



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

S.B. NO. 469, RELATING TO HAWAIIAN LANGUAGE.

BEFORE THE:

**SENATE COMMITTEES ON HAWAIIAN AFFAIRS AND ON
TECHNOLOGY AND THE ARTS**

DATE: Friday, February 7, 2014

TIME: 3:15 p.m.

LOCATION: State Capitol, Room 224

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

Chairs Shimabukuro and Wakai and Members of the Committees:

The Department of the Attorney General submits this testimony to recommend that this bill be amended by replacing its contents with the contents of H.B. No. 109, H.D. 3, S.D. 1.

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. This bill is the companion measure of H.B. No. 109, which was heard by your Committees last year as H.B. No. 109, H.D. 3, and reported out for second reading as H.B. No. 109, H.D. 3, S.D. 1, a copy of which is attached hereto. As S.D. 1, the bill did not include the Hawaiian version of sections 1 and 2, and applied only to "letterheads," emblems, and symbols.

Because H.B. No. 109, H.D. 3, S.D. 1, was responsive to all of the concerns we raised in our testimony on that bill last year, if your Committees intend to recommend that S.B. No. 469 pass second reading, we respectfully request that it be reported to the floor in the same form the Committees approved for second reading of H.B. No. 109, H.D. 3, S.D. 1, last year.

Thank you for this opportunity to testify on this bill.

A BILL FOR AN ACT

RELATING TO HAWAIIAN LANGUAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the Constitution of
2 the State of Hawai'i provides for the preservation and promotion
3 of native Hawaiian culture, history, and language. Article X,
4 section 4, of the Hawaii state constitution provides that "[t]he
5 State shall promote the study of Hawaiian culture, history and
6 language." Article XII, section 7, of the Hawaii state
7 constitution provides that "[t]he State reaffirms and shall
8 protect all rights, customarily and traditionally exercised for
9 subsistence, cultural and religious purposes and possessed by
10 ahupua'a tenants who are descendants of native Hawaiians who
11 inhabited the Hawaiian Islands prior to 1778, subject to the
12 right of the State to regulate such rights." Because
13 maintaining a living language is an integral component of
14 preserving a culture, article XV, section 4, of the Hawaii state
15 constitution establishes that English and Hawaiian are the
16 official languages of Hawai'i.



1 Since 1978, the State has reaffirmed Hawaiian as one of its
 2 official languages, and the legislature has supported efforts to
 3 incorporate the Hawaiian language into official state writings,
 4 emblems, and signs. The State has ensured that these public
 5 inscriptions are mandatory, accurate, and spelled correctly.
 6 The use of proper Hawaiian macrons and glottal stops not only
 7 shows the deserved respect for the native language of these
 8 islands, but also fully comports with the intent and purpose of
 9 the state constitution.

10 The purpose of this Act is to ensure the constitutionally-
 11 and ethically-mandated preservation of the Hawaiian language and
 12 culture by requiring that state and county letterheads, symbols,
 13 and emblems, when newly created, replaced, or reprinted, contain
 14 accurate, appropriate, and authentic Hawaiian names and
 15 language.

16 SECTION 2. Section 1-13.5, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "~~{}~~\$1-13.5~~{}~~ Hawaiian language; spelling. [Maerens and
 19 glottal stops may be used in the spelling of words or terms in
 20 the Hawaiian language in documents] (a) Effective January 1,
 21 2015, all letterheads prepared by or for state or county
 22 agencies or officials[-] shall include accurate, appropriate,

1 and authentic Hawaiian names and words, including proper
2 Hawaiian spelling and punctuation, including but not limited to
3 macrons and glottal stops that punctuate the English word to
4 which they relate; provided that any revision to conform any
5 letterhead existing on or before January 1, 2015, to the
6 requirements of this section may be implemented when the
7 letterhead requires replacement or reprinting, or otherwise
8 requires revision. Any rule, order, policy, or other act,
9 official or otherwise, that prohibits or discourages the use of
10 [~~these symbols~~] accurate, appropriate, and authentic Hawaiian
11 names and words, as required by this section, shall be void.

