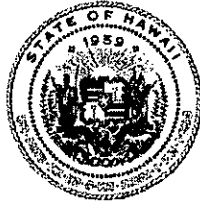
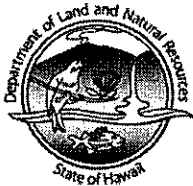


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**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  
JUDICIARY**

**Tuesday, March 22, 2011  
2:00 PM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 981, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

Senate Bill 981, Senate Draft 2, House Draft 1 would require certain council, board and commission members to take a training course by the Office of Hawaiian Affairs ("OHA") relating to native Hawaiian traditional and customary rights, natural resource protection and access rights, and public trust. Entities within the Department of Land and Natural Resources ("Department") that would be subject to this requirement would be the Board of Land and Natural Resources, the Commission on Water Resource Management, the Legacy Land Conservation Commission, the Natural Area Reserves Commission, and the Hawaii Historical Places Review Board. The Department has no objections to this measure and offers the following comments.

The Department is keenly aware of the need for the members of its boards and commissions to be properly educated and sensitive to the important subject matters that would serve as the focus of this proposed training course. However, all of the members of these boards and commissions fulfill an important public service by serving on a volunteer basis. The Department requests that OHA consider this while developing the training course as to avoid imposing too great a burden on the various board and commission members' time.

The Department notes that its 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 Department does note the bill tasks OHA with providing the entire scope of the training program, including the development, administration and most importantly, funding. The Department appreciates it is not tasked with this responsibility as it could cripple an already hobbling Department.

**WILLIAM J. AILA, JR.**  
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  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



**SB981 SD2 HD1**  
**RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**  
House Committee on Judiciary

March 22, 2011

2:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** SB981 SD2 HD1, which is a bill in OHA's 2011 Legislative Package. This bill would require that certain council, board, and commission members attend a training course developed and administered by OHA.

As entities of the state, certain councils, boards, and commissions administer public trust resources and programs that directly impact upon Native Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust. These entities have a duty to protect and preserve these rights and a fiduciary duty to administer the public trust in the interest of the beneficiaries, including native Hawaiians and Hawaiians.

As the principal public agency responsible for ensuring that other state agencies protect Native Hawaiian rights, OHA sees this bill as an important opportunity to work with state councils, boards, and commissions to enable them to execute their roles better informed of their fiduciary obligations to native Hawaiians and Hawaiians, and their responsibilities to protect Native Hawaiian rights and interests.

Given the broad range of expertise and experience of the individuals selected to serve on these state councils, boards, and commissions, OHA recognizes that many members on these key policy-making entities may not possess knowledge of the unique rights and responsibilities that relate to the Native Hawaiian community. This training course, which will incorporate resource individuals with legal, historical, and cultural expertise, is intended to address this deficiency.

Please note that it is OHA's intention to fund the costs relating to the development and implementation of the training course proposed under SB981 SD2 HD1. As such, we did not request a general fund appropriation in the bill and have no plans to request an amendment to the bill to include an appropriation.

OHA strongly urges the committee to PASS SB981 SD2 HD1. Mahalo nui loa for the opportunity to testify.

03/21/2011

I strongly oppose Senate Bill 1458. I want to use my voice to say, I do not support this bill and truly believe it will have a negative impact for Hawaii and more specifically my island of residence, Maui.

Rhoda Rellez  
Kahului, Maui

*ASSOCIATION OF HAWAIIAN CIVIC CLUBS*  
TESTIMONY OF PRESIDENT SOULEE STROUD

**SENATE BILL 981,SD2,HD1**  
**RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

BEFORE THE  
COMMITTEE ON JUDICIARY  
Tuesday, March 22, 2011; 2:00 pm; Rm. 325

Aloha Chairman Keith-Agaran, vice chair Rhoads and members of the House Committee on Judiciary. I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs and I am here to support Senate Bill 981,SD2, HD1.

This is one of several bills introduced by the Office of Hawaiian Affairs, and on January 22, 2011 the Association Board of Directors met and reviewed the summaries of the OHA bills. The Board represents all the councils and sixty component clubs of our organization, and voted unanimously to support the OHA legislative package.

This particular OHA bill would amend Chapter 10 of the Hawaii Revised Statutes to add a section that **requires training on Native Hawaiian and Traditional and Customary Rights, Native Hawaiian and Hawaiian Natural Resource Protection and Access Rights, and the State's Obligations under the Public Trust.**

Training of this kind is long over-due, given the dynamics of a changing population in Hawaii. While we support this measure, we will also offer our support to the Office of Hawaiian Affairs to assist wherever we can be useful in this effort.

