



EXECUTIVE CHAMBERS

HONOLULU

NEWS RELEASE

LINDA LINGLE
GOVERNOR

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GOVERNOR LINGLE AND SENS. INOUE AND AKAKA REACH AGREEMENT ON AKAKA BILL AMENDMENTS

HONOLULU – Governor Linda Lingle announced today she is pleased that Senators Dan Inouye and Dan Akaka have publicly indicated that the Native Hawaiian Reorganization Act, the Akaka Bill, will be amended to address concerns expressed by the State. Attorney General Mark Bennett represented the State in discussions with the senators' staffs regarding three changes to the language approved by the U.S. House of Representatives in HR 2314.

First, language that explicitly exempts the Native Hawaiian Governing Entity from certain State (and County) regulation (section 9(c)(3)(I))¹ will now read:

“(I) Governmental, nonbusiness, noncommercial activities undertaken by the Native Hawaiian governing entity, or by a corporation or other association or entity wholly owned by the Native Hawaiian governing entity, shall not be subject to the regulatory or taxation authority of the State of Hawaii, except shall be subject to the State’s authority to regulate activities for the protection of the public health or safety until such time as the Native Hawaiian governing entity and the State of Hawaii come to an interim agreement approved by the secretary governing the extent of such regulation and based on the Secretary’s determination that the interim agreement is consistent with applicable federal law.”

¹ The current (unamended) language states: "Governmental, nonbusiness, noncommercial activities undertaken by the Native Hawaiian governing entity, or by a corporation or other association or entity wholly owned by the Native Hawaiian governing entity, shall not be subject to the regulatory or taxation authority of the State of Hawaii, provided that nothing in this subparagraph shall exempt any natural person (except an officer or employee of the Native Hawaiian governing entity, acting within the scope of his or her authority), from the regulatory, taxation, or other authority of the State of Hawaii. In determining whether an activity is covered by this subparagraph, due consideration shall be given to the constraints described in subparagraphs (A), (F), and (G)."

Second, the provisions of the bill granting the Native Hawaiian Governing Entity limited sovereign immunity will explicitly provide: “The Native Hawaiian governing entity shall not be immune from any law suit brought by the State of Hawaii to enforce the State’s regulatory authority recognized in this Act.”

Finally, a new provision will be added to the bill stating:

“Any other provision of this Act notwithstanding, the officers and employees of the Native Hawaiian governing entity shall not be immune from the criminal laws of the State of Hawaii, and the State of Hawaii shall retain its authority to prosecute any violation of the State’s criminal laws.”

These provisions are the result of extensive discussions and are a compromise. Governor Lingle and Attorney General Bennett believe these new provisions are appropriate and will: 1) allow the State (and the Counties) to enforce their laws and regulations that protect the health and safety of the people of Hawaii, and 2) explicitly provide that the Native Hawaiian Government Reorganization Act will provide no person immunity from any of the State's criminal laws.

“I am very glad the Akaka Bill will be amended to reflect the State’s concerns,” Governor Lingle stated. “I have assured Senators Akaka and Inouye that I will strongly support a bill with the changes described above, and will write to Senators of both parties expressing my support. I sincerely hope the bill will become law in 2010.”

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