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

14 (1) "Hawaiian Dictionary: Hawaiian-English, English-
15 Hawaiian", by Mary Kawena Pukui and Samuel H. Elbert,
16 University of Hawai'i Press, copyright 1986; or

17 (2) "MāmaKa Kaiāo: A Modern Hawaiian Vocabulary",
18 developed by the Kōmike Hua'ōlelo, the Hawaiian Lexicon
19 Committee."

20 SECTION 3. Section 5-6.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§5-6.5 State language. (a) The Hawaiian language
2 is the native language of ~~[Hawaii]~~ Hawai'i and ~~[may]~~, effective
3 January 1, 2015, shall be used on all emblems and symbols
4 representative of the State, its departments, agencies, and
5 political subdivisions~~[-]~~; provided that for emblems and symbols
6 existing on or before January 1, 2015, conformance with this
7 section may be delayed until a replacement for the emblem or
8 symbol otherwise is required.

9 (b) The Hawaiian language as used on all emblems and
10 symbols shall be in conformance with the requirements of section
11 1-13.5(b)."

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect on July 1, 2014.



Report Title:

Hawaiian Language; Public Documents; Letterhead

Description:

Requires that all letterheads, symbols, and emblems of the State and counties include that include accurate and appropriate Hawaiian names and language. Establishes references for accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation. Takes effect 7/1/2014. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



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To: HWN/TEC
For hearing Friday February 7, 2014

Re: SB 469 RELATING TO HAWAIIAN LANGUAGE.

Designates the month of February as "Olelo Hawai'i Month" to celebrate and encourage the use of Hawaiian language. Requires that all letterheads, documents, symbols, and emblems of the State and other political subdivisions include accurate and appropriate Hawaiian names and language. Establishes references for accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation. Clarifies 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 and no cause of action shall arise accordingly.

Testimony in opposition

THERE IS NO ESTIMATE OF THE COSTS THIS BILL WOULD ADD TO THE OPERATION OF EVERY DEPARTMENT OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCHES.

SB469 should perhaps be entitled "Full employment act for Hawaiian language translators." For one small example, just consider the diacritical marks in the portions of this bill written in Hawaiian language. Whoever actually wrote the Hawaiian language portions was probably not a staff member of the legislature, but an outside expert on Hawaiian language. Was there anyone in the regular staffs of the bill's Senate sponsors who would have been competent to insert the proper diacritical marks? ('and 'avoid 'inserting m'arks wh'ere they don't b'el'ong!) What would have been the cost to hire an independent contractor to do the job? Is there a typewriter in the state Senate capable of creating the diacritical marks? Perhaps an ordinary English-language apostrophe would satisfy the language police for use as an 'okina [see, I just did it!], but probably not, because an 'okina maoli [real 'okina] is supposed to curve, and in one particular direction (not the other direction). But the kahako is much more tricky. Not only do you need an expert who knows when it must be used, but you also need a special font or special-function keyboard keys programmed to be able to produce it on the vowels where it is appropriate.

THE DIACRITICAL MARKS ARE NOT AUTHENTIC -- THEY ARE HISTORICAL REVISIONISM.

The original written version of Hawaiian language created by the missionaries in 1820 had no diacritical marks. There was no need for them, because Hawaiian was an oral language which people learned by hearing it spoken with the good pronunciation of fluent native speakers. The diacritical marks were invented by language professors in modern times in an attempt to help people to know how to pronounce words they were reading but had never heard

being pronounced. The Hawaiian language as printed in the newspapers from 1834 to 1948 does not use diacritical marks. Out of respect for the language, perhaps we should not superimpose diacritical marks today. Let people learn correct pronunciation (glottal stops and long vs. short vowels) by hearing good speakers rather than by reading Hawaiian with added diacritical marks in isolation from anyone speaking it.

IT'S OPEN TO DISPUTE ON ANY PARTICULAR OCCASION WHETHER A WORD OR PHRASE IS IN HAWAIIAN LANGUAGE (THEREFORE REQUIRING DIACRITICAL MARKS) OR IN ENGLISH LANGUAGE (WHICH DOES NOT USE DIACRITICAL MARKS). MOST NOTABLY, THIS IS A PROBLEM FOR THE NAME OF OUR STATE.

