

HAWAII

Hawaii Legislature Pau, But Not Before Turtle Bay Land Deal Squeaks By

Lawmakers spend final day of session plodding through dozens of measures, including the hastily put together Turtle Bay deal.

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The end justified the means.

That was the message Hawaii lawmakers sent the public this week by hastily approving

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share of a land deal with Turtle Bay Resort.

Few disputed the decision to preserve 665 unspoiled acres on the north shore of Oahu. But the vast majority — even those voting for it — faulted the process by which it was achieved.

“There are times when there are questions whether or not we technically met the constitutional requirement and in this case there is that question,” Senate President [Donna Mercado Kim](#) told reporters in her office after the session ended.

The Legislature closed its 2014 session Thursday with long, if not particularly lively, floor sessions in the House and Senate.

Lawmakers gave final approval to dozens of measures, touted accomplishments like raising the minimum wage and praised colleagues who will not be returning next year

because they are seeking higher offices. They also killed a bill, which some have speculated was a retaliatory move on the part of the House, that would have provided \$500,000 to investigate the possibility of the state exchanging land with Dole Food Co.

But under all the lei and collegiality was discomfort — especially in the House — with the inevitable passage of legislation to pony up the state's portion of the deal with Turtle Bay Resort.

The \$48.5 million agreement to buy a conservation easement involves Honolulu kicking in \$5 million, the Trust for Public Land pitching in \$3.5 million and the state picking up the rest.

Gov. [Neil Abercrombie](#) had included \$40 million in general obligation bonds for this purpose in his supplemental budget request in December, but in March the House cut the money from its version of the state spending plan in anticipation of a slowing economy; the Senate left it that way.

The [Council on Revenues downgraded its fiscal forecast](#) March 11 from 3.3 percent growth in 2014 to zero and from 7.4 percent growth in 2015 to 5.5 percent. This left lawmakers with almost half a billion dollars less revenue than they expected to have for the biennium.

So when the governor formally [announced the agreement April 17](#), just two weeks before the end of the legislative session, the pressure was on to find the funding or risk missing out on the opportunity.

On Thursday, the eve of the deadline for fiscal bills, Senate Ways and Means Chair [David Ige](#) unveiled a creative plan to come up with the money without raising taxes or tearing apart the budget.

Ige's plan involves using \$33 million of the transient accommodations tax that currently goes to the Hawaii Tourism Authority to pay for debt services and operating costs. Those services and costs are to be restructured so that interest payments are reduced from \$26.5 million to \$16.5 million. A portion of the interest savings from the restructuring would then be set aside to pay the interest for revenue bonds for the Turtle Bay deal.

The budget conference committee approved [House Bill 2434](#), the legislative vehicle to implement the plan, with [just minutes to spare](#) Friday.

The full Senate unanimously approved it Tuesday, but the House deferred its decision until Thursday as members debated what to do.



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House Speaker Joe Souki talks to media after the 2014 session ended, May 1, 2014.

‘Policy Good, Process Bad’

After an hour of occasionally impassioned floor speeches, the House voted 48-2 to pass the bill. Reps. Sharon Har and James Tokioka voted no; Rep. Ken Ito was excused.

Lawmakers took turns explaining why they were voting in support of the bill, but more often than not they gave reasons for opposing it — namely, questions over the bill receiving the constitutionally required three readings on separate days in each chamber before passage.

The legislative history of HB 2434 shows the bill did indeed receive the required

number of readings in the House and Senate. But the versions of the bill that cleared each chamber before it was significantly changed in conference committee last week make no mention of Turtle Bay, a conservation easement or the specific funding mechanism.

Rep. [Marcus Oshiro](#) voted in favor of the bill, which he called a “debacle,” and went on at length about why the process “condones the principle of the end justifying the means.”

“That puts every single member, all 76 of us, in a terrible position,” he said. “Policy good, process bad.”

Oshiro said he would have preferred the Legislature come back next week or next month in special session, hold a public hearing, invite key parties to explain the deal and then vote on it.

Tokioka said he didn’t feel good about voting no because he supports conserving the land. But he was worried it would set a bad precedent and doesn’t want the Legislature to do business this way.

Others were fine with the process. Rep. Tom Brower said the legislation will remind groups like Common Cause that sometimes it is the right thing to “gut and replace,” a practice of swapping the contents of a bill with other language.

In an interview with reporters after the session ended, House Speaker [Joe Souki](#) said he did not believe HB 2434 was a gut-and-replace bill.

“You’ll always have some who are unhappy,” he said.



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Rep. Marcus Oshiro speaks on the floor of the House, May 1, 2014.

But his counterpart in the Senate said she definitely considered the bill to have been gutted and replaced.

Senate President Donna Kim said the bill technically received three readings but the final contents of the measure did not.

