

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
FINANCE**

**Tuesday, March 3, 2015
11:00 A.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 1267, HOUSE DRAFT 1
RELATING TO PUBLIC LANDS**

House Bill 1267, House Draft 1, proposes to establish the four-year Kanoiehua Redevelopment Pilot Project, and directs the Department of Land and Natural Resources (Department) to establish a planning committee to serve as a policy-advising board for the redevelopment district. **The Department opposes this bill for the following reasons.**

The bill creates an additional layer of bureaucracy in government

The bill directs the Department to establish a redevelopment district in the Kanoiehua Industrial Area of Hilo. Upon such designation, a nine-member planning committee is to be established by the Chairperson of the Department as a policy-advising committee for the district. The planning committee members, who serve without compensation, then select a committee chair from among the public members. The planning committee is to be attached to the Department for administrative purposes.

The planning committee would likely require a secretary and perhaps more staff for proper administration, as well as office equipment, supplies, and travel expenses for the nine committee members. There will be added expense for the committee to comply with Hawaii Revised Statutes, (HRS) Chapter 92's sunshine law requirements. Further, the committee's actions may be subject to contested case hearings and appeals. The bill provides for a general appropriation in an unspecified amount to carry out the purposes of the measure, and it is therefore unclear whether the expense of maintaining the committee would be partially borne by the Department. A conservative budget for such a planning committee, including payroll, fringe benefits, hearing officer fees, and other costs and expenses, would be \$500,000 annually.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
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

The bill proposes an unnecessary, bureaucratic addition to the Department's operations. The Department has already procured a consultant for the Kanoelehua Industrial Area to analyze market trends, and explore options for redevelopment and rehabilitation of specific parcels or areas. After 2013 Legislative Session, former Governor Abercrombie approved the formation of a Banyan Drive Task Force that has met a number of times to discuss many of the issues covered by the bill as they relate to the Banyan Drive area. The task force members include representatives from local businesses, the former executive director of the Big Island Visitors Bureau, the executive director of the 'Imiloa Astronomy Center of Hawaii, and representatives from the Hawaii County Mayor's Office and State legislators also attend the meetings. This informal task force has worked well and at limited expense to the State. The Department suggests that a similar approach could be used with respect to issues in the Kanoelehua Industrial Area.

There are practical problems with the bill

As noted above, House Bill 1267, House Draft 1, directs the Department to designate the Kanoelehua redevelopment district on public lands. As defined at HRS Section 171-2, public lands exclude lands used as roads and streets. While the State owns some contiguous parcels in the Kanoelehua Industrial Area, it does not own or manage the roads, which often include utility lines and other infrastructure. Accordingly, to the extent the bill seeks to improve infrastructure in a given area, a redevelopment district designated by the Department would likely not include important infrastructure components. Rather, the district would be confined to the particular parcels under the Department's management.

The Department relies on the revenues from leases of public lands to fulfill its fiduciary duties

House Bill 1267, House Draft 1, authorizes the planning committee to make recommendations on the reduction or waiver of lease rents on any lease of public lands for any project in the development district that requires substantial improvements. The Department and Board of Land and Natural Resources (BLNR) are responsible for managing approximately 1.3 million acres of public lands comprised of sensitive natural, cultural and recreational resources. The Department's responsibilities include managing and maintaining the State's coastal lands and waters, water resources, conservation and forestry lands, historical sites, small boat harbors, parks, and recreational facilities; performing public safety duties (e.g., flood and rockfall prevention); issuing and managing leases of public lands (agriculture, pasture, commercial, industrial, and resort leases); maintaining unencumbered public lands; and enforcing the Department's rules/regulations.

To properly perform these fiduciary duties, the BLNR determined that the Department should utilize a portion of the lands it manages to generate revenues to support the Department's operations and management of public lands/programs. Annual lease revenues currently support the Special Land and Development Fund (SLDF), with revenues coming primarily from leases for commercial, industrial, resort, geothermal and other renewable energy projects.

The SLDF is a critical and increasingly important funding source for various divisions within the Department to deal with emergency response to natural catastrophe such as fire, rockfall, flood or earthquake and hazard investigation and mitigation. The SLDF also is critical for staff support of various programs and funding conservation projects on all state lands. It has also become an

important source of state match for federally funded endangered species and invasive species initiatives that otherwise would not go forward.

The authority to construct, improve, renovate and revitalize areas within the counties is already authorized under §46-80.5, HRS

The bill seeks to redevelop the infrastructure and facilities within the Kanoiehua Industrial Area. However, the bill is unnecessary because there are already existing laws and ordinances that provide the process and financing to make such improvements.

Section 46-80.5, HRS, authorizes the various counties to enact ordinances to create special improvement districts for the purpose of providing and financing such improvements, services, and facilities within the special improvement district as the applicable county council determines necessary or desirable to restore or promote business activity in the special improvement district. This is the same purpose sought by House Bill 1267, House Draft 1.

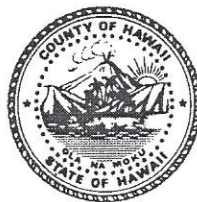
Under the authority HRS Section 46-80.5, the County of Hawaii, as an example, enacted Chapter 12 of the Hawaii County Code, which authorizes the County of Hawaii to create improvement districts to construct new, or improve existing infrastructure and facilities, including roadways and utility infrastructure and improvements. It should also be noted that the responsibilities for maintaining such improvements within the proposed redevelopment districts are already vested with the County of Hawaii. Most, if not all, of the public roadways and utility infrastructure within any potentially designated district boundaries have been dedicated to the County.

Existing law allows for lease extensions under certain conditions

To the extent House Bill 1267, House Draft 1, is intended to facilitate the extension of existing State leases, the Department would point out that Act 219 Session Laws of Hawaii (SLH) 2011 and Act 207 SLH 2011 already provide for the extension of leases under certain conditions. Act 219 allows hotel or resort leases to be extended for an additional term of up to 55 years if the lessee commits to investing at least 50% of the value of existing improvements in renovations to the property. The BLNR has approved two lease extensions under Act 219. Act 207 allows for the extension of commercial, industrial and other leases up to an aggregate term (original term plus extension) of up to 65 years if the lessee requires mortgage financing or self-finances substantial improvements to the property. The BLNR has approved approximately twelve lease extensions under Act 207. All such extensions are at the discretion of the BLNR.

For the reasons above, the Department opposes this bill.

DENNIS "FRESH" ONISHI
Council Member
District 3



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HAWAI'I COUNTY COUNCIL

25 Aupuni Street, Hilo, Hawai'i 96720

March 2, 2015

The Honorable Sylvia Luke, Chair
and Members of the House Committee on Finance

Dear Chair Luke, Vice Chair Nishimoto and Committee Members,

Thank you for the opportunity to provide testimony in **strong support** of House Bill No. 1267, which proposes to authorize the designation of redevelopment districts for commercial, industrial, resort and hotel areas on State lands, and the creation of planning committees to serve as policy-making boards for such districts.

More importantly, this bill establishes a four-year redevelopment pilot project for the Kanoiehua Industrial Area (KIA) to be known as the Kanoiehua Redevelopment Pilot Project.

Designating an area of public lands in the KIA to serve as a designated redevelopment district under the advisement of a planning committee comprised of Hawai'i Island residents will benefit the area, the lessees, the inventory of public land, and the local economy

There is a critical need for improvements of our public lands, especially here in East Hawai'i. The passage of this bill will help restore the beauty and character that once was.

Thank you very much for your consideration and for the opportunity to provide testimony in support of House Bill No. 1267.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Onishi", with a stylized flourish at the end.

Dennis "Fresh" Onishi
Hawai'i County Council Member



HB1267 HD1

House Committee, FIN
Chair Sylvia Luke
Vice-Chair Scott Nishimoto

Aloha Chair Luke,

I am Garth Yamanaka, Committee chair for Government affairs for the Kanoelehua Industrial Area Association (KIAA). Established in 1968, KIAA is an active business association that is comprised of both small and large businesses and organizations within specific Hilo and Keaau boundaries. One of our goals is to advance the commercial and community interests of our member firms. Presently, we represent approximately 350 business members employing approximately 4,500 workers.

