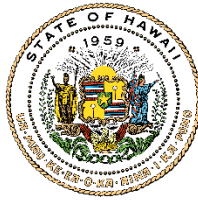
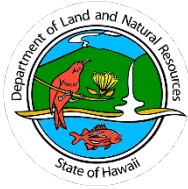


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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

Wednesday, February 7, 2024
1:00 p.m.

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 2153
RELATING TO PUBLIC LANDS

Senate Bill 2153 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 bill.**

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 November 2023, however, of the thirteen lease extension applications the Department has received under Act 149, eight have received Board approval. Of those eight, six lease extensions have been finalized and two are in the documentation process.

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 2153 would undermine that duty by 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, open 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. In addition, the State is entitled to ownership of improvements built by lessees on the premises at lease expiration. If the leases in the 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 Senate Bill 2153.



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

Wednesday, February 7, 2024 1 PM Public Hearing in Conference Room 229 on
SB 2153, 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 2153.

SB2153 would reassign management of specified public lands in Hilo, but not anywhere else in the State, from a board (the BLNR) to a single political appointee (the DLNR Director). Under the Sunshine Law, the BLNR makes decisions at public meetings with public notice and an opportunity for public testimony. The DLNR Director makes decisions without public notice.

Article XI, Section 1 of the Hawaii Constitution requires management of public lands by a board rather than by a single political appointee. Article XI, Section 5 of the Hawaii Constitution prohibits enactment of a "special" law which only applies to private use of public lands at one specific location. Even if SB 2153 complied with the State Constitution, the League's position is that it is simply, obviously wrong for the Legislature to enact legislation which would encourage people who want lease extensions in Hilo to "play politics" to gain special unfair treatment.

Thank you for the opportunity to submit testimony.

The Constitution of the State of Hawaii

Article XI Section 2. *The legislature shall vest in one or more executive boards or commissions powers for the management of natural resources owned or controlled by the State, and such powers of disposition thereof as may be provided by law; but land set aside for public use, other than for a reserve for conservation purposes, need not be placed under the jurisdiction of such a board or commission.*

Article XI 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.*



Cade Watanabe, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Eric W. Gill, Senior Vice-President

February 5, 2024

Committee On Water and Land
Senator Lorraine Inouye, Chair
Senator Brandon Elefante, Vice Chair

Testimony in opposition to SB2153

Chair Inouye, Vice Chair Elefante, and Members of the Committee,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii. We are opposed to SB 2153.

This bill would weaken rules for extending leases on public land for hotel and other purposes in Hilo. In particular, it would remove any requirement for lessees to commit to making substantial improvements to their leased assets in return for valuable time extensions. This could result in a lack of capital expenditures by lessees, as well as the potential for the State, and the taxpayers, to shoulder the costs of renovating and improving properties for the benefit of private companies.

This measure would also change the valuation method for leased property that is used for rent calculation, from the current standard – the fair market value – to a generally lower standard - tax assessed value. This will result in the State taking in less lease revenue in return for the ongoing use of valuable public property. This comes at a cost to the public, which is reflected in a lack of funding for important services and utilities.

Because of these things, SB2153 could be interpreted as a giveaway to private corporations. It comes at a cost, and that cost will ultimately be borne by the public.

Please oppose this measure.

Thank you.

McCully Works

69 Railroad A-19

Hilo, Hi. 96720

February 5, 2024

Senate Committee WTL

Chair Lorraine Inouye Vice Chair Brandon Elefante

SB 2153 - SUPPORT

Aloha Chair Inouye,

Urban lands under economic leases in East Hawaii have been falling into disrepair or not being redeveloped to meet changing times for more than 40 years. These leases were 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, Act 149, (HCED) was created to reflect the importance to the community in curing these blighted areas after years of decline.

SB 2153 seeks to improve upon Act 149, 2018, whose benefits have been sparse to date due to extremely long processing times and department policies. It is of interest that DLNR admits in their “Report to the Thirty-Second Legislature - Hilo Community Economic District “on pg 4 Findings and Recommendations for Proposed Legislation ;

“...The Department will continue to present lease extension request to the Board....as long as the applicants agree to the updating of the development agreement and lease to the current terms and conditions ...to the extent necessary to implement the requirements of Act 149”

These required amended terms are not provided for by HRS 171-192 but instead reflect Land Divisions current preferences. They have argued that it is the Attorney General who controls the lease but it is typical that an attorney drafts the contractual language and the client, in this instance Land Division, provides the elements of the lease (terms, conditions, etc). In fact Act 149 restricts amending the leases only to facilitating mortgages (171-192 (a)(3)) and to comply with the “rules of the board” (171-192 (c) (8)). The department has not adopted any Hawaii Administrative Rules that address terms of a public land lease for the Land Division. Of note, they do however have HAR “rules” for other divisions.

Lessee’s under Act 149 have had no access or capacity to negotiate with staff short of hiring an attorney and ultimately going to court, an onerous and expensive process that is inappropriate given the public purpose of Act 149 and the clarity of HRS 171-192.

