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STATE OF HAWAII



JOBIE M. K.
MASAGATANI

WILLIAM J. AILA, JR.
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

**TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON FINANCE
IN STRONG SUPPORT OF**

HB 1932 HD 1 RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

March 3, 2016

Aloha Chair Luke and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) is a unique agency as it is the only department explicitly identified in the Hawaii State Constitution as being guaranteed a level of funding. As required by the Admissions Act and as a compact with the United States, the State of Hawaii and the people of Hawaii adopted the Act as a provision of the State Constitution and agreed to faithfully carry out the spirit of the Act for the rehabilitation of the Hawaiian race. These trust responsibilities still remain.

Article XII, Section 1, as noted in the bill, requires the legislature to make sufficient sums available for lot development, loans, rehabilitation projects, and the administration and operating budget of the department. HB 1932, and its companion SB 3029, are historic bills because for the first time in 37 years since the 1978 State Constitutional amendment to Article XII, these legislative measures appropriate sufficient general funding to DHHL to cover the department's administrative and operating expenses for fiscal year 2016-17. HB 1932 HD 1 creates an opportunity to improve our delivery of beneficiary services, relieves reliance of DHHL on revenues generated on trust lands so that those funds may be used to provide direct benefits to its beneficiaries that is direly needed, and resolves a controversial issue that is long overdue.

DHHL on behalf of its Commission, appreciates that the House OMH Committee incorporated the amendment we requested to appropriate general funds as may be necessary to reimburse DHHL administrative and operating costs expensed by DHHL special and trust funds for fiscal year 2016. We further recommend that the general funds be deposited to the Hawaiian Home Administration Account to facilitate reimbursement of administrative and operating expenses paid by DHHL's special and trust funds.

*Department of Hawaiian Home Lands
HB 1932 HD 1
House Committee on Finance
Page 2*

DHHL requests that the House Finance Committee on Finance pass HB 1932 HD 1 out of Committee, with the suggested amendments. Thank you for your consideration of our testimony.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 03, 2016 1:55 PM
To: FINTestimony
Cc: mwainani@gmail.com
Subject: *Submitted testimony for HB1932 on Mar 3, 2016 14:00PM*

HB1932

Submitted on: 3/3/2016

Testimony for FIN on Mar 3, 2016 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Ivan Pauole	Individual	Support	No

Comments:

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To: FINTestimony
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HB1932

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Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Brown	Individual	Support	No

Comments:

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HB1932

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Submitted By	Organization	Testifier Position	Present at Hearing
Derek Kimura	Individual	Support	No

Comments:

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HB1932

Submitted on: 3/3/2016

Testimony for FIN on Mar 3, 2016 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kaimo Muhlestein	Individual	Comments Only	No

Comments: My name is Kaimo Muhlestein, I strongly support H.B. 1932, HD 1 for the following reasons. 1) The Hawaiian Home Lands Act provides for the rehabilitation of the native Hawaiian people through a government-sponsored homesteading program. Many beneficiaries of the Hawaiian Home Lands Trust, including my 82 year old father, are currently waiting for a homestead lease. For others, they died on the HHL wait list. It is time to put native Hawaiian priorities back into the Hawaiian Home Lands Act and eliminate political differences. 2) For many years, Hawaii's public and government unfairly criticized the Department of Hawaiian Home Lands for not fulfilling the purpose of the act. 3) For many years, the State of Hawaii failed to appropriate enough general funds to pay for the Department of Hawaiian Home Land's administrative and operating costs. 4) For many years, the Department of Hawaiian Home Lands relied on its trust funds to cover administrative and operating costs thus impacting its ability to effectively fulfill the purposes of the Hawaiian Home Lands Act. 5) On November 27, 2015 in the Richard Nelson III, et al., vs. Hawaiian Home Commission, et al, Civil No. 07-1-1663-08, Hon. Jeannette H. Castagnetti in her Findings of Fact, Conclusions of Law, and Order....finds that DHHL "suffers from a lack of funding and staffing, which adversely affects beneficiaries of the Hawaiian Home Lands Trust" and declared that the "State must fulfill its constitutional duty by appropriating sufficient general funds to the Department of Hawaiian Home Lands for its administrative and operating budget.". HB 1932, HD 1 is the vehicle of this committee to meet its funding constitutional obligation as required by Article XII, Section 1 of the Hawaii State Constitution. I strongly urge this committee to pass HB 1932, HD 1 with an appropriation of \$28 million of general funds to the Department of Hawaiian Home Lands so that Department of Hawaiian Home Lands can effectively fulfill the purposes of the Hawaiian Home Lands Act.

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Testimony in Support

Date: March 3, 2016

Time: 2:00 p.m.

Place: Conference Room 308

To: Committee on Finance

Representative: Sylvia Luke, Chair

Representative: Scott Nishimoto, Vice Chair

Re: Testimony in Support of HB 1932 HD1

Relating to Department of Hawaiian Home Lands

Administrative and Operating Expenses; Appropriation

Aloha Chair Luke and Vice Chair Nishimoto:

My name is Homelani Schaedel, a beneficiary of the Hawaiian Homes Commission Act. I am blessed to live on homestead lands in Kapolei.

