

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committees on
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS
and
ENERGY & ENVIRONMENTAL PROTECTION**

**Friday, January 31, 2014
8:30 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 2388
RELATING TO NATIVE HAWAIIANS**

House Bill 2388 proposes to establish a geothermal royalties working group within the Office of Hawaiian Affairs (OHA) to investigate the feasibility of requiring companies producing geothermal energy in Hawaii to pay royalties to benefit Native Hawaiians with a blood quantum level of fifty per cent or less for programs related to homelessness, affordable housing, and incarceration. As a named member of the proposed working group, **the Department of Land and Natural Resources (Department) offers the following comments:**

The Department is tasked with the regulatory oversight to protect public safety through proper management of the geothermal resource and issuance of geothermal resource mining leases to developers.

Currently, the Department distributes 20% of all royalties received from a geothermal developer to OHA. The Department believes that OHA has the discretion within their agency to determine how their share of royalties can be best utilized to meet the needs of their beneficiaries.

Thank you for the opportunity to testify on this measure.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



Association of Hawaiian Civic Clubs

P. O. Box 1135
Honolulu, Hawai'i 96807

HOUSE BILL 2388 RELATING TO NATIVE HAWAIIANS

JOINT HOUSE COMMITTEES ON
OCEAN MARINE RESOURCES & HAWAIIAN AFFAIRS
And ENERGY & ENVIRONMENTAL PROTECTION
Friday, 1/31/14; 8:30 AM; Room 325

Aloha Madam Chair Hanohano of the Committee on Ocean Marine Resources and Hawaiian Affairs, and Chairman Lee of the Committee on Energy and Environmental Protection, and members of both committees gathered to hear HB2388 Relating to Native Hawaiians. I am Soulee Stroud president of the Association of Hawaiian Civic Clubs here to comment on this bill.

This bill offers to create a revenue stream for the Office of Hawaiian Affairs, and with some slight of hand, takes it away by setting conditions that OHA must manage three new beneficiary programs. These new programs for are to address the homeless, incarcerated and affordable housing through the establishment of a geothermal royalties working group. The working groups is to work out numerous details including negotiating with geothermal companies on royalty payments, program costs, benefit measurment and impacts and so on.

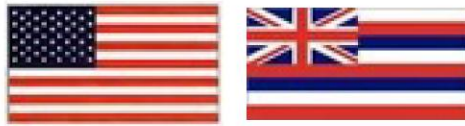
We are concerned that despite OHA's presence on the working group, the group is heavily stacked with agencies answering only to the State, not voting constituencies. This effectively creates a voting bloc that controls decision making and a built in disadvantage to OHA.

We are also concerned that the intended revenue stream is not currently predictable, and that the needs and expectations of the three programs could create a financial burden on OHA if geothermal royalties cannot meet their needs. This could create a financial shortfall on programs already running successfully with a great loss to recipient beneficiaries.

Having said all of that, however, if the OHA Trustees see fit to accept the challenges and encumbrances of this bill the AHCC must accept their decision and offer our support as we have in the past.

Thank you for the opportunity to make these comments.

Center for Hawaiian Sovereignty Studies
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Tel/Fax (808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
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Unity, Equality, Aloha for all



To: OMH/EEP

For hearing Friday January 31, 2014

Re: HB2388 RELATING TO NATIVE HAWAIIANS.

Establishes a working group within the Office of Hawaiian Affairs to investigate the feasibility of requiring companies producing geothermal energy in Hawaii to pay royalties to Native Hawaiians.

Testimony in opposition

1. The public lands of the State of Hawaii belong to ALL the people of Hawaii, not only to ethnic Hawaiians. Also, our state Constitution reserves ownership of mineral resources to the State of Hawaii even on privately owned lands. For both of these reasons, any royalties owed by companies producing geothermal energy should be paid to the general fund for the benefit of all Hawaii's people, and not to any specific ethnic group.