Thank you for the opportunity to testify and we urge the passage of this bill.

Contact: Jalna Keala, [jalna.keala@hawaiiatel.net](mailto:jalna.keala@hawaiiatel.net)

**Testimony for SB981 on 3/22/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Tuesday, March 22, 2011 8:11 AM

**To:** JUDtestimony

**Cc:** info@schha.org

---

Testimony for JUD 3/22/2011 2:00:00 PM SB981

Conference room: 325

Testifier position: support

Testifier will be present: No

Submitted by: Michael Kahikina

Organization: Sovereign Councils of the Hawaiian Homelands Assembly

Address:

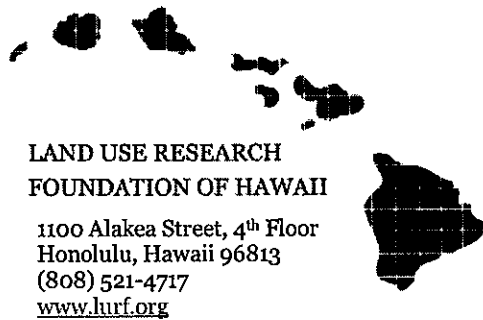
Phone:

E-mail: info@schha.org

Submitted on: 3/22/2011

**Comments:**

For any questions or comments, please contact Annie Au Hoon, SCHHA Executive Assistant, at 529-1627.



LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)

March 22, 2011

Representative Gilbert S.C. Keith-Agaran, Chair and Representative Karl Rhoads, Vice Chair  
House Committee on Judiciary

**Support of intent, but opposition to current form of SB 981, SD2 HD1 Relating to the Office of Hawaiian Affairs** (Requires certain council, board, and commission members to take a training course offered by OHA relating to native Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust.)

**Tuesday, March 22, 2011 at 2:00 p.m. in CR 325**

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

While LURF supports the intent of this bill, LURF must **oppose SB 981, SD2 HD1**, in its present form. Based on the concerns discussed below, LURF respectfully requests that **SB 981, SD2 HD1 be held, or in the alternative, we respectfully request that this Committee amend the bill**, as follows:

- (1) To assure broad-based, balanced and objective training, any mandatory training should be done by OHA, together with other groups with different and/or opposing information, interpretation and viewpoints,
- (2) Training should also be provided relating to other areas, including, but not limited to interest and industry groups involved with agriculture, aquaculture, tourism, business, construction and housing, the military, land use, high technology, renewable energy and sustainability, or
- (3) As an alternative to training by OHA and several different interest and industry groups, that the training be conducted by the Department of the Attorney General ("Attorney General").

**SB 1154, SD1.** Purpose of the bill is to require certain members of appropriate state councils, boards and commissions to undergo training conducted by the Office of Hawaiian Affairs ("OHA") on OHA's views and interpretation of Native Hawaiian and Hawaiian rights, the source of these rights, and how infringement of these rights impacts the native Hawaiian and Hawaiian people. The mandatory training proposed by this bill shall include the completion of a training course designed and administered by OHA, and representing OHA's views and interpretations relating to Native Hawaiian and Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust, including the State's trust responsibility.

**LURF's Position.** While we support the intent of SB 981, SD1, we must **oppose** this bill based on, among other things, the following:

