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HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEES ON
OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS AND
LABOR AND PUBLIC EMPLOYMENT
ON
HOUSE BILL NO. 865

February 7, 2017
8:45 a.m.
Room 312

RELATING TO COLLECTIVE BARGAINING

House Bill No. 865 extends collective bargaining rights to employees of the Office of Hawaiian Affairs (OHA) by amending Section 10-12, HRS.

The measure also gives the Board of Trustees of OHA an employer vote in collective bargaining negotiations.

The Department of Budget and Finance opposes this measure. Extending collective bargaining rights to OHA would increase the cost of negotiated agreements. In addition, adding OHA as a voting member of the Employer group without increasing the vote of the Governor, the jurisdictions, Hawaii Health Systems Corporation, and OHA would have a majority vote exceeding the authority of the Governor, who has a statutory responsibility to maintain a balanced budget for the State.

Thank you for your consideration of our comments.



**STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING
EXECUTIVE OFFICE OF THE GOVERNOR**
235 S. BERETANIA STREET, SUITE 1201
HONOLULU, HAWAII 96813-2437

February 3, 2017

TESTIMONY TO THE
HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN
AFFAIRS and
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

For Hearing on Tuesday, February 7, 2017
8:45 a.m., Conference Room 312

By

JAMES K. NISHIMOTO
OFFICE OF COLLECTIVE BARGAINING, CHIEF NEGOTIATOR

**House Bill No. 865
Relating to Collective Bargaining**

(WRITTEN TESTIMONY ONLY)

CHAIRPERSONS JOHANSON AND ING, VICE CHAIRS HOLT AND GATES AND
MEMBERS OF THE COMMITTEES:

House Bill No. 865 proposes to grant the Office of Hawaiian Affairs (OHA)
employees collective bargaining rights and gives OHA voting rights as a public
employer.

The Office of Collective Bargaining (OCB) has the following **CONCERNS**:

- By adding OHA as a voting member of the Employer group without increasing the vote of the Governor, the jurisdictions, Hawaii Health Systems Corporation, and OHA would have a majority vote exceeding the

authority of the Governor, who has a statutory responsibility to maintain a balanced budget for the State.

- Inclusion of OHA employees will increase funding requirements to support negotiated agreements.

Thank you for this opportunity to testify on this measure.



HB865
RELATING TO COLLECTIVE BARGAINING
Committee on Ocean, Marine Resources, & Hawaiian Affairs
Committee on Labor & Public Employment

February 7, 2017

8:45 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** HB865, which would undermine OHA's autonomy as a fiduciary of the Native Hawaiian trust fund, by subjecting OHA to collective bargaining requirements and the provisions of the Hawai'i Civil Service Law.

This bill raises the following serious concerns:

Infringement on OHA's Autonomy

This bill, with its sweeping inclusion of OHA in the state civil service law and the collective bargaining process, would subordinate OHA's Board of Trustees to the vote of the Governor, undermining OHA's constitutionally-recognized autonomy.

OHA's autonomy is well-established under Hawai'i law. Reflecting the constitutional provisions establishing OHA and its Board of Trustees, Hawai'i Revised Statutes (HRS) Chapter 10 gives OHA many attributes of autonomy, including its status "as a body corporate which shall be a separate entity and independent of the executive branch," led by a Board of Trustees that has the power "to determine the character of and the necessity for its obligations and expenditures[.]" HRS § 10-4 (emphasis added). This autonomy is firmly rooted in OHA's origins, when delegates to the 1978 Constitutional Convention expressed a clear intent "that the Office of Hawaiian Affairs will be independent from the executive branch and all other branches of government although it will assume the status of a state agency." Proceedings of the Constitutional Convention of Hawai'i of 1978, Standing Committee Rep. No. 59, at 645.

This measure undermines the autonomy of the OHA Board of Trustees, as OHA's independent decisionmakers and fiduciaries of the Native Hawaiian Trust Fund. The amendment to HRS § 89-6 could result in the OHA Board of Trustees holding only 1 of 13 votes when negotiating a collective bargaining agreement involving OHA employees, whose salaries make up a significant portion of OHA's operating budget. Coupled with the requirements of the Civil Service Law, HRS Chapter 76, OHA Trustees' ability to oversee and plan for personnel expenses would be reduced and subjected in large part to the decisions of the executive branch and Governor, who would hold 6 votes in collective bargaining negotiations involving OHA employees. Given such a voting imbalance, this measure would effectively require the OHA Board of Trustees to cede control over some of its key expenditures to the State.

Impact on Native Hawaiian Trust Funds

OHA also has concerns over the potential adverse impacts that this bill may have on OHA's budget and the Native Hawaiian Trust Fund. Should the requirements of civil service and collective bargaining be imposed on OHA employees, OHA would have to change the way it hires, compensates, and maintains its workforce. Existing personnel policies would need to be overhauled, resulting in short-term disruptions to operations and the long-term restructuring of OHA that would be needed to ensure compliance with collective bargaining and civil service requirements. OHA trust funds may also need to cover higher wages or increased benefits resulting from collective bargaining agreements and civil service classifications.

As a general trust principle, OHA's Board of Trustees has a responsibility to prudently manage and protect OHA's trust assets. Given the high likelihood of increased personnel costs resulting from the proposed imposition of collective bargaining and civil service laws on its operations, OHA cannot support this measure.

