



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

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TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
TO THE SENATE COMMITTEES ON TOURISM AND HAWAIIAN AFFAIRS &
ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING
IN SUPPORT OF

**SCR 184/SR 140, 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.**

March 25, 2013

Chair Galuteria, Chair Dela Cruz, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) supports this resolution that convenes a working group to identify long-term financial solutions to support our department and the Hawaiian Home Lands trust.

As stated in the resolutions, the Act 14 payments to the department will end in 2015 leaving the department's ability to develop and award new homestead leases uncertain. We appreciate the Legislature's attention to the financial crisis facing the department and welcome discussion to consider all options to address this concern and to secure the financial future of our program. We look forward to participating with the members of the working group to investigate native corporations and endowment entities in other jurisdictions to determine the best model for Hawaii to achieve the objectives outlined in these resolutions.

Thank you for the opportunity to provide this testimony in support of these resolutions.



Association of Hawaiian Civic Clubs

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JOINT SENATE COMMITTEES ON TOURISM AND HAWAIIAN AFFAIRS AND ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING

SENATE CONCURRENT RESOLUTION 184 AND SENATE RESOLUTION 140

**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**

Monday, March 25, 2013; 3:15pm; Room 224

Aloha Chairman Galuteria and Chairman Dela Cruz of the joint Senate Committees hearing SCR184/SR140 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.

The Association of Hawaiian Civic Clubs has long supported the provision of "sufficient funds" for the management of the Hawaiian homelands. Article XII, Section 1 of the Hawai'i State Constitution provided in pertinent part that "the legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not be limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law. "

As citizens of the State of Hawai'i we acknowledge the current financial crisis that the State is facing. We acknowledge as well, the huge burden the State must deal with in providing for the needs of our larger population's needs, as we too, as Native Hawaiians face the same challenges....for our people are also teachers, our children are students, our kupuna's health needs

are increasing and we suffer the same deprivation that all of the people of Hawai'i suffer.

However, when calculating a method for the State to deal with its responsibility to provide sufficient funds for DHHL, we are concerned that SCR 184 continues to combingle the use of general fund revenue and trust revenue.

We agree with the premise that if the State is seeking to find additional general funds for the purpose of providing sufficient funds for the operations of DHHL, the working group's utilization of the Department of Finance and the Department of Business, Economic Development and Tourism is appropriate.

If however, the State is contemplating the generation of sufficient funds from the State's trust lands, we would argue then that the beneficiaries of this trust should make up the working group. The agencies representing these beneficiaries are DHHL and OHA and advocacy Hawaiian non-profit groups that have historical records of planning and a demonstrated record of working on these issues.

It is clear that the author of SCR 184 understands the distinction of the beneficiary interest as demonstrated in the clauses that one, acknowledge that OHA holds assets, both financial and real estate, in trust for its beneficiaries, two, that acknowledges Act 195(SLH 2011) creation of a roll to organize a Native Hawaiian governing entity, and three, acknowledges that appropriate beneficiary and constituent groups need to study the unresolved issues relating to appropriate constitutional and statutory missions.

This being said, we would suggest that SCR 184/SR 140 should be directed to a working group that is comprised of DHHL director or a designee, the OHA Chairperson or a designee, and the Presidents of SCHAA, the Association of Hawaiian Civic Clubs, and other appropriate beneficiary and constituent group representatives.

With the appropriate consideration of these amendments, we support the purpose of SCR 184/SR140 and are ready to assist the State Legislature in carrying out its lawful responsibilities for the provision of sufficient funds to DHHL. Mahalo for allowing me to testify today.

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Unity, Equality, Aloha for All

To Senate Committees THA/EGH, WAM

From: Kenneth R. Conklin, Ph.D.

Re SCR 184 and SR 140

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.

TESTIMONY IN OPPOSITION

What's wrong with requesting the convening of a group to discuss and recommend legislation? That sounds harmless. The harm comes from the nature of the legislation being considered.

Why not request the convening of a group to discuss and recommend legislation to impose a tax of ten percent on the balance in every savings and checking account in all banks authorized to do business in the State of Hawaii? A tax of that kind was recently proposed by the government of Cypress to meet requirements demanded by the European Central Bank as a condition for a bailout. The result was rioting in the streets and the likelihood of economic collapse.

The legislature of the State of Hawaii should be concerned with protecting and enhancing the financial resources of all Hawaii's people. Instead we have a resolution to develop legislation that would enhance the financial resources of one particular ethnic group at the expense of everyone else.

SCR 184 and SR 140 appears to have been written by the same racial partisans who previously wrote SB 123, which was amended to an SD1 version. That bill proposed setting up a "Native Hawaiian corporation" to take

control of all the "native Hawaiian lands" including all the ceded lands (which the U.S. Supreme Court has unanimously ruled are not racially encumbered). That bill was so outrageous that it was killed nearly a month ago by the same committees EGH and THA. I recommend the committees read the devastating testimony offered against SB 123 SD1. There was also HB 175, to simply hand over \$10 Million to DHHL; that bill was deferred on February 7 and never heard from afterward. Please read the testimony against HB 175. Yet here we are again, coming through the back door by means of a resolution to study the issue and develop another race-based bill for next year.

The first six "whereas" clauses of SCR 184 and SR 140, comprising the entirety of page 1, clearly identify the financial crisis facing the State of Hawaii in general and the DHHL in particular.

But then the resolution concludes there should be "a vehicle to obtain revenue that will not require the State or the Department of Hawaiian Home Lands to bear up-front costs, including the appropriate use of public-private joint ventures; and utilizes lands and assets that are not Hawaiian home land trust lands to generate revenue ..." So, what's wrong with using DHHL lands to generate revenue for DHHL? Why make everybody else pay?

So where would such revenue come from? Obviously, it would have to come from either an increase in taxes or from cuts to other agencies of the state government. DHHL is proposing to suck money from the taxpayers or from other government functions, until they are sucked dry if necessary, to meet DHHL's own needs and desires.

WHERE TO GET MORE MONEY FOR DHHL

The legislature has no problem reaching into special funds and grabbing money intended for radically different purposes. We have seen that repeatedly, year after year, as the legislature "raids" the Hurricane Relief Fund, or the Highway Fund, or the Transient Accommodations Tax which is supposed to go to the counties, etc.

There is one huge special fund which somehow always escapes raids by the legislature. It's the funds held by a government agency whose stated purpose is closely allied with the needs of DHHL. Perhaps you can guess which agency that is.

Section 5(f) of the statehood Admissions Act clearly identifies one of the purposes for which ceded land revenues can be used is: "... for the betterment of native Hawaiians as defined by the Hawaiian Homes Commission Act ...". And yet every year \$15 Million dollars is being given to OHA from ceded land revenues, which according to HHCA should be going to DHHL. OHA now has assets of more than \$600 Million, most of which is invested in stocks and bonds outside the State of Hawaii.

If the legislature wants more money for DHHL, the righteous way to get it is to grab whatever you need by raiding the biggest special fund in the State; namely, OHA. Go get it!