



**STATE OF HAWAII**  
**DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES**

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WRITTEN TESTIMONY  
OF  
DOUGLAS MURDOCK, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE  
ON  
WAYS AND MEANS  
ON  
FEBRUARY 25, 2015

S.B. 854, S.D. 1

RELATING TO PUBLIC SCHOOL LANDS

Chair Tokuda and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 854, S.D. 1.

The Department of Accounting and General Services (DAGS) defers to the Department of Land and Natural Resources (DLNR) as the Board of Land and Natural Resources (BLNR) retains the authority to acquire leasehold interest in behalf of the State. The negotiation and processing of leases are integral to the acquisition of leasehold interests. The BLNR and DLNR have historical experience in such land matters and have the staff to carry out negotiating and processing of leases.

DAGS respectfully requests that the reference to DAGS at paragraph (b)(5) on page 4 line 3 be removed from this measure. Since our core mission is to provide State office space, DAGS does not have the expertise or the resources to provide the kinds of leasing services that would be required under this bill.

Thank you for the opportunity to submit written testimony on this matter.



February 23, 2015

Senator Jill N. Tokuda, Chair  
Senator Ronald D. Kouchi, Vice Chair  
Senate Committee on Ways and Means

**Comments Regarding SB 854, SD1 Relating to Public School Lands (Requires public school lands that are leased to benefit public educational purposes rather than to be used for public purposes; Authorizes the State Department of Education [DOE] to enter into lease-back agreements; provided that all leases are negotiated and processed by the Department of Accounting and General Services [DAGS]. )**

**Wednesday, February 25, 2015, 9:00 a.m., in CR 211**

The Land Use Research Foundation of Hawaii (“LURF”) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

**SB 854, SD1.** The stated purpose of this bill is to amend Hawaii Revised Statutes (HRS) Section 302A-1151.1 to require public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes. The bill also proposes to amend HRS Section 302A-1151.1 to authorize the DOE to enter into lease-back agreements; provided that all leases are negotiated and processed by the DAGS.

**LURF’s Position.** LURF **supports the intent of SB 854, SD1**, because it supports and furthers innovative methods through which the State may use its assets to obtain funding to benefit Hawaii’s public schools and public school children. As presently drafted, however, the language of this bill is confusing and in LURF’s opinion, defeats the purpose of the proposed amendment to Hawaii Revised Statutes (HRS) Section 302A-1151.1, and could prompt disagreement as to the allowable purposes for which the public school lands may be leased and used.

The pilot program to lease public school land under HRS Section 302A-1151.1 was established in recognition of the unmet community development needs of the State, including undercapitalized public school facilities, and the need to cooperate with private enterprise and the various components of government to bring the proposed project to fruition. Legislation enabling the DOE to lease public school land was drafted to state that the DOE was allowed to do so on specified terms, to lessees who would modify, construct, or utilize facilities to “meet public purposes.”

LURF understands that the intent underlying this effort was always to allow the lease and redevelopment of public school lands for any purpose, so long as the revenue from any such redevelopment would be applied toward public educational purposes.

SB 854, SD1, however, now proposes confusing amendments which mandate that lessees of the public school lands and facilities must construct, maintain and operate said facilities “to benefit public educational purposes,” which seems to restrict the use of the subject school lands only to the development and operation of public educational type or public education-related facilities, thereby drastically reducing interest of potential lessees.

The proposed amendment contained in SB 854, SD1 which attempts to define the term “**public educational benefits**” (see amendment to subsection (f) on page 4 of the bill) is equally, if not more disconcerting, since the phrase “**to benefit public educational purposes**” is what is referred to and used theretofore throughout the bill.

LURF therefore believes clarifications by the proponents of SB 854, SD1 are necessary for this Committee and the public to consider.

**Conclusion.** LURF continues to support inventive means of utilizing excess and underused public school assets to generate funding for the benefit of public school children. However, in order to effectively effectuate the intent of legislation specifically enacted for this purpose, LURF suggests that this bill be further clarified.

Thank you for the opportunity to provide comments relating to this measure.

# BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

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## Testimony to the Senate Committee on Ways and Means Wednesday, February 25, 2015 9:00 a.m. State Capitol - Conference Room 211

### **RE: SENATE BILL NO. 854 SD 1, RELATING TO THE DEPARTMENT OF EDUCATION**

Chair Tokuda, Vice-Chair Kouchi, and members of the Committee:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 854 SD 1, which proposes to amend the language of Act 155, SLH 2013, by requiring public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes, and authorizing the Department of Education (DOE) to enter into lease-back agreements; provided that all leases are negotiated and processed by the Department of Accounting and General Services (DAGS).

