

STAND. COM. REP. NO.

2818

Honolulu, Hawaii

MAR 19 2010

RE: H.B. No. 674
H.D. 1
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 674, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS,"

begs leave to report as follows:

The purpose of this measure is to amend the operating budget of the Office of Hawaiian Affairs for fiscal years 2009-2010 and 2010-2011.

Testimony in support of the measure was submitted by five organizations and two hundred sixty-one individuals. One state agency and one organization support the intent. Testimony in opposition was submitted by one state agency. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee is concerned and disappointed with the Office of Hawaiian Affairs' (OHA) interpretation of this measure and in particular, with their analysis of section 1 of this proposal, which inserts section 9A into the OHA budget, Act 140, Session Laws of Hawaii 2009. So there can be no misunderstanding, section 9A constitutes and proposes that fifty percent of the OHA trust funds match fifty percent of the Hawaiian Home Lands trust funds. OHA's interpretation that section 9A of this measure consists of all OHA trust funds is incorrect.



Your Committee also acknowledges and agrees with an Attorney General opinion that recognizes OHA's discretion over its own trust funds. However, there is nothing in this measure that compels OHA to spend its trust funds; and furthermore, your Committee notes that OHA trust funds in section 9A of this measure are matched with non-OHA funds held by the Department of Hawaiian Home Lands.

Another unfortunate OHA misconception concerns the Legislature's general fund appropriation to OHA in this proposal. Sections 7 to 9 of Act 140, Session Laws of Hawaii 2009, clearly follow section 10-14.6, Hawaii Revised Statutes, which provides that the Legislature shall appropriate any general fund portion of the OHA budget and any matching special fund appropriations. If OHA elects not to use the Legislature's general fund appropriation, then OHA does not have to match the general funds with its own trust funds.

Your Committee has discovered inconsistencies and concerns over OHA's spending of the Legislature's general fund appropriation for its operating expenses. These concerns include a miscellaneous expenditure of approximately \$450,000 in 2009-2010 and \$468,266 in 2010-2011. OHA's non-disclosure of the specific use of these taxpayers' funds is troubling and unacceptable. Further, your Committee has also been informed that OHA deleted 167.5 and created 153.5 new positions as part of their new reorganization. Your Committee is concerned over the deletion of 62 positions that are funded by general funds and wants to know whether these positions have been replaced. Your Committee believes that in light of OHA's trust fund portfolio value of \$352,000,000, expenditures paid by general funds including but not limited to rent and insurance costs should be paid by OHA trust funds and not general funds. Therefore, your Committee will continue to review the general fund appropriations requested by OHA as this measure moves forward.

Your Committee has amended this measure by further amending Act 140, Session Laws of Hawaii 2009, to reduce the general fund appropriation for OHA for the 2010-2011 fiscal year to zero dollars.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 674, H.D. 1, as amended herein, and



recommends that it pass Second Reading in the form attached hereto as H.B. No. 674, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



CLAYTON HEE, Chair



