

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
OCEAN, MARINE RESOURCES & HAWAIIAN AFFAIRS**

**Tuesday, February 06, 2018  
9:45 AM  
State Capitol, Conference Room 312**

**In consideration of  
HOUSE BILL 1999  
RELATING TO TRAINING**

House Bill 1745 proposes to expand training on Native Hawaiians Rights by expanding the categories of individuals required to attend. **The Department of Land and Natural Resources (Department) supports this measure as amended, as a way to ensure a deeper understanding of native Hawaiian rights in government.**

The Department has encouraged its pertinent staff to attend the training, provided there is space and most have taken advantage of the opportunity. Department staff who have previously attended have commented that the training is well worth the time spent. The Department asks that at least one additional training be added per year so that staff have adequate options to fit their schedules. The Department appreciates the Office of Hawaiian Affairs providing this training.

Lastly, as the head of the Department, by statute, is referred to as the Chairperson of the Board of Land and Natural Resources as well as the Chairperson of the Commission on Water Resource Management and not Director, that individual is already covered under Section 10-41(a), Hawaii Revised Statutes (HRS). As such, the Department requests that the proposed language in Section 10-41(a)(2), HRS, be amended (Highlighted in grey) to read as follows:

(a) The training required by this part shall apply to the  
following:

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

(1) The members of the land use commission, board of land and natural resources, commission on water resource management, environmental council, board of directors of the agribusiness development corporation, board of agriculture, legacy land conservation commission, natural area reserves system commission, Hawaii historic places review board, and board of health[-];

(2) The [~~director, deputy,~~ deputies and division heads of the department of land and natural resources;

Thank you for the opportunity to comment on this measure.

Council Chair  
Mike White

Vice-Chair  
Robert Carroll

Presiding Officer Pro Tempore  
Stacy Crivello

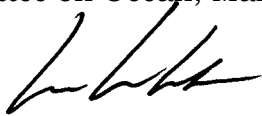
Councilmembers  
Alika Atay  
Elle Cochran  
Don S. Guzman  
Riki Hokama  
Kelly T. King  
Yuki Lei K. Sugimura



**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

February 4, 2018

TO: The Honorable Kaniela Ing, Chair  
House Committee on Ocean, Marine Resources, and Hawaiian Affairs

FROM: Mike White  
Council Chair 

SUBJECT: **HEARING OF FEBRUARY 6, 2018; OFFERING COMMENTS ON HB 1999, RELATING TO TRAINING**

Thank you for the opportunity to offer **comments** on this measure. The purpose of this bill is to require certain government decision-makers at both the state and county levels to complete the Office of Hawaiian Affairs' training courses on Native Hawaiian and Hawaiian rights established by Act 169, SLH 2015.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

Training on Native Hawaiian history, law, and rights is crucial in assisting decision makers to create policies that respect, perpetuate, and reflect the culture of our islands.

I support the intent of this measure, but offer the following comments:

1. Understanding the effectiveness of the training course created by the Office of Hawaiian Affairs through Act 169, the Maui County Council passed Bill 119 (2016). The bill required the Maui, Molokai, and Lanai Planning Commissions along with the Hana Advisory Committee, to take part in this specific Native Hawaiian law training course. In deliberations over the bill, Councilmembers were informed that funding was available from the Office of Hawaiian Affairs to meet these training requirements.
2. In the fall of 2017, the Maui County Department of Planning attempted to organize the training for commissioners. They were notified that trainings were only available on weekends and at a central location. Training was not available for each island or during a commission meeting. Therefore, this would require travel by Molokai, Lanai, and Hana members to a central location. As funds were not available for such travel, the county requested to utilize the Council's video conferencing system. For Molokai, Lanai, and Hana to view the training being conducted in the Council Chamber, a live-stream must be broadcasted on Akaku, our public access television provider. Due to the nature of the training, the Office

of Hawaiian Affairs did not want the training to be broadcasted.

3. Logistics are still being discussed to allow future Maui County trainings. However, appropriate funding is necessary to implement the trainings effectively. Please keep in mind that Maui County consists of Maui, Molokai, Lanai, and the rural district of Hana. Each of these unique areas have their own commissions and therefore, would be required to travel to a central location, or individual trainings would need to be organized in their respective communities. Appropriate funding is necessary, otherwise this will become another unfunded mandate.
4. When legislative bodies are subject to training, the sunshine law must also be considered. Hawaii Revised Statutes, 92-2.5 (e) states:  
*(e) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may attend an informational meeting or presentation on matters relating to official board business, including a meeting of another entity, legislative hearing, convention, seminar, or community meeting; provided that the meeting or presentation is not specifically and exclusively organized for or directed toward members of the board. The board members in attendance may participate in discussions, including discussions among themselves; provided that the discussions occur during and as part of the informational meeting or presentation; and provided further that no commitment relating to a vote on the matter is made or sought.*
5. Any trainings that encompass issues that are or may become board business must be conducted in compliance with Chapter 92-2.5 (e) or posted on an official meeting notice. An alternative is to exempt this specific training from the sunshine law.

