



**SCR85/SR33**

**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.**

Senate Committee on Hawaiian Affairs

April 4, 2017

9:45 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SCR85/SR33.

As the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians,<sup>1</sup> OHA has substantive obligations to protect the interests of the agency's beneficiaries.<sup>2</sup> OHA is required to serve as the principal public agency in the State of Hawai'i responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians; assess the policies and practices of other agencies impacting Native Hawaiians; and conduct advocacy efforts for Native Hawaiians.<sup>3</sup> OHA is further responsible for managing and administering the funds, real property, and other assets it holds in trust for the benefit of Native Hawaiians.<sup>4</sup> OHA appreciates the intent behind SCR85 and SR33, to ensure that OHA acts in the best interests of its Native Hawaiian beneficiaries.

OHA believes it is essential to recognize that OHA was created as an independent agency built on the goal of Native Hawaiian autonomy and self-determination. The appointment of OHA Trustees by the Judiciary or the Executive Branch would not fulfill the vision of self-determination and could begin to erode OHA's autonomy from the three branches of the State's government. Appointed Trustees may be or feel constrained in their ability to take action in ways that conflict with the interests of those who appoint them, and the lack of an electoral process may also render them less accountable to their constituents. OHA emphasizes that elected Trustees over past decades have moved OHA from a fledgling entity to a multi-faceted agency that provides beneficiaries with a formidable array of programs and services in such areas as health, housing stability, economic well-being, education, land, and culture. Whether an appointed Board of Trustees would have achieved greater results or acted with greater fidelity to the OHA trust is a matter of debate and opinion.

Mahalo nui loa for the opportunity to testify on this measure.

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<sup>1</sup> HAW. CONST. ART. XII, § 5.

<sup>2</sup> See Haw. Rev. Stat. Chapter 10 (2009).

<sup>3</sup> HRS § 10-3 (2009).

<sup>4</sup> HAW. CONST. ART. XII, §§ 5 AND 6.

To: Senator—Chairperson, Ways and Means

From: Lei Kihoi, Esq.

Re: **In Support SR/SCR 85:**

Date: 4/2/17

I am in support of the SR/SCR85 to request that OHA 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 beneficiaries would be better served by Trustees appointed rather than elected for the following reasons:

- 1) That historically since 1978, the Office of Hawaiian Affairs has undergone significant changes as a result of judicial challenges, election and voting changes. Further, as a result, there appears to be a need to have a higher calibre of Trustees with specific skills and expertise to handle our beneficiary resources;
- 2) That it would be in the best interests of Hawaiian beneficiaries to explore the possibility of seeking individuals who are skilled and competent and therefore able to efficiently serve as trustees so as to better the conditions of Hawaiian beneficiaries.

For the above reasons, I am in support of SR/SCR85.

Aloha,

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**From:** mailinglist@capitol.hawaii.gov  
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**SCR85**

Submitted on: 4/2/2017

Testimony for WAM on Apr 4, 2017 09:45AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maxine Anderson	Individual	Support	No

Comments:

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