

SB 3059

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER, LAND, AND AGRICULTURE**

**Wednesday, February 24, 2016
3:00 P.M.
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 3059, SENATE DRAFT 1
RELATING TO INDIGENOUS ARCHITECTURE**

Senate Bill 3059, Senate Draft 1 proposes to allow state and county agencies to permit the building of indigenous architecture, under certain conditions, on public and private lands and exempts indigenous architecture from all laws provided that indigenous architecture shall be constructed under the supervision of persons with expertise in indigenous architecture and construction. **The Department of Land and Natural Resources (Department) agrees that affordable housing and homelessness are significant problems, but the Department opposes this bill as written because the scope is too broad and could result in unintended consequences on state lands and conservation district lands.**

Senate Bill 3059 Senate Draft 1, as written, would allow for the development of indigenous architecture on private and public land, including conservation district land, under the supervision of persons with expertise in indigenous architecture and construction.

The Board of Land and Natural Resources (Board) is responsible for the stewardship of the State's natural and cultural resources, as well as management of public lands. Effective stewardship and management is accomplished through a suite of statutes, rules, constitutional mandates, and broad public participation which this bill endeavors to bypass.

If it is the intent of the Legislature to move this measure forward, the Department respectfully requests that no laws pertaining to the Department or Board with respect to its management functions be suspended by this measure.

Thank you for this for the opportunity to provide testimony.

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

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE

February 24, 2016
3:00 P.M.
CONFERENCE ROOM 224

SENATE BILL NO. 3059 SD1
RELATING TO INDIGENOUS HAWAIIAN ARCHITECTURE

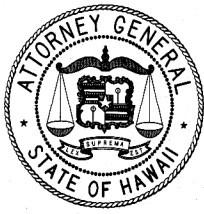
Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3059 SD1 that would allow any state or county agency to designate and determine what public and private lands under its stewardship or control for the construction of indigenous architecture for the homeless and other residents. The Department of Agriculture agrees there is a need for more housing options but respectfully opposes this measure in its current form.

The Department of Agriculture would support the construction and habitation of structures that qualify as indigenous architecture within areas that already allow residential dwellings to be constructed. The Department does not support exempting residential dwellings that happen to qualify as indigenous architecture "...from all statutes, ordinances, charter provisions, and rules and regulation of any governmental agency or public utility relating to planning, zoning..." (page 2, lines 10-13). As written, this language undermines the important planning and regulatory protections that State law offers to agricultural lands and agricultural activities.

Thank you for the opportunity to submit our testimony.





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

ON THE FOLLOWING MEASURE:

S.B. NO. 3059, S.D. 1, RELATING TO INDIGENOUS ARCHITECTURE.

BEFORE THE:

SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE

DATE: Wednesday, February 24, 2016 **TIME:** 3:00 p.m.

LOCATION: State Capitol, Room 224

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Craig Y. Iha, Deputy Attorney General

Chair Gabbard and Members of the Committee:

The Department of the Attorney General offers comments on this bill.

The stated purpose of this bill is to allow state and county agencies to permit the building of “indigenous architecture” on public and private lands under certain conditions.

We raise two issues regarding the bill for the Committee’s consideration.

First, the broad exemptions in section 2(b) could be interpreted to exempt indigenous architecture from health and safety, environmental, consumer protection, and other safeguards designed to protect the public, such as State Land Use Commission requirements (chapter 205, Hawaii Revised Statutes (HRS)), environmental assessment and impact statement requirements (chapter 343, HRS) and Special Management Area permit requirements (chapter 205A, HRS). We recommend that the Committee consider further clarifying the exemptions contained in section 2(b) to ensure that they are consistent with the intent of the bill, for which some of these broad exemptions may be unnecessary.

Second, it appears that the exemptions set forth in section 2(b) are intended to apply only to indigenous architecture constructed in areas designated under section 2(a), but the text of the bill is unclear. If this is the intent of the bill, we recommend amending the opening sentence of section 2(b) on page 2, line 9, to provide: “Except as provided in this subsection, indigenous architecture constructed in areas designated under subsection (a) shall be exempt from”

Our department is available to assist the Committee at its request.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



GEORGE I. ATTA, FAICP
DIRECTOR

ARTHUR D. CHALLACOMBE
DEPUTY DIRECTOR

February 24, 2016

The Honorable Mike Gabbard, Chair
and Members of the Committee on Water,
Land, and Agriculture
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Gabbard and Members:

Subject: Senate Bill No. 3059, SD1
Relating to Indigenous Architecture

The Department of Planning and Permitting (DPP) continues to **oppose** Senate Bill No. 3059, in its revised form, which would allow any State or County agency to designate public or private lands under its control for the construction of indigenous architecture. The measure also exempts such structures from compliance with State and County laws relating to their siting, construction, necessary support infrastructure, and sale.

