
HOUSE CONCURRENT RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO INVESTIGATE AND DEVELOP FEASIBILITY AND IMPLEMENTATION MODELS REGARDING MERGING THE LAND COURT AND REGULAR SYSTEMS, REASSIGNING THE BUREAU OF CONVEYANCES TO ANOTHER STATE DEPARTMENT, AND PRIVATIZING CERTAIN FUNCTIONS OF THE BUREAU OF CONVEYANCES.

1 WHEREAS, in light of the published news reports, studies,
2 and Senate hearings regarding the problems at the Bureau of
3 Conveyances, the ongoing investigations by the Department of the
4 Attorney General and the State Ethics Commission, and the lack
5 of any effective solutions being created or implemented at the
6 Bureau of Conveyances, the Legislature adopted Senate Concurrent
7 Resolution No. 226 during the 2007 Regular Session; and

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9 WHEREAS, it was clear to the Legislature that further
10 action was required to address concerns regarding the personnel,
11 operational, and fiscal management of the Bureau of Conveyances
12 as it serves an important public service as the repository of
13 information relating to the title to land upon which homes and
14 businesses are situated within the State; and

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16 WHEREAS, the Concurrent Resolution established a Joint
17 Senate-House Investigative Committee to investigate the
18 personnel, operational, and fiscal management of the Bureau of
19 Conveyances to ensure that the Bureau of Conveyances serves the
20 public at its most optimal level and required the Committee to
21 submit its findings and recommendations to the Legislature prior
22 to the convening of the 2008 Regular Session; and

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24 WHEREAS, the scope of the Committee's investigation of the
25 Bureau of Conveyances was to complement rather than duplicate,
26 impede, or jeopardize the ongoing investigations conducted by
27 the Department of the Attorney General and the State Ethics
28 Commission, and it was the goal of the Committee to develop
29 methods, and short- and long-term solutions on how the
30 Legislature can assist the Bureau of Conveyances in becoming a



1 more efficient, effective, and accountable operation rather than
2 pinpoint blame for the existing problems at the Bureau; and

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4 WHEREAS, pursuant to Senate Concurrent Resolution No. 226
5 (2007), the objectives of the Committee were to investigate,
6 gather information, assess, and make recommendations concerning:

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8 (1) The management of the employees and administrators of
9 the Bureau of Conveyances;
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11 (2) The fiscal management and accountability of the Bureau
12 of Conveyances;
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14 (3) The rules, procedures, and fee schedules relating to
15 information sharing between the Bureau of Conveyances
16 and private title companies and individual users or
17 subscribers; and
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19 (4) The security of recorded documents, access to these
20 documents from private computers, and the potential
21 for tampering with these documents; and
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23 WHEREAS, during the six months of public hearings and
24 intense investigative work, the Committee uncovered several and
25 sometimes troubling findings relating to the voluminous and
26 escalating problems at the Bureau of Conveyances; and
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28 WHEREAS, the Committee heard testimony and received
29 documents regarding the Bureau's computer system and information
30 sharing service, including the acquisition of the computer
31 system and software; the management of the Bureau's fiscal
32 matters, including contracts and agreements; the Bureau's
33 relationship and business interactions with private title
34 companies or other entities in the title industry; and the
35 personnel and operational management of the Bureau; and
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37 WHEREAS, in the course of its discussion and assessment of
38 the information and testimony it received, the Committee drew
39 the following three prevailing and interlocking conclusions
40 amongst the Committee's findings:

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42 (1) Severe mismanagement of the employees and operations
43 of the Bureau of Conveyances hampers effective and
44 efficient property recordings;



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(2) A lack of fiscal management and accountability at the Bureau of Conveyances has led to a loss of revenue for the State; and

(3) Employee and operational mismanagement and a lack of fiscal accountability causes the operations of the Bureau of Conveyances to be vulnerable to abuse; and

WHEREAS, from a review of the testimony and materials presented to the Committee, and in light of the long standing nature of the problems uncovered, it appears extremely unlikely that the Bureau possesses the will or capability to address these issues without some form of concentrated intervention; and

WHEREAS, in light of the breadth and depth of the challenges the Bureau faces, and given the relative lack of success that accompanied earlier attempts at improving operations, it was clear to the Committee that more fundamental changes in the Bureau must be explored than have been discussed in the past; and

WHEREAS, among the approaches the Committee considered were combining the two existing systems - Land Court and Regular System - into a single form of recordation that better serves the needs of the community; and

WHEREAS, in addition, the Bureau's continuing failure to operate in a productive and effective manner as a part of the Department of Land and Natural Resources raised an unavoidable question whether the function would be better placed in another department of the executive branch or within the judicial branch; and

WHEREAS, finally, questions arose as to whether the recordation function would be better placed outside of state government, and instead privatized to an existing or newly-created entity capable of handling the needs of landowners in the State; and

WHEREAS, in light of the Committee's findings and recommendations, it has become apparent that the problems at the Bureau require special action and further analysis; now, therefore,

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2 BE IT RESOLVED by the House of Representatives of the
3 Twenty-fourth Legislature of the State of Hawaii, Regular
4 Session of 2008, the Senate concurring, that the Legislative
5 Reference Bureau is requested to investigate and develop
6 feasibility and implementation models regarding:

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8 (1) The legal and technical obstacles to combining the
9 Land Court and Regular System functions of the Bureau
10 of Conveyances into a single unified system of
11 recordation;
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13 (2) The advisability of reassigning the Bureau of
14 Conveyances from its current position within the
15 Department of Land and Natural Resources to another
16 department within the executive or judicial branches
17 of the state government; and
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19 (3) The considerations attendant to privatizing the
20 functions of the Bureau of Conveyances, including the
21 nature and qualifications of a non-governmental entity
22 suitable to accept current Bureau functions; and
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24 BE IT FURTHER RESOLVED that the Legislative Reference
25 Bureau is requested to examine and analyze the feasibility of
26 merging the existing Regular System and Land Court systems of
27 land recordation into a single unified system of recordation,
28 including the legal and practical impediments to creating a
29 unified system. In doing so, the Legislative Reference Bureau
30 is requested to:

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32 (1) Perform a survey of systems of land recordation in
33 other jurisdictions, including dual-systems and
34 unified systems, to identify best practices and
35 existing challenges in those jurisdictions;
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37 (2) Work with stakeholders of the Bureau of Conveyances to
38 identify current aspects of property recordation in
39 the State that are critical to the continued
40 effectiveness of the Bureau as a single unified system
41 of recordation;
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43 (3) Consider the pros and cons of the Regular System that
44 relies on title insurance to settle discrepancies in



1 ownership versus the Land Court's explicit guaranty by
2 the State of property ownership; and

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4 (4) Establish findings and develop recommendations on how
5 the Bureau of Conveyances may be unified into a single
6 system of recordation; and
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8 BE IT FURTHER RESOLVED that the Legislative Reference
9 Bureau identify a new administrative assignment for the Bureau
10 of Conveyances within the state government, including the
11 following:
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- 13 (1) Perform a review of departments within the state
14 government to identify likely administrative
15 assignments for the Bureau of Conveyances, in order to
16 produce a "short list" of agencies for in-depth
17 review, which shall not be limited to executive branch
18 departments, but shall include the judiciary of the
19 State of Hawaii; and
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- 21 (2) Review the policies, procedures, and current functions
22 of "short list" agencies to determine the feasibility
23 and advisability of reassigning the Bureau of
24 Conveyances to one of those agencies, including
25 consultation with the executives of the agencies
26 identified as relocation candidates, their staffs, and
27 stakeholders of those agencies as identified by the
28 respective executives, and consultation with the
29 leadership of the Hawaii Government Employees
30 Association as necessary to ensure union
31 representation and consultation on all matters
32 concerning its union members; and
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34 BE IT FURTHER RESOLVED that the Legislative Reference
35 Bureau perform an in-depth review of the issues and potential
36 challenges presented by privatizing the functions of the Bureau
37 of Conveyances, including a survey that includes:
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- 39 (1) An outline of criteria to be applied in identifying
40 and selecting a private entity to assume the
41 responsibilities of the Bureau of Conveyances;
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43 (2) Financial projections related to privatizing Bureau
44 functions, including potential income earned and



1 expenses borne by the private entity, adequacy of
2 current pricing, and potential net income to the
3 State;

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5 (3) An analysis of tax collections now handled by the
6 Bureau of Conveyances and, if appropriate, a process
7 for the selected private entity to collect and
8 transfer those tax revenues;

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10 (4) A recommendation of budgetary and personnel provisions
11 to allow the selected private entity to accept the
12 Bureau of Conveyances and its functions;

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14 (5) A timeline and transition plan for the privatization
15 of the Bureau of Conveyances; and

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17 (6) An analysis of other issues and considerations that
18 may militate against the reassignment of the Bureau to
19 a private entity; and

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21 BE IT FURTHER RESOLVED that the Legislative Reference
22 Bureau submit its findings and recommendations to the
23 Legislature no later than twenty days prior to the convening of
24 the 2009 Regular Session; and

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26 BE IT FURTHER RESOLVED that certified copies of this
27 Concurrent Resolution be transmitted to the Director of the
28 Legislative Reference Bureau, the Chair of the Board of Land and
29 Natural Resources, the Chief Justice, the Governor, and the
30 Executive Director of the Hawaii Government Employees
31 Association.

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34 OFFERED BY: _____



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