



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P.O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF ALAPAKI NAHALE-A, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS
IN SUPPORT OF

HB 222, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

February 9, 2011

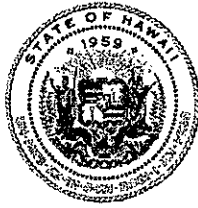
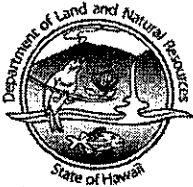
Chair Hanohano, Vice-Chair Lee and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) supports the intent of this legislation that would supplement our department's budget by approximately \$3.7 million for the development of agricultural and residential lots.

We support the intent of this legislation as it reflects two of the public land trust statutory purposes: the betterment of the conditions of native Hawaiians and the development of farm and home ownership on a widespread basis. These funds will be a consistent and reliable source of funding to help support and sustain our programs. However, while we support the intent of the bill, will defer on the fiscal implications until the Executive Biennium Budget is finalized.

Thank you for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
HAWAIIAN AFFAIRS**

**Wednesday, February 9, 2011
8:30 AM
State Capitol, Conference Room 329**

**In consideration of
HOUSE BILL 222
RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

House Bill 222 provides that 5% of funds derived from the public land trust shall be expended by the Department of Hawaiian Home Lands (DHHL) for development of farm and home ownership. The Department of Land and Natural Resources (Department) has serious reservations regarding this bill.

The Board of Land and Natural Resources (Board) is responsible for managing the Public Land Trust. Pursuant to the Admission Act, the lands, proceeds and income of the Public Land Trust must be managed and used for one or more of the five trust purposes:

- 1) The support of public schools and other public educational institutions;
- 2) The betterment of the conditions of native Hawaiians;
- 3) The development of farm and home ownership;
- 4) The making of public improvements;
- 5) The provision of lands for public use.

In making decisions on the use of trust lands, the Board must balance the needs and perspectives of all five trust purposes. As the entity tasked with the primary obligation to seek betterment of the conditions of native Hawaiians, the Office of Hawaiian Affairs (OHA) is already entitled to 20% of the public land trust revenues. All DHHL beneficiaries are also OHA beneficiaries and entitled to benefit from OHA's statutory 20% share of the public trust revenues. Requiring that an additional 5% of those revenues go to DHHL may have the unintended effect of designating one-fourth of the public trust revenues exclusively for use by beneficiaries that constitute only one-fifth of the public trust purposes. This preference of one trust purpose over the other four may jeopardize the Department's compliance with its

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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
KAIHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

fiduciary obligations to treat all trust purposes equally.

DHHL, pursuant to Act 14, Special Session Laws of Hawaii 1995 (Act 14), is the beneficiary of the final settlement of all claims against the State arising out of the disputed claims regarding the wrongful alienation of Hawaiian home lands. The transfer of lands contemplated by Act 14 was intended to be used for the rehabilitation of native Hawaiians pursuant to the Hawaiian Homes Commission Act of 1920 (HHCA). The promotion of farming by and provision of housing for native Hawaiians are integral elements of the rehabilitation of native Hawaiians contemplated by the HHCA. That transfer is substantially completed.

Despite the meritorious intent of this bill, due to the recent severe funding reductions, the Department simply cannot afford the diversion of additional revenues for exclusive use by specific trust beneficiaries, especially when those beneficiaries have already received and continue to receive the benefit of their designated rightful share of public land trust revenues, and have received over 15,000 acres of public lands in settlement of claims pursuant to Act 14 to fulfill, among other things, the purposes targeted by this bill.

The Department's general fund appropriations and special fund revenues have substantially decreased in recent years. In the past two years, the Department has lost at least 80 positions, which constitutes approximately 10% of the Department's workforce.

The lands providing the revenues targeted by this bill are held in the public trust for all Hawaii residents and serve multiple public interests. Dedicating an additional 5% of the revenues from those lands to a single interest would deprive all other public interests that are equally entitled to support from such resources.



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 9, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 222

COMMITTEE ON HAWAIIAN AFFAIRS

The Department of Transportation (DOT) supports the intent of this House Bill No. 222, but has serious concerns regarding its impact on its harbor operations.

House Bill No. 222 requires the annual transfer of five percent (5%) of revenues collected from the use of lands within the public land trust to the Department of Hawaiian Home Lands (DHHL). This requirement would be in addition to the annual twenty percent (20%) of ceded lands revenue currently transferred to the Office of Hawaiian Affairs (OHA). This amendment will affect the Harbors Division of DOT, which generates 41% of its total revenue from lands within the public land trust. With the additional 5% under this bill, 10.25% of the total revenue of the Harbors Division will be transferred. DOT currently transfers approximately \$6.0 million to OHA in FY 2010. An additional 5% is \$1.5 million.

The department defers to the legislature on this important policy decision regarding the appropriate distribution of revenues derived from the public land trust. The commercial harbors system is operated as a financial enterprise and is solely dependent upon revenues generated through user fees. We have serious concerns as the increase in our ceded land obligations reduces the revenues to support the commercial harbors system. This may have a negative impact on our ability to meet rate covenants under our bonds and/or on our ability to issue future debt at favorable interest rates.