Our continued objection is based on the protection of public health and safety, the environment, and of those who would reside within, adjacent to, or in close proximity to these structures. This measure would prohibit counties from reviewing projects against minimum health and safety standards, and it does not address infrastructure requirements. An indigenous architectural structure, which may be used for habitation, could be constructed where there may be inadequate access, sewer, water, or power. For example, how would structures be protected or inhabitants rescued by emergency responders if there is inadequate access for emergency responders? How would we ensure that groundwater is not contaminated if there are no reviews for sewage and refuse disposal? Abandoned buildings may cause public health problems as they would be exempt from County regulations. Natural resources would be placed at risk since there is no zoning or plan review. Moreover, waiver of all land development laws may result in serious violations of various federal programs related to flood hazards, coastal zone management, and clean water requirements.

The Honorable Mike Gabbard, Chair
and Members of the Committee on Water,
Land, and Agriculture
Hawaii State Senate
Hawaii State Capitol
Re: Senate Bill No. 3059, SD1
February 24, 2016
Page 2

The measure is unnecessary in that the counties already allow the adoption of codes to address indigenous architecture. If the intent of the measure is to address homelessness, a preferred solution could be the implementation of Chapter 201H, HRS, as that law allows innovation, without sacrificing public health and safety.

We ask that the measure be filed. Thank you for the opportunity to comment.

Very truly yours,



George I. Atta, FAICP
Director

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: luanajones777@hotmail.com
Subject: Submitted testimony for SB3059 on Feb 24, 2016 15:00PM
Date: Tuesday, February 23, 2016 4:23:21 PM

SB3059

Submitted on: 2/23/2016

Testimony for WLA on Feb 24, 2016 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Luana Jones	Hui Aloha O Puna	Support	No

Comments: Our youth and families need such places of gathering and learning as more and more places in our beloved Hawai'i become inaccessible and beyond affordable. Mahalo to the introducers of this long overdue, yet timely measure.

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.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: blawaiianlvr@icloud.com
Subject: Submitted testimony for SB3059 on Feb 24, 2016 15:00PM
Date: Monday, February 22, 2016 7:27:15 AM

SB3059

Submitted on: 2/22/2016

Testimony for WLA on Feb 24, 2016 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	Yes

Comments: We STRONGLY SUPPORT this common sense bill.

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From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: kadc31999@gmail.com
Subject: *Submitted testimony for SB3059 on Feb 24, 2016 15:00PM*
Date: Tuesday, February 23, 2016 9:29:25 PM

SB3059

Submitted on: 2/23/2016

Testimony for WLA on Feb 24, 2016 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Katarina Culina	Individual	Support	No

Comments:

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February 23, 2016

Re: **Support to SB 3059 SD1**: that allows any state or county agency to designate public and private lands under certain conditions for the construction of indigenous architecture. (SD1)

Dear Senators and Committee,

My name is Jon Keali'i Inciong and I am currently in my third and final year in the Master of Social Work Program through the University of Hawaii at Manoa Distance Education Program. My concentration focuses on Child & Family.

Last year while doing research for a class in the Master of Social Work Program. I have built a rapport with a community of homeless families (which they wish to be called "houseless") that resides at Kanaha Beach Park. These specific families that resides at Kanaha Beach Park were documented on the front page of Maui News dated December 26, 2015 an article titled: 'Houseless' on the holidays.

Majority of the families are of Hawaiian or of Polynesian ethnicity. While having many discussions with these families. Currently, majority of these families finds that SB 2946 SD1, and SB 3059 SD1 as a remedy and also culturally appropriate.

This past November while taking middle and high school students out to Hana on a cultural outing to attend the Limu Fest. We had an honor of camping-over three days and two nights at a hale that Francis Sinenci built and cares for. This hale was sturdy against the ocean winds as well as providing shade during the days.

I have also traveled with the University of Hawaii to New Zealand and was housed in a Maori "Marae" (traditional communal meeting house). Since then, I have always felt that the cultural vitality would be revitalized through a parallel Bill as SB 3059 SD1.

Therefore, on behalf of the children and their families at Kanaha Beach Park on Maui as well as myself, I want to take this time to voice my **Strong Support to SB 3059 SD1**.

Thank you for your time and consideration.

Mahalo & Sincerely,

Jon Keali'i Inciong
MSW Distance Education Student
Maui, MSW DE Cohort 5

From: mailinglist@capitol.hawaii.gov
To: [WLA Testimony](#)
Cc: danamalina@yahoo.com
Subject: *Submitted testimony for SB3059 on Feb 24, 2016 15:00PM*
Date: Tuesday, February 23, 2016 1:03:39 PM

SB3059

Submitted on: 2/23/2016

Testimony for WLA on Feb 24, 2016 15:00PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Dana Keawe	Individual	Support	No

Comments:

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