

STAND. COM. REP. NO. 2052

Honolulu, Hawaii

FEB 08 2012

RE: S.B. No. 2386
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred
S.B. No. 2386 entitled:

"A BILL FOR AN ACT RELATING TO THE NATIVE HAWAIIAN ROLL
COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to establish that
verification documents submitted by individuals seeking to be
included on the roll of qualified Native Hawaiians shall not be
disclosed and shall constitute information in which an individual
has a significant privacy interest.

Your Committee received testimony in support of this measure
from the Office of Hawaiian Affairs; the Executive Director of the
Native Hawaiian Roll Commission, Clyde Namu'o; the Chairperson of
the Native Hawaiian Roll Commission, John Waihe'e; the Association
of Hawaiian Civic Clubs; and the Aha Moku Advisory Committee.
Your Committee received testimony in opposition to this measure
from Aupuni O Hawaii. Your Committee received comments on this
measure from the Office of Information Practices.

Your Committee recognizes the privacy concerns of individuals
registering with the Native Hawaiian Roll Commission. Those
individuals must submit verification documents that may include
names of persons from whom lineal descent can be verified; birth,
marriage, or death certificates; statements of kamaaina witnesses;
contact information; and birth dates and other personal
identification numbers. Unless the confidentiality of those

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verification documents and information is established by law, any person could obtain access to those sensitive verification documents and information through a records request.

Your Committee finds that prospective registrants should not have to choose between maintaining their family and personal privacy and exercising their civic right to participate in reconstituting a Native Hawaiian government.

Your Committee further finds that the measure as drafted may not prevent the disclosure of verification documents and information. The Office of Information Practices testified that specifying that verification documents and information are documents in which an individual has a significant privacy interest could create an ambiguity as to whether the Legislature intended the information to be disclosed if the public interest in disclosure outweighs the privacy interest. Your Committee firmly believes that the verification documents and information should not be subject to disclosure on the basis of a balancing test, and further finds that there is no public interest in disclosing this information.

Your Committee has therefore adopted the amendments recommended by the Office of Information Practices, to ensure the confidentiality of verification documents and information as follows:

- (1) In section 1 of the measure, deleting the language stating that the verification documents shall be subject to section 92F-14, Hawaii Revised Statutes; and
- (2) Deleting section 3 of the measure, which listed the verification information and documents as an example of information in which an individual has a significant privacy interest.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2386, S.D. 1, and be referred to the Committee on Judiciary and Labor.



Respectfully submitted on
behalf of the members of the
Committee on Hawaiian Affairs,



BRICKWOOD GALUTERIA, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2386	HWN, JDL	11/30/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <i>PR</i> <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
GALUTERIA, Brickwood (C)	✓			
RYAN, Pohai (VC)	✓			
ENGLISH, J. Kalani	✓			
HEE, Clayton				✓
KAHELE, Gilbert	✓			
KIDANI, Michelle N.	✓			
SOLOMON, Malama	✓			
SLOM, Sam			✓	
TOTAL	6		1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes