

**SB 984**



**SB 984**  
**RELATING TO THE PORTION OF INCOME AND PROCEEDS FROM THE LANDS**  
**OF THE PUBLIC LAND TRUST FOR USE BY THE OFFICE OF HAWAIIAN**  
**AFFAIRS**

Senate Committee on Hawaiian Affairs  
Senate Committee on Judiciary and Labor

February 9, 2011

3:30 p.m.

Room 224

The Office of Hawaiian Affairs strongly **SUPPORTS** SB 984. This bill seeks to have the State do what is right and long overdue and resolve its debt to OHA resulting from public land trust revenues unpaid from 1978 to 2010.

If enacted, SB 984 will establish the debt at \$200 million minimally and provide for annual payments of at least \$30 million beginning July 1, 2015 until the debt is paid. SB 984 would also require the State to pay interest to OHA beginning July 1, 2010. In lieu of cash payments, the state executive branch, beginning July 1, 2011 and with OHA's approval, could substitute, for all or any part of the cash payments, land having the fair market value of the cash for which the land is being substituted.

The delay in payment of the debt as permitted by this bill is OHA's recognition of the State's presently difficult financial circumstances. However, the OHA Board of Trustees believes that the State's economy will be on its way to recovery within three to five years and the State will be well able to begin retiring the debt.

OHA also notes that by 2015, the State's obligation to pay \$30 million annually into the Hawaiian Home Lands Trust Fund under Act 14 of the 1995 Special Legislative Session will end.

SB 984 provides the opportunity for the Legislature to take a major step in resolving an issue that has remained unresolved for more than three decades and that the Hawai'i Supreme Court has ruled is primarily the responsibility of the Legislature. Appropriate legislative action would help fulfill the State's solemn obligation to OHA.

The following information may be useful as background information during the committee's consideration:

- Following many years of relatively small transfers to OHA, Act 304, Session Laws of Hawaii of 1990, sought to establish how the State would carry out its state constitutional and statutory mandate to dedicate 20 percent of public land trust revenues to OHA's activities.
- Act 35, Session Laws of Hawaii 1993, appropriated \$136.5 million in general obligation bond funds to OHA as a settlement of undisputed claims to that point in time.
- Act 329, Session Laws of Hawaii 1997, established OHA's pro rata share to be \$15.1 million for each of the fiscal years 1997-1998 and 1998-1999.
- In 2001, the Hawaii Supreme Court ruled that Act 304 was invalid due to a conflict between one of its technical provisions and federal law.
- Act 34, Session Laws of Hawaii 2003, required the transfer of several million dollars to OHA to help continue the revenue stream following the court ruling against Act 304.
- Executive Order No. 03-03 set forth Governor Lingle's procedure for continuing the revenue stream.
- Act 178, Session Laws of Hawaii 2006, included an interim provision setting OHA's annual amount of land trust revenues at \$15.1 million and providing a lump sum payment of \$17.5 million for certain amounts that the Legislature determined were underpaid between July 1, 2001 through June 30, 2005.

We thank you for considering this bill. The issue is complex, but when 30 years of struggle to address this issue are examined, one key truth remains: it is ultimately the Legislature's task to resolve the issue. We look forward to working tirelessly with the Legislature, as we have done over the years, to find a fair and just solution.

We urge your Committees to PASS SB 984.

Mahalo for the opportunity to testify on this important measure.

# ASSOCIATION OF HAWAIIAN CIVIC CLUBS

TESTIMONY BY  
PRESIDENT SOULEE STROUD

## **IN SUPPORT OF SENATE BILL 984**

### **Relating to the Portion of Income and Proceeds from the Lands of the Public Land Trust for Use by the Office of Hawaiian Affairs.**

Before the Joint Senate Committees on  
Hawaiian Affairs and Judiciary and Labor  
February 9, 2011; 3:30 pm Room 224

Aloha Chairman Galuteria, Chairman Hee and members of the Senate committees meeting jointly today. I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs here to support the passage of SB 984.

The first civic club was founded in 1918 and we continue to thrive with clubs on all islands of the State of Hawaii, 11 states on the continent and the District of Columbia. We now have more than sixty component clubs participating in those activities that our founders envisioned – historic preservation, education of Native Hawaiian students, protection of traditional culture and advocacy for Hawaiian Home Lands. We have also been very active in the support and protection of the public land trust that was created with the annexation of Hawai'i by the United States in 1898. These lands, were the original public, government and crown lands of the Kingdom of Hawai'i and were taken and held in a federal trust and later with the admission of Hawai'i as a State, in a State public land trust for the benefit of the general public and the native Hawaiian people, in particular.

The purpose of SB 984 is to allow the State to most effectively and responsibly make progress toward meeting part of its constitutional obligation to native Hawaiians. That is done by addressing the additional amount of income and proceeds that the Office of Hawaiian Affairs is to receive from the public trust pursuant to Article XII, Sections 4 and 6 of the Hawai'i Constitution, for the period from November 7, 1978, to July 1, 2010, by requiring the transfer of cash or land to the Office of Hawaiian Affairs.

SB 984 provides a clear and concise description of the legal and legislative discourse to meet the Constitutional requirements of Article XII, Sections 4 and 6 to provide OHA with the twenty per cent funds from the public land trust.

This bill notes that the \$200million owed by the State to OHA, can be paid in cash or land. It notes also, past agreements that we made to provide OHA with \$15.1 m beginning in 2005. And further, where there was a settlement agreement in January of 2008, this agreement could not take place because of certain legislative actions that did not occur.

We support this bill in part, because it notes that this is an expression of legislative policy, not a settlement or a contract. This bill creates the opportunity to resolve a long-standing injustice. It creates a legislative effect to the right of native Hawaiians to benefit from the ceded lands trust. Native Hawaiians have participated with all the other people of Hawai'i in the support and use of public lands. We have paid taxes as all other citizens. And yet, the benefit required under Article XII, Sections 4 and 6 of the Constitution have not been satisfied.

We support SB 984 and the legislative policy of this Legislature, to keep a promise made to the native peoples of Hawai'i and provide OHA with the ability to keep their promises to their beneficiaries as well.

Thank you for your consideration of our testimony . We urge your support of this measure.

For further information please contact our Government Relations Chair, Jalna Keala at [jalna.keala2@hawaiiantel.net](mailto:jalna.keala2@hawaiiantel.net) .