- **New State appointees would benefit from a more comprehensive, broad-based, balanced and objective training program.** We acknowledge that upon their appointment, newly appointed members of state councils, boards, and commissions may not possess knowledge of native Hawaiian and Hawaiian rights and the public trust. They also probably lack the knowledge or expertise relating to issues pertaining to their respective entity, as well as knowledge relating to the major issues which will affect Hawaii's future, including, but not limited to, agriculture, tourism, business, housing, development, the military, land use, renewable energy, sustainability and aquaculture. Thus, instead of a training program that is solely limited to information, interpretation and views of OHA, a more comprehensive training program could better assist in preparing State appointees to fulfill their roles and responsibilities and to be fully informed of their duties and obligations.
- **In order to provide balanced and objective training, if OHA training is mandated, there should also be mandated training by other parties with different and/or opposing information, interpretation and views on the same issues.** The training currently proposed by this bill would be limited to OHA, which would represent the point of view of only one organization. While we respect and accept the importance of the information, interpretation and views which OHA would present to the new state appointees, there may also be different and/or opposing information and alternative interpretations or views on the same issues. Thus, we believe that it is imperative that other parties be allowed to present different and/or opposing information, interpretation and views, to assure that the training is balanced, and objective in nature. Such balanced and objective training should provide the new appointees with the knowledge and expertise to serve on their respective board, council, or commission.
- **New appointees should receive comprehensive, broad-based training in other important areas affecting the future of Hawaii.** In addition to Native Hawaiian matters, there are numerous other issues and aspects relating to the subject matter of a particular council, board, or commission that an appointee should be versed in, including, but not limited to, statutory interpretation, common law, business and contract law, personal injury, and other legal issues. Training should also be provided relating to other areas which are vital to the future of Hawaii, including training by various groups regarding agriculture (Hawaii Farm Bureau Federation?), aquaculture, tourism (Hawaii Tourism Authority?), business (Honolulu Chamber of Commerce?), construction and housing, the military, land use, high technology, renewable energy and sustainability.
- **Balanced and objective training could be conducted by the Attorney General.** Should your Committee decide to pass the provisions contained in the current version of the bill, we respectfully request that an amendment be incorporated to require that the Attorney General, instead of OHA, provide training for new appointees to State boards, councils, and commissions. While we realize that the title of this bill may be too restrictive for this amendment, we respectfully request that the content of this bill with the above mentioned amendments be incorporated into an appropriately titled bill for further consideration.

**Conclusion.** While LURF supports the intent of this bill, LURF must **oppose SB 981, SD2**, in its present form. Based on the concerns discussed above, LURF respectfully requests that SB 981, SD2 HD1 **be held**, or in the alternative, that the bill be **amended**, to incorporate the following: (1) To assure balanced and objective training, any mandatory training should be done by OHA, together with other groups with different and/or opposing information, interpretation and viewpoints, (2) To assure comprehensive and broad-based information regarding issues of importance to Hawaii's future, training should also be provided relating to other areas, including, but not limited to interest and industry groups involved with agriculture, aquaculture, tourism, business, construction and housing, the military, land use, high technology, renewable energy, and sustainability, or (3) As an alternative to training by OHA and several different interest and industry groups, that the training be conducted by the Attorney General.

Thank you for the opportunity to present testimony regarding this matter.





March 19, 2011

## TESTIMONY

**Re: SB981HD1 Relating to Office of Hawaiian Affairs**

Chair Keith-Agaran and Members of the Committee:

Maui County Farm Bureau on behalf of commercial farm and ranch families and organizations **provides the following comment to SB981 HD1** requiring training of Boards and Commissions by OHA.

One of the intents of this measure is to educate Boards and Commissions about the issues associated with the Hawaiian Culture. Legislative decisionmaking goes beyond cultural issues. The Constitution recognizes agriculture as important to the State. Everyone says agriculture is important for increased self sufficiency. Therefore, should there be an equivalent training about agriculture? Currently, bodies such as the Commission on Water Resource Management have a representative of the Hawaiian Community to address the concern on cultural awareness.

We agree that legislative decisions should be done by legislators educated on the background of various issues. But this goes beyond culture. We need to balance all needs as we make decisions critical to the State's long term future. Providing training in only one area does not provide for balance.

We appreciate this opportunity to voice our opinion on this matter. If there are questions, please contact Warren Watanabe at 2819718. Thank you.



# NATIVE HAWAIIAN LEGAL CORPORATION

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**SENATE BILL 981, SD 2, HD 1  
RELATING TO THE BUDGET OF THE OFFICE OF HAWAIIAN AFFAIRS  
BEFORE THE  
HOUSE COMMITTEE ON JUDICIARY**

DATE: Tuesday, March 22, 2011  
TIME: 2:00 p.m.  
PLACE: Conference Room 325

Chairperson Keith-Agaran, Vice-Chairperson Rhoads and members of the House Committee on Judiciary. Aloha. Thank you for this opportunity to provide testimony in support of Senate Bill 981, SD. 2, HD 1, relating to the Office of Hawaiian Affairs.

My name is Moses Haia and I am the Executive Director of the Native Hawaiian Legal Corporation (NHLC). NHLC is a non-profit, public interest law firm which endeavors to provide low cost legal assistance to Native Hawaiian individuals, families and communities in their individual and collective efforts to preserve their traditional Hawaiian lifestyle. SB 981 seeks to provide training and education to the members of appropriate councils, boards, and commissions about native Hawaiian and Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust.

