



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2023**

ON THE FOLLOWING MEASURE:

S.B. NO. 1163, RELATING TO CIVIL AIR PATROL.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 28, 2023 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Craig Y. Iha or Trista N. Speer,
Deputy Attorneys General, at (808) 587-2978)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

The purpose of this bill is to appropriate \$150,000 for each of fiscal years 2023-2024 and 2024-2025 to "support the operational expenses of the Hawaii wing of the civil air patrol." The funds appropriated are to be expended by the Department of Defense (DOD). It would restore funding that ceased in 2019 and would enable the Hawaii Wing - Civil Air Patrol (CAP) to provide flight operations and training in support of state and county civil defense agencies.

Section 4 of article VII of the Hawaii Constitution requires that "[n]o grant of public money or property shall be made except pursuant to standards provided by law." "Standards provided by law" for grants made to private organizations by the Legislature are found in chapter 42F, Hawaii Revised Statutes (HRS). Appropriations to specifically fund the CAP must therefore be made through the chapter 42F process. If funding for CAP will not undergo the chapter 42F process, an appropriation of funds made in the form of a grant specifically for that entity may be subject to challenge as being made in violation of section 4 of article VII of the Hawaii Constitution.

If no chapter 42F grant will be made to CAP, we suggest amending the bill to appropriate funds for civilian auxiliary aviation services of the type performed by the civil air patrol, rather than to appropriate funds directed to one specific entity. The DOD

could then procure those services through chapter 103D, HRS, or other available process using funds appropriated by this bill. In this regard, we suggest amending section 1 on page 2, lines 13-15, of the bill to read as follows:

Accordingly, the purpose of this Act is to appropriate funds ~~[to support the operational expenses of the Hawaii wing of]~~ for civilian auxiliary aviation operations of the type performed by the civil air patrol.

We also recommend similarly amending section 2 on page 2, lines 16-21, of the bill to read as follows:

There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2023-2024 and the same sum or so much thereof as may be necessary for fiscal year 2024-2025 ~~[to fund the operational expenses of the Hawaii wing of the civil air patrol.]~~ for civilian auxiliary aviation services, which may include search and rescue, damage assessments, aerial photography of impacted areas, alerts and notifications, and transportation of supplies.

Thank you for the opportunity to provide these comments.