



SB435
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS
Committee on Hawaiian Affairs

February 14, 2017

1:30 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** SB435, which would require the OHA Board of Trustees to appoint the “deputy administrator, chief financial officer, and corporation counsel” for a term determined by the Board and make these positions subject to removal for cause by a two-thirds vote of the Board. This proposed change is potentially unconstitutional and is contrary to established Board policies, thereby infringing on the autonomy of our Trustees to oversee OHA operational policy.

SB435’s proposed changes to the hiring and removal authority within OHA may be unconstitutional. Article XII, § 6 of the State Constitution provides that “[t]he board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.” The State Constitution thus establishes a centralized management authority for OHA, where the OHA Board of Trustees have a single report, the OHA Administrator, who is responsible for the day-to-day operations of OHA and the implementation of policies adopted by the Board. This attempt to extend the Board’s hiring and removal authority beyond the OHA Administrator alters the way that the Board of Trustees exercises control over OHA and may therefore conflict with the State Constitution.

The centralized authority of the OHA Administrator over operations, including hiring and removal authority, is well-established in the bylaws and policies adopted by the OHA Board of Trustees. Under Hawai‘i Revised Statutes § 10-4(1), the Board has the power to adopt bylaws “governing the conduct of its business.” As related to administration staff, article VII.B. of the OHA Bylaws provides that “the Administrator may employ and retain such employees as deemed necessary to carry out the function of the Office.” The OHA Executive Board of Trustees Executive Policy Manual, § 3.10.i. further provides that “[t]he hiring and firing authority resides with the [Administrator] . . .” The OHA Board of Trustees have taken no position that suggests a desire to modify these adopted policies, therefore any attempt by the Legislature to unilaterally change the Administrator’s authority would infringe upon the autonomy of the OHA Board of Trustees established in the Hawai‘i Constitution and state law.

Accordingly, OHA urges the Committee to **HOLD** SB435. Mahalo nui loa for the opportunity to testify on this measure.



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Accordingly, OHA urges the Committee to **HOLD** SB435. Mahalo nui loa for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2017 10:25 AM
To: HWNTestimony
Cc: mkhan@hawaiiantel.net
Subject: Submitted testimony for SB435 on Feb 14, 2017 13:30PM

SB435

Submitted on: 2/12/2017

Testimony for HWN on Feb 14, 2017 13:30PM in Conference Room 016

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

Comments: Aloha, I strongly oppose this bill that proposes to pass the authority of the CEO of OHA to select his key subordinate staff to the OHA Board of Trustees. I believe such a policy in law would impede upon daily operations and the separation of powers between the role of Trustees (normally policy) and the administrator (operations). The Hawaii State Constitution, Article XII only places the selection of the Administrator in the hands of the Board of Trustees. Respectfully, Leimomi

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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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 10:16 AM
To: HWNTestimony
Cc: launahele@yahoo.com
Subject: *Submitted testimony for SB435 on Feb 14, 2017 13:30PM*

SB435

Submitted on: 2/10/2017

Testimony for HWN on Feb 14, 2017 13:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Benton	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2017 10:19 AM
To: HWNTestimony
Cc: jflowers7733@gmail.com
Subject: *Submitted testimony for SB435 on Feb 14, 2017 13:30PM*

SB435

Submitted on: 2/13/2017

Testimony for HWN on Feb 14, 2017 13:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Wayne Flowers Jr	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2017 7:47 AM
To: HWNTestimony
Cc: rkailianu57@gmail.com
Subject: *Submitted testimony for SB435 on Feb 14, 2017 13:30PM*

SB435

Submitted on: 2/14/2017

Testimony for HWN on Feb 14, 2017 13:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2017 5:55 AM
To: HWNTestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for SB435 on Feb 14, 2017 13:30PM*

SB435

Submitted on: 2/14/2017

Testimony for HWN on Feb 14, 2017 13:30PM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan P. Armstrong	Individual	Support	No

Comments:

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