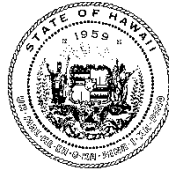


# SB 2562

Measure Title:	RELATING TO PUBLIC REAL PROPERTY.
Report Title:	State Property Cleanup Program; Establishment; Appropriation (\$)
Description:	Establishes temporary programs in debris removal from, and trespass to, public property to be run by DAGS and DPS in coordination and conjunction with each other. Temporarily amends and temporarily creates criminal trespass offenses relating to public property. Makes appropriations.
Companion:	
Package:	None
Current Referral:	HMS/WAM/JDL
Introducer(s):	TOKUDA, BAKER, CHUN OAKLAND, DELA CRUZ, ENGLISH, GALUTERIA, INOUE, KOUCHI, NISHIHARA, Kidani

DAVID Y. IGE  
GOVERNOR



DOUGLAS MURDOCK  
Comptroller

AUDREY HIDANO  
Deputy Comptroller

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

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY  
OF  
DOUGLAS MURDOCK, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEES  
ON  
HUMAN SERVICES  
AND  
WAYS AND MEANS  
AND  
JUDICIARY AND LABOR  
ON  
MARCH 1, 2016

S.B. 2562

RELATING TO PUBLIC REAL PROPERTY

Chair Chun Oakland, Chair Tokuda, Chair Keith-Agaran, and members of the Committees, thank you for the opportunity to submit written testimony on S.B. 2562.

The Department of Accounting and General Services (DAGS) supports the intent of this measure but opposes it as written and provides the following comments.

We recommend each department clean up areas for which they are responsible. They know the conditions, dangers and priorities unique to their properties and are in the best position to manage them. Central Services primarily provides office trash removal, cleaning of office bathrooms and the emptying of trash cans in and around the exterior of state buildings. Since DAGS does not manage parks or recreational areas where this type of situation most occurs, we rarely have the problem of having to dispose of or manage the disposal of any of this type of

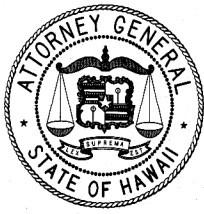
debris. DAGS also does not have adequate space to house the crew(s), vehicles and equipment needed to provide this service.

This would result in the disruption of service in office buildings. Since it does not fall under the scope of current Central Services duties, it would also necessitate the change of position descriptions.

We respectfully request you modify line 16 on page 2 to read "(1) Operate the program directly or through a contract; or"

If an agreement is used for a county agency to perform the services, there are other Departments who have more experience and knowledge to best manage such an agreement.

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



## TESTIMONY OF THE DEPARTMENT OF THE ATTORNEY GENERAL TWENTY-EIGHTH LEGISLATURE, 2016

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ON THE FOLLOWING MEASURE:

S.B. NO. 2562, RELATING TO PUBLIC REAL PROPERTY.

BEFORE THE:

THE SENATE COMMITTEES ON HUMAN SERVICES AND ON WAYS AND MEANS  
AND ON JUDICIARY AND LABOR

DATE: Tuesday, March 1, 2016

TIME: 10:40 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): Douglas S. Chin, Attorney General, or  
Diane K. Taira, Deputy Attorney General

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Chairs Chun Oakland, Tokuda, and Keith-Agaran and Members of the Committees:

We support this measure and offer comments for consideration.

This measure establishes a temporary program consolidating the State's effort to clean state property after the departure of homeless persons. The program is to be administered by the Department of Accounting and General Services with the assistance of the Department of Public Safety, Sheriff Division.

While cleaning property after the departure of homeless persons may be the impetus for this measure, it can be difficult to determine whether the need for cleanup is due to the actions of people who are in fact homeless. Further, until there is a trespass law that covers all state property, it is arguable that not all unpermitted encampments are illegal. For this reason, we suggest the following edits on page 2, lines 13-14:

of debris and litter after the departure of ~~homeless persons who~~  
known, or suspected to have, illegally or without permission  
camped or lodged on the state real property.

With regard to section 17, which establishes the crime of criminal trespass onto public real property, we are not sure what proposed section 708-A (1)(c) is meant to address, but we believe that it is unnecessary. Proposed section 708-A(1)(c), starting on page 13, line 11, and ending on page 14, line 3, provides as follows:

**§708-A Criminal trespass onto public real property.** (1) A person commits the offense of criminal trespass onto public real property if the person remains unlawfully in or upon public real property after a request to leave is made by any law enforcement

officer, when the request is based upon a violation by the person of  
any:

. . .

