



SB2192 SD1
RELATING TO HAWAIIAN EXPERTISE IN LAND USE AND RESOURCE MANAGEMENT
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo

Pepeluai 24, 2020

12:15 p.m.

Lumi 016

The Office of Hawaiian Affairs (OHA) **STRONGLY SUPPORTS** SB2192 SD1, a bill in OHA’s 2020 Legislative Package. This measure seeks to ensure that state decisions impacting the ‘āina more meaningfully reflect the knowledge, rights, and perspectives of Native Hawaiians whose culture, identify, and well-being are intrinsically tied to their ancestral lands.

The 1978 Constitutional Convention recognized and sought to undo the harms resulting from generations of displacement, oppression, and denial of Native Hawaiians, their culture, and their connections to the ‘āina. The resulting 1978 constitution, ratified by the voters of Hawai‘i, accordingly included powerful provisions uplifting Native Hawaiian rights and self-determination, and reaffirming the public trust and public land trust as among our state’s highest governing principles.¹ However, several decades after its ratification, the constitution has yet to achieve its vision of restorative justice for Native Hawaiians, or ensure an adequate role for Native Hawaiians regarding the use and management of the lands and resources upon which their culture, identity, and well-being depend.

In order to better realize the vision and values embodied in our constitution, laws were subsequently enacted to ensure the consideration of Native Hawaiian knowledge, rights, and perspectives in decisions that may impact the ‘āina. These include a relatively recent requirement that certain board and commission members attend a Native Hawaiian Law and Public Trust Training Course (Act 169, Reg. Sess. 2015), and that one member of the Board of Land and Natural Resources (BLNR) and one member of the Land Use Commission (LUC) have expertise in Native Hawaiian traditional and customary practices and traditional Hawaiian land usage, respectively (see HRS §§ 171-4 and 205-1).

However, though laudable, these particular laws require updating to fully meet their intended goals. The lack of statutory remedies for noncompliance with the Native Hawaiian Law and Public Trust training course requirement has led to numerous board and commission members failing to actually attend the course, even as they have continued to render decisions that may significantly impact the ‘āina and associated Hawaiian rights and practices.² Requiring only a single member of the seven-member BLNR and a single member of the nine-member

¹ HAW. CONST. ART. XI SEC. 1, ART. XII SECS. 4, 5, 6, 7.

² As of June 2019, of 23 board and commission members subject to the training course requirement, 16 had not attended the training course; of the 24 members who had been required to attend a training course at the end of 2018, 18 were delinquent.

LUC to have some level of cultural expertise has also failed to ensure the level of consideration that should be given to the unique rights and interests of Native Hawaiians in the disposition and use of our limited land base – including “ceded” lands to which Native Hawaiians have never relinquished their claims. Notably, the selection processes for these members also provide no concrete opportunity for Native Hawaiian community input, beyond public testimony at a Senate confirmation hearing well after their nomination by the governor.

Unfortunately, such limitations in these and other laws have perpetuated the lack of sufficient representation of Native Hawaiian knowledge, rights, and perspectives in government decision-making, as evidenced by pervasive distrust, conflict, and even litigation over various land use and resource management actions by the state.

Accordingly, SB2192 SD1 seeks to take the state’s constitutional and statutory commitments to the Native Hawaiian community one step further, by addressing specific limitations that have inhibited the restorative justice and Native Hawaiian self-determination goals of our constitution and laws. Providing statutory remedies for the failure to attend the Native Hawaiian Law and Public Trust training course will better ensure that the existing attendance requirement is taken seriously by the members and administrators of relevant boards and commissions; this in turn will ensure better informed and more legally responsible decision-making with regards to Native Hawaiian rights and interests. Notably, the proposed remedies provide ample opportunity for noncompliant board and commission members to be made aware of and to fulfill their training course attendance requirement, with the most significant sanction – removal from a board or commission – delayed until the end of the legislative session following their one-year attendance deadline. Providing OHA with the opportunity to participate in the selection of four BLNR members and four LUC members will also ensure a much more appropriate level of Native Hawaiian representation on these decision-making bodies, specifically tasked with the disposition and use of lands and resources that constitute the foundation of Native Hawaiian culture, identity, and well-being. Notably, this latter requirement will not affect the current composition or authority of the BLNR and LUC, and will only take effect upon the expiration of the terms of all currently sitting members of these bodies.

SB2192 SD1 represents an unprecedented opportunity to ensure that Native Hawaiians’ knowledge, rights, and perspectives meaningfully inform decision-making affecting the ‘āina to which they are uniquely and deeply connected. Such decision-making may in turn not only help to gain many Native Hawaiians’ trust and faith in government actions and processes, but also further the vision of restorative justice embodied in our state’s highest governing document.

Therefore, OHA urges the Committee to **PASS** SB2192 SD1. Mahalo for the opportunity to testify on this measure.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON JUDICIARY

For hearing Monday, February 24, 2020

Re: SB 2192 SD1 RELATING TO HAWAIIAN EXPERTISE IN LAND USE
AND RESOURCE MANAGEMENT.

Prohibits council, board, and commission members from serving if the member has not completed, within the requisite time, the required training course related to native Hawaiian and Hawaiian traditional and customary rights, native Hawaiian and Hawaiian natural resource protection and access rights, and the public trust, including the State's trust responsibility. Requires that at least 4 members of each the board of land and natural resources and the state land use commission be appointed from a list submitted by the office of Hawaiian affairs.

TESTIMONY IN OPPOSITION

This testimony focuses on these four main points:

1. OHA should not be given authority over other boards or agencies by empowering OHA to use force to compel board members and employees to attend or pass a course created by OHA. OHA should

not be empowered to compile lists of noncompliant resisters and report them to their supervisors for punitive action or termination. The heavy-handed compulsion authorized by this bill stands in sharp contrast with the huge attendance at voluntary non-credit classes in Hawaiian language made available free of charge in January 2020 at UH Manoa open to students, staff, and community.

2. The course created by OHA has the clear purpose of brainwashing attendees with the views of OHA regarding controversial topics of Hawaiian history, culture, and religion; with no requirement for legislator or auditor oversight of course content, no requirement for advocates of alternative views to be able to teach them, and no objective assessment of the value or effectiveness of the course.

3. OHA has a long history of pushing the legislature to enact laws forcing other boards, agencies, and commissions to accept voting members named or approved by OHA. Such placement of political kommissars seeded throughout our state government is not done by any other government agency and provides OHA with a network of both spies and lobbyists to oversee and influence all areas of policy. Analogy to animal parasites.

4. This bill would convert the Land Use Commission and the Board of Land and Natural Resources into puppets of OHA by stacking them with multiple board members chosen by OHA.

Please defeat this ridiculous, racist, and dangerous bill. Here are detailed explications of each of the four points.

1. OHA SHOULD NOT BE GIVEN AUTHORITY OVER OTHER BOARDS OR AGENCIES BY EMPOWERING OHA TO USE FORCE TO COMPEL BOARD MEMBERS AND EMPLOYEES TO ATTEND OR PASS A COURSE CREATED BY OHA. THE HARSH PUNITIVE ACTIONS THIS BILL WOULD AUTHORIZE FOR NONCOMPLIANCE IS EVIDENCE THAT OHA LIED IN PREVIOUS TESTIMONY WHEN OHA TOUTED THE ALLEGED SATISFACTION OF ATTENDEES WITH ITS COURSE.

OHA has been pushing the concept of this bill through the legislature for at least 8 years. Some good points remain valid from testimony regarding SB406 in year 2013. But new testimony is also needed, because OHA was later successful in getting the concept enacted into law. Once the concept was enacted OHA was then successful in expanding the number of agencies and employees forced to participate in its propaganda brainwashing sessions. And now OHA seeks not only to further expand the number of victims but also to take down the names of all individuals who negligently fail or bravely refuse to subject themselves to OHA's re-education camps so that OHA can then report those resisters to their employing agencies for disciplinary action or termination. Read the bill if you think this is an exaggeration. OHA's vindictiveness toward noncompliance should remind us what happened to teachers, scholars, and community leaders in China during Chairman Mao's "Cultural Revolution" 1966-76, and to less-than-enthusiastic Cambodians during the Khmer Rouge "social engineering" program under Pol Pot 1975-79.

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 of state and county department heads and hundreds of board members and agency employees have already been placed under the direct authority and supervision of OHA under Act 169 of 2015 and later expansions, 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?

This year's bill in 2020 makes it clear that punitive action is needed against noncompliant agency employees because, as the language in this bill confesses, "despite the regular provision of notice to board and commission administrators, a significant number of board and commission members subject to the mandatory training course continue to fail to comply with their training course completion responsibility." That's why this year's bill demands that OHA be

empowered to "(1) Prohibit council, board, and commission members who fail to meet their training course completion requirement from serving on a permitted interaction group or voting on matters before their respective councils, boards, or commissions; (2) Require council, board, and commission members who fail to meet their training course completion requirement to complete their training requirement or be reconfirmed by the senate by the end of the regular legislative session following their training course completion deadline; (3) Require the office of Hawaiian affairs and the department of land and natural resources to compile an annual report of council, board, and commission members who have failed to complete their training course requirement, and to submit the report to the governor and legislature no later than twenty days prior to the convening of the regular legislative session."

Clearly there are a large number of board and commission members who have heard from previous attendees that the OHA courses are not worth their time, or are little more than propaganda taught by arrogant instructors to captive audiences. The admittedly large number of non-compliant resisters is proof that OHA WAS LYING TO THE LEGISLATURE when it said in SB2134 in 2018 that "the training course required by Act 169 has been implemented and has been well-attended and well-received. Attendees report that the course gave them a better understanding of the State's legal responsibilities to native Hawaiians; Hawaii's political history; the public land trust; native Hawaiian traditional and customary rights; Hawaii's water laws and the public trust doctrine; laws relating to native Hawaiian burials; and attendees' kuleana as decision-makers, lawmakers, and government staff. Policymakers, staff, and community members continue to request similar trainings."

OHA's mandatory course for members and employees of other state agencies, enforced by compiling lists of names of non-compliant resisters and reporting them for disciplinary action up to and including termination, stands in sharp contrast with the enthusiastic participation of UH students, employees, and members of the public when free

classes in Hawaiian language were offered at the Manoa campus in January 2020. On January 10, 2020 the UH news webpage reported

"The Hawaiian language classes will be held at UH Mānoa Campus Center. The Associated Students of the University of Hawai'i (ASUH), the undergraduate student government at UH Mānoa, is hosting a free weekly, non-credit Hawaiian language class on the Mānoa campus in the spring ..." And on January 23, Hawaii News Now TV stations reported "Hundreds gather for first of 15 free Hawaiian language classes at UH." While khon2 News reported "Classes are free to University of Hawaii Manoa students, faculty, staff, alumni and the public, leaders said. No registration is required."

2. THE COURSE CREATED BY OHA HAS THE CLEAR PURPOSE OF BRAINWASHING ATTENDEES WITH THE VIEWS OF OHA REGARDING CONTROVERSIAL TOPICS OF HAWAIIAN HISTORY, CULTURE, AND RELIGION.

Here are two illustrations of the extremely controversial nature of the concepts about history and religion which OHA is likely to force upon students in its course. OHA will no doubt preach only one side of such controversies, despite the existence of authoritative views to the contrary.

2A. Does the State of Hawaii rightfully own the ceded lands and has the right to sell them; or is the State required to negotiate a settlement with OHA on behalf of Native Hawaiians; and what role does the 1993 apology resolution play in this issue?

When the State of Hawaii tried to sell a parcel of ceded lands, OHA filed a lawsuit to stop that particular sale and to prohibit the state from any further sales. On December 5, 2002 Hawaii circuit court judge Sabrina McKenna ruled against OHA, concluding that the State of Hawaii has a right to sell ceded lands. OHA appealed Judge McKenna's decision. On January 31, 2008 the Hawaii Supreme Court ruled 5-0 that Judge McKenna was mistaken. The Hawaii Supreme Court ruled that the State of Hawaii is permanently prohibited from selling any

ceded lands until such time as a settlement has been reached regarding the claims of Native Hawaiians. That decision was based on the 1993 U.S. apology resolution.

The State of Hawaii, through Governor Lingle and Attorney General Bennett, filed a petition for certiorari with the U.S. Supreme Court asking it to review and overturn the state Supreme Court decision. Twenty-nine other states shortly thereafter filed an amicus brief supporting Hawaii's petition for certiorari. On October 1, 2008 the U.S. Supreme Court granted the petition for certiorari. Oral arguments before the U.S. Supreme Court were heard on February 25, 2009. On March 31, 2009 the U.S. Supreme Court ruled 9-0 to overturn the previous Hawaii Supreme Court decision.

A webpage provides a detailed history of this case, including news reports and commentary spanning a decade, plus the transcript of the oral arguments and the final decision. See <http://bigfiles90.angelfire.com/CededNoSell.html>

Does anyone think OHA will tell students in its mandatory course that the U.S. Supreme Court has ruled unanimously that the ceded lands belong to the State of Hawaii in fee simple absolute, and has the right to sell them without first getting permission from OHA, and that the apology resolution is merely a resolution of sympathy which has no legal effect upon ownership or sales of the ceded lands? Will OHA give its students access to the oral arguments and final ruling?

2B. 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.

3. OHA HAS A LONG HISTORY OF PUSHING THE LEGISLATURE TO ENACT LAWS FORCING OTHER BOARDS, AGENCIES, AND COMMISSIONS TO ACCEPT VOTING MEMBERS NAMED OR APPROVED BY OHA. SUCH PLACEMENT OF POLITICAL KOMMISSARS SEEDED THROUGHOUT OUR STATE GOVERNMENT IS NOT DONE BY ANY OTHER GOVERNMENT AGENCY AND PROVIDES OHA WITH A NETWORK OF BOTH SPIES AND LOBBYISTS TO OVERSEE AND INFLUENCE ALL AREAS OF POLICY. ANALOGY TO ANIMAL PARASITES.

Consider the cuckoo bird. It is famous for laying its eggs one by one in different nests of other birds. Whenever possible the cuckoo bird will go to the temporarily unattended nests where it laid its own egg and push some or all of the rightful eggs out of the nests so the cuckoo

egg gets more attention than it otherwise would. When the egg hatches, the birds who laid the rightful eggs end up feeding the cuckoo chick who has usurped the place of the rightful chicks.

For many years now OHA has been laying its eggs in the nests of other government agencies. OHA's infiltrators act as spies, keeping track of what those agencies are planning.

OHA infiltrators in other agencies also act as parasites, demanding resources for OHA to use for its own purposes.

Readers might recall various examples where parasites use the body of a host as a source of food. This is not the gentle symbiosis of a cleaner wrasse and a reef fish, where the wrasse feeds itself by eating the parasites plaguing the reef fish, and thereby both the wrasse and the reef fish benefit. Perhaps the mildest example of a harmful parasite is the tapeworm which enters the human body through food or ingested dirt and then grows in the intestine to lengths of several feet, eating the food being digested in the intestine and thus sapping the person of strength and causing disease. The example of the tapeworm illustrates how OHA has been feeding itself off the body politic of Hawaii.

A more monstrous example is the parasitic wasp. The adult female wasp uses its ovipositor to puncture the skin of a caterpillar and deposit numerous fertilized eggs inside the caterpillar, where the baby wasps eat the caterpillar's insides until the full-grown wasps emerge and fly away as the caterpillar dies. By inserting its own agents OHA uses other government boards and commissions as minor-league training camps or incubators for growing its own activists.

4. THIS BILL WOULD CONVERT THE LAND USE COMMISSION AND THE BOARD OF LAND AND NATURAL RESOURCES INTO PUPPETS OF OHA BY STACKING THEM WITH MULTIPLE BOARD MEMBERS CHOSEN BY OHA.

The Land Use Commission (LUC) has 9 members: 5 at large plus one for each of the 4 counties. This bill would "Require four members of

the land use commission to be nominated from a list provided to the governor by the office of Hawaiian affairs."

The Board of Land and Natural Resources (BLNR) is composed of seven members, one from each of the four counties, two at large, and the Chairperson who is the executive head of the Department. This bill

would "Require four members of the board of land and natural resources to be nominated from a list provided to the governor by the office of Hawaiian affairs"

If this bill is enacted, then by law an absolute majority of BLNR would be OHA appointees; and a near majority of LUC would be OHA appointees. Presumably the existing county residency requirements would remain in place. But BLNR would be transformed into a wholly-owned subsidiary of OHA, and LUC would probably be that way as well, considering that at least one of the members not specifically allocated to OHA would likely be an OHA-sympathizer if not puppet. Does the legislature really want to convert departments that are theoretically autonomous into puppet regime subsidiaries of OHA?

Let's return for a moment to the analogy of the cuckoo bird. Occasionally the public gets a glimpse of outright racism when cuckoo birds feel it is not sufficient for their own chicks merely to get fed and protected in the nests of the rightful birds, but aggressively try to shove the eggs of the rightful birds out of the nest to their destruction. In October 2017 there was an example of that at a meeting of BLNR when ethnic Hawaiian protesters got arrested for disrupting the board meeting to demand the ouster of Dr. Samuel Ohu Gon III (O'ahu seat) simply because he lacks a drop of Hawaiian native blood. Dr. Gon is senior scientist and cultural advisor at the Nature Conservancy of Hawaii, where he has worked for 30 years. He is an expert on Hawaiian culture, fluent in Hawaiian language, and a renowned chanter. He is the officially-designated expert on Hawaiian culture for BLNR. But he has no Hawaiian native blood, which is why the ethnic Hawaiian cuckoo birds demanded his expulsion when he voted in favor of the Thirty Meter Telescope.

Here are excerpts from a news report read by Ashley Nagaoka broadcast on October 27, 2017 on Hawaii News Now TV stations:

"Three Thirty Meter Telescope opponents were arrested at a state Land Board meeting Friday for being disruptive. The three, identified as Samuel Kaeo, Chase Kanuha and Andre Perez, were among a group of about a dozen Native Hawaiians who interrupted the meeting to call for the immediate resignation of board member Sam Ohu Gon.

Gon recently voted to approve the telescope's construction permit and serves as the board's official cultural adviser. He has an extensive resume in environmental issues and is also a well-respected practitioner of Hawaiian culture. But because he's not Native Hawaiian, the protesters say he should not be making decisions that affect their people. "We are asking that you should leave the seat because you do not represent the lahui kanaka!," one member shouted. After ignoring requests to calm down, the meeting was put on hold as law enforcement officers carried some of the protestors out of the room. ... BLNR Chair Suzanne Case defended Gon's respectability and knowledge of Hawaiian culture. "It is disappointing and frankly offensive that some who disagree with the Land Board's recent decision on the TMT telescope choose to aim personally at Ohu or any board member. This is not peaceful protest. We must simply reject this kind of divisiveness in Hawaii as well as nationally and globally, and practice respect in our public discourse no matter our views," Case said. Group members say the land board's cultural advisor should be Hawaiian and not appointed by the governor. "He (Gon) has cultural expertise for sure, but anybody can gain that. That seat should be occupied by a Native Hawaiian that is vetted through a process by the Native Hawaiian community," said Ilima Long, opponent of TMT."

