

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

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DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE  
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LAURA H.E. KAAKUA  
FIRST DEPUTY  
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DEPUTY DIRECTOR - WATER  
AQUATIC RESOURCES  
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BUREAU OF CONVEYANCES  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, February 15, 2023  
2:00 PM

State Capitol, Conference Room 325 & Videoconference

In consideration of  
HOUSE BILL 1385, HOUSE DRAFT 1  
RELATING TO PUBLIC LANDS

House Bill 1385, House Draft 1 proposes to authorize the designation of areas or regions of public lands classified as commercial and industrial; hotel, apartment, and motel; or resort, and the establishment and implementation of guidelines for the redevelopment of the areas or regions. The bill additionally proposes to designate the public lands on the Waiakea Peninsula on the Island of Hawai'i as the Waiakea Peninsula Redevelopment District (WPRD), transfer management of the state leases in the WPRD and 50% of the revenues generated by such leases from the Department of Land and Natural Resources (Department) to the WPRD Planning Committee, and appropriate funds. **The Department of Land and Natural Resources (Department) opposes this measure.**

The Department has engaged in significant renewal efforts over the past several years of the two signature Banyan Drive hotels and a signature restaurant and has been actively working on a new disposition for another hotel property, as well as planning for the demolition of the former Uncle Billy's Hilo Bay Hotel (Uncle Billy's). The Department does not believe establishing the WPRD will accelerate this ongoing process. This year the Department is looking to work with the Hawaii Community Development Authority (HCDA) to develop a master plan and infrastructure assessment for the Waiakea Peninsula. The Department recognizes that the creation of a master plan will assist the Department in planning for the redevelopment of this area.

Following is a summary of the Department's efforts to revitalize the Banyan Drive area in recent years:

- Extended the lease for the Hilo Hawaiian Hotel in exchange for the lessee making substantial improvements to the structures on the property, resulting in a significant renovation.
- Worked with the lessee of the Grand Naniloa Hotel to facilitate \$20 million in renovations completed in 2018.
- Uncle Billy's: closed in 2017 by the Board of Land and Natural Resources (Board). At its meeting of December 13, 2019, the Board authorized the publication of a Request For Quote/Request For Proposal (RFQ/RFP) for the demolition, renovation, or partial demolition and partial renovation of the hotel under a new long-term lease. Although one interested party submitted a proposal in response to the RFQ/RFP, it was ultimately not recommended for selection to the Board for reasons detailed in the Board action of June 9, 2022, Item D-7. The Department has committed \$1.5 million of Special Land and Development Fund (SLDF) funds appropriated in the 2022 Session for the planning and permitting of the demolition of the structures on this property.<sup>1</sup>
- Country Club: under Revocable Permit (RP). At its meeting of December 13, 2019, the Board authorized the publication of an RFQ/RFP for renovation of the hotel under a new long-term lease. An interested party was tentatively selected by an evaluation committee, but the selection was ultimately not recommended to the Board for the reasons detailed in the Board action of June 9, 2022, Item D-8. At its meeting of July 22, 2022, under Item D-5, the Board approved a second RFQ/RFP that was published on September 1, 2022, with statements of qualification due on October 7, 2022, and proposals due on November 18, 2022. Two proposals were timely received under this RFQ/RFP and staff is preparing a recommendation to the Board to approve the proposal ranked highest by the evaluation committee.

Additionally, since 2014 the Department has spent more than \$525,000 from the SLDF on consultant services and studies dedicated to the public lands at Banyan Drive.

- A planning consultant prepared a market study on tourism to determine if the area could support a new hotel, as well as studies on sea level rise, the viability of master leasing multiple parcels in the area, and the remaining useful life of existing structures on expiring lease premises.

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<sup>1</sup> During the 2022 legislative session, the Department received an appropriation from the Department's SLDF in the amount of \$13.5 million for the demolition of Uncle Billy's. The SLDF does not have sufficient funds to complete the demolition and cover the other expenses of the Department paid for out of the SLDF. However, the Department has committed \$1.5 million of SLDF funds for the planning and permitting of the demolition and will seek to change the method of funding for the remainder of the demolition costs from SLDF to general funds this Session.

