

PHONE (808) 594-1888

FAX (808) 594-1865

Committee on Beneficiary Advocacy and Empowerment
Trustee John D. Waihe'e, IV, *Chair*
Trustee Rowena Akana, *Vice-Chair*
Members

Trustee Peter Apo, O'ahu
Trustee S. Haunani Apoliona, At-Large
Trustee Donald B. Cataluna, Kaua'i / Ni'ihau
Trustee Carmen Hulu Lindsey, Maui
Trustee Robert K. Lindsey, Jr., Hawai'i
Trustee Colette Y. Machado, Moloka'i / Lāna'i
Trustee Oswald K. Stender, At-Large



LIEUTENANT GOVERNOR'S
OFFICE

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STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

MEETING OF THE
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
(BAE)


DATE: Wednesday, March 28, 2012
TIME: 1:30 p.m.
PLACE: OHA Boardroom, 5TH Floor

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. February 29, 2012
- III. Community Concerns*
- IV. Unfinished Business
 - A. 2012 OHA Legislative Package - Updates
- V. New Business
 - A. 2012 OHA Legislative Positions
Matrix of proposed legislation consisting of measures which cannot be summarized separately. Matrix may be available upon request.
- VI. Executive Session**
- VII. Beneficiary Comments*
- VIII. Announcements
- IX. Adjournment

*Notice: Persons wishing to provide testimony are requested to submit 10 copies of their testimony to the OHA Chief Executive Officer at 711 Kapi'olani Boulevard, Suite 500, Honolulu, HI 96813 or fax to 594-1865, 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

**Notice: This portion of the meeting will be closed pursuant to HRS § 92-4 and § 92-5. For further information, please call 594-1954.


Trustee John D. Waihe'e, IV, Chair
Committee on Beneficiary Advocacy and Empowerment


Date

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT
711 KAPI'OLANI BOULEVARD, SUITE 500
MINUTES
March 28, 2012 1:30 p.m.**

ATTENDANCE:

Chairperson John Waihe'e, IV
Vice-Chairperson Rowena Akana
Trustee Haunani Apoliona
Trustee Carmen Hulu Lindsey
Trustee Robert Lindsey
Trustee Oswald Stender

EXCUSED:

Trustee Peter Apo
Trustee Donald Cataluna
Trustee Colette Machado

BOT STAFF:

Ani Pang
Capsun Poe
Crayn Akina
Dayna Pa
Kama Hopkins
Lehua Itokazu
Liana Pang
Melissa Wennihan
Nathan Takeuchi
Reynold Freitas
Shelsea Apana

ADMINISTRATION STAFF:

Auli'i George, PUBL
Breann Nu'uhiwa, PUBL
Dirk Soma, OUTR
Everett Ohta, COMP
Garett Kamemoto, MRM
Jeffrey Kent, PUBL
Jerome Yasuhara, COMP
Jerry Norris, COMP
Jim McMahon, ADV
Jocelyn Doane, PUBL
Kai Markell, COMP
Kamaile Maldonado, PUBL
Kamana'opono Crabbe, Ph.D. Ka Pouhana/CEO
Keala Nichols, PUBL
Mālia Kaaihue, Ph.D. CKO
Sterling Wong, PUBL

VOLUNTEERS:

Apolei Bargamento

GUESTS:

Isaac Moriwake
Mahealani Wendt
Michael Lee

I. CALL TO ORDER

Chair Waihe'e calls the Committee on Beneficiary Advocacy and Empowerment for Wednesday, March 28, 2012 to order at **1:32 p.m.**

Chair Waihe'e notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (1:32 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
VICE-CHAIR	ROWENA	AKANA	PRESENT	1:36pm
TRUSTEE	HAUNANI	APOLIONA	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	
TRUSTEE	ROBERT	LINDSEY	PRESENT	
TRUSTEE	OSWALD	STENDER	PRESENT	

At the Call to Order, **Five (5) Trustees are PRESENT**, thereby constituting a quorum.

EXCUSED from the BAE meeting are:

MEMBERS			COMMENT
TRUSTEE	PETER	APO	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	DONALD	CATALUNA	MEMO - REQUESTING TO BE EXCUSED
TRUSTEE	COLETTE	MACHADO	MEMO – REQUESTING TO BE EXCUSED

Chair Waihe`e seeks a **MOTION**:

To waive the OHA Board of Trustees Operations Manual (published: July 2007) practice at which materials will be reviewed, discussed, or acted upon at least 72-hours prior to the meeting regarding items:

- IV. Unfinished Business
 - A. 2012 OHA Legislative Package - Updates
- V. New Business
 - A. 2012 OHA Legislative Positions

Trustee Haunani Apoliona moves.

Trustee Robert Lindsey seconds the motion.

Chair Waihe`e asks if there is any discussion. There is none.

Chair Waihe`e asks if anyone votes NO or ABSTAINS. There are no replies.

							1:33 p.m.
TRUSTEE		1	2	YAE (YES)	A`OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA	AKANA						Not Present at Time of Vote
PETER	APO						EXCUSED
HAUNANI	APOLIONA	1		X			
DONALD	CATALUNA						EXCUSED
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO						EXCUSED
OSWALD	STENDER			X			
CHAIR JOHN	WAIHE`E			X			
TOTAL VOTE COUNT				5	0	0	4

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe`e notes for the record that the **MOTION CARRIES**.

II. APPROVAL OF MINUTES

A. February 29, 2012

Trustee Haunani Apoliona moves to approve the minutes of February 29, 2012.

Trustee Robert Lindsey seconds the motion.

Chair Waihe`e asks if there is any discussion. There is none.

Chair Waihe`e asks if anyone votes NO or ABSTAINS. There are no replies.

							1:33 p.m.
TRUSTEE		1	2	`AE (YES)	A`OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA	AKANA						Not Present at Time of Vote
PETER	APO						EXCUSED
HAUNANI	APOLIONA	1		X			
DONALD	CATALUNA						EXCUSED
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO						EXCUSED
OSWALD	STENDER			X			
CHAIR JOHN	WAIHE`E			X			
TOTAL VOTE COUNT				5	0	0	4

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe`e notes for the record that the **MOTION CARRIES.**

III. COMMUNITY CONCERNS*

Mahealani Wendt read to the committee her testimony of concern dated 3/28/12 regarding the Governor's Message and OHA's position on Ted Yamamura's nomination to the Commission on Water Resources Management (submitted and attached).

Isaac Moriwake an attorney with Earth Justice (who represents Hui o Na Wai Eha and Maui Tomorrow in the Na Wai `Eha case) also expressed concern to the committee regarding the nomination of Ted Yamamura to the Commission on Water Resources Management on behalf of himself and Kapua Sproat. He echoes Mahealani Wendt's testimony and re-states that it is not anything personal against Mr. Yamamura, however, the Water Commission is very special and unique in that the statute requires commissioners to have substantial expertise in water management. He also shared and expressed concern that with the current nominees to the water commission we are now looking at 4 of the 5 seats being filled by residents of Maui, and while Maui does currently have very important issues to deal with he believes that water issues exist on all islands and needs to be managed throughout the state. He continues by stating that all the community wants is for the law to be upheld and not to let plantation politics rule where the water flows. They just ask that OHA continue to stand strong for its beneficiaries and all the people of Hawai'i including future generations on behalf of this resource.

Trustee Hulu Lindsey asks the beneficiaries if they have expressed their concerns with the Governor, because ultimately he is the one who will make the decision.

Isaac Moriwake responds that yes the Governor and some Senators have been contacted.

Michael Lee updates the committee on what he has been doing the past 10 days including educating communities throughout the state.

IV. UNFINISHED BUSINESS

A. 2012 OHA Legislative Package- Updates

Chair Waihe`e calls on Chief Executive Officer (CEO)/ Ka Pouhana Kamana'o pono Crabbe.

Ka Pouhana Crabbe recognizes Public Policy Manager Breann Nu`uhiwa and Senior Public Policy Advocate Sterling Wong to update the committee on the 2012 Legislative Session.

Sterling Wong begins by updating the committee on the 2012 Session Calendar pointing out that Thursday April 5th is the Second Decking Deadline, meaning that all the bills need to be out of all of their referring committees to have their third reading and make the crossover deadline on April 12th. He also points out that Friday March 30th is the first lateral deadline for all Senate Concurrent Resolutions and Tuesday April 3rd is the first lateral deadline for all House Concurrent Resolutions.