- (c) Statute or administrative rule personally known  
by the officer, who possesses a written copy  
when making the request to leave.

Whether an officer possesses a written copy of a statute or administrative rule does not add to the  
existence of a violation of a rule or law, if there is one.

Instead of the provisions of section 17, we respectfully recommend the wording of S.B.  
No. 2816, "Relating to Criminal Trespass," which approaches the same issue in a slightly  
different manner. S.B. No. 2816 was passed on February 29, 2016 with amendments by the  
Senate Committee on Judiciary and Labor. We would be concerned if both measures were to be  
passed by the legislature as these trespass laws would overlap and cause confusion. Currently,  
we note that the wording of S.B. No. 2816 addresses only state land, while the trespass law  
proposed in section 17 of this bill includes county lands.

We are available to work with the committees with any amendments they determine  
appropriate.

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA  
FIRST DEPUTY

JEFFREY T. PEARSON P.E.  
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  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
HUMAN SERVICES  
and  
WAYS AND MEANS  
and  
JUDICIARY AND LABOR**

**Tuesday, March 1, 2016  
10:40 AM  
State Capitol, Conference Room 211**

**In Consideration of  
SENATE BILL 2562  
RELATING TO PUBLIC REAL PROPERTY**

Senate Bill 2562 proposes to: 1) establish a legal basis for the Department of Accounting and General Services (DAGS) to remove debris deposited by the occupants of illegal encampments on state real property; 2) require the Department of Public Safety (PSD) to establish a temporary program for the enforcement of laws and rules prohibiting trespassing, camping, and remaining on state property after closing hours; and 3) amend statutes relating to trespass to improve enforcement capacity. The Department of Land and Natural Resources (Department) supports this measure to the extent that it would allow for a coordinated state effort to enforce statutes against illegal campers, trespassers, and people who remain on state lands after closing hours. The Department defers to DAGS and PSD with regard to comments on the specific requirements imposed on those departments in this measure.

The Department has been addressing homelessness on its properties in coordination with the State Homelessness Coordinator. However, one of the problems faced by all state agencies when coordinating enforcing trespass, illegal camping and persons remaining on property after closure, is that each agency, and each division has different rules, and therefore it is difficult to enforce under a single rule on property owned by different agencies. Senate Bill 2562 would help to address this problem by housing enforcement efforts under DPS and cleanup efforts under DAGS.

The Department believes this is a more efficient way to address the problem of illegal campers and trespassers.

Thank you for your consideration of this testimony.



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Boulevard, 4th Floor  
Honolulu, Hawaii 96814

**NOLAN P. ESPINDA**  
DIRECTOR

**Cathy Ross**  
Deputy Director  
Administration

**Jodie F. Maesaka-Hirata**  
Deputy Director  
Corrections

**Shawn H. Tsuha**  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 2562  
RELATING TO PUBLIC REAL PROPERTY

By

Nolan P. Espinda, Director

Senate Committee on Human Services  
Senator Suzanne Chun Oakland, Chair  
Senator Gil Riviere, Vice Chair

Senate Committee on Judiciary and Labor  
Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

Senate Committee on Ways and Means  
Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair

Tuesday, March 01, 2016; 10:40 a.m.  
State Capitol, Conference Room 211

Chairs Chun Oakland, Keith-Agaran and Tokuda; Vice Chairs Riviere, Shimabukuro and Dela Cruz; and Members of the Committee:

The Department of Public Safety (PSD) offers **comments** to Senate Bill (SB) 2562 and feels obligated to express grave concerns regarding the practicality of the implementation schedule as proposed by this bill, requiring active participation by the Sheriff's Division effective July 1, 2017. We also offer comments to Sections 16 and 17 of this bill which creates a new criminal offense.

First, this bill states that PSD may create twelve (12) "temporary" FTE deputy sheriff positions to implement this program and appropriates a total of \$250,000 to PSD for implementation. This proposed sum, however, does not reflect the actual costs of twelve positions. PSD estimates that one (1) FTE deputy sheriff position costs approximately \$65,000 per year. By extension, 12 deputy sheriff positions would cost \$780,000 per year.



