
SENATE CONCURRENT RESOLUTION

URGING THE KAHO'OLAWE ISLAND RESERVE COMMISSION TO REQUIRE EACH STEWARDSHIP PROGRAM CONDUCTING ACTIVITIES ON THE KAHO'OLAWE ISLAND RESERVE TO OBTAIN LIABILITY AND PROPERTY DAMAGE INSURANCE AND LIST THE STATE AS AN ADDITIONAL INSURED.

1 WHEREAS, in Act 340, Session Laws of Hawaii 1993, the
2 Legislature placed the Island of Kaho'olawe, a place of
3 extraordinary cultural significance, under the control of the
4 Kaho'olawe Island Reserve Commission, with the condition that the
5 State would eventually transfer management and control of the
6 Island of Kaho'olawe, along with its resources and waters, to a
7 future sovereign native Hawaiian entity upon its recognition by
8 the United States and the State; and
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10 WHEREAS, the Kaho'olawe Island Reserve Commission
11 established policies and controls for uses of the Kaho'olawe
12 Island Reserve; coordinates the environmental restoration of the
13 Kaho'olawe Island Reserve; and provides for the perpetuation of
14 native Hawaiian customs, beliefs, and practices; and
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16 WHEREAS, on March 21, 2006, pursuant to section 6K-6(5),
17 Hawaii Revised Statutes, the Kaho'olawe Island Reserve Commission
18 entered into a stewardship agreement, Palapala 'Aelike Kahu'aina,
19 with the Protect Kaho'olawe 'Ohana through its nonprofit
20 corporation and fiscal agent Kohe Malamalama O Kanaloa, also
21 known as the Protect Kaho'olawe Fund, to allow the Protect
22 Kaho'olawe 'Ohana and its participants to access the Kaho'olawe
23 Island Reserve to provide mutual support for activities approved
24 and sponsored by the Kaho'olawe Island Reserve Commission; and
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26 WHEREAS, thereafter, on April 7, 2009, the Kaho'olawe Island
27 Reserve Commission entered into a five-year stewardship
28 agreement, Palapala 'Aelike Kahu'aina, with the Protect Kaho'olawe
29 'Ohana through Kohe Malamalama O Kanaloa to allow the Protect
30 Kaho'olawe 'Ohana to access the Kaho'olawe Island Reserve to



1 provide mutual support for activities approved and sponsored by
2 the Kaho'olawe Island Reserve Commission; and
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4 WHEREAS, the Protect Kaho'olawe 'Ohana has facilitated the
5 access by more than fifteen thousand people to the Kaho'olawe
6 Island Reserve; and
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8 WHEREAS, on August 6, 2009, a Protect Kaho'olawe 'Ohana
9 access participant was seriously injured by the propeller of a
10 boat that had been contracted by the Protect Kaho'olawe 'Ohana;
11 and
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13 WHEREAS, as a result of the serious injuries sustained, the
14 Protect Kaho'olawe 'Ohana access participant filed two lawsuits
15 against the State requesting payment for general damages,
16 special damages, and attorney's fees and costs; and
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18 WHEREAS, pursuant to section 6K-6(1), Hawaii Revised
19 Statutes, the Kaho'olawe Island Reserve Commission "[s]hall
20 establish criteria, policies, and controls for permissible uses
21 within the island reserve", and thus has a responsibility to
22 protect the State from liability; and
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24 WHEREAS, to prevent future liability, it is necessary to
25 ensure that all stewardship programs conducting activities on
26 the Kaho'olawe Island Reserve include sufficient liability
27 protection for the State; now, therefore,
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29 BE IT RESOLVED by the Senate of the Twenty-sixth
30 Legislature of the State of Hawaii, Regular Session of 2012, the
31 House of Representatives concurring, that the Kaho'olawe Island
32 Reserve Commission is urged to require each stewardship program
33 conducting activities on the Kaho'olawe Island Reserve to obtain
34 liability and property damage insurance in an amount acceptable
35 to the State and list the State as an additional insured at the
36 stewardship program's own cost and expense; and
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38 BE IT FURTHER RESOLVED that certified copies of this
39 Concurrent Resolution be transmitted to the Governor; Mayor of
40 the County of Maui; Chairperson of the Board of Land and Natural
41 Resources; Chairperson of the Board of Trustees of the Office of
42 Hawaiian Affairs; Chairperson of the Senate Committee on
43 Hawaiian Affairs; Chairperson of the House Committee on Hawaiian



- 1 Affairs; Chairperson of the Kaho'olawe Island Reserve Commission;
- 2 Kohe Malamalama O Kanaloa; and Protect Kaho'olawe 'Ohana.

