

STAND. COM. REP. NO. 173

Honolulu, Hawaii

FEB 13 2023

RE: S.B. No. 97
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 97 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that:

- (1) The Board of Land and Natural Resources shall not unilaterally amend the terms and conditions of any lease of public lands being extended pursuant to Act 149, Session Laws of Hawaii 2018, except as otherwise provided in part X of chapter 171, Hawaii Revised Statutes; and
- (2) If the Board of Land and Natural Resources wishes to amend the terms and conditions of any lease of public lands being extended to reflect the Board's most current lease form and leasing practices and policies, such lease form and leasing practices and policies must be included in the rules of the Board.

Your Committee received testimony in support of this measure from McCully Works, Hilo Fish Company, and one individual. Your Committee received testimony in opposition to this measure from the Department of Land and Natural Resources.



Your Committee finds that Act 149, Session Laws of Hawaii 2018 (Act 149), established a ten-year pilot project to authorize the Board of Land and Natural Resources to extend leases of public lands in the Hilo Community Economic District for the purpose of facilitating improvement and economic opportunity in the area for lessees who commit to making substantial improvements or construct new substantial improvements.

Your Committee further finds that missing from Act 149 is language that expressly allows the Board of Land and Natural Resources to unilaterally amend any terms and conditions of the extended leases to conform to the most current lease form and leasing practices and policies of the Board. However, your Committee finds that despite the foregoing, the Board of Land and Natural Resources has been approving extensions of leases pursuant to Act 149 by amending the lease terms and conditions to conform to the Board's most current lease form and leasing practices and policies. Therefore, this measure clarifies that the Board of Land and Natural Resources shall not unilaterally amend the terms and conditions of any lease of public lands being extended pursuant to Act 149 and that if the Board wishes to amend the terms and conditions of any lease to reflect the Board's most current lease form and leasing practices and policies, such lease form and leasing practices and policies must be included in the rules of the Board.

Your Committee has amended this measure by:

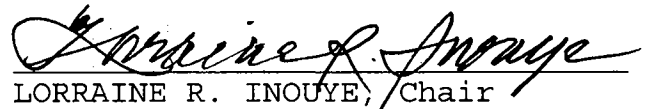
- (1) Clarifying that the Department of Land and Natural Resources shall not use the Board's promulgation of rules based on the most current lease form, leasing practices, and policies, as a reason for delay and shall continue to process applications for development agreements and lease extensions while the Board promulgates and approves its rules;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion, and deleting the proposed repeal date of June 30, 2028; and
- (3) Making a technical, nonsubstantive amendment for the purposes of clarity and consistency.



Should your Committees on Judiciary and Ways and Means choose to deliberate on this measure, your Committee respectfully requests that it considers inserting a repeal date of June 30, 2028, for consistency with the sunset date of Act 149.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 97, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 97, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.


Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUYE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB97	Committee Referral: WTL, JDC/WAM	Date: 02 /06/2023		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)		✓		
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.	✓			
FEVELLA, Kurt	✓			
TOTAL	4	1	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes