



HB665
RELATING TO COLLECTIVE BARGAINING

House Committee on Ocean, Marine Resources, and Hawaiian Affairs

February 4, 2015

9:30 a.m.

Room 325

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees a position of **COMMENT** on HB665, which proposes to grant collective bargaining rights to OHA officers and employees.

OHA has not yet had enough time to conduct due diligence to determine the impacts this bill may have on OHA's autonomy, and on OHA's ability to manage its trust assets. However, this bill does raise a number of preliminary concerns regarding such potential impacts.

OHA's Autonomy

OHA's autonomy has its roots in both Hawai'i law, and the general principles of trust law. Under the authority of the state constitution, Hawai'i Revised Statutes (HRS) Chapter 10 gives OHA many attributes of autonomy, including its status as a body corporate independent of the executive branch, whose Trustees have the power to determine the necessity of its obligations and expenditures and any other powers necessary to fully effectuate OHA's purposes. HRS Section 10-4 further reinforces OHA's autonomy, giving OHA the power to make all necessary and appropriate disbursements of its funds by issuing checks in its own name, and by any other means.

In addition, the Hawai'i attorney general and state and federal courts have recognized and honored the autonomous nature of OHA. For example, according to an opinion of the Hawai'i attorney general, the majority of OHA's revenues -- the income and the proceeds of the public land trust -- do not belong to the State, and are therefore not public moneys. The independent nature of these revenues goes hand-in-hand with OHA's autonomy, and clearly distinguishes OHA from executive branch and other governmental agencies.

OHA Trust Management

Under general trust principles, OHA's Trustees have a responsibility to prudently protect and manage OHA's trust assets. Legally, trustees are generally afforded great discretion in carrying out such a responsibility. The impact of

collective bargaining requirements could hinder OHA's Trustees ability to fulfill their fiduciary obligation in this regard.

For example, with OHA pressed to negotiate union matters, the resources of the Native Hawaiian Trust Fund may be significantly strained. OHA moneys would be constantly needed to support the collective bargaining process, from preliminary negotiations to repeated legal analyses of draft collective bargaining agreements. Any resulting higher wages and benefits would also have a direct impact on the OHA trust. In addition, additional resources would be needed to orchestrate the major administrative changes in OHA's personnel system, policies, and procedures that collective bargaining could bring. All these tasks would further burden the OHA trust, and its Trustees' ability to fulfill their fiduciary responsibilities to OHA's beneficiaries.

Due Diligence

The concerns expressed in this testimony are preliminary, as OHA was not forewarned of this bill prior to session, and now needs more time to fully assess the bill's potential impacts. Our due diligence has begun and is being vigorously pursued in a timely manner, with a heavy emphasis on gathering data useful for decision-makers.

Mahalo for the opportunity to testify on this matter.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

LATE

The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Ocean, Marine Resources, and Hawaiian Affairs

Testimony by
Hawaii Government Employees Association

February 3, 2015

H.B. 665 – RELATING TO
COLLECTIVE BARGAINING

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly supports the purpose and intent of granting officers and employees within the Office of Hawaiian Affairs collective bargaining rights, as proposed in H.B. 665.

HGEA represents more than 42,000 members employed by the state and county, in eight bargaining units and also serves a large associate membership composed of retirees, other state and county employees and officials, and federal and private sector employees. As the state's largest labor organization, we firmly believe in the fundamental right for employees, like those employed by the Office of Hawaiian Affairs, to have the right to collectively bargain their wages, benefits, and terms and conditions of employment. These beliefs concur with and are upheld by the Hawaii State Constitution, Article XIII, Section 2, which states, "Persons in public employment shall have the right to organize for the purpose of collective bargaining as provided by law."

Thank you for the opportunity to provide our support on the passage of H.B. 665.

Respectfully submitted,

Randy Perreira
Executive Director