Sterling Wong continues by reviewing the legal sized matrix titled OHA 2012 Legislative Package. OHA-11; SB2179 is still alive and needs to get a hearing in finance next week to make the second decking deadline as it has been amended. OHA-12; we are using HB 2685 as our vehicle for OHA-12 which was introduced by Representative Jo Jordan. OHA-13; HCR 7 and SCR 3 are both not looking good since the lateral deadlines are approaching and neither of them have had a hearing yet. OHA-14; HCR 6 does not appear that it will make the deadline, however, the Senate version SCR 2 appears that it will continue moving. OHA-15; HB 2875 is the vehicle for our Hawaiian Language Immersion Program, it cleared the hearing last week with some good amendments. Our original bill addressed 3rd and 4th grade where this one addresses 3rd thru 6th grades. OHA-17; HB1984 should make the second decking, the Senate version SB2175 has died. OHA-7 relating to training which is one of our bills from last legislative session is technically still alive though it doesn't look like it will be going anywhere.

OHA Package	Bill No.	Measure Title	Report Title	Description	Status	Referral	Staff	Position
OHA 2012 Legislative Package								
OHA-11	SB 2179 SD1	RELATING TO THE FEDERAL EARNED INCOME TAX CREDIT.	Office of Hawaiian Affairs Package; Earned Income Tax Credit Outreach Program; Appropriation	Requires the department of taxation to coordinate an outreach initiative to increase awareness and use of the federal earned income tax credit. Makes an appropriation. Effective 7/1/2050. (SD1)	3/20/2012 H Reported from HUS recommending passage on Second Reading and referral to FIN.	HUS, WAM	Aulii George	S
OHA-12 Vehicle	HB 2685 HD2 SD1	RELATING TO HUMAN SERVICES.	Department of Human Services; Public Assistance Programs	Requires DHS to conduct a study on asset limits for public assistance programs. Requires a report to the legislature. Effective July 1, 2030. (SD1)	The committee(s) on WAM will hold a public decision making on 03-28-12 9:30AM in conference room 211.	HMS, WAM.	Aulii George	S
OHA-12	SB 2178 SD2 HD1	RELATING TO HUMAN SERVICES.	DHS; Public Assistance; Appropriations	Requires DHS to conduct a study on asset limits for public assistance programs. Requires a report to the legislature. Appropriates funds to the Department of Human Services to maintain levels of programs essential to public welfare. Effective July 1, 2050. (SB2178 HD1)	3/22/2012 H Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN	HMS, WAM	Aulii George	S
OHA-13	HCR 7	REQUESTING THE ADDITION OF FINANCIAL LITERACY EDUCATION TO THE PUBLIC SCHOOL CURRICULUM.	Financial Literacy; Office of Hawaiian Affairs Package	REQUESTING THE ADDITION OF FINANCIAL LITERACY EDUCATION TO THE PUBLIC SCHOOL CURRICULUM.	1/20/2012 Referred to EDN, FIN	EDN, FIN	Aulii George	S
OHA-13	SCR 3	REQUESTING THE ADDITION OF FINANCIAL LITERACY EDUCATION TO THE PUBLIC SCHOOL CURRICULUM.	Financial Literacy; Office of Hawaiian Affairs Package	REQUESTING THE ADDITION OF FINANCIAL LITERACY EDUCATION TO THE PUBLIC SCHOOL CURRICULUM.	1/20/2012 Referred to EDU, WAM	EDU, WAM	Aulii George	S
OHA-14	HCR 6 HD1	REQUESTING THE STATE'S FULL COMPLIANCE WITH SECTION 5 OF ACT 178, SESSION LAWS OF HAWAII 2006.	Office of Hawaiian Affairs Package; Requesting the State's Full Compliance with Section 5 of Act 178, SLH 2006.	REQUESTING THE STATE'S FULL COMPLIANCE WITH SECTION 5 OF ACT 178, SESSION LAWS OF HAWAII 2006.	The committees on HAW/HLT recommend that the measure be PASSED, WITH AMENDMENTS	HAW/HLT, WLO/HSR, FIN	Koa Kaulukukui	S
OHA-14	SCR 2	REQUESTING THE STATE'S FULL COMPLIANCE WITH SECTION 5 OF ACT 178, SESSION LAWS OF HAWAII 2006.	Office of Hawaiian Affairs Package; Requesting the State's Full Compliance with Section 5 of Act 178, SLH 2006.	REQUESTING THE STATE'S FULL COMPLIANCE WITH SECTION 5 OF ACT 178, SESSION LAWS OF HAWAII 2006.	3/23/2012 S The committees on HWN and WLH recommend that the measure be PASSED, WITH AMENDMENTS.	HWN/WLH, WAM	Koa Kaulukukui	S

