



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

S.B. NO. 2618, RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL.

BEFORE THE:

SENATE COMMITTEES ON JUDICIARY AND ON
AGRICULTURE AND ENVIRONMENT

DATE: Tuesday, February 15, 2022 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
David L. Williams, Deputy Attorney General

Chairs Rhoads and Gabbard and Members of the Committees:

The Department of the Attorney General (Department) opposes this bill.

The purposes of this bill are to: (1) establish and fund an environmental investigative hotline pilot project through the Department's Investigations Division to implement and manage an investigative hotline for Molokai residents to report environmental concerns on Molokai, (2) establish and fund one full-time investigator from the Department's Investigations Division on the island of Molokai to investigate environmental concerns, and (3) require the Department's Investigations Division to submit a report of its findings and recommendations relating to the pilot project, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the regular session of 2023.

The Department believes that an environmental investigative hotline is possibly impracticable and duplicative for the following reasons. The Maui Police Department (MPD) serves Maui County, which consists of six districts across three islands, including Molokai (District V of the Maui Police Department). The Molokai police station has rotating patrol watches, consisting of one sergeant and two patrol officers, that enforce twenty-four hours a day, seven days a week. MPD's Molokai police, hereinafter "Molokai police," serve the health and safety of Molokai residents and operate a full-service police department, serve the entire island, and are very familiar with the local

landmarks used to guide them to the applicable scenes. Also, the Molokai police respond to complaints, initiate investigations by conducting interviews, process crime scenes, take photographic evidence, recover and preserve physical evidence, and write necessary reports. In the event a case must later be handled by other county, state, or federal agencies, the Molokai police evidence and reports are forwarded to the appropriate agencies. The Molokai police reports become "connecting reports" to the ultimate county, state, or federal agency, a practice very common in law enforcement and the criminal justice system.

Additionally, the Department of Land and Natural Resources (DLNR) has two Division of Conservation and Resource Enforcement (DOCARE) officers stationed full time on the island, one enforcement officer and one supervisor. The Molokai DOCARE officers field calls from an existing hotline (808) 643-DLNR, investigate conservation crimes, contact Molokai police if assistance is needed, contact the Department of Health if hazardous materials or other environmental matters are discovered, and also contact the Environmental Protection Agency, if needed. Moreover, DOCARE officers are trained to take photographic evidence, obtain witness statements, preserve physical evidence, issue citations, and write reports – all of which can be forwarded as connecting reports to any appropriate agencies, if applicable. Most importantly, Molokai DOCARE officers are also intimately familiar with the island local geography that may guide them to applicable scenes promptly.

Thus, because the Molokai police and Molokai DOCARE officers already receive calls and provide immediate response, there does not appear to be a need for an investigative hotline managed by the Department's Investigations Division.

Also, according to the Department's Investigations Division, in the past eight years there have only been two cases from Molokai, one focused on a Molokai Department of Education corruption investigation and one on a Veteran's Affairs case. The cost of a full-time Special Agent is not supported by the anticipated need and work demand.

If the Department is required to station a permanent investigator on Molokai, it would require that a permanent workplace and accommodations be set up, including

renting office space, purchasing office equipment, setting up an interview room with related equipment, providing for evidence storage, installing a security system, and acquiring parking. The current ability to share or borrow space from sister agencies only when needed, including those on Molokai, is more fiscally practical, especially in light of the very small number of cases from Molokai.

Thus, based on the aforementioned concerns, establishing a hotline does not appear to be necessary because of the existing available agencies already on Molokai who can immediately respond to environmental calls, and establishing a full-time investigator from the Department to be stationed on Molokai would not be practical or fiscally sound.

It is highly recommended that the Legislature consider passing House Bill No. 2171 or its companion Senate Bill No. 3139 relating to the proposed state Department of Law Enforcement. The new statewide law enforcement agency anticipates having an investigative presence in each and every county and might be able to offer solutions to address the issues raised in this bill.

For these reasons, the Department respectfully opposes this bill.

Thank you for the opportunity to testify on this measure.



**Department of Land and Natural Resources
Hawaii State Aha Moku
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

Testimony of the Hawaii State Aha Moku

Before the Senate
Committees on Judiciary
Agriculture and Environment

Tuesday, February 15, 2022
10:00 a.m.
State Capitol, Via Videoconference

In SUPPORT of
Senate Bill 2618
Relating to the Department of
the Attorney General

Senate Bill 2618 establishes and funds an environmental investigative hotline pilot project through the Department of the Attorney General, Investigations Division, that will implement and manage an investigative hotline for Molokai residents to report environmental concerns on Molokai and have one full-time investigator on the island of Molokai to investigate environmental concerns.