The cases undertaken by NHLC include quiet title defense on behalf of the heirs of the original awardees of kuleana, assertion of ahupua'a tenants and kuleana rights; access and water rights; the protection and preservation of traditional and customary practices; protection of culturally significant places; and preservation of native Hawaiian land trust entitlements. In many cases, a council, board, or commission of the state or a political subdivision of the state presides over these issues. It is, therefore, critical that the members of these entities have a working understanding of the laws relevant to these matters. It is perhaps even more critical that these members understand the important underpinning of these laws; the history of Hawaii. This history, after all, provides the very basis for the decision making authority of each council, board, and commission.

The Hawaiian scholar David Malo notes, "the king was over all the people; he was the supreme executive, so long, however, as he did right." *See, David Malo, Hawaiian Antiquities*, 53 (Bishop Museum Press, 1951 ed.). Malo also confirms that the ruling chiefs were bound by trust to see to the welfare of the people and the land. Along with the power and authority to distribute the assets of the kingdom, the chiefs had the duties of trustees, obligated to insure the beneficial use of the land for all of the people. The

*Services made possible with major funding from the Office of Hawaiian Affairs.*

ancient Hawaiian regulations regarding water and land grew out of this concept of mutual benefit and sharing. *Id.* at 195.

In the following passage from Reppun v. Board of Water Supply, 65 Hawaii 531, 656 P.2d 57 (1982) (“*Reppun*”), the Hawai‘i Supreme Court captures the essence of the problem when pre-western contact Hawaiian history is interpreted and explained through a western lense:

The western doctrine of “property” has traditionally implied certain rights. Among these are the right to the use of the property, the right to exclude others and the right to transfer the property with consent of the “owner”. In conformance with creation of private interests in land, each of these rights were embodied in the delineation of post-[Mahele] judicial water rights. Ostensibly, this judge-made system of rights was an outgrowth of Hawaiian custom in dealing with water. However, **the creation of private and exclusive interests in water, within the context of western concepts of property, compelled the drawing of fixed lines of authority and interests which were not consonant with Hawaiian custom.**

*Id.* at 547, 656 P.2d at 68. (Emphasis added).

Thirteen years later, the Hawai‘i Supreme Court noted, “[a]lthough the court in *Reppun* focused on interests in water, its discussion of the development of Hawaiian property rights was enlightening” when dealing with the exercise of traditional and customary native Hawaiian practices. Public Access Shoreline Hawaii v. Hawai‘i County Planning Commission, 79 Hawai‘i 425, 443, 903 P.2d 1246, 1264 (1995) (“*Kohanaiki*”).

As the Court further acknowledged in *Reppun*, 65 Hawai‘i at 542, 656 P.2d at 65, and subsequently reaffirmed in *Kohanaiki*, 79 Hawai‘i 425, 443, 903 P.2d 1246, 1264 (1995):

In 1840 the first constitution of the Kingdom of [Hawai‘i] proclaimed that although **all property** belonged to the crown ‘it was **not his private property**. It belonged to the Chiefs and the people in common, of whom [the King] was the head, and had the management of the landed property.’ [Hawai‘i Const. Of 1840 in Fundamental Laws of Hawaii 3 (1904)]. Thus, prior to the [Mahele], all land remained in the **public domain**. However, other laws passed during the same period lay the foundation for the eventual imposition of private property rights in land by limiting the King’s and landlords heretofore unregulated authority to disseize one to whom land had been granted and **insuring certain rights of the common people and lesser lords**. (Emphasis added).

Furthermore, after a thorough review and careful analysis of the development of the western concept of private property in Hawai‘i, the *Kohanaiki* Court noted with great import that:

Provisions of the law requiring the landlord’s consent [before the common people could go to the mountains and the seas] were repealed...because ‘many difficulties and complaints have arisen from the bad feeling

existing on account of the Konohiki's [sic] forbidding the tenants on the lands enjoying the benefits that have been by law given them.'

*Id.* at 446, 903 P.2d, at 1267.

These and other historical realities led the *Kohanaiki* Court to logically conclude that "the western concept of exclusivity is not universally applicable in Hawai'i...In other words, the issuance of a Hawaiian land patent confirmed a limited property interest as compared with typical land patents governed by western concepts of property." *Id.* at 447, 903 P.2d, at 1268.

The State and its political subdivisions, which now stand in the shoes of the King, must, in conformance with their fiduciary duties as trustees of the public trust, act in the best interests of the people. Hawaii Revised Statutes ("HRS") § 1-1, confirms that the common law of Hawai'i is ultimately subject to Hawaiian usage unless modified by case law, statute or the constitution.<sup>1</sup> To a large extent, the current form of Article XII, § 7 of Hawaii's Constitution is a reflection of the state's responsibility when it comes to custom and usage.