The bill SB2175 is vague and thus unenforceable when a decision must be made regarding whether a place name or person's name, or a phrase, is being written in Hawaiian language (and therefore requires diacritical marks) or is being written in English language (and therefore cannot use diacritical marks because such marks are not part of the English language).

For example: The name for our archipelago during the Kingdom period was "Kō Hawai'i Pae 'Aina", which is clearly in Hawaiian language and therefore must include diacritical marks if we are now to obey SB2175 and require the use of diacritical marks even though such marks were not used during that historical period. However, the name for our archipelago at the present time, as a part of the United States, is "State of Hawaii" which is clearly an English-language name of a State and therefore must not use diacritical marks. The Hawaiian language zealots demand that the name of our State be rendered in its Hawaiian-language version with an 'okina as Hawai'i even when it appears in an English-language sentence and should therefore have no 'okina, as State of Hawaii. It is simply incorrect to mix the two languages by calling our entity State of Hawai'i. Either we are Ka Moku'aina O

Hawai'i or perhaps Kō Hawai'i Pae 'Aina; or else we are State of Hawaii [no 'okina]. Which one of those do you want to see on your official letterhead?

Another example is the name of my town. When I want to show off that I can speak Hawaiian, I call it "Kāne'ōhe" including a kahakō over the letter "a" and an 'okina between the "e" and "o". But when I put my address on an income tax form for the federal or state governments, my town is "Kaneohe" with no diacritical marks. The Hawaiian supremacists who authored this bill want to demand that I must always spell the names of my State and my town in the Hawaiian academic manner with diacritical marks even when I'm filling out federal and state tax forms. I refuse to comply with such a demand, and I invite the Hawaiian language police to arrest me.

THIS BILL LACKS CLARITY REGARDING HOW NON-HAWAIIAN PROPER NOUNS NAMING PEOPLE OR PLACES MUST BE RENDERED IN THE HAWAIIAN-LANGUAGE VERSION OF ENGLISH-LANGUAGE TEXT

When a letterhead gives an address that is on King Street, can the word "King" be retained, or must it be Hawaiianized as "Mo'i"? Can the street name "Richards" be kept, or must it be Hawaiianized as "Likeke"? It is customary in most civilized languages throughout the world to show respect to people and places by preserving the name of a foreign person or place precisely as it is written in its original language, and not to render it as either a transliteration or conceptual translation. But Hawaiian language in the past (and sometimes still today among the zealots) has a habit of Hawaiianizing at least the pronunciation (as in the examples of King and Richards) and sometimes raping the name to create a conceptual translation of it which sounds nothing like the original name.

Dr. Kekeha Solis is a Hawaiian language expert, and the author of most of the Hawaiian language columns every Saturday in the Honolulu Star-Advertiser. The way he likes to butcher non-Hawaiian names demonstrates how things are likely to be done if this bill is passed without amendments to require respect for the names of people and places.

One particular name which got a conceptual translation by Kekeha Solis, in his column of April 28, 2012, is the name which professional basketball player Ron Artest gave to himself when he legally changed his name to "Metta World Peace" in September 2011. Certainly Ron Artest has a right to change his own name to anything the law will allow, even if it is weird or fantastical. And he made the name change official by following the correct legal procedures.

What makes Mr. Solis' article highly controversial is the name he used when referring to the basketball player. Instead of referring to him as "Metta World Peace" which would be the correct name for him in an article written in any language, Solis gave him a new Hawaiian name.

Solis actually translated the CONCEPT of the name by calling him "Maluhia Honua Meka" [pronounced mah-loo-HEE-ah ho-NOO-ah MEH-kah]. This new name uses Hawaiian language words, in the correct word-order for nouns and adjectival modifiers according to Hawaiian grammatical rules, to render the English-language meaning into a Hawaiian language phrase whose words individually mean Peace [Maluhia] World [Honua] Metta [Meka] in that order. Throughout the article, in Hawaiian language, Solis always referred to the basketball player with the conceptually translated name Maluhia Honua Meka.

