

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

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 COMMITTEES ON WATER & LAND
& AGRICULTURE & ENVIRONMENT

MARCH 17, 2017
2:15 P.M.
CONFERENCE ROOM 224

HOUSE BILL NO. 618 HD2
RELATING TO LAND LEASES

Chairpersons Rhoads and Gabbard and Members of the Committees:

Thank for the opportunity to testify on House Bill No. 618 HD2 relating to land leases. This measure sets a deadline for the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (HDOA). The department supports the intent of this bill and requests the following changes.

(Language to be deleted is bracketed and stricken. New requested language is underscored.)

"SECTION 2. [(a)] Pursuant to Act 90, Session Laws of Hawaii 2003, the department of land and natural resources shall transfer lands to the department of agriculture by June 30, [2019.] 2020 as follows:

[(b)] (a) Any lands identified and approved for unconditional transfer by the board of agriculture as non-agricultural park lands [and not transferred by the deadline in subsection (a)] shall be placed under the jurisdiction of the department of agriculture



by [July 1, 2020] June 30, 2019. [The department of land and natural resources shall be responsible for all leases and agreements that are not in compliance with section 166E-3, Hawaii Revised Statutes. The department of agriculture shall assume responsibility for compliant leases and agreements and shall negotiate future leases and agreements by July 1, 2020.]

[(c)] (b) Any lands identified and approved for conditional transfer by the board of agriculture as non-agricultural park lands shall be transferred to the department of agriculture by June 30, 2020. The department of land and natural resources shall be responsible for all corrective action concerning these leases and agreements until such time that all corrective action has been taken and written acknowledgement of such actions from the department of agriculture has been received. Prior to acknowledgement, the department of agriculture shall ensure the parcel's suitability for transfer per chapter 166E, Hawaii Revised Statutes, and chapter 158, Hawaii Administrative Rules.

(c) Unconditional lands identified by the board of agriculture for transfer after January 1, 2019 shall be transferred within six months from the date of board of agriculture approval.

(d) Conditional lands identified by the board of agriculture for transfer after January 1, 2019 shall be transferred by June 30, 2020, or within six months from the date of board of agriculture approval, whichever is later. Lands identified under this section shall be subject to the same terms and conditions as section (b).

(e) Land identified by the board of agriculture as "unsuitable" or "not suitable for transfer" shall not be transferred.

(f) The department of land and natural resources and department of agriculture shall jointly report to the legislature, not later than twenty days prior to the convening of the regular session of 2018, on their efforts to effectuate the land transfers under this Act, including providing a list of all identified land transfers."

Thank you for the opportunity to testify on this measure.

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 Committees on
AGRICULTURE AND ENVIRONMENT
and
WATER AND LAND**

**Friday, February 17, 2017
2:15 P.M.**

State Capitol, Conference Room 224

**In consideration of
HOUSE BILL 618, HOUSE DRAFT 2
RELATING TO LAND LEASES**

House Bill 618, House Draft 2, proposes to set a deadline of June 30, 2019 to complete the transfer of non-agricultural park lands from the Department of Land and Natural Resources (Department) to the Department of Agriculture (DOA). **The Department opposes this measure while acknowledging the intent.**

As the bill explains, Act 90, Session Laws of Hawaii 2003, provided for the transfer of the Department's non-agricultural park lands to DOA. Act 90 states in part that upon mutual agreement and approval of the Board of Agriculture (BOA) and the Board of Land and Natural Resources (BLNR), DOA may accept the transfer of and manage certain qualifying non-agricultural park lands. Act 90 did not set forth a timeline for completing the transfers between the Department and DOA.

Since the inception of Act 90, the Board has transferred 116 leases, 12 revocable permits and 7 vacant parcels covering approximately 10,285 acres statewide to DOA. The BLNR has approved the transfer of an additional 43 leases, 31 revocable permits and 9 vacant parcels covering 1,393 acres to DOA. The Department and DOA are working through necessary land transfer procedures on those. In some instances, agriculture use occurs only on a portion of a parcel, requiring a survey and subdivision of the portion to be transferred to DOA. In other cases, the departments are reviewing lessee compliance issues or problems with the condition of the land.

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

House Draft 2 of the bill provides that “Any lands identified and approved for unconditional transfer as non-agricultural park lands and not transferred by the deadline in subsection (a) shall be placed under the jurisdiction of the department of agriculture by July 1, 2020.” As explained above, Act 90 provides for the transfer of non-agricultural park lands to DOA by **mutual agreement of the BLNR and BOA**. The Department respectfully suggests that this provision for an automatic transfer at a certain date may result in confusion or unintended consequences with regard to properties not approved by BLNR and BOA for transfer for management by DOA. The Department and DOA are working cooperatively to determine which parcels are transferred and when and to seek approval by BLNR and BOA. Accordingly, the Department suggests **deleting the automatic transfer provision** as provided below. The Department will continue to work with DOA to meet the timelines in the bill to complete all transfers that the BLNR has approved.

