



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

H.B. NO. 109, RELATING TO HAWAIIAN LANGUAGE.

BEFORE THE:

Committee on Ocean, Marine Resources, & Hawaiian Affairs

DATE: Wednesday, January 30, 2013 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): David M. Louie, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chair Hanohano and Members of the Committee:

The Department of the Attorney General submits this testimony to recommend a drafting change and provide one comment about the bill.

The purpose of this bill is to assure that Hawaiian words that are included in documents, emblems, and symbols prepared or produced by state and county agencies, are correctly spelled, punctuated, and diacritically marked.

First, we thank the Chair for including the additional subsections (c) in the amendments to sections 1-13.5, and 5-6.5, Hawaii Revised Statutes (HRS), that are included in the amendments in sections 5 and 6 of this bill. These additional provisions address the concern the Department raised last session in the course of the Legislature's consideration of H.B. No. 1984, and one of the two concerns the Governor cited when he vetoed that bill, last year. We recommend, however, that the subsection (c) added to section 5-6, HRS, (on page 13, lines 7-9, be added instead to 1-13.5, HRS, on page 12, beginning at line 10) because section 1-13.5 applies to documents and section 5-6 applies only to emblems and symbols. If the Committee agrees with this recommendation, the subsection added to section 1-13.5 at line 10 on page 12 of the bill should be re-designated subsection (d).

The one comment the Department offers on H.B. No. 109 is that in addition to being concerned about H.B. No. 1984's lack of clarity with respect to the consequences of not spelling, punctuating, or diacritically marking Hawaiian words properly (which H.B. No. 109 expressly addresses), Governor Abercrombie expressed concern that the Legislature had not fully appreciated nor addressed how much time and resources would either have to be added, or

redirected away from existing duties and responsibilities, to properly implement that bill. In the Statement of Objections to H.B. No. 1984, the Governor wrote:

The bill has laudable . . . goals. However, the bill is so broad that it does not take into account the number of instances that Hawaiian words, particularly place names, are included in the myriad of documents state and county agencies type, print, or handwrite every day. Nor does the bill adequately address the resources required to assure that all Hawaiian words are spelled, punctuated, and diacritically marked correctly.

While these are not legal concerns, we would be remiss if we did not point out that the Governor cited them as a second reason for vetoing H.B. No 1984.

Please do not hesitate to email or call me if our drafting recommendation is unclear.



HB109
RELATING TO HAWAIIAN LANGUAGE

House Committee on Ocean, Marine Resources & Hawaiian Affairs

January 30, 2013

10:00 a.m.

Room 325

The administration of the Office of Hawaiian Affairs (OHA) will recommend that the OHA Board of Trustees **SUPPORT** HB109. The Hawaiian language community has long considered February “Hawaiian Language Month” and successfully advocated for gubernatorial proclamations designating February 1994 and February 1995 as Hawaiian Language Month. This bill would codify this ceremonial designation in statute, making every February ‘Ōlelo Hawai‘i Month.

While once spoken throughout Hawai‘i by Native Hawaiians and foreigners alike, ‘Ōlelo Hawai‘i was considered to be nearly extinct by the 1980s, when fewer than 50 fluent speakers under the age of 18 were left. A major reason for the deterioration of the Hawaiian language was an 1896 law that required English instruction in Hawai‘i schools, which essentially banned Hawaiian students from speaking their native tongue.

However, great strides have been made to bring about a renaissance of the Hawaiian language through programs such as ‘Aha Pūnana Leo’s Hawaiian language immersion schools, the Department of Education’s Hawaiian language immersion program and the Hawaiian language programs of the University of Hawai‘i system. Also, in 1978, the Hawai‘i Constitution was amended to recognize the Hawaiian language as one of the two official languages of the State.

Although there is much momentum in the revitalization of the Hawaiian language, for ‘Ōlelo Hawai‘i to thrive rather than simply survive, more people need to speak the language. The designation of February as “‘Ōlelo Hawai‘i Month” will perpetuate the use of ‘Ōlelo Hawai‘i and emphasize the importance of the Hawaiian Language in Hawai‘i’s society today.

HB109 would also require that all letterheads, documents, symbols, and emblems of the State and its political subdivisions include accurate and appropriate Hawaiian names and language. The use of accurate and appropriate Hawaiian names and language, as required by HB109, would have a negligible financial impact on the State because corrections would only have to occur when the

document, letterhead, symbol or emblem requires replacement or reprinting, or otherwise requires revision. Therefore, the cost of this action is far outweighed by the benefit of reflecting the appropriate level of respect and recognition that should be directed towards one of the two official languages of the state.