Also, the recruitment, screening, written exam, oral interview, recruit academy training, and initial on-the-job training of a deputy sheriff is a MINIMUM 14-month process. For PSD to have a 12-member team on line for this temporary program beginning January 1, 2017, recruitment announcements would have had to have been issued this past October 2015 to select, screen, and hire selected deputy sheriff recruits to begin the academy by June 1, 2016. (Pre-training recruitment, selection, and background screening take seven months at minimum, and the training academy and initial on-the-job training take another seven months.)

Alternatively, PSD requests that consideration be given for overtime funding for current Deputy Sheriffs, when they are available, to assist with this clean-up program when resources permit during the initial 7-month period (January 1 to July 31, 2017) at a cost of \$738,210.

In conjunction with and in the interest of fulfilling the intent of SB 2562, the Department suggests that 6 months of funding (\$390,000) be provided for 12 temporary Deputy Sheriff positions in FY 2017 [January 1 to June 30, 2017] and full FY 2018 funding for these 12 positions be appropriated, effective July 1, 2017 @ \$722,000. This would allow the 12 temporary Deputy Sheriffs to assume the responsibility for this program effective August 1, 2017.

PSD has requested 12 deputy sheriff positions in our current supplemental budget request for the Capitol Patrol Section to provide security and law enforcement services to the State Capitol, the Civic Center Complex, and service calls to other areas. We are concerned that the program proposed in this bill intends to use those 12 requested positions for this proposed property clean-up program, foregoing the request justification PSD made and solely requires in the Governor's Supplemental Year Budget message. We strongly oppose any such deviation from our original prioritized budget request.

Second, Part III of this bill establishes a new criminal offense for trespass onto public real property. Proposed section 708-A(1) (c) requires the law enforcement officer to have a written copy of the statute or administrative rule when enforcing the proposed offense. Requiring the officer to carry around a written copy of the statute or rule creates an additional requirement, but does not add to the violation of the rule or law, if one exists. PSD prefers the language of SB 2816, Relating to Criminal Trespass, in terms of enforcing trespassing on state lands.

#### **BUDGET ESTIMATES FOR SD CLEAN-UP PROGRAM IN SB 2562**

7 months OT for 12 Deputy Sheriffs: (For period 1/1/17 to 7/31/17 [FY 2017/FY 2018])	\$ 738,000.00
6 months New Hire Salaries/Equipment/Supplies: For 12 Deputy Sheriffs (1/1/17 to 6/30/17) [FY 2017]	\$ 390,000.00

Testimony on SB 2562

March 1, 2016

Page 3

6 vehicles for new temporary clean-up program @ \$40,000 each	\$ 240,000.00
1 year's salary for 12 Deputy Sheriff positions FY 2018 (7/1/17-6/30/18)	<u>\$ 722,000.00</u>
	<u>\$2,090,000.00</u>

Thank you for the opportunity to testify on this measure.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [HMS Testimony](#)  
**Cc:** [daveand65@me.com](mailto:daveand65@me.com)  
**Subject:** Submitted testimony for SB2562 on Mar 1, 2016 10:40AM  
**Date:** Sunday, February 28, 2016 4:19:07 PM

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**SB2562**

Submitted on: 2/28/2016

Testimony for HMS/WAM/JDL on Mar 1, 2016 10:40AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
David Anderson	Individual	Comments Only	No

Comments: Longtime resident of Yacht Harbor Towers, concerned about the almost 4-month occupation of the traffic island at Atkinson and Ala Moana Blvd. Two to four individuals set up an encampment there daily and it presents a most IN-YOUR-FACE ugly display to the thousands of locals and tourists who have to use that traffic island to get to the Ala Moana Shopping Center or the Ala Moana Beach Park. Moreover, when they depart for some hours during the days, they regularly leave behind trash, junk and other debris. And they use the utility panels on the traffic island to relieve themselves. The strong, distinct stench of urine permeates the island. These people show no kokua for passersby, and no respect for our Aina on Oahu. Strongly request that these folks be persuaded not to set up their encampments on this traffic island. Please visit the website I stood up months ago, documenting almost daily the appalling conditions of the island when they are there and when they leave - [http://www.daveand65.com/Preserving\\_Honolulu/Image/Photos\\_Of\\_Trash\\_Left\\_Behind\\_by\\_Homeless.html](http://www.daveand65.com/Preserving_Honolulu/Image/Photos_Of_Trash_Left_Behind_by_Homeless.html). Mahalo, Dave Anderson

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)