



TESTIMONY IN OPPOSITION TO SENATE BILL 903_SD2
Relating to Hawaiian Affairs

House Committee on Judiciary and Hawaiian Affairs
Hawai'i State Capitol

March 14, 2025 2:00 p.m. Room 325

Aloha e Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary and Hawaiian Affairs:

The Office of Hawaiian Affairs (OHA) submits this testimony in **STRONG OPPOSITION** to SB903_SD2 which would replace the Public Land Trust Working Group (PLTWG), Act 226 (2022), with a working group to settle OHA's future claims for its share of public land trust (PLT) revenues.

OHA opposes the proposed working group on the grounds that any offer from the state for settlement of claims for revenues due to OHA from the PLT is premature unless and until the state has a complete and accurate inventory of the public lands trust—including crown lands—and an accurate accounting of revenues derived from those lands. **To that end, OHA urges that this Committee defer this measure and instead continue to support HB1358_HD3, which crossed over to the Senate last week, and would fund the land inventory and audit that are necessary precursors to resolving questions related to the PLT and accounting of revenues therefrom definitively for the first time.**

Act 226 established the PLTWG to:

- (1) Account for all ceded lands in the public land trust inventory;
- (2) Account for all income and proceeds from the public land trust; and
- (3) Subsequently determine the twenty per cent pro rata share of income and proceeds from the public land trust due annually to [OHA] for the betterment of the conditions of Native Hawaiians.

Act 226 (2022), § 3.

However, the PLTWG—comprised of representatives from both OHA and the Department of Land and Natural Resources—unanimously agreed in 2023 and again in 2024 that a third-party inventory and audit of the PLT and receipts therefrom are necessary for the PLTWG to complete its scope of work. Accordingly, OHA introduced HB1358_HD2 as part of its 2025 Legislative Package, to obtain the necessary funding for a third-party inventory and audit which would then allow the PLTWG to complete its scope of work as set out in Act 226.

Until the PLTWG completes its accounting, there is no baseline for settlement discussions. Any settlement valuation must be accurate, data-driven, and informed by due

diligence, ensuring the state has the proper systems in place to both accurately and uniformly identify and calculate revenues from the PLT. Currently, state and county agencies use different formulas to identify PLT lands and calculate PLT revenues, leading to significant undercounting of OHA's PLT revenue share. If the state is serious about reaching a just and good faith settlement, the process for calculating PLT revenues from the outset must reflect best practices, similar to those governing private businesses and trusts. The highest fiduciary standard must be upheld, ensuring that Native Hawaiian beneficiaries receive their long overdue fair and equitable share of PLT proceeds.

In conclusion, until the completion of the audit and inventory proposed in HB1358_HD3, any discussion of a master settlement is premature. Moreover, OHA reserves its comments on the legality of the proposed master settlement process at this time.

Mahalo nui for considering OHA's request to **DEFER** this measure.