



SB1446
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS
Ke Kōmike o nā Kuleana Hawai‘i

Pepeluali 7, 2019

1:15 p.m.

Lumi ‘Aha Kūkā 016

The Office of Hawaiian Affairs (OHA) Beneficiary Advocacy and Empowerment Committee will recommend that the Board of Trustees **OPPOSE** SB1446, which would require the OHA Board of Trustees (BOT) to approve and directly supervise the agency’s “chief financial officer, director of human resources, and attorney,” all of whom would be made to serve at the pleasure of the BOT. This proposed change is potentially unconstitutional, was not requested or supported by OHA’s BOT, and is contrary to BOT-established operational policies, thus infringing on the autonomy and authority of our Trustees to exercise control over OHA.

SB1446’s proposed changes to the hiring and supervisory authority within OHA may be unconstitutional. Article XII, § 6 of the State Constitution provides that “[t]he [BOT] 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 [BOT].” The State Constitution thus established a centralized management system for OHA, whereby the OHA BOT has a single direct report, the OHA administrator, who is responsible for the day-to-day operations of OHA and the implementation of policies adopted by the BOT. This bill seeks to force a change to the BOT’s hiring and supervisory responsibilities, altering the way that the BOT exercises control over OHA, in a manner that may conflict with the State Constitution.

The centralized authority of the OHA administrator over operations, including hiring and removal authority over staff, is also well-established in the bylaws and policies adopted by the OHA BOT. 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 Board of Trustees Executive Policy Manual, § 3.10.i. further provides that “[t]he hiring and firing authority resides with the [administrator] . . .” The OHA BOT has taken no action seeking to change OHA’s long-standing policies and operational structure; therefore, this bill’s unilateral changes to OHA operations will infringe on the autonomy of the OHA BOT, established under the Hawai‘i Constitution and State law.

Accordingly, OHA urges the Committee to **HOLD** SB1446. Mahalo nui loa for the opportunity to testify on this measure.

SB-1446

Submitted on: 2/6/2019 3:02:02 AM

Testimony for HWN on 2/7/2019 1:15:00 PM

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

Comments:



BEFORE THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS
February 7, 2019

Senate Bill 1446
Relating to the Office of Hawaiian Affairs

Aloha Chair Shimabukuro, Vice-Chair Kahele, and Members of the Committee,

KPAC submits the following testimony in SUPPORT of Senate Bill 1446 which requires the administrator of the Office of Hawaiian Affairs to receive approval from the board for appointments of the chief financial officer, director of human resources, and attorney. This bill would place the board in a direct supervisory role over the chief financial officer, director of human resources, and attorney.

The OHA board of trustees are voted into office by qualified person across the pae ‘āina for the specific purpose of managing and administering monies, lands, natural resources, mineral rights, and income from and proceeds from the pro rata portion of the trust (see Sections 4 & 6 of Article 12 of the Hawai‘i State Constitution). According to the Hawai‘i State Constitution, they are also responsible “to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians.”

This bill addresses some of core issues that have been of concern by community members that have resulted in public controversies at OHA over recent years.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC

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Submitted on: 1/30/2019 11:21:12 PM

Testimony for HWN on 2/7/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Doreen Gaspar	Individual	Support	Yes

Comments: