

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
WATER & LAND**

**Monday, February 9, 2015
10:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 518
RELATING TO THE DISPOSITION OF PUBLIC LANDS**

House Bill 518 proposes to create a new section in Chapter 171, Hawaii Revised Statutes, that would give lessees of state lands the right to relinquish their leases on terms and conditions favorable to them during the last half of the lease term. **The Department of Land and Natural Resources (“Department”) opposes the bill.**

The Department’s leases generally provide that the lessee owns any improvements it constructs during the term of the lease, but at the end of the lease, ownership of the improvements reverts to the State without compensation. The Board of Land and Natural Resources (“Board”) already has the discretion to entertain requests for early lease cancellation and to set the conditions under which the Board will agree to mutual cancellation. The proposed bill would strip the Board of that discretion and grant lessees the right to dictate when their leases would be terminated and the conditions on which state lands would thereafter be put out to public auction. Specifically, the bill requires any competing bidder at public auction to pay the relinquishing lessee the appraised residual value of the improvements on the property. The intent of the bill appears to be to give existing lessees an advantage at the auction of new leases for their properties since they would not have to pay for the residual value of improvements.

CARTY S. CHANG
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

DANIEL S. QUINN
INTERIM FIRST DEPUTY

W. ROY HARDY
ACTING 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

cullen2-Dawn Marie

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 06, 2015 5:29 PM
To: waltestimony
Cc: cnrs@interpac.net
Subject: Submitted testimony for HB518 on Feb 9, 2015 10:00AM

HB518

Submitted on: 2/6/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
brian nakano	Chika Nakano Repair Shop	Support	No

Comments: Please support this bill

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
Sent: Friday, February 06, 2015 7:42 PM
To: waltestimony
Cc: office@hilobayprinting.com
Subject: Submitted testimony for HB518 on Feb 9, 2015 10:00AM

HB518

Submitted on: 2/6/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Don O'Reilly	Hilo Bay Printing Co., Ltd.	Support	No

Comments: Aloha 28th Legislature, I am honored to write you in support of HB518. As I'm sure you know, many DLNR leaseholders are small businesses that invest as much as they can into their venture, with the hope and optimism that those investments, along with hard work, will bring just reward. The existing practice of lessees surrendering all improvements made by sweat and capital is draconian, unfair, and just not pono. With our lease, we may see tens of thousands in improvements we've made grabbed by speculators who could outbid us by only a buck or two. This transfer of wealth from the working class to the affluent is something that is increasingly, desperately wrong with our economy. Please do the right thing and pass this legislation! Sincerely, Don O'Reilly Hilo Bay Printing Co., Ltd. DLNR Leaseholder

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cullen2-Dawn Marie

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 07, 2015 3:42 PM
To: waltestimony
Cc: pabo2000@yahoo.com
Subject: Submitted testimony for HB518 on Feb 9, 2015 10:00AM

HB518

Submitted on: 2/7/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
rodney kim	siba	Support	No

Comments: the sand island business association, lessees of of the sand isalnd industrial park from the dlnc, strongly supports this bill. our sub-lessees have invested over \$65 million in leasehold improvements and over \$40 million in infrastructure. this bill will assist us to continue to invest.

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To Members of the Hawaii State Legislature,

I fully support the intent of HB 518. It provides the lessee some rights to enable them to obtain a fair and reasonable resolution to their assets in a lease with the State.

Please pass HB 518.

Sincerely,

Gordon Inouye

cullen2-Dawn Marie

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 06, 2015 7:45 PM
To: waltestimony
Cc: cvancamp3@hawaii.rr.com
Subject: Submitted testimony for HB518 on Feb 9, 2015 10:00AM

HB518

Submitted on: 2/6/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Carol A. VanCamp	Individual	Support	No

Comments: This bill will make state leases more attractive and encourage lessees to continue to make needed improvements throughout their lease terms. This will be a win-win for the state and for the lessees.

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From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 08, 2015 10:01 AM
To: waltestimony
Cc: ritchie@rinvest.com
Subject: Submitted testimony for HB518 on Feb 9, 2015 10:00AM

HB518

Submitted on: 2/8/2015

Testimony for WAL on Feb 9, 2015 10:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ritchie Henderson	Individual	Support	No

Comments: Dear Committee Chair, Vice-Chair & Member Legislators: RE: HB518 (Support) This written communication is testimony in support of HB518. Providing a mechanism to allow for the impartial and reasonable ability of allowing a lessee to extend lease term options or be compensated for those improvements that appreciated the subject property will benefit both sides of the negotiating table. I urge your support and recommendation in moving this bill forward. Sincerely, Richard Henderson II

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February 7,2014

Hawaii State Legislature
Water and Land Committee

Testimony in Support of HB518

My wife and I own our own business in Downtown Hilo and are owners of both fee simple and leasehold commercial and industrial properties in Hilo. Our community has suffered a great deal due to difficulties with leasehold properties in our industrial area. HB 518 will be a major step forward by allowing current owners to resolve some of the longstanding problems with leasehold properties and we hope will breathe new life into our stressed industrial lands.

Thank you.

Sincerely,

Michael and Keiko Shewmaker
28-227 Kulaimano Rd.
Pepeekeo, HI 96783

Mailing Address:
194 Kilauea Ave. 101
Hilo, HI 96720

LATE

McCully Works
40 Kamehameha Ave.
Hilo, Hi. 96720

HB 518: Testimony in SUPPORT

House Committee, Water and Land
Chair Ryan Yamane, D-37
Vice-Chair Ty Cullen, D-39

Aloha Chair Yamane,

My name is James McCully, I am a farmer here in Hilo (Mauna Kea Orchids) and over the years I have invested in state leasehold property as a second business and for my retirement. I currently operate a business leasing demised warehouse spaces to other small businesses on 3 parcels of state land in the Kanoelehua Industrial Area in Hilo. That business is “McCully Works” which has “Hawaii Warehouse Services” as it’s subsidiary. You can visit our website at www.mccullyworks.com

HB518 addresses a key feature to make economic use of state lands more efficient. Currently there is no option to renew a lease [HRS 171-36, (a), (1)]. There is also no formalized means of relinquishing a lease that protects the public’s interest as well as the then current lessee. This bill could be construed as a “housekeeping” measure that offers significant benefits to the state and provides an avenue for the lessee to reinvest in their business in a timely manner.

The consequence of a lack of renewal or extension of leases beyond the statutory limitation of 65 years is that in the 2nd half of a lease term, or at anytime with less than 30 years remaining, the leasehold interest has become a “wasting asset”. That is to say that there are prohibitive impediments to the rational use of the property when the improvements become non-mortgageable . This leads to a disincentive to utilize the properties efficiently and in a state that is as constrained as Hawaii is we simply cannot afford to utilize our lands at less than an optimal level.

HB518 fully protects the interests of the public and provides DLNR Land Division with a transparent process to manage our lands at their highest efficiency. Please support this bill and if you have any questions feel free to call me to discuss them.

Mahalo,

James McCully
McCully Works
40 Kamehameha Ave., Hilo, Hi. 96720
808-933-7000