Under Article XII, § 7 of the Constitution of Hawaii confirms that all state councils, commissions, and boards must consider those rights traditionally and customarily exercised for subsistence, cultural, and religious purposes in the exercise of their regulatory authority. *Kohanaiki*, 79 Haw. at 451. These public agencies, are "obligated to protect the reasonable exercise of [these rights] to the extent feasible." *Id.* at 450, n. 43, 903 P.2d at 1271, n. 43. While these rights are subject to reasonable regulation, agencies may not regulate them "out of existence." *Id.* at 451, 903 P.2d at 1272.

Accordingly, the *Kohanaiki* court explained that "HRS § 1-1 represents the codification of the doctrine of custom *as it applies in our State*."<sup>2</sup> The *Kohanaiki* court examined HRS § 1-1 and its predecessors and essentially concluded that Hawaiian usage or custom has always had primacy over English and American common law.<sup>3</sup> In other words, unlike other legal systems that are also based (at least in part) upon Anglo-Saxon traditions, that common law does not have chronological priority in Hawai'i.<sup>4</sup>

Given the above, each and every member of a council, board, commission has, at a minimum, a moral obligation to endeavor to truly understand the significance Hawaiian

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<sup>1</sup> See, *Kohanaiki*, 79 Haw. at 437 n.21, 903 P.2d at 1258 n.21 (tracing this provision to the Laws of 1892, ch. LVII, § 5, but acknowledging that the native usages and customs in regard to landed tenures were preserved throughout the historical development of the kingdom's written laws); *id.* at 445 n.33, 903 P.2d at 1266 n.33 (quoting the Act of April 27, 1846, pt. I, ch. VII, art. IV, § 7, which constrained the Land Commission's power to quiet title "in accordance with . . . native usages in regard to landed tenures").

<sup>2</sup> 79 Hawai'i at 447, 903 P.2d at 1268 (emphasis in original).

<sup>3</sup> See David M. Forman & Stephen M. Knight, *Native Hawaiian Cultural Practices Under Threat*, 1 Hawai'i Bar Journal 23-26 (1998).

<sup>4</sup> 79 Hawai'i at 441 n.26, 903 P.2d at 1262 n.26 (citing Blackstone).

history plays in the formation, enactment and enforcement of our laws. Truly understanding the importance and primacy of the above will provide these entities with the ability and capacity to arrive at balanced, informed decisions. It is then incumbent upon them to do so and not let politics undermine the process. Mahalo for the opportunity to provide our input on this very important issue.



Aha Kiole Advisory Committee

**TESTIMONY IN SUPPORT OF**

**SB 981 SD 2 HD1**

**Relating to the Office of Hawaiian Affairs**

Submitted to: Committee on Judiciary

March 22, 2011

2:00 p.m.

Room 325

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Aloha Chair Keith-Agaran, Vice Chair Rhoads and members of the committee,

My name is Vanda Hanakahi and I am the Kiole of Moloka'i, speaking on behalf of the Aha Kiole Advisory Committee of which I am the Chair.

Thank you for the opportunity to testify in support of S.B. 981 SD2 SD 2 HD 1 , the bill that requires certain council, board and commission members to take a training course offered by OHA on Native Hawaiian traditional and customary rights and practices.

We believe that all agencies, organizations and boards affiliated with the government of the State of Hawaii should be familiar with the culture and practices of the host culture, Native Hawaiians. Too often decisions that impact Native Hawaiians are made because of ignorance. Members of Boards and Commissions administer public trust resources that directly impact Native Hawaiians. Often, they do not possess the knowledge of the rights and cultural practices of Hawaiian as a whole. They definitely do not possess knowledge of each individual island's practices, nor are they aware that although Native Hawaiians are considered to be one race and ethnic group, there are distinct differences in cultural practices between the islands.

We believe that this proactive course of training is essential and we urge the passage of SB 981, SD 2 HD 1. Mahalo for the opportunity to testify on this measure.

Vanda Hanakahi, Chair

Aha Kiole Advisory Committee

P.O. Box 507, Ho'olehua, HI 96729

Phone: 808-336-6184, Email: kaiwilauula@yahoo.com

## JUDtestimony

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**From:** Robin [rkaye@mdi.net]  
**Sent:** Monday, March 21, 2011 10:37 AM  
**To:** JUDtestimony  
**Subject:** testing

RE: SB981

I support this bill. It is important for state boards, commissions and councils to take a training course on Native Hawaiian rights.