Since its approval in 2013, the DOE has been meeting with government agencies such as the Office of Environmental Quality Control (OEQC) and the City and County of Honolulu, Department of Planning and Permitting (DPP) to insure the implementation of Act 155 complies will all applicable laws. In addition, DOE has also been meeting with various private developers for input so as to structure a process that complies will all existing laws while attracting private developers to invest in the redevelopment of underutilized DOE facilities.

The proposed bill is in response to comments received in the initial round of discussions with agencies, developers and other interested parties. It provides clarification in certain areas of the Act and allows for the possibility of a public-private partnership through a simple "lease-back" arrangement.

The Senate Committees on Education and Government Operations were aware of Act 231, 2011 SLH, which provided DAGS with the authority to negotiate and process all public private partnership (P3) efforts for the State. As such, the committee amended the original language in the bill by inserting the following in Section 1, (b) 5:

"Requiring the Department of Accounting and General Services to negotiate and process all leases entered into pursuant to this measure;"

DOE has been in discussions with DAGS prior to providing the language in Act 155. DAGS was not aware of Act 231 and has not assigned anyone to oversee P3's.

DOE understands the Senate's desire to keep the program in one agency. However, in this case, allowing DOE to take the lead in implementation of Act

Honorable Jill N. Tokuda, Chair  
Senate Committee on Ways and Means  
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155 may be appropriate as the DOE is responsible for this exact task.

Perhaps, the Senate could consider, with respect to the three (3) pilot projects authorized under Act 155, that DAGS shall participate in developing the procedures to negotiate all P3 agreements. This would allow DOE to continue to drive the project as Act 155 provided only a five (5) year window to complete the pilot projects.

We strongly encourage the Legislature to approve proposed amended language that will allow the implementation of Act 155 to proceed in an expeditious manner.

Thank you for the opportunity to express our views on this matter



**Testimony to the Senate Committee on Ways and Means  
Wednesday, February 25, 2015 at 9:00 A.M.  
Conference Room 211, State Capitol**

**RE: SENATE BILL 854 SD1 RELATING TO PUBLIC SCHOOL LANDS**

Chair Tokuda, Vice Chair Kouchi, and Members of the Committee:

The Chamber **supports** S.B. 854 SD 1, which proposes to amend the language of Act 155 SLH 2013 by clarifying that public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes and authorizing the Department of Education (DOE) to enter into lease-back agreements.

The Chamber is the largest business organization in Hawaii, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

Since its approval in 2013, the DOE has been meeting with government agencies such as the Office of Environmental Quality Control (OEQC) and the City and County of Honolulu, Department of Planning and Permitting to insure the implementation of Act 155 complies will all applicable laws. In addition, DOE has also been meeting with various private developers to structure a process that complies will all existing laws, and will attract private developers to invest in the redevelopment of underutilized DOE facilities.

The proposed bill is in response to comments received in the initial round of discussions with agencies, developers and other interested parties. It provides clarification in certain areas of the Act and allows for the possibility of a public-private partnership through a simple “lease-back” arrangement.

The Senate Committee on Government Relations was aware of Act 231, 2011 SLH which provided DAGS with the authority to negotiate and process all public private partnership efforts for the State. As such the committee amended the original language in the bill by inserting the following in Section 1, (b) 5.

Requiring the Department of Accounting and General Services to negotiate and process all leases entered into pursuant to this measure;

DOE has been in discussions with DAGS prior to providing the language in Act 155. DAGS was not aware of Act 231 and has not assigned anyone to oversee P3’s.



DOE understand the Senates desire to keep the program in one agency; however in this case, allowing DOE to take the lead as the Act 155 implementation may be appropriate as the DOE is responsible for the implementation of Act 155.

Perhaps, the Senate could consider that with respect to the three (3) pilot projects authorized under Act 155, DAGS shall participate in developing the procedures to negotiate all P3 agreements. This will allow DOE to continue to drive the project as Act 155 provided only a five (5) year window to complete the pilot projects.

We strongly encourage the Legislature to approve the proposed amended language that will allow the implementation of Act 155 to proceed in an expeditious manner.

Thank you for the opportunity to express our views on this matter.