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February 5, 2017

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

FROM: Stacy Helm Crivello
Councilmember

A handwritten signature in blue ink, appearing to read "Stacy Helm Crivello", is written over the printed name.

DATE: Tuesday, February 7, 2017

SUBJECT: **SUPPORT OF HB 862, RELATING TO TRAINING**

Thank you for the opportunity to testify in support this important measure. The purpose of this measure is to require State and County department heads to take the training on native Hawaiian and Hawaiian traditional and customary rights administered by OHA.

I support this measure for the following reasons:

1. Act 169 Session Laws of Hawaii 2015 required members of certain boards, commissions, and councils to participate in a training course developed by OHA to ensure that these members be aware of their lawful obligations to protect the traditional and customary rights of native Hawaiians and understand how infringement of those obligations would affect native Hawaiian and Hawaiian people.
2. While Act 169 allows for the elective participation by State and County department heads it is not a mandatory requirement. As the head of these agencies it is incumbent upon them to be versed in their obligations to upholding the rights of native Hawaiians and Hawaiian people.

For the foregoing reasons, I support this measure.

SSC:aas



HB862
RELATING TO TRAINING

Committee on Ocean, Marine Resources, & Hawaiian Affairs

February 7, 2017

9:00 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **SUPPORT** HB862. This bill would require state and county department heads to attend a Native Hawaiian Law training course funded by OHA, and developed by third-party legal experts. This training course is already currently mandated for relevant state board and commission members, and since 2015 has provided them with key information regarding their fiduciary obligations and legal responsibilities relating to Native Hawaiian rights and the public trust. **By further requiring state and department heads to attend the training course, HB862 will ensure that these key policymakers are provided with information that they can rely upon to make decisions and recommendations that are consistent with the State's legal and fiduciary obligations to the Native Hawaiian people.**

A training course in Native Hawaiian law for state and county department heads will better ensure the fulfillment of the State's trust obligations and legal responsibilities towards Kānaka Maoli. State and county department heads often find themselves administering resources and programs that directly impact Native Hawaiian traditional and customary rights, natural and cultural resources, and the public trust. As state and county officials, these department heads have a duty to protect and enforce Native Hawaiian rights, and to administer the public trust in the interest of its beneficiaries, including Native Hawaiians. However, notwithstanding their broad range of expertise and experience, many state and county department heads may not possess specific knowledge of their unique responsibilities relating 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 and recommendations that have failed to reflect the duties of the State.

To facilitate more appropriate government decisionmaking with respect to Native Hawaiian rights and the public trust, in 2013, OHA began offering a Native Hawaiian Law training course on a voluntary basis to state and county legislators, board and commission members, and other relevant individuals. Based on its success, Act 169 of the 2015 Regular Session subsequently mandated this training course for certain board and commission members. The training course, developed in partnership with the Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law, has been presented in January 2013, January 2014, July 2014, August 2015, January 2016, July 2016, and January 2017. In total, over 560 individuals have attended the course, including

members of all the boards and commissions who have been required to attend pursuant to Act 169. **Notably, training course attendees have overwhelmingly indicated that as a result of the course, they now better understand the State's legal responsibilities towards Native Hawaiians and the public trust.**

By requiring state and county department heads to attend the Native Hawaiian Law training course already mandated for certain board and commission members, this measure will ensure that a broader range of critical decisionmakers are provided with the information they need to successfully fulfill the state's legal obligations towards Native Hawaiians and the public trust. 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.

Therefore, OHA strongly urges the Committee to **PASS** HB862. Mahalo nui loa for the opportunity to testify on this important measure.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 5, 2017 11:21 PM
To: omhtestimony
Cc: mkhan@hawaiiantel.net
Subject: Submitted testimony for HB862 on Feb 7, 2017 09:00AM

HB862

Submitted on: 2/5/2017

Testimony for OMH on Feb 7, 2017 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Leimomi Khan	Democratic Party of Hawaii, Hawaiian Affairs Caucu	Support	No

Comments: The Hawaiian Affairs Caucus of the Democratic Party of Hawaii supports HB862. The State of Hawaii has a trust obligation and a fiduciary duty to Native Hawaiians. Knowledgeable leaders make sound decisions on matters concerning Native Hawaiians and comply with applicable laws. OHA's training class has been well-received by those who have attended it. Mahalo for the opportunity to testify in support of HB 862.

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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Unity, Equality, Aloha for all



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

Re: HB862 RELATING TO TRAINING.

Requires state and county department heads to take the training on native Hawaiian and Hawaiian traditional and customary rights administered by OHA.

For hearing on Tuesday February 7, 2017

TESTIMONY IN OPPOSITION

Previously, members of boards and commissions were required to take a course taught by OHA, while heads of state and county departments were allowed but not required to take this course. This bill would now REQUIRE all heads of state and county departments to take the OHA course.