OHA-15 Vehicle	HB 2875 SD1	RELATING TO THE HAWAIIAN LANGUAGE IMMERSION PROGRAM	Hawaiian Language Immersion Program; Student Assessment	Requires the DOE to develop annual assessments in the Hawaiian language in language arts and mathematics to be administered to students in grades three through six of the DOE's Hawaiian language immersion program and in science to be administered to students in grade four of the DOE's Hawaiian language immersion program. Requires the DOE, with the Hawaiian language community, to establish procedures for the development of the assessments. Report to the 2013 legislature. (SD1)	The committee(s) on WAM will hold a public decision making on 03-29-12 9:00AM in conference room 211.	HWN/EDU, WAM	Sterling Wong	S
OHA-17	HB 1984	RELATING TO HAWAIIAN LANGUAGE.	Hawaiian Language; Olelo Hawaii; Month; February; Office of Hawaiian Affairs Package	Designates the month of February as "Olelo Hawaii Month" to celebrate and encourage the use of Hawaiian language.	3/21/2012 S The committees on HWN and EDT recommend that the measure be PASSED, WITH AMENDMENTS.	HWN/EDT	Sterling Wong	S
OHA-17	SB 2175 SD1	RELATING TO HAWAIIAN LANGUAGE.	Hawaiian Language; Month; February; Public Documents; Letterhead; Symbols	Designates the month of February as "Olelo Hawaii Month" to celebrate and encourage the use of Hawaiian language. Requires that all letterheads, documents, symbols, and emblems of the State and other political subdivisions include accurate and appropriate Hawaiian names and language. Establishes references for accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation. (SD1)	3/16/2012 H Passed Second Reading and referred to the committee(s) on JUD	HAW, JUD, FIN	Sterling Wong	S
OHA 2011 Legislative Package								
OHA-7	SB 981 SD2 HD1	RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.	Office of Hawaiian Affairs; Customary Rights; Training	Requires certain council, board, and commission members to take a training course offered by the Office of Hawaiian Affairs relating to native Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust. Effective upon approval. (SB981 HD1)	H Carried over to 2012 Regular Session	HAW, JUD, FIN	Jocelyn Doane	S

Trustee Hulu Lindsey asks when the next action on the settlement bill will be.

Breann Nu'uhiwa responds that the final hearing is tomorrow March 29, 2012 at 1:30pm in Room 308 in front of the House Finance Committee. She continues on updating the committee on other bills that are not included in the OHA package that staff has been monitoring. There will be an informational briefing on a number of bills which include broad exemptions and OHA has been invited to attend and discuss the issue.

Everett Ohta shares with the committee that he and some other staff will attend the briefing by the Committee on Hawaiian Affairs. He states the purpose of the meeting from the hearing notice: "the purpose of the informational briefing is to ascertain the administration's position with respect to the impact of current legislation that proposes to exempt development projects from State Laws and County Ordinances that protect traditional and customary rights, practices and resources." These are bills that OHA has already submitted testimony on. The Committee on Hawaiian Affairs is looking for a little more information so they've invited a number of Executive Departments including: the Attorney General, DLNR, DHHL, and OHA to attend. OHA Staff will give an overview of OHA's positions and answer any specific questions from the committee.

Breann Nu'uhiwa continues on to the updates on the three (3) bills that have financial implications for OHA; Ha'ikū Valley, Ho'okulaiwi, and the Aha Moku Advisory Committee.

Jim McMahon informs the committee that at 9:00am on Thursday March 29 there will be a hearing in the Ways and Means committee on HB 2246 SD1 regarding Ha'iku Valley. The bill creates a cultural preserve in Ha'ikū Valley that would be administered by a commission. The provision which is of most concern to us is section 4 which states that "The Office of Hawaiian Affairs shall provide the necessary funding for purposes of this act including the acquisition of Ha'ikū Valley by the Department of Land and Natural Resources". DHHL wants about \$4 million for that land if they're going to transfer it to DLNR for purposes of the preserve. The wording of this bill is broad and also indicates that virtually anything else connected with the establishment of the preserve and the commission would be funded by OHA. We suggest opposing the bill. The easiest way would be to oppose it on the grounds that there has not been any approval by the Board of Trustees of the funding that would be required; though we are concerned with the sensitivity of this issue and the need to phrase our opposition in a way that does not indicate a lack of cooperation on OHA's part or a lack of interest in the preserve. We would like to oppose the bill but also include in our testimony a proposal that the bill establish a task force that would work out some of the many unresolved issues relating to the establishment of this cultural preserve which includes the funding, the possible exchange of land between DHHL and DLNR, and anything else that is currently still being discussed. He shared Mahealani Cypher's thoughts that the land should not be transferred at all and that DHHL should remain the stewards of land, then OHA would not have to fund the transfer of the land, but could still fund the first 2 years of the start of the commission.

