

STAND. COM. REP. NO.

1207

Honolulu, Hawaii

MAR 29 2017

RE: S.C.R. No. 85

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2017  
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
S.C.R. No. 85 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING THE OFFICE OF  
HAWAIIAN AFFAIRS TO CONVENE A TASK FORCE OF HAWAIIAN LEADERS,  
LEGAL SCHOLARS, AND A BROAD REPRESENTATION OF MEMBERS OF THE  
HAWAIIAN COMMUNITY TO REVIEW AND CONSIDER WHETHER ITS  
FIDUCIARY DUTY TO BETTER THE CONDITIONS OF HAWAIIANS AND  
MANAGE ITS RESOURCES TO MEET THE NEEDS OF HAWAIIAN  
BENEFICIARIES WOULD BE BETTER SERVED BY HAVING TRUSTEES  
APPOINTED RATHER THAN ELECTED,"

begs leave to report as follows:

The purpose and intent of this measure is to request the  
Office of Hawaiian Affairs (OHA) to convene a group of Hawaiian  
leaders, legal scholars, and Hawaiian community members to review  
whether the manner of selecting and seating OHA trustees could be  
improved through an appointment process rather than by election,  
consider the appropriate appointing authority, and consider how to  
develop a list of the best qualified potential trustees for  
submittal to the appointing authority.

Your Committee received testimony in support of this measure  
from the Association of Hawaiian Civic Clubs and two individuals.  
Your Committee received testimony in opposition to this measure  
from three individuals. Your Committee received comments on this  
measure from the Office of Hawaiian Affairs.



Your Committee finds that OHA was created in part to help Native Hawaiians realize a sense of self-determination and self-government. In *Arakaki v. State*, the Ninth Circuit Court of Appeals struck the statutory and constitutional provisions limiting who could run for and be elected to OHA solely to those of Hawaiian ancestry. Your Committee further finds that the ability for Hawaiians to exercise their right to self-determination through the election of OHA trustees has been substantially diminished because non-Hawaiians are entitled to vote for and run for a position as an OHA trustee. Your Committee believes that there are well-qualified individuals with strong ties and stellar records of service to the Hawaiian community, who meet the exacting legal and fiduciary requirements of serving as a trustee, and who would consent to serving as an OHA trustee if they were appointed rather than elected.

Your Committee further finds that it is in the best interests of Hawaiian beneficiaries that the most competent, skillful, mature, and trustworthy individuals serve as trustees over the resources and policies developed and implemented by OHA to better the conditions of Hawaiian beneficiaries. There is a need to review the question of whether the manner of selecting OHA trustees may be improved through an appointment process, to consider the appropriate appointing authority, and how to develop a list of the best qualified potential trustees for submittal to the appointing authority.

Your Committee requests OHA to examine other trusts dedicated to Native Hawaiians as models, such as the Kamehameha Schools/Bishop Estate, which has maximized revenues for the trust in large part because its appointed trustees are experts in their respective fields. Further, your Committee believes that the fiduciary nature of the trustees to the beneficiaries of the trust is inimical to having elected trustees.

As affirmed by the record of votes of the members of your Committee on Hawaiian Affairs that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 85 and recommends that it be referred to your Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committee on Hawaiian Affairs,



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MAILE S.L. SHIMABUKURO, Chair



