as currently drafted, and offering suggested amendments.

Hawaiian Electric believes that the redundancies in this bill may impact the rights already afforded to the state and county governments, their agencies, and certain public utilities with the right to acquire public and private property through the exercise of condemnation. Hawaiian Electric believes that this bill can be amended to suit the needs of the Hawai'i Emergency Management Agency (HI-EMA) without creating such legislative redundancy.

As an agency of the State, HI-EMA has a preexisting right to acquire private and public property under HRS Chapter 101. However, HI-EMA's possession of public property is subject to HRS §101-53, which enables another state or county agency to appropriate HI-EMA's public property if that other entity's need for the public property held by HI-EMA is "more necessary than the purpose to which it has already been appropriated." SB 298 addresses this risk by providing that public property acquired by

HI-EMA “shall not thereafter be taken for any other public use without the consent of the agency.”

Since HI-EMA’s right to acquire private and public property is already codified under HRS Chapter 101, SB 298 should only address the above latter concern. Based on the foregoing, Hawaiian Electric proposes that SB 298’s proposed amendment to HRS §127A-3 be amended as follows:

On page 5, starting on line 16 (suggested amendments are bolded and underlined or stricken):

(f) Except as otherwise limited by this chapter, the agency may acquire or contract to acquire by grant or purchase any real, personal, or mixed property or any interest therein for its immediate or future use for the purposes of this chapter; own, hold, improve, and rehabilitate any real, personal, or mixed property acquired; and sell, assign, exchange, transfer, convey, lease or otherwise dispose of, or encumber the same. ~~The agency, upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, including No~~ property acquired by the agency that was already devoted to a public use at the time of its acquisition by the agency. ~~Such property~~ shall ~~not~~ thereafter be taken for any public use without the consent of the agency.

Thank you for this opportunity to testify.



LATE

Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Cade Watanabe, Senior Vice-President

February 21, 2023

Committee on Ways and Means
Senator Donovan Dela Cruz, Chair
Senator Gilbert Keith-Agaran, Vice Chair

Testimony in opposition to SB 298

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee,

UNITE HERE Local 5 represents working people throughout Hawaii's hotel, food service and health care industries. **We oppose SB 298** because we believe that it is bad policy to expand the power of state agencies to sell public land, particularly if the public does not receive adequate notice and if it is not sold via a public process that which is already provided for in detail in HRS 171. We do not oppose the Hawaii Emergency Management Agency holding land or even buying land, but selling land that is owned by the public, potentially for private gain, is highly problematic. Allowing public agencies to sell public land with minimal oversight opens the door for corruption and deals that are not in the public's best interest.

Thank you for your consideration.

SB-298

Submitted on: 2/17/2023 11:26:21 AM

Testimony for WAM on 2/22/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Nani	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair, Vice Chair and members of the committee,

My name is Nani and I am in opposition of SB298 with comments. Public trust is a huge issue with government and language such as this should be **alarming**:

"(f) Except as otherwise limited by this chapter, the agency may acquire or contract to acquire by grant or purchase any real, personal, or mixed property or any interest therein for its immediate or future use for the purposes of this Chapter; own, hold, improve, and rehabilitate any real, personal, or mixed property acquired; and sell, assign, exchange, transfer, convey, lease or otherwise dispose of, or encumber the same. The agency, upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this chapter, may acquire the property by condemnation pursuant to chapter 101, including property already devoted to a public use. Such property shall not thereafter be taken for any other public use without the consent of the agency"

I am in strong opposition to this as this is a huge over reach of power. There should be no process that alienates any of the following: PUBLIC TRUST and the culture of our ability to work together in time of crisis along with the alienation of other department such as Utility companies (elect/water) and not to mention OHA & DHHL. In addition, this appears to violate the Hawaiian Homes Commission Act 1920 and could result in inappropriate transfers of titles.

Mahalo for you time,

Nani