

Honolulu, Hawaii

APR 05 2019

RE: H.B. No. 402
H.D. 1
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred H.B. No. 402, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO INCREASING THE OFFICE OF HAWAIIAN AFFAIRS' PRO RATA SHARE OF PUBLIC LAND TRUST FUNDS,"

begs leave to report as follows:

The purpose and intent of this measure is to increase the Office of Hawaiian Affairs' pro rata share of public land trust funds.

Specifically, this measure:

- (1) Establishes the Office of Hawaiian Affairs' pro rata share of the public land trust;
- (2) Appropriates an unspecified amount of general revenue funds, less funds in the carry-forward trust holding account established by the Director of Finance pursuant to Executive Order 06-06, to the Office of Hawaiian Affairs for the underpayment of the public trust funds for 7/1/2012 to 6/30/2019;
- (3) Requires the Department of Budget and Finance to provide an annual accounting of receipts from lands in the public land trust;



- (4) Requires annual audits of any funds transferred pursuant to the measure;
- (5) Establishes the public land trust revenues committee; and
- (6) Prohibits new funding to be appropriated to the Office of Hawaiian Affairs until the Office of Hawaiian Affairs' 2017 fiscal and performance audit is completed and provided to the Legislature.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 2, which amends this measure by:

- (1) Establishing a public land trust revenues negotiating committee to determine the increase to the annual amount of the income and proceeds from the public land trust that the Office of Hawaiian Affairs;
- (2) Requiring and appropriating funds for the Department of Budget and Finance to conduct a financial review of the amounts of revenue generated from the public land trust; and
- (3) Requiring and appropriating funds for the Auditor to conduct a comprehensive review of programs administered by the State that serve Hawaiians and to submit a report to the Legislature.

Your Committee received testimony in support of this measure from the Department of Budget and Finance, Department of Transportation, Office of Hawaiian Affairs, Oahu County Democrats Legislative Priorities Committee, LGBT Caucus of the Democratic Party of Hawaii, Pride at Work Hawaii, Hawaiian Civic Club of Honolulu, Ka Lei Papahi O Kakuhihewa, Ke One O Kakuhihewa, Trilogy Corporation, Aha Punana Leo, Mana Maoli, Hawaii Investment Ready, Kuaaina Ulu Auamo, Hui O Hee Nalu, Prince Kuhio Hawaiian Civic Club, Association of Hawaiian Civic Clubs, Council for Native Hawaiian Advancement, Native Hawaiian Chamber of Commerce, Hawaii Republican Party, The Trust for Public Land, Hawaiian Community



Republican Party, The Trust for Public Land, Hawaiian Community Assets, Kamehameha Schools, Alii Pauahi Hawaiian Civic Club, and numerous individuals.

Your Committee received testimony in opposition to this measure from the Center for Hawaiian Sovereignty Studies and one individual.

Your Committee received comments on this measure from the Office of the Auditor, League of Women Voters of Hawaii, Society of Professional Journalists Hawaii Chapter, and Hawaii Health Systems Corporation.

Your Committee finds that this measure will further the State's objective of determining whether, and by how much, to increase the Office of Hawaiian Affairs' pro rata share of the receipts from the use of public land trust lands to better the conditions of native Hawaiians pursuant to Article XII, Section 6 of the State Constitution.

Your Committee notes that the Department of Budget and Finance requests that the reporting date for the financial review required by this measure, currently twenty days prior to the convening of the Regular Session of 2020, be amended to be the deadline for the Department to submit to the Legislature a status report. The Department of Budget and Finance further requests that the deadline to submit the financial review required by this measure be extended to twenty days prior to the convening of the Regular Session of 2021.

Your Committee further notes that the Office of the Auditor requests that the specific state programs to be included in the comprehensive review required by this measure be identified to ensure that the review includes the specific issues and programs of concern to the Legislature.

Your Committee has amended this measure by adopting the proposed S.D. 2, and further amending the measure by:

- (1) Requiring all grants and contracts awarded by the Office of Hawaiian Affairs to be subject to approval by the Board of Trustees;



- (2) Reducing the University of Hawaii's portion of receipts from the use, sale, lease, or other disposition of lands within the public land trust to be collected during each fiscal year by the amount equal to the University's receipts derived from tuition and special funds utilized for Native Hawaiian programs;
- (3) Specifying that the President of the Senate and the Speaker of the House of Representatives shall each select one representative serving on the public land trust revenues negotiation committee;
- (4) Prohibiting any increases proposed by the public land trust revenues negotiating committee that are not already approved for use by or appropriated to the Office of Hawaiian Affairs until the fiscal and comprehensive reviews required by this measure, and as approved by the board of trustees of the Office of Hawaiian Affairs, are completed, and complete and accurate copies are provided to the Legislature; and
- (5) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 402, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 402, H.D. 1, S.D. 2.

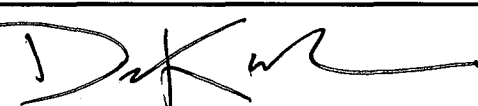
Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:
HB402, HD1, SD1	HWN/HRE, WAM	4/5/19
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is:		
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313		
Members	Aye	Aye (WR)
Nay	Excused	
DELA CRUZ, Donovan M. (C)	✓	
KEITH-AGARAN, Gilbert S.C. (VC)		✓
ENGLISH, J. Kalani		✓
HARIMOTO, Breene		✓
INOUYE, Lorraine R.		✓
KAHELE, Kaiali'i	✓	
KANUHA, Dru Mamo	✓	
KIDANI, Michelle N.	✓	
MORIWAKI, Sharon Y.	✓	
RIVIERE, Gil	✓	
SHIMABUKURO, Maile S.L.	✓	
TANIGUCHI, Brian T.		✓
FEVELLA, Kurt	✓	
TOTAL	8	5
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 		
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy		

*Only one measure per Record of Votes