

TESTIMONY
HB899 HD1



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

March 18, 2009

To: Rep. Ken Ito, Chair
And Members
House Committee on Water, Land & Ocean Resources

From: Mahealani Cypher, President
Ko'olaupoko Hawaiian Civic Club

Subject: H.B. 899, H.D. 1, Relating to the Office of Hawaiian Affairs

Aloha mai kakou from the Ko'olaupoko Hawaiian Civic Club, working with nine ahupua'a around Kane'ohu Bay, moku Ko'olaupoko, O'ahu.

Our civic club supports this legislation, which would clarify and strengthen the bond authority for the Office of Hawaiian Affairs.

We ask that this bill be amended to change the effective date to "upon enactment into law."

Mahalo for this opportunity to share our mana'o.



HB 899, HD 1
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

**Senate Committee on Water, Land, Agriculture, and Hawaiian
Affairs**

March 18, 2009
Room 229

3:00 p.m.

Aloha Chair Hee, Vice Chair Tokuda, and Members. OHA
supports with amendments House Bill No. 899, House Draft 1
Relating to the Office of Hawaiian Affairs.

The purpose of this bill is to clarify and strengthen OHA's existing authority to issue revenue bonds. OHA already has authority to issue its own revenue bonds, under Chapter 10, Hawaii Revised Statutes. HB 899, HD 1 makes it clear that no other law need be enacted to authorize the principle amounts of a particular OHA revenue bond issuance, and that the OHA Board of Trustees can issue revenue bonds without further authorization or approval.

The bill also clarifies the variety of revenue sources that OHA can draw upon to meet the requirement that a project financed by OHA bonds be self-supporting. In addition, the bill makes a number of technical changes in OHA's existing bond statute to make it consistent, where appropriate, with other State of Hawaii bond statutes and current government-bond practice.

This bill represents a gradual evolution of existing law, largely in technical areas. The bill updates and clarifies OHA's bond statute, which was enacted in 1994. The changes are designed to put OHA in the best possible position to enter the bond market on a solid footing at a time when the Hawaii and national economies are creating a new impetus for OHA to seek alternative sources of funding for its projects.

Requested Amendments of the HD 1 Concerning the Legislature's
Authorization of OHA Bond Issuances

OHA respectfully requests that the HD 1 be amended so that it no longer exempts each issuance of OHA revenue bonds from legislative authorization. Our request follows our review of written comments on the bill submitted by the Department of the Attorney General (the Department) for previous hearings in the

House of Representatives during this Session; constructive discussions between OHA and the Department; and a consideration of how best to balance OHA's desire for bond autonomy with the Legislature's interest in overseeing OHA's bond process. Our requested amendments can be achieved by removing the amendments to subsection 10-4(6), HRS proposed in Section 3 of the HD 1 and by removing the amendments to subsection 10-22(2), HRS proposed in Section 4 of the HD 1, except for the reference to reserves, which would remain.

OHA's request for the above amendments does not necessarily imply our agreement with the Department of the Attorney General's view that Article VII, Section 12 of the Hawaii Constitution requires legislative authorization of each issuance of OHA revenue bonds. Although Section 12 indicates that legislative authorization is needed for issuance of revenue bonds "issued by or on behalf of the State," Section 1 of Act 283, Session Laws of Hawaii 1994, states clearly that OHA bonds are issued by the OHA Board of Trustees and not "by or on behalf of the State."

Requested Amendments to the HD 1's Effective Date

OHA also respectfully requests that the HD 1's effective date of July 1, 2020 be changed to "effective upon its approval."

Issue of Revenue Allowable To Support OHA's Bonds

In its written comments submitted for previous hearings, the Department of the Attorney General raised concern that the bill's wording concerning which revenues can be used to support OHA bonds may not meet the requirements of the Hawaii Constitution. Among other things, the Department is concerned that the bill language may be insufficient to ensure that OHA bonds are excluded from the State's debt limit under Article VII, Section 13 of the Hawaii Constitution. The Department has suggested to OHA some amendments to the bill to help address the Department's concerns.

The Department's comments and suggestions were thoughtful and constructive. However, at this time we prefer not to recommend amendments to the bill in this area. For one thing, Section 1 of Act 283, SLH 1994, specifically provided that OHA's revenue bonds would be excluded from the State's debt ceiling and that issuance of OHA's bonds would have no effect on the State's power to issue general obligation bonds or the funded debt of any political subdivision. Because HB 899, HD 1 is intended to fine tune OHA's bond statutes, we hesitate to complicate the language relating to the State's debt limit or other aspects of which types of revenue can support the bonds.

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We urge your Committee to respond favorably to this bill by moving it forward with the amendments that we have requested. We stand ready to work with your committee and the Department of the Attorney General to achieve OHA bond legislation that will help OHA carryout its mission and serve its beneficiaries.

Mahalo for the opportunity to testify.

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