

MAR 13 2013

SENATE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A WORKING GROUP TO DISCUSS AND
RECOMMEND LEGISLATION TO SUPPORT THE ESTABLISHMENT OF AN
ENTITY TO ENHANCE THE FINANCIAL RESOURCES OF NATIVE
HAWAIIANS.

1 WHEREAS, the Legislature finds that the State is currently
2 dealing with a financial crisis; and

3
4 WHEREAS, as a result of the recent economic downturn, state
5 and county governments have had to reduce or eliminate various
6 public services; and

7
8 WHEREAS, all eighteen of the state principal departments,
9 including the Department of Education and University of Hawaii,
10 are underfunded and understaffed; and

11
12 WHEREAS, in the wake of this shortfall in revenue, the
13 State is also faced with growing debt and unfunded pension and
14 welfare obligations in the billions of dollars; and

15
16 WHEREAS, adding to this already challenging situation is
17 the recent decision of the Hawaii Supreme Court, which held in
18 Nelson v. Hawaiian Homes Commission, 127 Haw. 185 (2012), that
19 the State must provide "sufficient funds" to cover the
20 administrative and operational expenses of the Department of
21 Hawaiian Home Lands, which obligation, currently valued at
22 \$15,000,000 per year, not only runs in perpetuity but also
23 requires a back payment; and

24
25 WHEREAS, the Department of Hawaiian Home Lands is also
26 facing a fiscal crisis, and the \$600,000,000 settlement awarded
27 to the Department of Hawaiian Home Lands in 1995 was largely
28 spent by prior administrations and will likely be completely
29 diminished in about two years; and

30



1 WHEREAS, other states allow the format of Native
2 Corporations with authority to serve as vehicles for advancement
3 of the Native Peoples in their states; and
4

5 WHEREAS, in 1965 the State of Hawaii established the State
6 Foundation on Culture and the Arts, which has enhanced the
7 State's awareness, appreciation, and knowledge of numerous
8 projects or programs pertaining to the arts, music, dance,
9 cultural customs, and traditions for almost fifty years; and
10

11 WHEREAS, the success of the State Foundation on Culture and
12 the Arts makes it a potential model for an entity to enhance the
13 financial resources of Native Hawaiians; and
14

15 WHEREAS, the Office of Hawaiian Affairs holds assets, both
16 financial and real estate, in trust for its beneficiaries; and
17

18 WHEREAS, Act 195, Session Laws of Hawaii 2011, recognized
19 the Native Hawaiian people as the only indigenous, aboriginal,
20 maoli people of Hawaii and established a roll that would list
21 Native Hawaiians eligible to participate in the organization of
22 a Native Hawaiian governing entity; and
23

24 WHEREAS, this entity, once formed, may be the most
25 appropriate entity to receive and manage all Native Hawaiian
26 lands; and
27

28 WHEREAS, there are unresolved issues needing study relating
29 to the appropriate constitutional and statutory missions, and
30 beneficiary and constituent groups, of the Department of
31 Hawaiian Home Lands, Department of Land and Natural Resources,
32 and Office of Hawaiian Affairs; now, therefore,
33

34 BE IT RESOLVED by the Senate of the Twenty-seventh
35 Legislature of the State of Hawaii, Regular Session of 2013, the
36 House of Representatives concurring, that the Department of
37 Hawaiian Home Lands; Office of Hawaiian Affairs; Department of
38 Land and Natural Resources; Department of Budget and Finance;
39 Department of Business, Economic Development, and Tourism; and
40 Department of the Attorney General are requested to convene a
41 working group to discuss and propose legislation which:
42



- 1 (1) Provides a vehicle that would ensure that "sufficient
2 funds" are provided by the State to the Department of
3 Hawaiian Home Lands;
4
- 5 (2) Generates much needed revenues for the general fund
6 and the Department of Hawaiian Home Lands;
7
- 8 (3) Considers the costs and benefits of authorizing
9 creation of native Hawaiian corporate entities to
10 serve as vehicles to enhance the financial resources
11 of native Hawaiians and the scope of powers and
12 functions for such corporate entities, including
13 whether the creation of a foundation or an endowment
14 is an appropriate vehicle;
15
- 16 (4) Creates a vehicle to obtain revenue that will not
17 require the State or the Department of Hawaiian Home
18 Lands to bear up-front costs, including the
19 appropriate use of public-private joint ventures; and
20
- 21 (5) Utilizes lands and assets that are not Hawaiian home
22 land trust lands to generate revenue; and
23

24 BE IT FURTHER RESOLVED that the working group include the
25 following members; provided that the working group may call upon
26 advice or guidance from other persons in the community that have
27 experience in, or a demonstrated expertise in, the establishment
28 of corporate entities:
29

- 30 (1) Chairperson of the Hawaiian Homes Commission, or the
31 Chairperson's designee;
32
- 33 (2) Chairperson of the Board of Trustees of the Office of
34 Hawaiian Affairs, or the Chairperson's designee;
35
- 36 (3) Chairperson of the Board of Land and Natural
37 Resources, or the Chairperson's designee;
38
- 39 (4) Director of Finance, or the Director's designee;
40
- 41 (5) Director of Business, Economic Development, and
42 Tourism, or the Director's designee; and
43



1 (6) Attorney General, or the Attorney General's designee;
2 and
3

4 BE IT FURTHER RESOLVED that the working group is requested
5 to jointly submit a report detailing their findings and proposed
6 legislation to the Legislature no later than twenty days prior
7 to the convening of the Regular Session of 2014 and be dissolved
8 on June 30, 2014; and
9

10 BE IT FURTHER RESOLVED that certified copies of this
11 Concurrent Resolution be transmitted to the Chairperson of the
12 Hawaiian Homes Commission; Chairperson of the Board of Trustees
13 of the Office of Hawaiian Affairs; Chairperson of the Board of
14 Land and Natural Resources; Director of Finance; Director of
15 Business, Economic Development, and Tourism; and the Attorney
16 General.
17
18
19

Handwritten signature

OFFERED BY:

~~AC Tech-Aga~~

Malena

Director Katsuko

Apa' Gork

[Signature]

Mark R.

Michelle Polani

MUN. 111

Handwritten signature
Jin