2. The Office of Hawaiian Affairs is fully capable of establishing whatever committees or working groups it wants, and does not need a bill in the legislature to authorize such action.

cullen2

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 10:05 PM
To: omhtestimony
Cc: apohi21@gmail.com
Subject: Submitted testimony for HB2388 on Jan 31, 2014 08:30AM

Follow Up Flag: Follow up
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HB2388

Submitted on: 1/28/2014

Testimony for OMH/EEP on Jan 31, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Brown	Aupuni O Hawaii	Comments Only	No

Comments: Aloha members, Very concern and we will be following this issue by native Hawaiians.
Mahalo Bill Brown

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Indigenous Consultants, LLC

Mililani B. Trask, Principal

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Bill #: **HB 2388**

Hearing Date: January 31, 2014

Place: Conference Room 325

Time: 8:30am

Committees: OMH & EEP

January 30th, 2014

Comments:

Aloha Chair Hanohano & Lee,

Indigenous Consultants LLC (IC) is a Hawaii based company owned and operated by Native Hawaiians. It was created to assist indigenous peoples in developing their renewable energy resources in ways that are: culturally appropriate, environmentally green and sustainable, socially responsible and economically equitable and affordable. For several years the IC has worked with Innovations Development Group in New Zealand and indigenous Maori developing geothermal resources, which are assets of Maori Land Trusts. In addition, the IC has acted as a consultant to other indigenous people in Hawaii and Asia who are addressing development of their trust renewable energy resources in ways that: directly benefit their people, bring in revenues, create small business opportunities and ensure fair & affordable rates to consumers, including for themselves and their communities.

Comments:

1. It is unclear why this measure has been introduced. After discussing it with OHA staff and DLNR staff, it appears that neither of the primary agencies involved in the current process relating to geothermal revenues introduced this measure, nor do they support it.
2. There is a State process for assessing geothermal revenues & dividing royalty payments to OHA. It has worked for several years and has brought millions of dollars to OHA. DLNR oversees the process. There is no need for a new procedure.
3. Years ago the State & OHA came to an agreement on the "Native Hawaiian" share of royalties from geothermal. It was agreed that OHA would receive 20% of Royalty payments on behalf of Native Hawaiians because "the betterment of conditions of Native Hawaiians..." is one of 5 purposes of the ceded land Trust, and geothermal is a "mineral" and asset of the ceded land trust. Because of this the "Native Hawaiian"

share of geothermal revenues has already been designated by the State. There is no reason to address the “Native” share of these revenues.

4. OHA is the lead State agency in all matters relating to Native Hawaiians in our State. OHA has the capacity to organize & call for ‘consultations’ with other State agencies, including DLNR & DBEDT. There is no reason for the State legislature to mandate the creation of a Legislative Working Group under OHA. Last session the legislature created a geothermal development working group but no appointments were ever made because the State had no money for costs & the various state agencies involved had the ability to meet on their own on geothermal matters.
5. Finally, the State legislature has in the past, created bodies and placed them under OHA for funding. An example is the Kanaiolowalu effort that was a legislative body placed under OHA for funding purposes. After 2 years & 4 million dollars the effort proved to be a complete failure when only 20,000 Hawaiians were registered out of the required 200,000.

There does not appear to be any reason for this Working Group.

Mahalo,

Mililani B. Trask
Indigenous Consultants LLC

LATE



HB2388
RELATING TO NATIVE HAWAIIANS

House Committee on Ocean, Marine Resources, & Hawaiian Affairs
House Committee on Energy & Environmental Protection

January 31, 2014

8:30 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2388, which proposes to establish a geothermal royalties working group within OHA for administrative purposes. The working group would investigate the feasibility of requiring companies producing geothermal energy in Hawai'i to pay royalties to benefit Native Hawaiians with a blood quantum level of 50 percent or less for programs related to homelessness, affordable housing, and incarceration. The working group would consist of a wide range of state and private stakeholders and would be required to investigate at least 12 specific and highly technical economic, administrative, legal, or related matters.

