



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 10, 2017

TO: The Honorable Representative Dee Morikawa, Chair
House Committee on Human Services

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 169 – RELATING TO HOMELESSNESS**
Hearing: February 10, 2017, 9:30 A.M.
Conference Room 329, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and offers comments. DHS defers to the testimony of the Department of the Attorney General.

PURPOSE: The purpose of the bill is to establish a working group in the Department of Human Services to seek material and services for the Next Step Shelter. Appropriates funds for the working group.

DHS appreciates the Legislature's many proposals to address the issue of homelessness in Hawaii, and acknowledges that it is essential that public and private entities collaborate and explore different solutions to the multifaceted problem of homelessness.

Regarding the establishment of a working group to solicit donations and services, section 346-6, Hawaii Revised Statutes, does give DHS the authority to receive contributions or donations which are deposited into the state treasury; however, DHS does not currently have the professional fund development expertise or human resources to solicit funds or contributions. While DHS delivers benefits and services to 1 in 4 of Hawaii residents, DHS does not generally collect fees or seek private funding.

Public funding options available to private non-profit organizations such as Next Steps are best accomplished through the procurement or the Grant-In-Aid processes.

Thank you for the opportunity to testify on this bill.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Human Services

From: Cheryl Kakazu Park, Director

Date: February 10, 2017, 9:30 a.m.
State Capitol, Conference Room 329

Re: Testimony on H.B. No. 169
Relating to Homelessness

Thank you for the opportunity to submit testimony on this bill. The Office of Information Practices (“OIP”) takes no position on the substance of this bill, which would create and fund a working group relating to the Next Step Shelter, but is testifying to **seek clarification of a provision apparently exempting the group from chapter 92, HRS, which includes the Sunshine Law** (part I of chapter 92).

At page 2, lines 15-16, the bill provides that the working group “shall regularly hold public meetings without regard to chapter 92. . .” It is not clear what this is intended to mean. Is the intent for the meetings to be public, except not public by Sunshine Law standards and not subject to any other applicable standard for what it means to hold a public meeting? Or, is the intent that the group should hold public meetings even when the Sunshine Law would have allowed a closed meeting? And is the intent for the group also to not follow the non-Sunshine Law provisions of chapter 92, such as those setting out boards’ general powers or setting fees for copying records?

OIP would recommend that, if this Committee intends the working group to hold public meetings, it **either delete the provision** (thus leaving the group subject to the Sunshine Law and its public meeting standards) **or specify what alternative standards the group is to follow.** For instance, does a “public meeting” mean that all persons are permitted to attend, and can the board remove a person who disrupts the meeting as Sunshine Law boards are allowed to do by section 92-3, HRS? Can group members also hold closed meetings at times, or are they only allowed to hold public meetings? Can they talk outside of meetings? Are they to keep minutes? Must they accept public testimony? If the group is not subject to the Sunshine Law but is still required to hold “public meetings,” such questions will arise. Please note also that OIP would be unable to advise group members or the public on whether the group was holding “public meetings” as required, as OIP’s jurisdiction is over the Sunshine Law, not whatever alternative standard might be applied.

If this Committee does not intend the working group to follow the Sunshine Law, the provision would be clearer if it read, “The working group shall not be subject to part I of chapter 92.” That would limit its effect to the Sunshine Law, not the miscellaneous provisions making up the remainder of chapter 92. **OIP would recommend that the Committee also explain in its Committee Report why it believes the working group should not follow the Sunshine Law’s open meetings scheme.**

Thank you for the opportunity to testify.

todd2 - Chloe

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 3:49 PM
To: HUSstestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB169 on Feb 10, 2017 09:30AM*

HB169

Submitted on: 2/6/2017

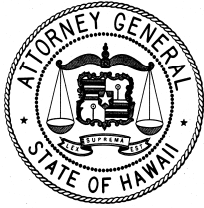
Testimony for HUS on Feb 10, 2017 09:30AM in Conference Room 329

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

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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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

LATE

ON THE FOLLOWING MEASURE:
H.B. No.169, RELATING TO HOMELESSNESS.

BEFORE THE:
HOUSE COMMITTEE ON HUMAN SERVICES

DATE: Friday, February 10, 2017 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Melissa L. Lewis, Deputy Attorney General

Chair Morikawa and Members of the Committee:

The Department of the Attorney General acknowledges the intent of this bill and offers the following comments.

Section 1 of the measure provides:

Notwithstanding any other law to the contrary, including chapter 171, Hawaii Revised Statutes, the office of Hawaiian affairs shall enter into negotiations for and execute a long-term lease with a qualified entity, as determined by the office of Hawaiian affairs, for the real property that contains the Next Step Shelter facility, the facility itself, and other appurtenant or related real property and improvements thereon.

Section 2 of the bill establishes a working group to "solicit donations and services and to assist in the regulation of and development of policies" regarding the shelter and its residents (page 1, lines 8 - 11).

