

LATE



LAND USE RESEARCH
FOUNDATION OF HAWAII

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February 5, 2013

Senator Brickwood Galuteria, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Senate Committee on Tourism and Hawaiian Affairs

Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Comments, Concerns and Opposition to current form of SB 406 Relating to Training (OHA training course in native Hawaiian matters for specified members of State boards, councils, and commissions).

Tuesday, February 5, 2013, 9:30 a.m., in Conference Room 016

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

SB 406. This bill proposes to require the Office of Hawaiian Affairs ("OHA") to establish, design, and administer a training course in native Hawaiian matters for specified members of State boards, councils, and commissions (Land Use Commission, Board of Land and Natural Resources, Commission on Water Resource Management, Environmental Council, Board of Directors of the Agribusiness Development Corporation, Board of Agriculture, Legacy Land Conservation Commission, Natural Area Reserves Systems Commission, Hawaii Historic Places Review Board, Board of Health, and Board of Directors of the Public Lands Development Corporation); and requires those members to take the course within six months of their respective appointments.

This bill is somewhat similar to Act 288 (SLH 2012) (HB 2806, HB 2, SD 2, CD 1), which created the Aha Moku Advisory Committee ("Aha Moku") to advise the Office of the Chairperson of the Board of Land and Natural Resources ("BLNR") on issues related to land and natural resource management through the aha moku system - a system of best practices based upon the indigenous resource management practices of moku (regional) boundaries, which acknowledges the natural contours of land, the specific resources located within those areas, and the methodology necessary to sustain resources and the community.

LURF's Position. This bill is well-intended, and LURF **supports the intent of SB 406**, however, it has serious concerns, comments and recommendations, thus, at this time; LURF must **oppose the current version of SB 406, but would support amendments** which would allow other organizations to provide mandatory training to specified members of State boards, councils, and commissions, including, but not limited to organizations in the areas of agriculture, ranching, aquaculture, fishing, hunting, water use, land use, tourism, housing, education, business, military, renewable energy, sustainability, genetic modification, high technology and climate change. These other training organizations should have the same access, rights and privileges as OHA.

LURF's main concern is whether the establishment of the mandatory OHA training program will preclude any other person's or organization's right to provide advice to the specified members of state boards, councils, and commissions; and would arguably have the effect of creating and favoring a special class, as it confers favorable treatment, special access, rights and privileges only to one special interest group, thereby potentially rendering the measure unconstitutional.

LURF believes the laws enacted by our Legislature must rightly support the free speech and equal protection rights of all citizens, special interest groups, industry groups and stakeholders who may also wish to provide training or advice to specified members of State boards, councils, and commissions relating to the broad spectrum of subject matter areas relating to land and natural resource management, which includes agriculture, ranching, aquaculture, fishing, hunting, water, tourism, housing, education, business, military, land use, renewable energy, sustainability, genetic modification, and high technology.

For the reasons stated above, LURF respectfully recommends that **SB 406 be held in this Committee at this time.**

Thank you for the opportunity to provide testimony regarding this proposed measure.

Senator Brickwood Galuteria
Senator Clayton Hee

LATE

Aloha Senators,

Mahalo for the opportunity to testify in support of SB10. For the record my name is Renwick "Uncle Joe" Tassill, current commissioner of the Hawaiian Homes Commission and a resident of the Waimanalo Kupuna Hale.

For more than 40 years I have been involved in the struggle to improve the conditions of our Hawaiian people. As an activist turned advocate, I understand today, that which I did not understand decades ago when I started as a young man with a group called the Hawaiians.

In advocating over the years to correct the shortfalls experienced by beneficiaries, the Hawaiians engaged with several attorneys to support beneficiary interests. Today, it is clear to me that the Commission needs more than just the state AG's opinion as we contemplate issues affecting the beneficiaries of the Hawaiian Homes Commission Act. Too often we find our beneficiaries at opposite ends of lawsuits with the state Department of Hawaiian Home Lands. As Commissioners, I believe we need other legal opinions to support our decision making process to uphold our fiduciary duties to act in the best interest of our beneficiaries.

Our Hawaiian Homes Trust has lots of land, lots of people who continue to wait on the list, some being served with benefits and even fewer reaping benefits on larger parcels of lands for agriculture and ranching. The shortfalls are many with room for significant improvement.

It is clear to me that the interests of the state can sometimes conflict with my duty as a commissioner and I believe separate legal counsel is necessary for the HHC. It would be extremely helpful to deliberate with legal opinions from both our own attorneys and those from the State AG's office before making final decisions.

Over the last year, there have been instances where the Commission thought it was necessary to seek separate legal advice. A specific example of this situation was a recent request made by the Commission to seek legal counsel on a land disposition between a homestead community organization and an energy company. Our request for legal counsel was denied by the AG and therefore we are limited to the sole opinion of the State's AG.

I support SB10 and thank you for the opportunity to testify.

Mahalo,
Renwick Tassill