The Hawaii State Aha Moku (Aha Moku) strongly supports this measure with amendments.

The Hawaii State Aha Moku came into being in 2006 through the vision of John Kaimikaua, a noted historian of Makakilo, O'ahu and Moloka'i; and the translations of ageless chants going back as far as the 9th century by Kaimikaua and Kawaikapuokalani Hewett bringing back to life a traditional natural and cultural resource sustainability process that was based on the protection and perpetuation of the ecosystem and environment of each island. All was based on the traditional moku system. This system was supported by the State Legislature via Act 288, SLH 2012.

On Moloka'i, the native Hawaiian culture thrives through the generational knowledge of families who have consistently brought their specific knowledge forward of the natural and cultural resources of the five traditional moku of Moloka'i Pule O'o – Kawela, Palaau, Kaluakoi, Koolau and Halawa and the fifty-one ahupua'a encompassed within. The people of Moloka'i depend on the health of each of the ecosystems of each moku and ahupua'a– its lands, watersheds, coastal areas, loko'ia (fishponds), and deep marine resources.

A consistent concern of the people is that available enforcement of complaints takes too long to be addressed due to low capacity of state and county agencies that are based on either Maui or O'ahu. This has caused conflicts and divisions among the people.

We believe that the residents and communities of Moloka'i have an intimate connection to their environment through their deep cultural bond to their ahupua'a ecosystems. This connection is based on native Hawaiian traditional knowledge handed down through each generation by Kupuna. The strength of this relationship is founded on the enduring respect and love of Kupuna who today continue to lead current generations through the Moloka'i Kupuna Council, a Council made up of respected Kupuna selected by the communities of each Moku,

including native Hawaiian practitioners of natural and cultural resources.

To strengthen this critical measure we offer the following amendments which are **bold and underlined**.

SECTION 1.

The purpose of the Act is to establish and fund:

- (1) An environmental investigative hotline pilot project through the department of the attorney general, investigative division, that shall implement and manage an investigative hotline for Moloka'i residents to report environmental concerns on Moloka'i; and,
- (2) One full-time investigator on the island of Moloka'i, **who must be a full-time resident of Moloka'i with proven knowledge of the local landmarks, regions and cultural practices of the different ahupua'a within the specific moku of the Island** to investigate environmental concerns.

SECTION 2. There is established the environmental investigative hotline pilot project. The department of the attorney general, investigations division, shall implement and manage the pilot project for Molokai residents, **with the consultation of the Moloka'i Kupuna Council as deemed when necessary**, to report environmental violations and concerns on Moloka'i.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2022-2023 for one full time equivalent (1.0 FTE) investigator position on Moloka'i **who must be a full-time resident of Moloka'i with proven knowledge of the local landmarks, regions and cultural practices of the different ahupua'a within the specific moku of the Island** to investigate potential environmental concerns reported through the environmental investigative hotline pilot project.

Aha Moku supports this measure **with amendments** and ask that it be adopted.

Mahalo nui loa,

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MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON JUDICIARY AND
AGRICULTURE AND ENVIRONMENT
ON
SENATE BILL NO. 2618

February 15, 2022
10:00 a.m.
Via Videoconference

RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2618 appropriates an unspecified amount of general funds and adds one full-time equivalent position in FY 23 for the Department of the Attorney General for an environmental investigative hotline pilot project.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

Council Chair
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February 13, 2022

TO: Honorable Karl Rhoads, Chair
Senate Committee on Judiciary

Honorable Mike Gabbard, Chair
Senate Committee on Agriculture and Environment

FROM: Alice L. Lee
Council Chair

DATE: February 13, 2022

SUBJECT: **SUPPORT FOR SB 2618, RELATING TO THE DEPARTMENT OF THE ATTORNEY GENERAL**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to establish and fund an environmental investigative hotline pilot project through the Department of the Attorney General, Investigations Division, that will implement and manage an investigative hotline for Moloka'i residents to report environmental concerns on Moloka'i and have one full time investigator on the island of Moloka'i to investigate environmental concerns.

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.

I SUPPORT this measure for the following reasons:

1. A full time employee is necessary to respond to environmentally hazardous activities in a timely manner to ensure the health and safety of the residents of Moloka'i.
2. Not having state department staff physically present to address a situation when a complaint is made incurs delays in response time and hampers the ability of a government inspector to witness possible violations and issue enforceable citations.
3. Having a multi-departmental investigative hotline offers residents a way to report concerns and violations to someone in a remote location.
4. The assignment of a trained investigator to rural areas who can communicate directly to state departments may save the state departments the unpredictable costs of travel and other related expenses.

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For the foregoing reasons, I **SUPPORT** this measure.

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