- An architectural consultant conducted a much more detailed architectural and engineering study on whether existing improvements on the expired lease premises should be demolished or rehabilitated.
- A planning consultant completed a study on the cost of securing the necessary permitting for demolishing the improvements on the expired leases and completing the demolition.
- The Department procured an engineering consultant to assist in reviewing the renovation plans for the Grand Naniloa Hotel.

Apart from the fees for consultant services, a significant amount of staff time has been invested in planning for the area including attendance at the Banyan Drive Hawai'i Redevelopment Agency meetings, and in preparing the RFQs/RFPs for Uncle Billy's and Country Club and reviewing the submitted proposals.

One of the main concerns the Department has with this bill is that it directs 50% the revenues from the Department's leases on Banyan Drive to the WPRD Revolving Fund (apparently after deduction of the 20% required by law<sup>2</sup> to fund the annual \$21.5 million annual payment to the Office of Hawaiian Affairs), leaving the Department with only 30% of the revenues from the leases in the proposed district. House Bill 1385, House Draft 1, provides at page 5, lines 1-3 that the "law designating the redevelopment district shall transfer the management of the public lands within the district to the planning committee for the designated district." However, PART IV of the bill, which creates the WPRD, only provides for the transfer of public lands within the WPRD to its planning committee, and is silent as to the management of the leases on those lands. To the extent, the Department must continue to perform all the management responsibilities of the leases yet receive only about one-third of the revenues from them, such an arrangement does not match income to expenditures.

Rather, all the Department's lease management responsibilities should be tied to the revenue recipient under any scenario, including all costs of lease management, including, without limitation, appraisal, mediation and arbitration costs, administrative time and costs related to billing, monitoring lease compliance, including posting of insurance, performance bonds, rent collections and inspections, as well as vacant property homeless occupant management, compliance management, capital demolition and construction costs.

PART III of the measure proposes amendments to various provisions of Chapter 171, Hawaii Revised Statutes, that appear to be designed to repeal the current prohibition against options to extend leases and to delete the maximum lease term of 65 years under present law. These amendments would seem to give the Board authority to issue leases for any duration and with any number of renewal options. The Department does not believe that the proposed amendments are necessary or even in the best interests of the State. Two of the properties on Banyan Drive that could benefit most from redevelopment are under RPs, not leases. Accordingly, lease options to extend and lease renewals will not help move RP properties to long-term leases

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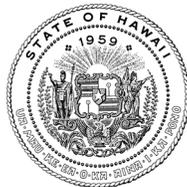
<sup>2</sup> Act 178, Session Laws of Hawai'i 2006 and Executive Order No. 06-06.

needed for redevelopment. Rather, the Department needs to follow a competitive process as it is doing for the Country Club property.

The Department requests that this measure be held. The Department is confident that the RFQ/RFP process for new lease of Country Club, the demolition of Uncle Billy's, and the Department's collaboration with HCDA will go a long way in rehabilitating the Banyan Drive area.

Mahalo for the opportunity to comment on this measure.

JOSH GREEN, M.D.  
GOVERNOR



LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII  
DEPARTMENT OF BUDGET AND FINANCE  
*Ka 'Oihana Mālama Mo'ohelu a Kālā*  
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ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT

**WRITTEN ONLY**  
TESTIMONY BY LUIS P. SALAVERIA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
ON  
HOUSE BILL NO. 1385, H.D. 1

**February 15, 2023**  
**2:00 p.m.**  
**Room 325 and Videoconference**

RELATING TO PUBLIC LANDS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 1385, H.D. 1: 1) establishes the Waiakea Peninsula Redevelopment District (WPRD) for the redevelopment of public lands classified as commercial, industrial, resort, and hotel parcels on the island of Hawai'i; 2) provides for redevelopment of the district; 3) creates a nine-member planning committee for the district to provide policy direction and prepare a redevelopment plan; 4) amends lease provisions; 5) creates the WPRD Revolving Fund that would generate revenues through 50% of the income, revenues and receipts from the public lands in the redevelopment district, legislative appropriations, grants, gifts, and other funds; and 6) appropriates \$500,000 in general funds for FY 24 for deposit into the revolving fund and \$300,000 in revolving funds for FY 24 and FY 25 to be expended by the WPRD planning committee for redevelopment of the Waiakea Peninsula District.