“Will there be a lawsuit?” she said. “I don’t know. There may be. There could be. But that’s not the first time.”

Kim said it ultimately came down to the Legislature deciding that the Turtle Bay land issue had been around a long time and that it was important to the people of Hawaii to preserve it.

“Our whole purpose of being here is to be able to facilitate good things for our state,” she said. “If we let our rules dictate everything, sometimes then we’re not going to be able to accomplish that.”

The Attorney General's office told Civil Beat that the final conference draft of HB 2434 is in accord with the constitutional requirements for the passage of bills.

The subject of conservation of lands at Turtle Bay and the use of TAT money for the protection of natural resources and facilities were discussed in both the 2013 and 2014 legislative sessions, the office said.

Drew Stotesbury, CEO of Turtle Bay Resort, said in a statement that the conservation easement marked a successful resolution to the Turtle Bay issue.

"Like everyone on the North Shore, we are thrilled that the funding of this historic agreement has been approved and thank our lawmakers for supporting this quest to preserve treasured open space," he said.

Abercrombie, too, was appreciative of the end result.

"This vote marks the culmination of years of effort to secure the future of the North Shore," he said in a statement.

"The result will keep the country, country. It will protect pristine coastlines from development. It will provide open space and access for everyone."

What's the Rush?

While lawmakers were fine pushing the Turtle Bay legislation through at the last minute, they put the brakes on bills to explore a major land exchange with Dole.

Sen. [Donovan Dela Cruz](#) has been fighting to pass legislation that would [let the state trade land](#) slated for development in Kapolei for thousands of acres of agricultural land in central Oahu.

The final draft of [Senate Bill 3065](#) would have provided \$500,000 to investigate the possibility of the land exchange. The Senate approved it Tuesday, but the House deferred the bill Thursday.



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Rep. James Tokioka in House chambers, May 1, 2014.

Souki said during the press conference that the decision had nothing to do with Dela Cruz effectively killing an economic development bill last week by not showing up for the meeting to vote on it.

“We don’t believe in retaliation,” Souki said, adding that the bill was just “too much in haste.”

Kim said she met privately with Souki and House Majority Leader Scott Saiki and they told her there were other concerns with the bill — which she considered a “casualty” of the session — and much work to be done on it still.

“One major project per year,” Souki said, referring to Turtle Bay.

Higher Wages, Mandatory Education

In all, the Legislature passed more than 240 bills this session.

While the Turtle Bay deal grew contentious near the end, there was no one issue this session that galvanized lawmakers — or the public — the way the [Public Land Development Corporation](#) or marriage equality did last year.

Indeed, one of the few times the gay marriage issue was even mentioned was in reference to the minimum wage. Lawmakers [legalized same-sex marriage](#) last fall by passing Senate Bill 1.

“Every year we have the opportunity and privilege to make the lives of others better,” Sen. [Clayton Hee](#) said this week while speaking in support of raising the minimum wage. “Just like SB1 during special session, this measure moves the paradigm for working people and allows them the opportunity to enjoy life a little bit easier than they have.”

The Legislature passed a bill to raise the minimum wage to \$10.10 per hour by January 2018. Kim and Souki were particularly proud of passing that landmark legislation.

“A rising economy is a healthy one only when it elevates all of our citizens,” Souki said.

Lawmakers also passed a bill, which [Abercrombie signed into law](#) Thursday, to make kindergarten mandatory next school year for kids who who turn 5 years old by July 31.



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House and Senate lawmakers sing 'Hawaii Pono'i' in House chambers at the end of the 2014 legislative session, May 1, 2014.

A Little Less Sunshine, A Lot More Disclosure

Lobbyists will have to itemize their expenses and report their contributions within 30 days after a special session ends [thanks to two bills passing](#).

And more than a dozen state boards and commissions are set to have to file [public financial disclosure statements](#) each year, including the University of Hawaii Board of Regents, Hawaii Community Development Authority and Board of Land and Natural Resources.

Police will have to give the Legislature more information about disciplinary action each year thanks to a [police misconduct](#) disclosure bill Sen. [Will Espero](#) championed.

And a [new exemption in the Sunshine Law](#) will let county councils meet and discuss business at a community group's event.

Government transparency aside, lawmakers also passed legislation to let voters register at absentee polling places starting in 2016 and late voter registration, even on Election Day, is set to begin in 2018.

The [counties will receive an extra \\$10 million](#) in hotel tax money next year and again the following year.

“With anything we do in life, it’s always about balance. That’s the same way we look at it here in our majority caucus,” Sen. Brickwood Galuteria said in a statement. “Every issue will have two opposing sides. Our job as lawmakers is to come out at the end of session with worthy legislation that improve the quality of life of our people. I think we did just that and I’m proud of my colleagues in the Senate Majority.

Abercrombie has 35 days to let lawmakers know what bills, if any, he intends to veto.

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