In light of the above, we ask that these Committees **HOLD** this bill. Mahalo for the opportunity to testify on this matter.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Ocean, Marine Resources, and Hawaiian Affairs
Committee on Labor and Public Employment

Testimony by
Hawaii Government Employees Association
February 7, 2017

H.B. 865 – RELATING TO COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of granting officers and employees within the Office of Hawaiian Affairs collective bargaining rights, however we have a proposed technical amendment to H.B. 865.

HGEA represents more than 42,000 members employed by the state and county, in eight bargaining units and also serves a large associate membership composed of retirees, other state and county employees and officials, and federal and private sector employees. As the state's largest labor organization, we firmly believe in the fundamental right for employees, like those employed by the Office of Hawaiian Affairs, to have the right to collectively bargain their wages, benefits, and terms and conditions of employment. These beliefs concur with and are upheld by the Hawaii State Constitution, Article XIII, Section 2, which states, "Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law."

We respectfully request that in order to avoid confusion regarding an exemption to Ch. 76, HRS, lines 3 - 11 on page 1 should be amended to read:

"The administrator may employ and retain such officers and employees as may be necessary to carry out the functions of the office. Such officers and employees are subject to chapter 89 but may be hired without regard to chapter 76, and shall serve at the pleasure of the administrator. Officers and employees of the office of Hawaiian affairs shall be included in any benefit program generally applicable to officers and employees of the State."

Thank you for the opportunity to provide our support on the passage of H.B. 865, with a proposed technical amendment.

Respectfully submitted,

Randy Perreira
Executive Director

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 9:50 PM
To: omhtestimony
Cc: blawaiianlvr@icloud.com
Subject: *Submitted testimony for HB865 on Feb 7, 2017 08:45AM*

HB865

Submitted on: 2/3/2017

Testimony for OMH/LAB on Feb 7, 2017 08:45AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omana Pono, LLC.	Support	Yes

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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To: omhtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB865 on Feb 7, 2017 08:45AM*

HB865

Submitted on: 2/3/2017

Testimony for OMH/LAB on Feb 7, 2017 08:45AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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To: omhtestimony
Cc: kamakane73@gmail.com
Subject: Submitted testimony for HB865 on Feb 7, 2017 08:45AM

HB865

Submitted on: 2/6/2017

Testimony for OMH/LAB on Feb 7, 2017 08:45AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Kama Hopkins	Individual	Support	No

Comments: Employees must be protected

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KO`OLAUPOKO HAWAIIAN CIVIC CLUB

February 6, 2017

To: Rep. Kaniela Ing, Chair & Members
Committee on Ocean, Marine Resources and Hawaiian Affairs

Rep. Aaron Ling Johannsen, Chair & Members
Committee on Labor & Public Employees

From: Alice P. Hewett, President
Ko`olaupoko Hawaiian Civic Club

Re: H.B. 865 – Relating to Collective Bargaining - Support

Aloha Chairs Ing and Johannsen, Vice Chairs Gates and Holt, and Committee Members:

The Ko`olaupoko Hawaiian Civic Club strongly supports House Bill 865, which would grant employees of the Office of Hawaiian Affairs collective bargaining rights.

Many of our members, most of whom come from the nine ahupua`a around Kane`ohe bay, are working families, and many have enjoyed the benefits of belonging to a labor union. Collective bargaining has proven to our members that employees can give good service in exchange for fair treatment in the work place such as can be provided through collective bargaining. The employees at OHA include a number of individuals who have worked their entire careers – decades – at OHA, but have been denied bargaining rights.

We think it's only fair – and long overdue – that OHA employees are given fair treatment by the State of Hawai'i. We humbly request that you pass House Bill 865.

Mahalo nui loa for your consideration of our request.

The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko`olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart."



Ko`olau Foundation

P. O. Box 4749
Kane`ohe, HI 96744

February 7, 2017

TO: CHAIR KANIELA ING
VICE-CHAIR CEDRIC GATES
MEMBERS
COMMITTEE ON OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS

CHAIR AARON LING JOHANNSEN
VICE CHAIR DANIEL HOLT
MEMBERS
COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

FROM: AARON MAHI, President

SUBJECT: H.B. 865 – SUPPORT FOR COLLECTIVE BARGAINING RIGHTS FOR OHA

Aloha Chair Ing, Vice Chair Gates; Chair Ling Johannsen, Vice Chair Holt; and Honorable Members of these Committees:

On behalf of the Ko`olau Foundation, aloha mai kakou!

The Ko`olau Foundation supports House Bill 865, which would grant collective bargaining rights to employees of the Office of Hawaiian Affairs.

History has shown that collective bargaining for employees has resulted in stabilizing an organization's operations and retention of valuable institutional knowledge through the employees' ability to rely on fair treatment and processes. This has been true throughout the country and particularly here in Hawai`i. As a Native Hawaiian organization dedicated to preserving cultural values, we keenly understand the need for our people to be able to expect that they will be valued through the collective bargaining process.

We urge your committees to ensure that these dedicated state employees enjoy the same rights and privileges as thousands of other state and county employees throughout Hawai`i.

Please pass House Bill 685.

Mahalo for allowing us to share our mana`o.

koolaufoundation@gmail.org