

**ACT 359**

S.B. NO. 1028

A Bill for an Act Relating to Hawaiian Sovereignty.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Findings.** The legislature finds that:

- (1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archi-

- pelago whose society was organized as a nation prior to the arrival of the first non-indigenous people in 1778;
- (2) At the time of the arrival of the first non-indigenous people in 1778, the native Hawaiian people lived in a highly-organized, self-sufficient, subsistence society based on a communal land tenure system with a sophisticated language, culture, and religion;
  - (3) A unified monarchical government of the Hawaiian Islands was established in 1810, under Kamehameha I, the first King of Hawai'i;
  - (4) Throughout the 19th century and until 1893, the United States:
    - (A) Recognized the independence of the Hawaiian Nation;
    - (B) Extended full and complete diplomatic recognition to the Hawaiian government; and
    - (C) Entered into treaties with the Hawaiian government to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;
  - (5) In 1893, the United States Minister to the sovereign and independent Kingdom of Hawaii, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom (including citizens of the United States) to overthrow the indigenous and lawful government of Hawaii;
  - (6) In pursuit of that conspiracy, the United States Minister and the naval representative of the United States caused armed forces of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful government, and the United States Minister thereupon extended diplomatic recognition to a provisional government formed by the conspirators without the consent of the native Hawaiian people or the lawful Government of Hawaii in violation of treaties between the two nations and of international law;
  - (7) On December 18, 1893, in a message to Congress, President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts—described by the President as acts of war—the government of a peaceful and friendly people was overthrown and that a “substantial wrong has thus been done which a due regard for our national character was well as the rights of the injured people requires that we endeavor to repair”;
  - (8) Queen Lili'uokalani, the lawful monarch of Hawaii, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawaii, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian Nation; however, this petition was not acted on; and
  - (9) In 1898, Hawaii was annexed to the United States through the Newlands Resolution without the consent of or compensation to the indigenous people of Hawaii or their sovereign government. As a result, the indigenous people of Hawaii were denied the mechanism for expression of their inherent sovereignty through self-government and self-determination, their lands, and their ocean resources.

**SECTION 2. Purpose.** The purpose of this Act is to acknowledge and recognize the unique status the native Hawaiian people bear to the State of Hawaii and to the United States and to facilitate the efforts of native Hawaiians to be governed by an indigenous sovereign nation of their own choosing. In the spirit of self-determination and by this Act, the Legislature seeks counsel from the native Hawaiian people on the process of:

- (1) Holding a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose

of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing;

- (2) Providing for a mechanism to democratically convene a Hawaiian convention so that native Hawaiians may openly and freely discuss and decide the form and structure of that government; and
- (3) Describing the process for the conduct of fair, impartial, and valid elections including a referendum election.

**SECTION 3. Definitions.** As used in this chapter, unless the context otherwise requires:

“Commission” means the Hawaiian sovereignty advisory commission.

“Hawaiian” and “native Hawaiian” mean any descendent of the races inhabiting the Hawaiian islands prior to 1778.

“Hawaiian organization” means any organization in the State which serves and represents the interests of Hawaiians, has a membership consisting of at least a majority of Hawaiians, and has been organized for at least one year.

“Qualified voter” means any person qualified to vote pursuant to section 13D-3, Hawaii Revised Statutes.

“Special elections” means the Hawaiian convention referendum, the election of delegates, and the ratification election.

**SECTION 4. Hawaiian sovereignty advisory commission.** (a) There is established within the office of state planning for administrative purposes the Hawaiian sovereignty advisory commission, to advise the legislature in carrying out the purposes of this Act. The commission shall consist of nineteen members appointed by the governor without regard for section 78-4, Hawaii Revised Statutes. At least twelve of the nineteen members shall be appointed from nominations submitted by Hawaiian organizations. Among the twelve, the governor shall appoint one member so designated from each of the following organizations: the Office of Hawaiian Affairs; Ka Lahui Hawai‘i; the State Council of Hawaiian Homestead Association; and the Association of Hawaiian Civic Clubs. The commission shall consist of at least one member from each of the islands, or island groups of: Kauai or Niihau; Maui; Molokai or Lanai; Oahu; and Hawaii. Appointments shall be made before August 1, 1993, and shall not be subject to confirmation by the senate. Any appointment not made by that date shall be filled by the commission during its first meeting which shall be held before August 15, 1993. Any member planning to be a delegate to the Hawaiian convention shall be recused from any decision-making relating to the apportionment of districts and delegates. No member who participated in any decision-making relating to apportionment shall be eligible to serve as a delegate to the Hawaiian convention. The members shall elect a chairperson and vice-chairperson. Any vacancy on the commission shall be filled by the governor within fifteen days after being notified of a vacancy. Members shall serve without compensation but shall be reimbursed for expenses, including travel and subsistence expenses, necessary for the performance of their duties. Expenses shall be paid by the office of state planning.

(b) The commission shall advise the legislature on:

- (1) Conducting special elections related to this Act;
- (2) Apportioning voting districts;
- (3) Establishing the eligibility of convention delegates;
- (4) Conducting educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention;
- (5) Establishing the size and composition of the convention delegation; and

(6) Establishing the dates for the special elections.

(c) The commission shall submit a report of findings and recommendations to the legislature not less than twenty days prior to the convening of the regular session of 1994.

**SECTION 5. Task forces.** (a) The governor shall convene an interagency task force, consisting of persons from such public agencies as may be necessary, to support the needs of the commission.

(b) The commission may establish a task force, otherwise known as a kupuna council, to provide advice and support as necessary to the commission. Members shall be appointed without regard for section 78-4, Hawaii Revised Statutes. Members of the kupuna council shall serve without compensation but shall be reimbursed for expenses, including travel and subsistence expenses, necessary for the performance of their duties.

**SECTION 6. Ballot question.** The legislature proposes the following ballot question:

“Shall a Hawaiian convention be convened to propose an organic document for the governance of a Hawaiian sovereign nation?”

The commission shall review and may suggest revisions to that question. Upon due consideration, the legislature shall determine the question to be submitted to qualified voters in the 1994 general election.

**SECTION 7. Qualifications of voters and elections.** The commission shall submit a plan to the 1994 legislature on the qualifications of voters and the conduct of special elections to implement the purposes of this Act, providing that the plan complies with the general election laws of the State.

**SECTION 8. Hawaiian convention.** The duly elected delegates to the convention shall convene in a manner and at a time recommended by the commission and enacted by the 1994 legislature.

**SECTION 9.** There are appropriated or authorized from the sources of funding indicated below the following sums, or so much thereof as may be necessary for fiscal year 1993-1994, for the purposes of this Act:

<u>FY 1993-1994</u>	
General Funds	\$210,000
Special Funds	\$210,000

The special funds authorized by this Act shall be derived solely from the revenues generated under the authority of section 5(f) of the Admission Act.

The sums appropriated or authorized shall be expended by the office of state planning the purposes of this Act.

The office of state planning may hire staff necessary to accomplish the purposes of this Act, including but not limited to a planning and policy analyst and a program assistant. Such persons shall be exempt from chapter 76 and 77.

**SECTION 10.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions of application of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 11.** This Act shall take effect on July 1, 1993.

(Approved July 1, 1993.)