The Hilo business community would support any amendments that would improve on the status quo. SB2153 has some worthwhile elements to effectuate HRS 171-192. The following amendments to the bill should address many of the issues that have frustrate the Hilo Community Economic District to date ;

1. Section 2 - maintain board oversight and control rather than replace the board with department control. This would best preserve transparency and allow for executive branch oversight of the department's operations and implementation of law.
2. Section 2 (a) (1) remove the power “*modify*” and allow the board discretion only to “eliminate any of the restrictions specified in section 171-36 (a)”. This would eliminate any and all ambiguities and provide necessary clarity
3. Section 2 (a) (2), (3) retain as currently enacted.
4. Section 2 (b) retain board control but maintain bills other proposed modifications
5. Section 2 (c) (d) maintain bills proposed modifications
6. Section 2 (e) replace “department” with “board” as above (1)
7. Section 3 replace “department” with “board” as above (1)

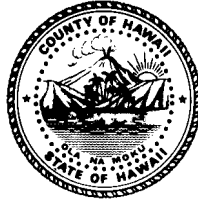
This bill is one of many over the years that are a response to the department's disinclination to work with the public, in particular the lessee’s who are also citizens of the state and deserve to be considered and worked with in utilizing our public lands to their highest and best use. The lessee’s would embrace a constructive dialog with DLNR, and the current Chair Dawn Chang did agree to meet with a group of lessees’ last year. Chair was most gracious and showed genuine interest, but as of yet there has been no followup in developing the requested working group. The Hilo business community continues to seek a constructive process.

Please Support SB 2153 as it seeks to improve the urban public lands in East Hawaii as so well described in Act 149. (Section 1, SB3058, 2018)

Mahalo,

Jim McCully

Susan L.K. Lee Loy
Council Member
District 3



Office: (808) 961-8396
Fax: (808) 965-8912
Email: sue.leeloy@hawaiicounty.gov

HAWAI'I COUNTY COUNCIL

25 Aupuni Street, Hilo, Hawai'i 96720

February 6, 2024

The Honorable Senator Lorraine R. Inouye, Chair
The Honorable Senator Brandon J.C. Elefante, Vice Chair
Members of the Senate Committee on Water and Land

Hawai'i State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: Support for SB 2153, relating to Public Lands

Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee on Water and Land,

Mahalo for the opportunity to express support for SB 2153, which repeals the requirement for Board of Land and Natural Resources approval for lease extensions in the Hilo Community Economic District. This bill is of utmost importance in addressing the longstanding challenges urban lands face under economic leases in East Hawai'i, which have witnessed disrepair and insufficient redevelopment over the past 40 years.

The urban lands in East Hawai'i, marked by hotels, commercial buildings, warehouses, and industrial areas, hold significant historical and economic value. These properties are core resources in our community and play a vital role in the region's economic development. However, despite their strategic locations near the airport, harbors, downtown, and residential districts of greater Hilo, many of these highly developed public lands have faced a decline in recent decades.

The creation of the Hilo Community Economic District (HCED) under Act 149 reflects the community's recognition of the urgency to address the blighted conditions of these essential areas. SB 2153 aligns with the spirit of Act 149 by proposing amendments to Section 171-192, aiming to streamline and enhance the lease extension process within the Hilo Community Economic District.

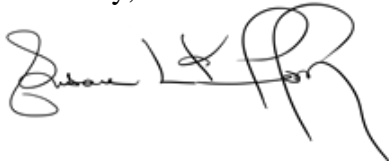
The proposed repeal of the requirement for Board approval for lease extensions acknowledges the need for a more efficient and responsive system. This change would greatly

benefit lessees who face uncertainties and lengthy approval processes. Additionally, the bill's emphasis on utilizing current tax-assessed values in negotiations provides a fair and practical approach, incentivizing lessees to invest in improvements to public lands.

SB 2153 recognizes the economic potential of the Hilo Community Economic District and aims to facilitate its growth by addressing the challenges faced by lessees. By repealing unnecessary hurdles and introducing clear guidelines, the bill creates a path for the revitalization of public lands, contributing to increased tax revenue and community development.

Again, please support this bill, recognizing its importance in revitalizing the Hilo Community Economic District and unlocking the economic potential of East Hawai'i.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan L.K. Lee Loy". The signature is fluid and cursive, with a large, stylized "R" at the end.

Susan "Sue" L.K. Lee Loy
Council Member, County of Hawai'i



**Hawaiian
Electric**

**TESTIMONY BEFORE THE SENATE COMMITTEE ON
WATER & LAND**

**SB 2153
Relating to Public Lands**

Wednesday, February 7, 2024
1:00 PM, Agenda Item #4
State Capitol, Conference Room 229

Dave Nagata
Land Agent
Hawaiian Electric

Aloha Chair Inouye, Vice Chair Elefante, and Members of the Committee,

My name is Dave Nagata and I am testifying on behalf of Hawaiian Electric in support of SB 2153, Relating to Public Lands.

The lessees of the Hilo Community Economic District (“HCED”) seeking extensions to their public land leases would benefit from a less cumbersome, time-consuming and ambiguous lease extension process by repealing the requirement for the Board of Land and Natural Resources approval. In turn, the State of Hawaii will benefit from a more timely execution by the lessees of substantial improvements to existing improvements and/or new substantial improvements within HCED as required under the lease extensions. Further, utilizing current tax assessed values to ease difficulties in the negotiation process would incentivize lessees to make continuous improvement to the lands and would not require the cost and services of appraisers to determine fair market value.

Passage of this legislation will serve the public interest. Accordingly, Hawaiian Electric supports SB 2153. Thank you for this opportunity to testify.