Breann Nu'uhiwa continues to update the commission on the Ho'okulaiwi Bill. She begins by recalling that there was a question originally as to whether the language of the bill requiring matching funding from OHA was referring to funds that OHA has already approved administratively through the grants process for Ho'okulaiwi. Everyone seemed to be in agreement that that's what the language is supposed to refer to so the language had been taken out of the bill. We changed our position to support because the suspicious language had been removed, however the suspicious language is back in the version that's moving. We've sent a letter to Representative Marcus Oshiro to try and clarify saying that there are discrepancies and that there are numerous people who believe that this is money that has already been approved by OHA and not new money that needs to be approved by OHA. We would like the language to be removed because it creates an ambiguity. We hope that it will be resolved that way, however, until the language is removed we would recommend changing OHA's position from support to oppose for SB3071 SD2 HD1.

Jim McMahon briefs the committee on the Aha Moku Bill. There are now two (2) bills that would establish an Aha Moku advisory committee. One of the bills would place the committee within OHA to advise the Chairperson of OHA relating to matters of the integration of ancient land management and resource management practices with modern western practices. The other bill places the Aha Moku advisory committee within the Department of Land and Natural Resources to advise the Chair of the Board of Land and Natural Resources of the same issues. Neither bill clarifies where the funding would come from. SB3053 SD2 HD1, which is the House Draft of the Senate Bill places a nine (9) member advisory committee within DLNR to advise DLNR. It also appropriates an unspecified amount from an unspecified source to be spent by DLNR. HB2806 HD2 SD1 Places an eight (8) member Aha Advisory Committee within OHA to advise the chairperson of OHA and has an unspecified appropriation from the State general fund to support the commission. We have been in discussion with the Chair and OHA Administration and will be drafting an action item to be brought to the Joint Meeting of the ARM and BAE Committees and then to the BOT to split the projected \$153,000 administrative cost of the commission between OHA and the State General Fund. The language will also state that the commission is not housed within OHA.

The committee discusses and decides to maintain their position to Oppose SB3053 SD1 HD1 and to change their position from Support with Amendments to Oppose regarding HB2806 HD2 SD1.

Breann Nu'uhiwa updates the committee on SCR 66 which is the resolution which proposes to change the definition of Fair Market Value for transfers from DLNR so that OHA's revenues would be calculated based off the current use of the land instead of the highest and best use of the land. We had decided to present comments supporting the idea of DLNR transferring revenues to OHA, but opposing the idea of changing the definition of Fair Market Value. She attended a hearing last week that was very interesting, Senator Solomon basically began by saying that she wanted to start a conversation about the settlement of OHA's future revenues. She (Solomon) indicated that her intent of introducing SCR 66 was to talk about what OHA is owed and how there might be some sort of global settlement of future revenues. DLNR testified in opposition of the resolution because they do not want to give OHA a share of everything they transfer because sometimes money does not change hands and it goes from one state agency to another. They ended up passing the resolution with amendments to include reference to the Attorney General. We've reached out to Senator Solomon and her staff to clarify her intent with the resolution because if it passes as worded, it could have a detrimental impact. We don't think that the current language was her intent, so we want to try to work with them to make sure that the Fair Market Value idea doesn't go any further.

V. NEW BUSINESS

A. 2012 OHA LEGISLATIVE POSITIONS

Breann Nu'uhiwa moves into NEW BUSINESS - 2012 OHA Legislative Positions highlighting the measures that are being opposed.

Jeff Kent reviews HB1017 HD2 on page 1 of the matrix relating to Biofuels, there are two (2) bills that are exempting biofuel facilities from the 343 process; environmental impact statements. The concern is that these refineries are capable of some serious harm in terms of location. These are possibly industrial facilities creating fuel and might be located on agricultural lands that don't have the infrastructure to handle the industrial process. If it is a clean facility then it should go through the 343 process without any difficulty. There are no easy exemptions to environmental protection.

