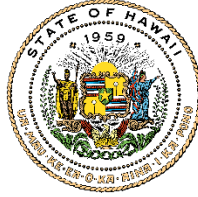


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
LAURA H.E. KAAKUA
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

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Monday, February 6, 2023
1:05 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 79
RELATING TO PUBLIC LANDS

Senate Bill 79 proposes to amend Sections 171-192 and 193, Hawai'i Revised Statutes (HRS), to: (i) eliminate the authority of the Board of Land and Natural Resources (Board) to review and approve applications for lease extensions under Act 149, Sessions Laws of Hawai'i 2018 (Act 149), and instead vest such authority with the Department of Land and Natural Resources (Department); and (ii) provide that the rent payable for an Act 149 lease extension shall be based on the tax assessed value of the land and not on an independent appraisal contracted by the Board as the law currently provides. **The Department opposes this measure.**

As an initial matter, the Department notes the preamble to the bill recites that only one lease extension has been finalized under Act 149. As stated in its annual report to the Legislature submitted in October 2022, however, of the twelve lease extension applications the Department has received under Act 149, seven have received Board approval and four have been finalized. At least two others are close to being finalized.

The Department and Board have a fiduciary duty to manage state lands and collect fair market rents for the commercial use of those lands for the benefit of five public trust purposes set forth at Section 171-18, HRS. Senate Bill 79 would undermine that duty depriving the Board of its oversight of lease extensions under Act 149 and by allowing lease rents to be based on tax assessed values instead of independent appraisal as the law currently requires. The best interests of the State are not served by extending leases in this fashion. Important decisions about the use

of the State's limited land resources should continue to be made by the Board at noticed, sunshine meetings at which the public has an opportunity to testify.

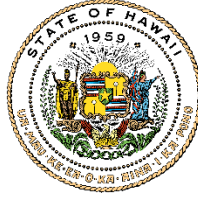
Further, there is no compelling reason that lessees should reap the benefit of lease rents that would likely be under-market if based on tax assessed value. The Legislature already provided a significant benefit to state lessees by allowing them to apply for extensions of their leases beyond the maximum term of 65 years that existed prior to 2018. The passage of Act 149 was in derogation of the stated public policy of leasing state lands through a competitive process under Section 171-32, HRS.¹ Additionally, the State is entitled to ownership of improvements built by lessee on the premises at lease expiration. If the leases in Hilo Community Economic District were allowed to expire, the State would be able to lease them with improvements (assuming the improvements retain useful life) thereby potentially increasing the fair market rental rent payable to the State. Act 149 provides that the rent for the lease extension period is to be based on land only – another benefit to the lessee. Under these circumstances, lessees applying for extensions under Act 149 should be required to satisfy the requirements for lease extensions under existing law.

Mahalo for the opportunity to provide testimony in opposition to this measure.

¹ "§171-32 Policy. Unless otherwise specifically authorized in this chapter or by subsequent legislative acts, all dispositions shall be by lease only, disposed of by public auction in accordance with the procedure set forth in sections 171-14 and 171-16."

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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McCully Works
69 Railroad A-19 Hilo, Hi. 96720

February 3, 2023

Senate Committee on Water and Land
The Honorable Senator Lorraine Inouye, Chair
The Honorable Senator Brandon Elefante, Vice Chair

Re: Support for SB 79, Relating to Public Lands

Aloha Chair Inouye and Vice Chair Elefante,

SB 79 is a far reaching bill with the intent to streamline land management practices in the Hilo Community Economic District. This area of the state has particularly suffered under antiquated statutory terms that were written more than 60 years ago when more than 95% of all public land leases were for agricultural purposes. These lands were typically only minimally improved, perhaps clearing of forest, road developments and irrigation sufficient to grow crops. In the late '90's it had become apparent that the Urban lands under economic leases in East Hawaii were falling into disrepair or not being redeveloped to meet changing times, as agriculture was replaced as the economic driver by other areas of the economy, including Tourism. These leases are typically highly developed with significant improvements, be they hotels, commercial buildings, warehouses, or industrial areas. They are characterized as core resources in the business community and they are uniquely situated proximate to the airport, the wharfs, the downtown as well as the residential districts of greater Hilo. The majority of lands in this area are public lands, such that the Hilo Community Economic District was created to reflect the importance to the community and the necessity to change the framework of public land management.

The necessity for reconsidering and amending HRS171, which governs public lands under lease, has become difficult and protracted given DLNR's decisions to oppose most legislation that addresses these issues. In addition, their refusal to apply existing or amended laws on a consistent, fair, and reasonable basis has frustrated lessee's ability to invest and utilize lands that they have always paid fair market rent throughout the life of the lease.

This bill is one of many over the years that are a response to the department's disinclination to work with the public, in particular the lessee's who are also citizens of the state and deserve to be considered and worked with in utilizing our public lands to their highest and best use.

Please Support SB 79 as it seeks to improve the urban public lands in East Hawaii as so well described in Section 1 of this bill.

Mahalo,

Jim McCully



SENATE COMMITTEE ON WATER AND LAND
Monday, February 6, 2023, 1:05 pm, State Capitol Room 229 & Videoconference
SB 79

Relating to Public Lands

TESTIMONY

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

Chair Inouye, Vice Chair Elefante, and Committee Members:

The League of Women Voters of Hawaii opposes SB 79.

SB 79 proposes a different standard to determine minimum rents for public lands in the “Hilo Community Development District” than the standard to determine minimum rents for public lands in other parts of the State. We believe this is a “special law” and not permitted under Article XI, Section 5 of the Hawaii Constitution

***Section 5.** 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.*

Even if what is proposed by SB 79 does not violate the Hawaii Constitution, it is obviously unfair for the Legislature to authorize different treatment for lessees of public lands in Hilo.

Thank you for the opportunity to submit testimony.

SB-79

Submitted on: 2/6/2023 8:14:43 AM

Testimony for WTL on 2/6/2023 1:05:00 PM

LATE

Submitted By	Organization	Testifier Position	Testify
Kerry A. Umamoto	Testifying for Hilo Fish Company	Support	Written Testimony Only

Comments:

Aloha Chair,

Im in support of Sb79. i believe we need to work together to find a common solution to an open ended time period in regards to lease extension and or assessed tax values.

SB-79

Submitted on: 2/3/2023 5:52:13 PM

Testimony for WTL on 2/6/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Michael Nakashima	Individual	Support	Written Testimony Only

Comments:

Ive been waiting for some kind of answer with the Dlnr for 21/2 years. Paid \$9500.00 for the appraisals of 2 buildings. Till this day, no responce from Dlnr except to agree on lease amounts for the 30 years extensions , which does not exists to date. Keep calling for response, all I get is they are working on it.

How can we just throw away \$9500.00, because the next thing is the appraisal is no longer valid.