In addition, a beneficiary with connections to Ni‘ihau expressed to us her concern that the bill’s language resources used to determine the accurate spelling of Hawaiian words – listed in lines 1-9 on page 12 of the bill – are too limited and would not necessarily reflect the correct spelling of the Ni‘ihau dialect. We request that the bill be amended to address this issue.

Mahalo for the opportunity to testify on this important measure.

Charlotte A. Carter-Yamauchi
Acting Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
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Written Comments

HB109 RELATING TO HAWAIIAN LANGUAGE

Comments by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the House Committee on Ocean, Marine Resources, & Hawaiian Affairs

Wednesday, 2013, 10:00 a.m.
Conference Room 325

Chair Hanohano and Members of the Committee:

While the Legislative Reference Bureau takes no position on this measure, we submit the following comments for your consideration.

The purpose of this bill is to:

- (1) Designate the month of February as "Olelo Hawai'i Month" to celebrate and encourage the use of Hawaiian language;
- (2) Require that all letterheads, documents, symbols, and emblems of the State and other political subdivisions include accurate and appropriate Hawaiian names and language;
- (3) Establish references for accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation: and
- (4) Clarify that the full text of bills and other official documents are not required to be written in Hawaiian and that misspelled or incorrectly punctuated Hawaiian words and names shall not invalidate the documents or render them unenforceable.

Honorable Faye P. Hanohano
Chair, House Committee on Ocean,
Marine Resources, & Hawaiian Affairs
Page 2

The Bureau in its capacity as the Revisor of Statutes, which is responsible for publishing the Session Laws, the Hawaii Revised Statutes and its replacement volumes, and the annual Supplements to the Hawaii Revised Statutes, has a few, relatively technical concerns with the portion of the bill that requires the inclusion of accurate and appropriate Hawaiian names and language when a document or letterhead requires replacement or reprinting, or otherwise requires revision.

We respectfully recommend that the requirements of the bill apply prospectively to the Hawaii Revised Statutes and its replacement volumes, the Supplements to the Hawaii Revised Statutes, and the Session Laws of Hawaii to the extent that the macrons and glottal stops in the spelling of Hawaiian words are contained in laws enacted by the Legislature.

We recommend this amendment for the following reasons:

- (1) The production of the Hawaii Revised Statutes and the Session Laws of Hawaii would take considerably longer and cost substantially more. It would be much more time-consuming to ensure that each Hawaiian word in any of these publications had the proper spelling and punctuation. The production of the annual publications would undoubtedly be delayed by the extra effort required. Currently, the delivery of the Session Laws typically occurs in September, and the Hawaii Revised Statutes Supplements and replacement volumes are delivered in December of each year. Longer production time would result in a significant delay in the availability of these publications to the Legislature, legislative staff, other governmental agencies, and the public. It is unknown to what extent the addition of Hawaiian terms and spelling would increase publication costs, but the extra material would invariably add to the publication and already escalating freight costs. Also, it is not clear whether amending one section of the Hawaii Revised Statutes to incorporate the Hawaiian spelling would require amending any other sections in the Hawaii Revised Statutes. The potential impact such amendments would have on the entire Hawaii Revised Statutes is enormous in both time and expense.

Furthermore, the proviso on page 11, lines 12-16, does not take into account the fact that publications such as the Hawaii Revised Statutes and its supplements are revised each year and one hardbound volume of the HRS is replaced annually. The proposed language does not appear to contemplate this occurrence and, as written, could be interpreted to mean that the Bureau would have to revise the *entire set* of the Hawaii Revised Statutes within one year. When the Bureau last reprinted a complete set of the Hawaii Revised Statutes volumes in 1993, the production time took more than a year. Given that the HRS has grown considerably since this time, the costs and timeframes

may be expected to be considerably higher. It is for this very reason that, since 2001, the Bureau has been attempting to replace one volume of the HRS annually. If the Bureau was required to replace the entire HRS set today, the cost, without factoring freight costs, would be approximately \$1,120,000.

(2) Moreover, because the addition or removal of diacritical marks can affect the meaning of a word, the Bureau is extremely reluctant to unilaterally alter Hawaiian terms. For example, according to the Pukui-Elbert dictionary (copyright 1986):

- ea (no diacritic marks) means sovereignty, rule, independence, life, spirit
- -ea (pejorative suffix)
- `ea (okina before the "e") means the hawksbill turtle; an infectious disease, or a spray
- `eā (okina before the "e" and kahako over the "a") an interjective
- `e`a (okina before the "e" and the "a") meaning dust, dirt, or spray

Another example from the Pukui-Elbert dictionary is the word "kupuna" meaning grandparent, ancestor, relative or close friend of the grandparent's generation and "kūpuna" which is the plural of kupuna.

From Place Names of Hawaii are "mana" meaning Heiau, Hālawā or supernatural power and "mānā" meaning a land division, or arid; "Wahi-awa" meaning stream and heiau, Kō-loa district, Kaua`i, or milkfish place and "Wahi-a-wā" meaning quadrangle, land section, city, district, forest reserve, etc, central Oahu or place of noise.

(3) Drafting of bills, resolutions, and other legislative documents would be seriously impacted. The Bureau staff at present lacks any particular proficiency in the Hawaiian language, and I suspect the same may be true for the other drafting agencies. Without additional appropriations, we have insufficient funds to specifically hire staff for this purpose. Until bill drafters in all agencies become more familiar with the Hawaiian language, it may be expected that bill drafters may choose not to include glottal stops and macrons, thus leaving the Bureau, as the Revisor of Statutes, in the position of having to substitute its judgment for that of the Legislature.

To ameliorate these concerns, we respectfully suggest the following amendment to H.B. No. 109 (highlighted material):

"SECTION 5. Section 1-13.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[§1-13.5]~~ **Hawaiian language; spelling.** ~~[Macrons and glottal stops may be used in the spelling of words or terms in the Hawaiian language in]~~ (a) Effective January 1, 2014, all documents and letterheads prepared by or for state or county agencies or officials, to the extent that the documents and letterheads contain Hawaiian language words or names, shall include accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation, including but not limited to macrons and glottal stops that punctuate the English word to which they relate; provided that any revision to conform any document or letterhead existing on or before January 1, 2014, to the requirements of this section, may be implemented when the document or letterhead requires replacement or reprinting, or otherwise requires revision; provided further that this Act shall not apply to any replacement, reprinting, or revision of the Hawaii Revised Statutes and the supplements thereto and the Session Laws of Hawaii, except to the extent that glottal stops and macrons are contained in laws as enacted after the effective date of this Act. Any rule, order, policy, or other act, official or otherwise, that prohibits or discourages the use of ~~[these symbols]~~ accurate, appropriate, and authentic Hawaiian names and words, as required by this section, shall be void.

(b) Hawaiian names and words shall be deemed accurate, appropriate, and authentic when printed in conformance with:

- (1) "Hawaiian Dictionary: Hawaiian-English, English-Hawaiian", by Mary Kawena Pukui and Samuel H. Elbert, University of Hawai'i Press, copyright 1986;
- (2) "Māmaka Kaiāo: A Modern Hawaiian Vocabulary", developed by the Kōmike Hua'ōlelo, the Hawaiian Lexicon Committee; or
- (3) "Place Names of Hawaii", by Mary Kawena Pukui, Samuel H. Elbert, and Esther T. Mookini, University of Hawai'i Press, copyright 1974.

(c) Any Hawaiian names and words that are misspelled or incorrectly punctuated within a document or letterhead subject to this section shall not be deemed to invalidate the document or render it unenforceable. No cause of action shall arise against the State, any county, or any state or county agency, official, or employee for any Hawaiian names and words that are misspelled or incorrectly punctuated."

Honorable Faye P. Hanohano
Chair, House Committee on Ocean,
Marine Resources, & Hawaiian Affairs
Page 5

Finally, as a courtesy, we believe that the respective clerks and the data systems managers of the Senate and House and the different drafting agencies should be consulted about the potential effects this will have on the operations of the Legislature.

Thank you for this opportunity to provide written testimony.



Association of Hawaiian Civic Clubs

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Testimony of President Soulee Stroud

HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS

HOUSE BILL 109 RE: TO HAWAIIAN LANGUAGE

Wednesday; January 30, 2013; 10:00am; Room 325

Aloha Madam Chair Hanohano, Vice chair Cullen and members of the Committee. I am Soulee Stroud, president of the Association of Hawaiian Civic Clubs speaking in support of this measure.

In the distant past, when Prince Kuhio and his cohorts founded the first Hawaiian Civic Club, meetings were conducted in the Hawaiian language, then for many years, as the older members passed on, English became our venue. In recent years, with the amazing resurgence of olelo Hawaii, it is our younger members who are leading us back to our mother tongue as we try to incorporate it more into our meetings.

So far, widespread use of olelo Hawaii has been somewhat limited, but our young folks persevere and bills such as HB 109 will encourage more of us to try harder.

Thank you for the opportunity to testify.

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