KIAA supports the purpose of this measure which is to rejuvenate areas that have become dilapidated, obsolete, or deteriorated by establishing redevelopment districts in public lands. The current framework for leasing of public lands in the Kanoelehua Industrial area has created a situation where there is no incentive for the lessee to maintain or update their improvements. The passing of HB 1267 HD1 will allow public land to be managed properly which will then help these sites to be revitalized and relevant in today's economy.

We urge you to pass HB 1267 and Mahalo for this opportunity to provide testimony.

McCully Works

40 Kamehameha Ave.

Hilo, Hi. 96720

HB1267 HD1

House Committee, FIN

Chair Sylvia Luke

Vice-Chair Scott Nishimoto

Aloha Chair Luke,

My name is James McCully, I am a farmer here in Hilo (Mauna Kea Orchids) and over the years I have invested in state leasehold property as a second business and for my retirement. I currently operate a business leasing demised warehouse spaces to fifteen (15) small businesses on 3 parcels of state land in the Kanoiehua Industrial Area in Hilo. That business is "McCully Works" which has "Hawaii Warehouse Services" as it's subsidiary. You can visit our website at www.mccullyworks.com

I fully support the purpose of the HD1 version of HB1267, namely to make the redevelopment of state lands in Hilo a priority. For too long the Hilo Industrial area and the Banyan Drive resort area have languished, acting as a drag on the East Hawaii economy. With an overwhelming majority of this income producing land under DLNR management it is long overdue that statutory reform meet the demands of the modern economy. When state hood occurred Hawaii public lands were overwhelmingly agricultural. In 1966 there were 351,000 acres under agricultural lease and only 1,152 acres identified for all urban uses (LRB#5,1969, Table 18). Statutory language designed to implement public purpose within an agricultural economy is far different than what is necessary for prudent management of scarce industrial and commercial lands.

The consequence of a lack of renewal or extension of leases beyond the statutory limitation of 65 years is that in the 2nd half of a lease term, or at anytime with less than 30 years remaining, the leasehold interest has become a "wasting asset". That is to say that there are prohibitive impediments to the rational use of the property when the improvements become non-mortgageable. This leads to a disincentive to utilize the properties efficiently and in a state that is as constrained as Hawaii is we simply cannot afford to utilize our lands at less than an optimal level. A consequence of a poorly performing economy would necessarily be lower "fair market rents" for these state leases.

This "pilot project" will provide an empirical basis for enacting statutory reform and developing best management practices for all public lands. My only concern is the Planning Committee identified under Section 4 is only named after the designation of the district. It seems prudent that members of the community affected should be involved in this designation of boundaries.

I would suggest the following revision:

Section 3.

(b) The department shall:

(1) Establish a planning committee to prepare the redevelopment plan including the boundaries of the redevelopment district within the Kanoiehua industrial area;

You would then make the appropriate revisions in Section 4 in order to reflect the legislatures intent with this change. Further in Section 4 a nine member committee is identified, with the chair of DLNR and the Planning Director of the County of Hawaii, or the directors designee, the only specified members. This bill envisions seven public members, with three being chosen by the chair of DLNR from a list of six provided by the Mayor of Hawaii. The other four members means of being appointed are not identified. It would seem prudent to establish the specifics of their appointment. I would suggest that the four be selected in the following manner; one by the President of the Senate, one by the Speaker of the House, and two by the Governor as direct appointments. Of course all the public members would still be residents of the county affected.

Comments made against this bill by DLNR focus on the cost. It should be noted that in 2013 and 2014 DLNR has authorized over \$190,00.00 in studies to advise them on land use planning in the affected areas of this bill. These studies were ordered only after statutory reform, opposed by DLNR, sought to amend statute in order to correct deficiencies in leasehold practices. The content and purpose of these studies is unknown to the public, other than to advise DLNR. It should be further noted that these studies were ordered only as the leases were nearing expiration. This is certainly not an example of "best management" practice in terms of planning.

Please support this bill and if you have any questions feel free to call me to discuss them.

