

STAND. COM. REP. NO. **220**

Honolulu, Hawaii

FEB 14 2023

RE: S.B. No. 448
S.D. 1

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

Sir:

Your Committees on Hawaiian Affairs and Housing, to which was referred S.B. No. 448 entitled:

"A BILL FOR AN ACT RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS,"

beg leave to report as follows:

The purpose and intent of this measure is to exempt housing development from general excise taxes and school impact fee requirements and extend the county affordable housing credit program for the Department of Hawaiian Home Lands.

Your Committees received testimony in support of this measure from the Department of Hawaiian Home Lands and Dowling Company, Inc. Your Committees received testimony in opposition to this measure from one individual. Your Committees received comments on this measure from the Office of the Governor, Department of the Attorney General, Department of Taxation, Department of Budget and Finance, School Facilities Authority, one member of the County Council of the County of Hawai'i, and Tax Foundation of Hawaii.

Your Committees find that the Department of Hawaiian Home Lands was established by the Hawaiian Homes Commission Act of 1920, as amended, to protect and improve the lives of native Hawaiians. The Department of Hawaiian Home Lands serves to develop and administer public lands for homesteads and offers them for lease to native Hawaiian beneficiaries at rates considerably



below market value. As such, the Department of Hawaiian Home Lands currently pays general excise taxes when developing affordable housing projects despite having no ability to recover these costs due to their below market leases. Your Committees find that this discrepancy has hampered the rate of affordable housing development for beneficiaries.

Your Committees further find that some Hawaiian home lands that could be used for affordable housing development are often, out of necessity, used for developing public schools, public charter schools, and early learning facilities in order to support the educational needs of homestead communities. Notwithstanding, the Department of Hawaiian Home Lands would be required to pay school impact fees when developing new housing projects but for an exemption pursuant to Act 197, Session Laws of Hawaii 2021 (Act 197), which expires in 2024.

Your Committees further find that to help address the need for new affordable housing, through Act 141, Session Laws of Hawaii 2009 (Act 141), the Department of Hawaiian Home Lands is authorized to use affordable housing credits to attract more affordable homestead development opportunities through developer-financed projects. However, your Committees also find that this invaluable housing credit program is set to expire in 2024.

Therefore, this measure exempts any housing development for the Department of Hawaiian Home Lands from general excise taxes and school impact fee requirements and extends the county affordable housing credit program for the Department of Hawaiian Home Lands.

Your Committees have heard the testimony of the Department of the Attorney General, expressing concerns that this measure's amendment to the lapse date for the \$600,000,000 in general funds pursuant to Act 279, Session Laws of Hawaii 2022 (Act 279), may be subject to constitutional challenge because of its unspecified appropriation date. The Department of the Attorney General testified that article VII, section 11, of the Hawaii State Constitution generally restricts appropriations from exceeding a period of three years.

Further, in regards to the school impact fee exemption, the Department of the Attorney General testified that Act 197 is set



to expire on July 1, 2024, and that an amendment to eliminate the sunset provision is necessary if this measure's intent is to make the school impact fee exemption permanent.

Your Committees have also heard the testimony of the Department of Hawaiian Home Lands, requesting that the general excise tax exemption language for housing development be broadened to include both developments of homestead lots and housing, to help facilitate developments on agricultural and pastoral lots, which are included under homestead lots.

Finally, your Committees have heard the testimony of the Department of Taxation, requesting that the effective date of this measure be amended to January 1, 2024, instead of upon approval, due to the tax form and system changes necessary to implement this measure.

Therefore, your Committees have amended this measure by:

- (1) Expanding the exemption from general excise taxes and school impact fee requirements to both developments for homestead lots and housing;
- (2) Deleting the proposed section that would have extend the general funds lapse date to an unspecified date for the \$600,000,000 appropriation to the Department of Hawaiian Home Lands pursuant to Act 279;
- (3) Making the exemptions from school impact fee requirements and the issuance of county affordable housing credits permanent by striking the sunset provisions;
- (4) Amending the purpose section of Part II, to reflect its amended purpose;
- (5) Amending the effective date to January 1, 2024; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.


As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Housing that are attached to



this report, your Committees are in accord with the intent and purpose of S.B. No. 448, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 448, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Hawaiian Affairs and Housing,

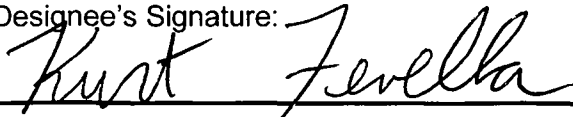

STANLEY CHANG, Chair


MAILE S.L. SHIMABUKURO, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB448	HWN/HOU, WAM	02/07/2023		
<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
SHIMABUKURO, Maile S.L. (C)	/	/		
FEVELLA, Kurt (VC)		/		
IHARA, Jr., Les		/		
KEOHOKALOOLE, Jarrett	/			
RICHARDS, III, Herbert M. "Tim"	/			
TOTAL	3	2	-	-
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