As a matter of general policy, B&F does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4, HRS. Revolving funds

should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to H.B. No. 1385, H.D. 1, it is difficult to determine whether the proposed source of revenues will be self-sustaining for the revolving fund that is created.

Thank you for your consideration of our comments.



**HB1385 HD1**  
**RELATING TO PUBLIC LANDS**  
House Committee on Judiciary & Hawaiian Affairs

February 15, 2023

2:00 PM

Room 325

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The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees, **COMMENT** on HB1385 HD1, which would remove the 65-year aggregate on lease terms for ALL public lands. **OHA wishes to emphasize that long term multi-generational leases have led to the permanent alienation of public lands and a breach of the State’s trust obligations to the Native Hawaiian people. OHA asks the Legislature to amend this measure by removing the proposed amendments on page 24, lines 12-13, and page 26, lines 15 -16.**

The Crown and Government lands of the Hawaiian Kingdom, often referred to as “Ceded Lands” of the Public Land Trust corpus, are continuously held in trust for the betterment of the conditions of Native Hawaiians.<sup>1</sup> In addition to its codification within the Hawai‘i Admissions Act, lawmakers sought to ensure the continuous uplifting of Native Hawaiian socio-economic status through the creation of OHA and the enacting of these principles into State law.<sup>2</sup> OHA serves as the principal public agency of the State responsible for the programs and activities of Native Hawaiians,<sup>3</sup> whose well-being is often positively impacted by the programs and services funded by revenue from the public land trust.

**This measure would essentially establish a mechanism that would violate the State’s fiduciary obligations under the public trust and public land trust by leading to the alienation of public and “ceded” lands. Under Chapter 171, Hawai‘i Revised Statutes (HRS), the State holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. Much of these lands are also subject to the Public Land Trust created by Article 12 of the Hawai‘i State Constitution and section 5(f) of the Admission Act, which requires that a portion of revenues derived from Public Land Trust lands be dedicated to OHA, for the purpose of bettering the conditions of Native Hawaiians. The trust status of these lands imposes upon the State specific fiduciary obligations of due diligence and undivided loyalty in ensuring its trust corpus is productive and that its benefits are maximized for Native Hawaiian and public beneficiaries.**

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<sup>1</sup> Pub. L. 86-3, 73 Stat. 4; Hawai‘i Admissions Act of 1959.

<sup>2</sup> HRS §10-3.

<sup>3</sup> Id.



**HB1385 HD1**  
**RELATING TO PUBLIC LANDS**  
House Committee on Judiciary & Hawaiian Affairs

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OHA strongly believes that the thrust of this measure, to facilitate revitalization of public lands in the Waiakea Peninsula Redevelopment District, can still be achieved without creating a forever-lease mechanism for the commercial interests therein. By maintaining the 65-year aggregate, essentially a lifetime lease, the State will have the opportunity to re-evaluate the best use of its public lands, which may ultimately favor a different path and purpose. For the reasons expressed in this testimony, **OHA asks the Legislature to amend this measure by removing the proposed repeal of the 65-year aggregate lease term on page 24, lines 12-13, and page 26, lines 15-16.**

OHA appreciates the opportunity to testify on HB1385 HD1 and respectfully asks the Legislature to take into consideration OHA's recommendations for the betterment of conditions of Native Hawaiians. Mahalo nui loa.



HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS  
Wednesday, February 15, 2023, 2 pm, State Capitol Room 325 & Videoconference  
HB 1385, HD  
Relating to Public Lands

**TESTIMONY**

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Tarnas, Vice Chair Takayama, and Committee Members:

**The League of Women Voters of Hawaii opposes HB 1385, HD1.**

It is simply, obviously wrong to encourage existing lessees of public lands to “play politics” to gain special unfair treatment. The Legislature should reject all proposals to establish different boards or procedures for redevelopment or lease of public lands in different parts of the State

The League supports public planning for redevelopment of public lands and uniform, fair procedures for the **BLNR** to negotiate development agreements or award long-term commercial leases on public lands. We take the same position concerning redevelopment and lease renewals on public lands throughout the State. We oppose statutory creation of unaccountable “committees” of political appointees, who may have a conflict of interest, with authority to negotiate non-bid development agreements or leases for specific areas of State property. And we oppose legislative authorization of such a “committee” for the proposed Waiakea peninsula redevelopment district.

Thank you for the opportunity to submit testimony.

**Kūpuna for the Mo'opuna**  
*committed to the well-being of Hawai'i for the next generations to come*  
kupuna4moopuna@gmail.com



Committee on Judiciary & Hawaiian Affairs

Rep. David A. Tarnas, Chair

Rep. Gregg Takayama, Vice Chair

Date: Wednesday, February 15, 2023

Time: 2:00 PM

Place: Room 325

**HB 1385, HD1 – RELATING TO PUBLIC LANDS - OPPOSE**

Aloha,

Kūpuna for the Mo'opuna, a network of Hawaiian Homes Commission Act kūpuna farmers from Pana'ewa, Hawai'i, submit this testimony in **OPPOSITION to HB 1385, HD1**.

HB 1385, HD1 proposes “guidelines” of establishing a “plan” for the Waiākea peninsula with “district-wide improvements coordinated with state and county land use and planning policies” **which is concerning since Hawai'i County's General Plan is way overdue and South Hilo's Community Development Plan of 1975 is outdated with no plans to update and enable in the County Code in spite of numerous attempts at engagement by the community.** Development of the Waiākea peninsula in South Hilo must be part of a responsible long range planning effort with input from the public/community and not merely from unaccountable political appointees.

In addition, the State has a fiduciary duty as trustee of the Waiākea peninsula to protect public lands for native Hawaiians and the general public. Public lands must be managed in a fair, transparent, and uniform manner which include statutory payment of revenues due to the Office of Hawaiian Affairs.

**PUBLIC TRUST**

**Section 4.** The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7, of the State Constitution... **shall be held by the State as a public trust for native Hawaiians and the general public.**

**Do not pass HB 1385.**

Mahalo,

Kūpuna for the Mo'opuna

Pana'ewa, Hawai'i

*Ua mau ke ea o ka 'āina i ka pono!*

**HB-1385-HD-1**

Submitted on: 2/14/2023 9:27:09 AM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Juanita Kawamoto Brown	Individual	Support	In Person

Comments:

Please support this much needed legislation for Native Hawaiians and their missions to improve the many challenges and historical trauma we continue to suffer from due to the multi-generational ambivalence towards an entire Native Hawaiian Nation!

**ALL NATIVE HAWAIIAN LIVES MATTER!**

Respectfully

Mrs. Juanita Mahienaena Brown Kawamoto - 6th Generation Native Hawaiian

**HB-1385-HD-1**

Submitted on: 2/13/2023 7:22:34 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Will Caron	Individual	Oppose	Written Testimony Only

Comments:

I oppose this bill. Please defer it.

**HB-1385-HD-1**

Submitted on: 2/14/2023 3:25:33 PM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Dana Keawe	Individual	Oppose	Written Testimony Only

Comments:

Strong OPPOSITION.

**HB-1385-HD-1**

Submitted on: 2/15/2023 11:36:25 AM

Testimony for JHA on 2/15/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stanley Roehrig	Individual	Support	Remotely Via Zoom

Comments:

Testimony submitted on 2/14/2023