Mahalo,

James McCully
McCully Works
40 Kamehameha Ave., Hilo, Hi. 96720
808-933-7000

finance1-Kim

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 28, 2015 2:47 PM
To: FINTestimony
Cc: cnrs@interpac.net
Subject: Submitted testimony for HB1267 on Mar 3, 2015 11:00AM

HB1267

Submitted on: 2/28/2015

Testimony for FIN on Mar 3, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
brian nakano	Chika Nakano Repair Shop	Support	No

Comments: Please support this bill

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March 2, 2014

Chair Sylvia Luke, D-25
Vice-Chair Scott Nishimoto, D-21
House Committee on Finance

Re: SUPPORT for HB 1267 related to public lands and redevelopment

Aloha, Chair Luke, Vice-Chair Nishimoto and Members of the House Finance Committee:

I write to you in **strong support** of HB 1267. As a member of the East Hawai'i business community and a Board of Director for the Hawai'i Island Economic Development Board, I have a very good understanding of the need to foster public and private sector relationships for positive growth and development of Hawai'i's land, resources and people.

HB 1267 would provide lessees an incentive to make much needed improvements to public lands, infrastructure and facilities. HB 1267 would establish a four-year redevelopment pilot project for the Kanoelehua Industrial Area (KIA); the project would focus on creating policies for management of public lands in the KIA and establishing a plan for district-wide improvements that are in concert with county and state land use and development plans.

The KIA redevelopment project would be spearheaded by an experienced group of Hawai'i County residents who have expertise in business management, economics, real estate development and management, and marketing, and who have significant interest in revitalizing and improving public lands and infrastructure the area in order to provide greater social and economic value to the community. The committee would be charged with creating a KIA redevelopment and rejuvenation plan as well as help the state by providing recommendations related to maximize use and income potential of public lands.

I urge you to pass HB 1267, which would bring attention and resources to Kanoelehua Industrial Area for the purpose of promoting community-focused, sustainable district redevelopment and creating vital opportunities that would positively impact Hawai'i's economy.

Thank you for this opportunity to submit testimony in support of HB 1267.

Aloha,

A handwritten signature in black ink, appearing to read 'Ash Kierkiewicz', with a long horizontal flourish extending to the right.

Ashley Kierkiewicz

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 9:44 AM
To: FINTestimony
Cc: ritchie@rinvest.com
Subject: Submitted testimony for HB1267 on Mar 3, 2015 11:00AM

HB1267

Submitted on: 3/2/2015

Testimony for FIN on Mar 3, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Ritchie Henderson	Individual	Support	No

Comments: HB1267 HD1 House Committee, FIN Chair Sylvia Luke Vice-Chair Scott Nishimoto Dear Chair Luke, I fully support the purpose of the HD1 version of HB1267, and encourage the passage of this Bill. As a life-long resident of Hilo, seeing the current condition of the area and its revitalization is of substantial importance to and will have a positive impact on the community.

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finance1-Kim

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 02, 2015 7:55 PM
To: FINTestimony
Cc: anthony_orozco@yahoo.com
Subject: *Submitted testimony for HB1267 on Mar 3, 2015 11:00AM*

HB1267

Submitted on: 3/2/2015

Testimony for FIN on Mar 3, 2015 11:00AM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Anthony Orozco	Individual	Oppose	No

Comments:

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LATE

Rep. Sylvia Luke, Chair
Committee on Finance
March 3, 2015

In support of HB1267 HD1

Dear Representative Luke,

It is with Aloha that I write today in support of HB1267 HD1.

Living on islands, we share many blessings and diversities.

When (or if) one considers the lives and work of those whom this bill would most improve, the question whether to support or oppose this measure ultimately falls one's own social philosophy and desire to effect positive change in our communities, and the best way to advance those changes.

Although we all live and work within the same archipelago, all of our communities are diverse... if you live in Manoa, wouldn't you love it if your mortgage was the same as you cousin's who lives in Hilo? With all due respect, the DLNR seems to ignore this very vital issue, that land values and economies vary greatly from island to island, district to district.

Please be reminded that it was with good intention of fulfilling a fiduciary responsibility that the DLNR assigned the lease of the Naniloa to the previous leaseholder. Many businesses and families of windward Hawai'i Island can tell you how well that worked out. Centralized administration can often disregard local realities.

That is one example why HB1267 HD1 offers a real solution to a festering, local problem. If we enable communities, rather than State agencies to identify, address and resolve problems, those issues will be resolved as if they really matter. Because to us, they do, every day.

Mahalo for reading this testimony, and especially for your service to Hawai'i.

Sincerely,



Don O'Reilly