How awful it would be to force people to be brainwashed by OHA's political propaganda on highly controversial topics 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.

For example, 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?

For example, 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 an 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 justifies 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 regent stepmother Queen Ka'ahumanu, and with Kahuna Nui (High Priest) Hewahewa,

exercised sovereignty 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."

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 7:43 AM
To: omhtestimony
Cc: oeqchawaii@doh.hawaii.gov
Subject: *Submitted testimony for HB862 on Feb 7, 2017 09:00AM*

HB862

Submitted on: 2/6/2017

Testimony for OMH on Feb 7, 2017 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Glenn	OEQC	Support	No

Comments:

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Professor Melody Kapilialoha MacKenzie
Ka Huli Ao Center for Excellence in Native Hawaiian Law
William S. Richardson School of Law, UH–Mānoa
2515 Dole Street, Honolulu, Hawai‘i 96822

H.B. 862

Relating to Training

Committee on Ocean, Marine Resources, & Hawaiian
Affairs Rep. Kaniela Ing, Chair
Rep. Cedric Asuega Gates, Vice Chair
Hearing on Tuesday, February 7, 2017, at 9:00 a.m.

Mahalo for this opportunity to submit testimony in **support** of H.B. 862 relating to training of heads of state and county departments on Native Hawaiian legal issues – especially the trust duties of the state and county in relation to natural and cultural resources.

I am a professor at the William S. Richardson School of Law and director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. Ka Huli Ao has partnered with the Office of Hawaiian Affairs to provide Native Hawaiian Law training courses with a focus on the public land trust, water, traditional and customary rights, and iwi kūpuna or ancestral remains. As you know, in 2015, Act 169 was signed into law requiring members of certain State boards, commissions, and councils to attend such a training. Prior to Act 169, over 270 people had attended the day-long training course; most attendees were members or staff of state and county boards, councils, and commissions. Several state legislators and county councilmembers also attended the course. Since Act 169 became law and through December 2016, another 205 people have attended the training; one quarter of those attendees have been members of the Act 169 designated boards, commissions, and councils. We also held a condensed training for the Governor, his Cabinet, and senior administration members in October 2016 and, most recently, held our first ever neighbor island training on Kaua‘i. Our Kaua‘i training in January of this year attracted an additional 85 people. We have also been working with Maui country to provide training to their planning commission members.

The response to the training program has been overwhelmingly positive. Evaluations indicate that 75-80% of those responding believed that the training had increased their understanding and knowledge in each of the subjects covered. When asked to identify the most important “take-aways” from the training, responses included:

- We have a great responsibility to Native Hawaiians to ensure the continuation of their traditional & customary practices.
- The counties do have an obligation to conserve and protect the State’s natural resources.
- It’s remarkable how many constitutional provisions say that the State and its representatives have trust responsibilities.

We believe that the training courses have significantly increased the understanding of those who attended, and have given attendees the knowledge and tools to help in making difficult decisions. One additional benefit from the training is that attendees from different agencies and departments interact and share concerns and possible solutions with each other, building some common understanding and increasing cooperation among agencies and departments.

Ka Huli Ao has been honored to partner with OHA in this effort and we look forward to expanding the training in the future. Mahalo for the opportunity to express our **support** for H.B. 862.

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 9:01 PM
To: omhtestimony
Cc: malamapono744@aol.com
Subject: *Submitted testimony for HB862 on Feb 7, 2017 09:00AM*

HB862

Submitted on: 2/6/2017

Testimony for OMH on Feb 7, 2017 09:00AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Mahealani Cypher	Koolaupoko Hawaiian Civic Club	Support	Yes

Comments:

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Ko`olau Foundation

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

TO: CHAIR KANIELA ING
VICE-CHAIR CEDRIC GATES
MEMBERS

FROM: AARON MAHI, President

SUBJECT: H.B. 862 – SUPPORT FOR TRAINING IN HAWAIIAN RIGHTS

Aloha Chair Ing, Vice Chair Gates and Honorable Members of this Committee:

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

The Ko`olau Foundation supports House Bill 862, which would require state and county agencies to receive training by the Office of Hawaiian Affairs in Native Hawaiian rights, and in traditional and customary practices.

In our view, the more we all learn the legal requirements regarding Hawaiian rights and practices, the easier it will be for us to come together – Hawaiian groups and government officials – to resolve problems that in the past have led to conflict.

We believe this training can help improve government officials' understanding of Hawaiian traditional and cultural traditions and heritage, hopefully removing barriers caused by misunderstandings. As a result, this training can serve to facilitate positive interactions with the Hawaiian community.

We ask that you support passage of this bill by your committee and by the Legislature as a whole.

Mahalo for allowing us to share our mana`o.

koolaufoundation@gmail.org