Fee simple title to the property referenced in section 1 of the bill was conveyed to the Office of Hawaiian Affairs (OHA) "subject to all laws" except those specifically cited, by Act 15, Session Laws of Hawaii 2012 (see section 2, item (3) TMK (1) 2-1-15-51 and 8th paragraph), "to administer . . . in accordance with its duties under the Hawaii Constitution and as provided by law" (see section 2, 8th paragraph, and section 6). Article XII, sections 5 and 6 of the State Constitution confer exclusive authority on OHA and its trustees to hold title in trust to, and exercise power and control over, real property conveyed or transferred to it for native Hawaiians. The provisions of section 1

of the bill intrude on OHA's constitutional authority to exercise control over the property conveyed to it by Act 15, without justification.

It is also important to remember that the parcel referenced in section 1 of the bill was conveyed to OHA (with eight other parcels) to discharge, release, extinguish, resolve and satisfy all controversies and claims by OHA, or any other person or entity claiming by, through, or under OHA, to the income and proceeds from the public land trust lands under article XII, sections 4 and 6 of the State Constitution or any related statute or act, between November 7, 1978 and June 30, 2012 (see section 1, 6th paragraph, section 3, and section 5 of Act 15), and "to effectively and responsibly fulfill the constitutional obligation to native Hawaiians under article XII, sections 4 and 6 of the State Constitution . . . by re-examining the amount of money [OHA] received . . . determining whether [OHA] received what it should have received as its share of income and proceeds . . . between 1978 and 2012, and providing additional resources to [OHA] in the form of fee simple title to certain parcels of land to completely and finally fulfill the State's constitutional obligations . . . up to and including June 30, 2012" (see section 1, 7th paragraph).

Inasmuch as article XII, sections 5 and 6 confer exclusive authority to OHA and its trustees to exercise control over the parcels of real property transferred and conveyed to OHA in trust for native Hawaiians and Hawaiians, and the provisions of section 1 of the bill are inconsistent with OHA's constitutional authority and responsibilities, we respectfully suggest that the Committees delete section 1 of the bill, and rely instead on a resolution to suggest that OHA consider leasing the property referenced in section 1 of this bill on a long-term basis for a shelter facility.



LATE

HB169
RELATING TO HOMELESSNESS
House Committee on Housing

February 10, 2017

9:30 a.m.

Room 423

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment of will recommend that the Board of Trustees **COMMENT** on HB169.

This bill's intent of addressing the problem of homelessness is commendable. **However, we respectfully request that Section 1 of this measure be deleted.** By requiring that OHA enter a long-term lease for a certain piece of OHA property, this bill undermines the autonomy and discretion of the OHA Board of Trustees.

OHA's autonomy is well-established under Hawai'i law. Under the authority of the state constitution, 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. This autonomy is firmly rooted in the origins of OHA dating to the 1978 Constitutional Convention, when delegates 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.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



HAKIM OUANSAFI
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO
EXECUTIVE ASSISTANT

STATE OF HAWAII
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
HONOLULU, HAWAII 96817

LATE

Statement of
Hakim Ouansafi
Hawaii Public Housing Authority
Before the
**HOUSE COMMITTEE ON HUMAN SERVICES
AND
HOUSE COMMITTEE ON HOUSING**

**Friday, February 10, 2017
9:30AM
Room 329, Hawaii State Capitol**

In consideration of
**HB 169
RELATING TO HOMELESSNESS**

Honorable Chair Morikawa, Honorable Chair Brower and Members of the Committee on Human Services and Committee on Housing, thank you for the opportunity to provide testimony concerning House Bill 169, relating to homelessness.

The Hawaii Public Housing Authority (HPHA) supports HB 169, which establishes a working group in the Department of Human Services to seek material and services for the Next Step Shelter.

There could be a potential conflict relating to the Executive Director's Annual Contribution Contract with the U.S. Department of Housing and Urban Development's (HUD) and the working group, as one of the groups objectives is to solicit donations. The HPHA has been attempting to get in touch with HUD to clear up this matter but has yet to receive a response.

The HPHA appreciates the opportunity to provide the House Committees on Human Services and Housing with the HPHA's comments regarding HB 169. We thank you very much for your dedicated support.

todd2 - Chloe

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 9, 2017 10:26 PM
To: HUS testimony
Cc: MikeGoodman72@Outlook.com
Subject: *Submitted testimony for HB169 on Feb 10, 2017 09:30AM*

HB169

Submitted on: 2/9/2017

Testimony for HUS on Feb 10, 2017 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Goodman	Hawaii Kai Homeless Task Force	Support	Yes

Comments:

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todd2 - Chloe

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 10, 2017 7:37 AM
To: HUSstestimony
Cc: dylanarm@hawaii.edu
Subject: *Submitted testimony for HB169 on Feb 10, 2017 09:30AM*

HB169

Submitted on: 2/10/2017

Testimony for HUS on Feb 10, 2017 09:30AM in Conference Room 329

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

Comments:

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