These comments are offered with the spirit and desire to make this training achievable statewide and not as a deterrent. The training created by the Office of Hawaiian Affairs is truly invaluable and should be expanded.

Mahalo.

**HB-1999**

Submitted on: 2/2/2018 2:43:34 PM

Testimony for OMH on 2/6/2018 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Leimomi Khan	Hawaiian Affairs Caucus, DPH	Support	No

Comments:

The Hawaiian Affairs Caucus supports HB1999. Requiring the key policymakers identified in this measure to attend the OHA training course will equip them with information to make informed decisions and recommendations that are consistent with the State's legal and fiduciary obligations to the Native Hawaiian people.

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Unity, Equality, Aloha for all



To: HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, &  
HAWAIIAN AFFAIRS

For hearing Tuesday, February 6, 2018

Re: HB 1999

RELATING TO TRAINING.

Requires certain government decision-makers at the state and county levels to attend a training course on native Hawaiian and Hawaiian rights.

TESTIMONY IN OPPOSITION

Last year OHA cajoled the legislature into passing a law that forced heads of specified state and county departments to take a training course whose content and instructors are dictated by OHA. This year OHA wants to expand its empire by requiring more government employees of additional departments to endure the OHA training. Next year OHA will seek to expand even further.

Make no mistake about what's going on here. OHA has certain views on controversial political issues and wants to make sure that decision-makers and employees of other government agencies get brainwashed to believe in OHA's propaganda, with no presentation of opposing views. Would any member of a state or county department dare to ask a question in class that challenges the correctness of what the OHA-designated teacher is saying, or disagrees with the opinions being presented? By analogy, imagine the situation of a middle-school student from a Christian fundamentalist family being forced to attend a sex-education course which graphically describes anal sex as normal behavior, and whose parents are denied the right to opt-out.

This bill places one state agency, OHA, in a position of authority over other state agencies by requiring employees to pass a course whose purpose is to brainwash them with the political views of OHA. Dozens -- perhaps hundreds -- of state and county department heads would now be placed under the direct authority and supervision of OHA, knowing that if they refuse to kow-tow to their OHA instructor they will be given a failing grade in this mandatory course and will then be ineligible to continue in their job. Does any state agency other than OHA exercise comparable authority over other agencies?

OHA has certain views regarding who owns the ceded lands and whether the state has a right to sell parcels of ceded lands. The Hawaii Supreme Court made a 5-0 decision upholding OHA's views. But on appeal, the U.S. Supreme Court ruled 9-0 that OHA's views are wrong. Can we expect OHA to teach correct information about who owns the ceded lands and whether the state can sell them?

OHA has certain views about the Hawaiian revolution of 1893 that overthrew the monarchy, and points to the Blount Report of 1893

and the U.S. apology resolution of 1993 to bolster OHA's views. But those views are controversial, and are disproved by the Morgan Report issued by the U.S. Senate in 1894 and by the majority report of the Native Hawaiians Study Commission issued by a joint Senate/House commission in 1996. Can we expect OHA to provide both sides of this controversy, or will OHA brainwash state employees by teaching only the views OHA endorses?

This bill would require government employees to learn about, and give deference to, the ancient Hawaiian religion as the justification for various state laws and practices regarding water rights for taro, protection of ancient burials, etc. It would constitute an establishment of religion contrary to the First Amendment of the U.S. Constitution; and it would also force employees who have no Hawaiian blood to bow to a religion which portrays people who do have Hawaiian blood as possessing an inherent God-given right to rule these islands.

This bill requires government employees to learn about "traditional and customary rights" of Native Hawaiians to ensure that in carrying out their duties, the employees will give respect and deference to Native Hawaiian beliefs and cultural values. For example, we might expect employees to be trained regarding sacred places, the reasons why taro patches are given special guarantees of access to water, the reasons why ancient burials must not be disturbed, etc.

Those topics, and many others, are based in the ancient Hawaiian religion, which has a creation legend which today's sovereignty activists (incorrectly) describe as portraying Native Hawaiians (and only Native Hawaiians) as genealogically the children of the gods and the brothers to these islands, and the younger brothers



of the taro plant, in a way nobody ever can be who lacks a drop of native blood.

The Hawaiian religion is the only one to be given special deference under the terms of this bill; thus this bill would be a government establishment of religion. Under terms of this legislation, government money will be used to indoctrinate government employees with a religious belief. Furthermore, the way that belief is likely to be taught can best be described as religious fascism because it provides a theological justification for giving governmental authority over land-use decisions to a particular racial group.

In 1819, the year before the American missionaries came to Hawaii, the sovereign King Liholiho Kamehameha II, with his birth mother Keopuolani and his regent stepmother Queen Ka'ahumanu, and with Kahuna Nui (High Priest) Hewahewa, exercised self-determination on behalf of all native Hawaiians to abolish the ancient religion, and ordered the destruction of the heiaus and burning of idols. Those ethnic Hawaiians who try to resurrect the ancient religion for political purposes disrespect the decision of their ali'is and ancestors. By seeking to elevate that ancient religion above all other religions, they disrespect the right to freedom of religion possessed by all Americans.

This committee should not disrespect the mainstream majority of today's ethnic Hawaiians, and the multiracial, multicultural people of Hawaii, by passing this bill. Please vote "No."

**HB-1999**

Submitted on: 2/3/2018 4:06:50 PM

Testimony for OMH on 2/6/2018 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:

**HB-1999**

Submitted on: 2/2/2018 7:56:45 PM

Testimony for OMH on 2/6/2018 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kaulana Dameg		Support	No

Comments:

**HB-1999**

Submitted on: 2/5/2018 9:26:29 AM

Testimony for OMH on 2/6/2018 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	OCC Legislative Priorities	Support	No

Comments:

**HB-1999**

Submitted on: 2/5/2018 1:51:39 PM

Testimony for OMH on 2/6/2018 9:45:00 AM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We STRONGLY SUPPORT this bill, and seek an AMENDMENT that includes ALL JUDGES to attend these training sessions.



**LATE**

**HB1999  
RELATING TO TRAINING**

House Committee on Ocean, Marine Resources, & Hawaiian Affairs

February 6, 2018

9:45 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** HB1999, which is substantially similar to HB1745, a bill in OHA's 2018 Legislative Package. HB1999 **expands the application of Act 169 (Session Laws 2015) to provide certain additional state and county officials and state legislators with training on Native Hawaiian and public trust law**, so that they may understand and make decisions that are consistent with their fiduciary obligations to the Native Hawaiian people, and to the public trust. As OHA has done in the past, our agency will continue to pay to develop and administer this course, rather than requesting general funds for such purposes.

A training course in Native Hawaiian Law and the public trust doctrine for policymakers is necessary to fulfill the trust obligations and responsibilities held by the State of Hawai'i towards Kānaka Maoli. Accordingly, since 2013, OHA has offered a Native Hawaiian Law training course for state and county legislators, board and commission members, and other relevant individuals to attend on a voluntary basis. Based on the success of this course, since 2015, members of certain key state boards and commissions have been required to attend a Native Hawaiian Law training course within one year of their appointment. **Course attendees have consistently and continually expressed their appreciation for the course, and have overwhelmingly indicated that as a result of the course, they better understood the State's legal responsibilities towards Native Hawaiians and the public trust.**

The additional state and county officials who would be required to attend a training course under this measure implement policy decisions, administer resources, and manage programs that directly impact Native Hawaiian traditional and customary rights, natural and cultural resources, and the public trust. Each of the agencies represented have specific duties to protect and enforce Native Hawaiian rights, and to administer the public trust in the interest of its beneficiaries, including Native Hawaiians. **Notably, notwithstanding the broad range of expertise and experiences of the individuals elected, appointed, and hired for these positions, many may not possess knowledge of the unique legal rights and responsibilities that relate to Native Hawaiians, or to the public trust.** Unfortunately, this has likely contributed to a sense of disenfranchisement felt by many in the Native Hawaiian community, and policy decisions that have failed to uphold the constitutional duties of the State and its counties.

Requiring training course attendance by the officials named in this bill, each of whom has unique kuleana to the Native Hawaiian community and under the public trust, will ensure that a greater number of critical decisionmakers are provided with the information they need to successfully fulfill the State's and counties' legal obligations. **More fully-informed decision-making by these individuals will thereby help to uphold our constitutional mandates, increase public confidence in state and county decision-making, and reduce conflicts and legal challenges in policymaking as well as policy implementation and enforcement.** Towards this end, OHA has and will continue to commit funds for the further development and administration of a Native Hawaiian Law training course, eliminating the need for appropriations from the state general fund.

OHA notes that this measure differs from HB1745, OHA's package measure, in including state legislators, county managing directors, and the directors, deputy directors, and division heads of additional state departments as individuals also required to take the Native Hawaiian Law training course. While OHA's measure identifies individuals whose decision-making may have the most direct and critical impact on Native Hawaiian rights and the public trust, OHA agrees that all state agencies and entities have substantive obligations in this regard; OHA defers to the Committee and the legislature as to whether a training course requirement for these additional individual is appropriate at this time.

Accordingly, OHA strongly urges the Committee to **PASS** HB1999. Mahalo nui loa for the opportunity to testify on this important measure.