Thus we see that race is more important than cultural expertise. And OHA, of course, is the officially-designated agency for ensuring that other government agencies have board positions "occupied by a Native Hawaiian that is vetted through a process by the Native Hawaiian community."

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S.B. 2192, S.D. 1
RELATING TO HAWAIIAN EXPERTISE IN
LAND USE AND RESOURCE MANAGEMENT

Committee on Judiciary
Chair Senator Karl Rhoads
Vice-Chair Senator Jarrett Keohokalole

Hearing on Monday, February 24, 2020, at 12:15 p.m. in Conf. Room 016

Mahalo for this opportunity to submit testimony in **support** of S.B. 2192, S.D. 1, Relating to Hawaiian Expertise in Land Use and Resource Management. I am a Professor at the William S. Richardson School of Law and the Founding Director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. Since 2013, when Ka Huli Ao partnered with the Office of Hawaiian Affairs (OHA) to provide Native Hawaiian Law Training Courses to State and County decision-makers, I have been responsible for administering the Training Courses. At Ka Huli Ao, we appreciate the crucial importance of ensuring that those entrusted with managing our natural and cultural resources understand both the law and the responsibility to mālama the ‘āina, kai, wao akua, and wao kanaka.

Since the passage of Act 169 in 2015, we have conducted a total of ten Training Courses. As you know, Act 169 requires members of the State Land Use Commission, Environmental Council, Board of Land and Natural Resources, Hawai‘i Historic Places Review Board, Legacy Land Conservation Commission, Natural Area Reserves System Commission, and Commission on Water Resource Management to take the Training Course within one year of appointment.¹ Our records indicate that as of December 2019, an estimated 21 of roughly 76 appointees to whom Act 169 applies have yet to attend a Training. Of the 21 people who have not attended, all are members who were appointed on or after July 1, 2015 and are thus subject to the mandate of Act 169.² Of these 21 people, however, only 18 are delinquent because the other three were appointed in 2019. Thus, more than 75% of those who are required by Act 169 to attend a Training Course have done so, while almost 25% have not taken the Training Course. As you know, however, there is currently no enforcement mechanism to ensure that the members of the relevant councils, boards, and commissions actually take the Training Course as mandated by Act 169.

The Native Hawaiian Law Training Course includes an overview of Hawaiian history, and presentations on the public land trust, water and the public trust, traditional and customary rights,

¹ Although the Hawai‘i State Board of Health (BOH) was named in Act 169, on July 2, 2019, Act 210 was signed into law abolishing the BOH and removing it from the training statute.

² This number includes: ex-officio members; members whose terms or reappointments began on or after July 1, 2015; and members who were originally not subject to the mandate but were subsequently reappointed after the July 1, 2015, enactment of Act 169.

and iwi kūpuna or ancestral remains. The Training initially began in 2013 and almost 1,100 people have attended a Training Course since its inception. Since the passage of Act 169 in 2015, 810 people have attended a Training Course. This count includes special Training Courses for the Governor's Cabinet and Executive Staff in 2016 and for the University of Hawai'i Board of Regents, President, and Senior Staff in 2017. Most Training Course attendees have been members of state and county councils, boards, and commissions as well as staff members. Moreover, a significant number of state legislators, county councilmembers, and staff members have also attended.