Mahalo,

Robin Kaye

Robin Kaye  
[rkaye@mdi.net](mailto:rkaye@mdi.net)  
P.O. Box 631313  
Lanai City, HI 96763  
808-565-6276 (h)  
808-559-6124 (m)

COMMITTEE ON JUDICIARY  
Rep. Gilbert S.C. Keith-Agaran, Chair  
Rep. Karl Rhoads, Vice Chair

DATE: Tuesday, March 22, 2011  
TIME: 2:00 PM  
PLACE: Conference Room 325

**RE: Testimony of Alan T. Murakami  
on SB981, SD2, HD1**

I support this bill and ask that you pass it.

Awareness of the special laws benefiting native Hawaiians is crucial to the understanding of any public policy maker, especially many of our boards and commissions, the decisions of which often fundamentally affect this group of Hawai'i's citizens. By requiring training in the areas of law affecting the Hawaiians' rights to water, land use, and the protection of cherished cultural practices, this state will go a long way to informing its decision-makers of the body of law that protects these rights. Such understanding in advance of decision-making can forego the necessity of litigation to correct some of the manifest abuses that have occurred in past controversies involving the respect for native Hawaiian rights. It might also forego the turmoil and emotional disruption that occurs when decisions are made without regard for such rights.

Much of the work in my profession has been devoted to repairing the damage caused by agencies, commissions, and boards who fail to recognize clear laws respecting the preservation of Hawaiian traditions and customs that are too often ignored by them. Unfortunately, too often, it is clear to those regularly appearing before such public entities that the level of awareness of these rights are sorely lacking. Providing the affirmative training in advance of controversial decision-making by public boards, commissions and agencies would go a long way toward avoiding the unnecessary turmoil and expense of litigation to challenge the decisions made. Such proactive steps would clearly benefit all sides involved.

The only comment I'd have to assure full coverage by this law is to allow for training for other boards, commissions and councils, whether at the state or county level, at their election. The language currently appears to dissuade OHA from providing training for any entity other than those specifically enumerated. The language should be expanded to cover other agencies with direct impact on Hawaiian rights, and not be so rigidly applied to others that could benefit from such training. Perhaps an amendment that modifies that language could be:

**§10-A Applicability of part.** This part shall apply to members of the land use commission, board of land and natural resources, commission on water resource management, Hawaiian Homes Commission, environmental council, board of directors of the agribusiness development corporation, board of agriculture, including the Moloka'i Irrigation System advisory board, Hawaii Tourism Authority, legacy land conservation commission, natural area reserves system commission, Hawaii historic places review board, and board of health. This part



shall not apply to any other officer, representative, or employee of the State, but any such officer, representative, or employee, and any county agency, board, council, or commission, may request such training and the office shall provide it.

I urge you to pass this bill for these very important reasons. Seldom does an opportunity arise to avoid conflict and respect laws in advance of critical decision-making. This bill would promote these erstwhile laudable results.



**Hawaii Farm Bureau**  
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819  
PH: (808)848-2074; Fax: (808) 848-1921

Hearing before the  
House Judiciary Committee  
March 22, 2011  
Room 325  
2:00 PM

**Testimony on SB981 HD1 Relating to Office of Hawaiian Affairs**

Chair Keith-Agaran, Vice Chair Rhoads and Members of the Committee:

Hawaii Farm Bureau Federation, the largest not-for-profit agricultural advocacy organization in the state, provides **the following comments to SB981 HD1** requiring training of State Boards and Commissions by OHA.

The primary intent of this measure is to educate Boards and Commissions surrounding the issues associated with the Hawaiian culture. The Hawaii Farm Bureau Federation supports competent, experienced and educated appointees to various boards and commissions statewide. HFBF makes the assumption that discretionary appointees possess the background and qualities necessary to fulfill the requirements of the position. However, any training curriculum should be balanced in a variety of ways including matters relative to agricultural practices, economics, land use, land tenure, water storage and use, labor, transportation and marketing to name but a few.

SB 981 HD1 identifies the Boards and Commissions to which this legislation would apply. These bodies represent not only public resources but private as well.

Legislative decision making goes beyond cultural issues. HFBF believes that such training should be performed by an independent party such as the Office of the Attorney General. Bodies such as the Commission on Water Resource Management include a representative of the Hawaiian Community to address the concerns of cultural awareness.

Thank you for the opportunity to be heard on this matter.

Hawaii Farm Bureau Federation