Dr. Solis and I and another Hawaiian language zealot had a raging debate for several weeks about the inappropriateness of doing

conceptual translations of names, and also the less offensive transliterations of them (following Hawaiian rules of grammar, and spelling, to make the name sound similar, as with Richards → Likeke. Solis persisted in butchering English names, and his colleagues would be likely to do so if he were on the Senate staff. His butchery of English names when writing in Hawaiian is as offensive as it would be if, in speaking English, I decide to Englishify Hawaiian-language names, so instead of saying Kamehameha School is on Makuakane Street I were to say Lonely-One School is on Father Street.

See more details about this issue in a webpage “Forcing the name of a person or place to be Hawaiianized through transliteration of its sound following Hawaiian grammatical rules or conceptual translation of its meaning into Hawaiian vocabulary” at <http://tinyurl.com/6on8k9s>

which is part of a much larger webpage “Hawaiian Language as a Political Weapon” at <http://tinyurl.com/668vqyz>

THE 1896 LAW WAS NOT A MAJOR FACTOR IN THE DECLINE OF HAWAIIAN LANGUAGE

There's an error of fact and interpretation on page 4, lines 6 to 10, which says "A major reason for the deterioration of the Hawaiian language was an 1896 law that required English instruction in Hawaii schools. In practice, this law functioned to 'ban' students from speaking Olelo Hawaii at their schools."

The 1896 law actually had very little effect on whether Hawaiian language lived or died. It had long been the policy of the government of the Kingdom of Hawaii to encourage the use of English in the schools. By 1892, the year before the revolution that overthrew the monarchy and four years before the 1896 law, 95% of all the children in the Kingdom's public schools were at

schools using English as the language for teaching all school subjects.

A scholarly study of the history of language in Hawai'i was done as a dissertation by John Reinecke at the University of Hawai'i in 1935. The dissertation was improved and published as a book. John E. Reinecke, "Language and Dialect in Hawaii: A Sociolinguistic History to 1935." Edited by Stanley M. Tsuzaki. Honolulu: University of Hawaii Press, 1969. Reprinted 1988. Paperback edition February, 1995.

Mr. Reinecke says the shift from Hawaiian language to English began under the Kingdom and was very far along by the time the monarchy was overthrown (see Table 8, pp. 70-73). Reinecke's chart summarizes the number of schools and students operating in Hawaiian and English based on Education Department reports from 1847 to 1902. The number of students in Hawaiian language schools falls continuously through this period while the number in English-language schools rises; likewise the numbers of schools operating in the respective languages. The number of students in Hawaiian-language schools dropped below 50% in 1881 or 1882. By 1892 (the year before the overthrow), only five percent of students were in Hawaiian language schools and there were only 28 such schools in the Kingdom; at the same time, 94.8% of students were in the 140 English-language schools.

I might note that the thousands of children of Japanese and Chinese plantation workers were taught all subjects through the English language, just as the native Hawaiian children were; yet at home the Japanese and Chinese children continued to speak the languages of their homelands, and they remained fluent in their native languages despite the English language being used at school. By contrast, most native Hawaiian parents insisted their children speak English in the home as well as at school, because

the parents knew English was the pathway to success in Hawaii. If the 1896 law had been such a huge factor in destroying Hawaiian language as SB2175 asserts, then the 1896 law would also have destroyed the Japanese and Chinese languages in the lives of the children; but that clearly did not happen because Japanese and Chinese languages enjoyed widespread everyday use in the homes and communities of those ethnic groups, while Hawaiian language had long been falling out of use in everyday life for the native Hawaiians and was actively suppressed at home for the children by their parents.

For an in-depth, heavily footnoted essay on the alleged banning of Hawaiian language and the effect of the 1896 law, see <http://tinyurl.com/6zrka>

If you do not junk this bill SB469, please at least delete lines 6 to 10 from page 4 to avoid perpetuating an inflammatory historical falsehood.