The response to the Training Course has been overwhelmingly positive. For 2019 alone, for example, Training Course evaluations indicate that over 91% of those responding believed that the Training Courses had increased their understanding and knowledge of the state's trust duties and responsibilities in each of the subjects covered by the Training. When asked to identify the most important "take-aways," responses included:

- [The] State does have laws to help preserve and protect our resources; we have to continue to consider these rights in our work on our boards and committees; there are tools to help navigate these laws and rights.
- Fundamentals of traditional and customary rights; super overview of water code; great overview of traditional and customary, public trust land, and water as a public trust.
- Increased respect, care, and responsibility.
- The importance of these rights make so much sense when put in the proper cultural and historical context. Everyone in the state should learn about these aspects.
- Agencies have [an] independent duty to research and make findings and conclusions.
- I feel much more educated about 1) the historical context surrounding the discussed laws, 2) the role of decision-makers as trustees, and 3) how the laws may apply to situations decision-makers may find themselves in.
- Knowing the cultural and religious significance underlying Native Hawaiian customs and beliefs puts into better perspective the need for protection of rights.

We are confident that the Training has greatly increased the understanding of those who have participated and has given attendees knowledge and tools to help in making difficult decisions. One additional benefit from the Training is that attendees from different agencies and departments have been able to interact and share concerns and possible solutions with each other, building common understanding and increasing cooperation among agencies and departments.

We are encouraged by, and support the efforts expressed in, S.B. 2192, S.B. 1, to add effectiveness to Act 169's mandate that all members of the relevant councils, boards, and commissions attend the Native Hawaiian Law Training Course. We also urge consideration of the request that OHA have a greater and more significant role in proposing nominees for the Land Use Commission and Board of Land and Natural Resources who are knowledgeable about and grounded in Native Hawaiian cultural practices and resource management.

Ka Huli Ao has been honored to partner with OHA. We believe that it is important, particularly for newly-appointed members of councils, boards, and commissions, to be required to attend Training sessions on areas of law crucial to Hawai'i's natural and cultural resources and the Native Hawaiian community. Mahalo for the opportunity to express our **support** for S.B. 2192. S.D. 1.

SB-2192-SD-1

Submitted on: 2/21/2020 6:55:06 PM

Testimony for JDC on 2/24/2020 12:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Support	No

Comments:

Committee on Judiciary

Chair Senator Karl Rhoads

Vice-Chair Senator Jarrett Keohokalole

Monday, February 24, 2020, at 12:15p.m.

Conference Room 016

Re: Testimony in **Strong Support** of **S.B. 2192 SD1**, Relating to Hawaiian Expertise in Land Use and Resource Management

Mahalo for the opportunity to submit testimony in **strong support** of S.B. 2192 SD1.

My name is Letani George Peltier. I am a Native Hawaiian attorney and a Legal Fellow at Ka Huli Ao Center for Excellence in Native Hawaiian Law at the William S. Richardson School of Law at the University of Hawai‘i at Mānoa. As a Legal Fellow, I was responsible for planning and coordinating the Native Hawaiian Law Training Courses that were held in December 2017 and May 2018. However, I am submitting this testimony in my personal capacity and as part of my kuleana as a Native Hawaiian.

The Native Hawaiian Law Training Course provides an important, contextualized overview of the history of Hawai‘i and the evolution of Hawai‘i’s laws from pre-contact all the way to the modern era. As a people, our collective values are embedded in our state constitution, which provides strong protections for our natural resources and our cultural heritage. But the foundation of these values is actually rooted in the Native Hawaiian perspective that we have a duty and a responsibility to care for our natural and cultural resources for future generations. Not only is this a responsibility that we hold as individuals, but it also forms the basis of the social contract. We expect that our government will take seriously this responsibility, and we hold it to a high standard for the sake of future generations. The Native Hawaiian Law Training Course not only informs decisionmakers of the law, but it also helps them to truly understand the gravity of this responsibility, this kuleana.

S.B. 2192 SD1 provides several mechanisms to help ensure compliance with the mandate of Act 169. As the law currently stands, Act 169 has no teeth; members of Act 169 entities can refuse to participate in the Native Hawaiian Law Training without fear of any repercussion. Because we owe it to future generations to ensure that our decisionmakers have a full understanding of the law and their responsibilities, I urge this committee to support this bill.

Thank you again for the opportunity to testify.