The intent of this bill is commendable. OHA supports efforts to provide additional resources for programs that would further OHA's and the state's obligations to the Native Hawaiian people, and the programs mentioned in HB2388 are aligned with OHA's strategic priorities.

However, we oppose the bill for several reasons. We are already working to address the problems that this bill would address (homelessness, affordable housing, and incarceration). From fiscal years 2008-2012, OHA granted nearly \$16 million for housing and homeless services, including financial literacy, home repair, services for incarcerated and homeless Hawaiians, and easier access to home loans. In addition, OHA actively advocates on the issues of homelessness, affordable housing, and incarceration. We believe that Native Hawaiian trust dollars are better spent empowering grant recipients than funding a complex public/private working group with expected high consultant costs.

Furthermore, the bill represents an unfunded mandate from the State and OHA is not the appropriate entity to house such a working group, as we lack the necessary technical expertise. Finally, questions relating to geothermal are better addressed by the State's energy and land authorities.

Therefore, OHA urges the Committees to **HOLD** HB2388. Mahalo for the opportunity to testify on this matter.

LATE

cullen3

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 30, 2014 5:53 PM
To: omhtestimony
Cc: oilipua64@gmail.com
Subject: Submitted testimony for HB2388 on Jan 31, 2014 08:30AM

HB2388

Submitted on: 1/30/2014

Testimony for OMH/EEP on Jan 31, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Jessica O. Kaikaina	Individual	Support	No

Comments: Aloha Committee Chairs, I would like to submit testimony in support of this measure. I think this should also apply to other companies who use other natural resources in Hawai'i as well. Aloha and Mahalo, Jessica O. Kaikaina

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Sent: Thursday, January 30, 2014 6:30 PM
To: omhtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB2388 on Jan 31, 2014 08:30AM*

HB2388

Submitted on: 1/30/2014

Testimony for OMH/EEP on Jan 31, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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Sent: Thursday, January 30, 2014 10:23 PM
To: omhtestimony
Cc: toosmall808@gmail.com
Subject: Submitted testimony for HB2388 on Jan 31, 2014 08:30AM

HB2388

Submitted on: 1/30/2014

Testimony for OMH/EEP on Jan 31, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Malia Varron	Individual	Support	No

Comments: My name is Malia Varron. I'm a senior at Kealakehe High School and I support the bill. Though at first glance it seems more as a bribe to the Hawaiian people, it's an inevitable fact that somewhere down the road geothermal energy will come to be accepted. If this is so why not let the Hawaiian people benefit if only slightly?

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 31, 2014 7:41 AM
To: omhtestimony
Cc: hogdog44@hotmail.com
Subject: *Submitted testimony for HB2388 on Jan 31, 2014 08:30AM*

HB2388

Submitted on: 1/31/2014

Testimony for OMH/EEP on Jan 31, 2014 08:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Dominic Souza	Individual	Support	No

Comments:

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LATE TESTIMONY

HB2388

Favor of Geothermal Energy
January 31, 2014 8:30 A.M.
Chair of Financial Sylvia Luke
Chair of OMH Faye P. Hanohano

Greetings Chairs,

Geothermal energy is something that is severely needed as a renewable energy source in the face of declining fossil fuel reserves and an ever growing population. It is paramount that we utilize every available natural resource with little to no damage to the same earth we are receiving it from in the process. Please help bring geothermal energy by forming a committee that will be able to decide fair royalties to the Hawaiians whose land we would be using to harness this energy.

The members of Oha are already receiving royalties, but those Hawaiians who sometimes only just miss the Hawaiian blood percentage requirement needed to be in the organization by 1%, are left with nothing while the use of geothermal energy would still go on and the land still used. To me, that seems unfair and I think it sends a message that only some Hawaiians have the right to have a say and/or be compensated.

By enacting this bill you are giving those Hawaiians a chance to receive something that they are entitled to by birth right. At the same time bringing a renewable energy source to Hawaii and closer to economic stability as well. My name is Cosme Caal and I implore you to help move renewable energy forward while at the same time making sure many more Native Hawaiians have a chance to receive what they deserve.