"I do solemnly swear that I will support and defend the Constitution of the United States, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties.....to the best of my ability".

This is the oath each member of both houses repeat on Opening day of the Legislature.

The Constitution of the United States is the central instrument of American government and the supreme law of the land, and so to, is the Constitution of the State of Hawaii.

This bill acknowledges that the Legislature has failed to uphold the Hawaii State Constitution, Article 16 Section 7, Article 12 Sections 1 and 2, and Section 101 of the Hawaiian Homes Commission Act, as amended in 1920 for decades, which prompted plaintiffs in the Nelson case to file suit against the State and the Hawaiian Homes Commission.

I find it ironic that legislators are often referred to as "lawmakers", that the bills passed by the Legislature becomes law; and that the Legislature expects the Judicial arm of our government to implement and/or enforce these laws.

Yet, when the Judicial arm of our state government holds the Legislature responsible and accountable to the Constitution of our state, the Legislature deems it appropriate to assert its' powers to circumvent the law.

The leadership in both houses unilaterally determined the Judiciary arm of our government overstepped its authority and directed the Attorney General to file a motion to appeal the court's decision on the Nelson case, and decided to secure the services of outside counsel without consulting with its members within the required timeframe, thereby violating their own rules.

Language in the Constitution of the State of Hawaii Article 12 Section 1 is concise and clear, "**The Legislature shall make sufficient sums available for (4) the administration and operating budget of the department of Hawaiian home lands**".

Why must the Department of Hawaiian Home Lands on behalf of its' beneficiaries have to beg for what is constitutionally and rightfully ours? **WHY? A`ole loa! A`ole pono!**

Those in both houses who continue to resist fulfilling the obligation of this legislature and the people of this state to the Department of Hawaiian Home Lands and its' beneficiaries need to go outside of this building and read the inscription on the State's seal. Instead of perpetuating righteousness, they perpetuate indifference and immorality!

It is blatantly clear that we Hawaiians have few supporters in this legislature, and the indignation we feel is justified! The legislatures' political dissidence continues to plague our people. Legislators who feel the passivity of our people supports their impropriety and disregard of the law, have not faithfully discharged their duty to the beneficiaries of the Department of Hawaiian Home Lands.

While I don't understand why another law must be enacted "to ensure the legislature fulfills its responsibility" ...to an existing law? I appreciate that the introducers of this bill and its' companion in the house faced challenges from their colleagues to uphold the oath they swore by introducing this bill.

I strongly support language in the bill to include the Legislature appropriate the amount ordered by the court for the Department of Hawaiian Home Lands 2015-16 budget from general funds and dropping their appeal. In its' current version, I support this bill with reservations.

Mahalo for the opportunity to present my testimony.



KAPOLEI
COMMUNITY
DEVELOPMENT
CORPORATION

P.O. Box 700911 Kapolei, HI 96709

In support of HB1932 HD1, Funding for DHHL Administrative and Operating Expenses

To the House Committee on Finance

Aloha Chair Luke, Vice Chair Nishimoto, and Members of the Committee,

Thank you for the opportunity to offer **support** for HB1932 HD1, which ensures the legislature fulfills its responsibility under Article XII, Section 1 of the State Constitution by appropriating sufficient general funds for reimbursement of administration and operating expenses of DHHL for this fiscal year.

Kapolei Community Development Corporation (KCDC) is a 501(c)(3) Hawaiian home lands beneficiary organization founded on the tenets of community, culture, education, and partnership in our homestead community. We work in partnership with the DHHL to realize our community goals and vision to develop a multi-purpose community hub in Kapolei adjacent to the DHHL headquarters. Thus, it is critical to our work that the legislature make sufficient sums available to DHHL for 4 purposes, 1 of which is the administration and operating budget of DHHL in order for the other revenues generated by DHHL be directed toward serving its beneficiaries.

The court's recently modified court order states the following: "There was evidence concerning the operational shortfalls that the Department had been experiencing for years, including staffing shortages because of a lack of consistent funding from the State, which made it difficult for DHHL to fill positions because in each budget cycle DHHL did not know what level of funding would be provided from the State." KCDC has witnessed firsthand the staffing shortages of DHHL. We appreciate DHHL working as close as they do with our organization now and we know that with sufficient funding provided by the legislature, adequate staffing and the revenues generated by DHHL provides greater resources to meet the laudable goals of the HHCA.

KCDC further appreciates the court's modified order that recognized "longstanding funding problems that have plagued the Department of Hawaiian Homelands" and concluding that "the State has failed by any reasonable measure to provide sufficient funding to DHHL and the State's track record in supporting DHHL's success is poor." KCDC believes HB1932 HD1 is the next step to fulfilling the State's constitutional mandate to fund DHHL.

Mahalo for this opportunity to testify in support of HB1932 HD1.

BEFORE THE HOUSE COMMITTEE ON FINANCE

March 3, 2016

House Bill No. 1932 HD1
Relating to the Department of Hawaiian Home Lands

Aloha Chair Luke, Vice Chair Nishimoto and Members of the Committee:

The Ka Lahui Hawai'i Political Action Committee (KPAC) submits the following testimony in support of HB 1932 HD1. This bill ensures the legislature fulfills its responsibility under Article XII, section 1 of the state constitution by appropriating sufficient general funds for reimbursement of administration and operating expenses of the Department of Hawaiian Home Lands for the current fiscal year.

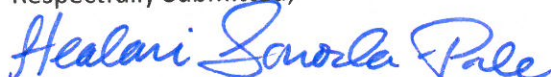
The Hawaiian Homes Commission Act, 1920 (HHCA) enacted by Congress established the Hawaiian Home Lands program. As a condition of Statehood in section 4 of the Admissions Act in 1959, the State is required to adopt the HHCA as a provision of the Constitution. As such Article XII, section 1 of the State Constitution adopts the HHCA and further provides that the legislature shall make sufficient sums available for 4 purposes, one of which is the administration and operating budget of DHHL.

This bill is one step in complying with the recent court's decision in the Nelson case that was recently modified and ordered that "the amount of general funds appropriated to DHHL for its administrative and operating budget for fiscal year 2015 to -16 (9,632,000) is not sufficient. The State is required to comply with the Hawai'i Constitution and must fund DHHL's administrative and operating expenses by making sufficient general funds available to DHHL for its administrative and operating budget for fiscal year 2015 to -16." While this bill provides a blank amount for fiscal year 2016-2017 to reimburse DHHL administrative and operating costs, which were expensed by DHHL special and trust funds for fiscal year 2016, the legislature must fund the additional \$18.4 million for the current fiscal year.

The court's directive is clear in ordering that the State "must fulfill their constitutional duty and trust responsibilities."

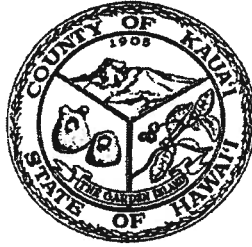
The court also noted in its ruling that "No other State department has a constitutional mandate requiring the legislature to provide 'sufficient sums' for its administrative and operating budget." Given the contractual agreement as part of Statehood and the constitutional mandate, funding DHHL must be supported despite the pending notice of appeal filed by the Attorney General. Thus, KPAC requests this bill be passed and additional funding be appropriated for this fiscal year.

Respectfully Submitted,



Healani Sonoda-Pale
KPAC Chair

COUNTY COUNCIL
Mel Rapozo, Chair
Ross Kagawa, Vice Chair
Mason K. Chock
Gary L. Hooser
Arryl Kaneshiro
KipuKai Kualii
JoAnn A. Yukimura



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4396 Rice Street, Suite 209
Lihu'e, Kaua'i, Hawai'i 96766

March 3, 2016

TESTIMONY OF KIPUKAI KUALII
COUNCILMEMBER, KAUA'I COUNTY COUNCIL

ON

HB 1932, HD1, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME
LANDS

House Committee on Finance

Thursday, March 3, 2016

2 p.m.

Conference Room 308

Dear Chair Luke and Members of the Committee:

Thank you for this opportunity to provide testimony in strong support of HB 1932, HD1, Relating to the Department of Hawaiian Home Lands. My testimony is submitted in my individual capacity as a member of the Kaua'i County Council, Chair of the Kaua'i County Council Economic Development & Intergovernmental Relations Committee, and member of the National Association of Counties Board of Directors.

The purpose of this measure is to ensure that the Legislature fulfills its responsibility under Article XII, Section 1, of the State Constitution by appropriating sufficient general funds for reimbursement of administration and operating expenses of the Department of Hawaiian Home Lands ("Department"). The judge in the Nelson v. Hawaiian Homes Commission case determined that the "sufficient" funding requirement is a constitutional mandate, which all public officials swore to uphold when they each took an oath of office to assume their duties. The judge also ordered that the State comply with the mandate, given decades of noncompliance which has crippled the Department's ability to address the volume of applicants for homesteading. The waitlist has grown to over 27,700 since the constitutional mandate was passed and ratified by the voters of Hawai'i in 1978. In the 13 years since the mandate was adopted, the State provided no general funds to the Department, and past audits and studies have identified the lack of adequate funding as one of the key reasons the State has failed to abide by its agreement with the United States, as a condition of statehood, to "faithfully administer" the Hawaiian homestead program.

For the reasons stated above, I urge the House Committee on Finance to support this measure. Should you have any questions, please feel free to contact me or Council Services Staff at (808) 241-4188.

Sincerely,

KIPUKAI KUALII
Councilmember, Kaua'i County Council

AMK:mn

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 03, 2016 4:35 PM
To: FINTestimony
Cc: mkhan@hawaiiantel.net
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HB1932

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Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Individual	Support	No

Comments:

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