SECTION 2. (a) Pursuant to Act 90, Session Laws of Hawaii 2003, the department of land and natural resources shall transfer applicable lands to the department of agriculture by June 30, 2019.

(b) ~~Any lands identified and approved for unconditional transfer as non-agricultural park lands and not transferred by the deadline in subsection (a) shall be placed under the jurisdiction of the department of agriculture by July 1, 2020.~~

The department of land and natural resources shall be responsible for all leases and agreements that are not in compliance with section 166E-3, Hawaii Revised Statutes. The department of agriculture shall assume responsibility for compliant leases and agreements and shall negotiate future leases and agreements by July 1, 2020.

The Department notes that there are a number of pasture leases that the BLNR has not approved for transfer to DOA because they are in current or former native forested areas which are core to the Department’s mission. The Department’s Division of Forestry and Wildlife has requested

that the Department retain control over these pasture leases for future reforestation and watershed protection projects. The Department must therefore respectfully oppose this measure to the extent it seeks to transfer pasture leases when the leases have the potential for such projects.

With respect to the provision of House Draft 2 that requires the Department to be responsible for all leases and agreements that are not in compliance with Act 90, codified at Section 166E-3, Hawaii Revised Statutes, the Department continues to address lease compliance issues in anticipation of transfer of the leases and other agreements to DOA.

Thank you for the opportunity to comment on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 9:49 AM
To: WTL Testimony
Cc: alan@prloffice.com
Subject: Submitted testimony for HB618 on Mar 17, 2017 14:15PM

HB618

Submitted on: 3/13/2017

Testimony for WTL/AEN on Mar 17, 2017 14:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Ponoholo Ranch Limited	Support	No

Comments: Act 90 passed by the legislature in 2003 made it clear that the policymakers wanted ALL agricultural lease passed from DLNR to HDOA. Now 14 years later, the majority of leases have still not been transferred for a variety of bureaucratic reasons, especially pasture leases. The legislature wisely saw that HDOA's mission was to advance agriculture. Who is better to administer agricultural leases on State land? I served on the Hawaii Board of Agriculture for eight years during this period, and every meeting I would ask for a list of leases which still have not been transferred and the reason they had not been transferred. Every time, I got the same response....Bureaucratic red tape. Please pass HB 618 HD2 now. Thank you

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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Hawaii Cattlemen's Council, Inc.

COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator Gil Riviere, Vice Chair

COMMITTEE ON WATER AND LAND

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

DATE: Friday, March 17, 2017
TIME: 2:15 p.m.
PLACE: Conference Room 224

HB 618 HD12- RELATING TO LAND LEASES.

Sets a deadline for the transfer of certain non-agricultural park lands from the Department of Land and Natural Resources to the Department of Agriculture.

Chairs Gabbard & Rhoads, Vice Chairs Riviere & Gabbard, and Members of the Committees:

My name is Dale Sandlin, Managing Director of the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the four county level Cattlemen's Associations. Our 150+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports** HB 618 HD2 as this bill provides a timeline to accomplish the transfer of agricultural leases from DLNR to HDOA.

Since the passage of Act 90 in 2003, ranchers who have agricultural land leases through DLNR have waited for their lease to begin the transfer process over to HDOA, but for many, this day has never come. Instead, these ranchers have gone through costly and time consuming process in either going through a rent reopener under DLNR or exploring why or where their lease was in the transfer process.

In some cases, these leases went into a rent reopener process and the renewal rent quote was increased by hundreds of thousands of dollars, presumably in an effort to force ranchers out of their lease. This action has caused some ranchers to pay over \$100,000 in lawyer's fees, appraisal fees, consultants, and mediation costs to reduce the rent cost to a more reasonable fee. That's not to mention the cost in productivity on the ranch when the rancher is having to constantly divert their attention from operations to address something that should never have happened if Act 90 was followed.



The transfer of these leases to HDOA is long overdue and this bill provides relief to farmers and ranchers in regards a timeline to complete the transfer of these leases. We respectfully ask this committee to support this measure and we appreciate the opportunity to testify on this critical matter for our industry.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 4:27 PM
To: WTL Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB618 on Mar 17, 2017 14:15PM*

HB618

Submitted on: 3/13/2017

Testimony for WTL/AEN on Mar 17, 2017 14:15PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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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