Kamaile Maldonado reviews HB1617 HD2 SD1. It was originally a bill that was about providing fair compensation when public land is being leased to ranchers or farmers for a certain purpose and then if DLNR later needs to create an easement which makes that land unusable for the original purpose for which it was leased, this bill would create a mechanism by which there could be some sort of remediation. After crossover, they inserted a completely irrelevant portion which would transfer certain parcels of land which are currently owned by the Department of Agriculture to the Agricultural Development Corporation. This was originally the sole intent and purpose of another bill SB3011 which we are also opposing. So now we are opposing that inserted part of this bill. She also reviews SCR085 relating to hunting; this is another vehicle that would create a law or in this case urge adoption of law that would require written permission from land owners in order to hunt on private lands. We are opposing this bill because many of our beneficiaries practice hunting as a traditional and customary practice and we believe that it would regulate that practice out of existence in some areas. This is especially significant in the case of the many large land owners throughout the state who may know hunting goes on their properties but not be willing to give written permission for legal liability reasons. We are generally opposing all of the bills and resolutions that would create this type of regulation.

Breann Nu'uhiwa reviews two more resolutions that staff is suggesting to oppose HCR148 and HR110. Both urge the President to amend the Presidential Proclamation relating to Papahānaumokuākea to allow for customary exchange and this is specifically with respect to fishing as a permitted activity. We believe that the measures mischaracterize the proclamation and what's really going on. She moves into the bills for reconsideration, Items #25-28.

Chair Waihe'e reminds the committee that the beneficiary comment at the beginning of the meeting asked the committee to change their position of Monitor for GM755 relating to the nomination of Ted Yamamura to the Water Commission.

Trustee Apoliona suggests that the position be changed to Comment and that staff submit comment regarding the importance of a Native Hawaiian Practitioner on the Commission.

The committee discusses and agrees to change their position on Item #34; GM755 from Monitor to Comment and will submit a strong statement regarding the policy of the Native Hawaiian Practitioner's seat on the commission and compliance of the law.

Legend		Legend		
Color/Description		C = Comments S = Support		
	Not Moving	M = Monitor		
	OHA Impacted	O = Oppose		
	Key Bills	SA = Support w/ amendments		
	Act 176			
Item #	Bill #	Report	Description	Position
New Bills				
1	<u>GM807</u>	King Kamehameha Celebration Commission	Submitting for consideration and confirmation to the King Kamehameha Celebration Commission, Gubernatorial Nominee, BEVERLY LEE, for a term to expire 6-30-2015.	S
2	<u>GM817</u>	Board of Education	Submitting for consideration and confirmation to the Board of Education, Gubernatorial Nominee, KEITH AMEMIYA, for a term to expire 6-30-2015	S
3	<u>GM819</u>	Board of Education	Submitting for consideration and confirmation to the Board of Education, Gubernatorial Nominee, CHERYL LUPENUI, for a term to expire 6-30-2015	S
4	<u>HB1017 HD2</u>	RELATING TO BIOFUELS.	Modifies the renewable energy facility siting process to include biofuel production facilities and distribution infrastructure with capacity to produce or distribute one hundred thousand gallons or more of biofuel annually. Effective July 1, 2030. (HB1017 HD2)	O
5	<u>HB1617 HD2 SD1</u>	RELATING TO PUBLIC LANDS.	Provides for fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purposes. Cancels executive order 4403 and transfers TMKs (1)9-4-012:001, (1)9-4-012:002, and (1)9-4-012:003 located in Kunia, Oahu, to the agribusiness development corporation no later than January 1, 2013; effective 7/1/2012. Effective 7/1/2050. (SD1)	O
6	<u>HB1905 HD2 SD1</u>	RELATING TO HUMAN SERVICES.	Allows DHS to draw from other funds appropriated to DHS in the event the general assistance appropriation is insufficient to meet General Assistance benefits payments. Appropriates moneys to maintain funding levels of programs for public welfare. Creates an unspecified amount of positions under DHS for the supplemental nutrition assistance program. Requires financial institutions to report suspected financial abuse of an elder to appropriate law enforcement, to take effect upon approval. Establishes the Hawaii interagency council on homelessness, to be repealed on 6/30/2022. Authorizes DHS to place on its public website information and printable posters on the National Human Trafficking Resource Center hotline. Creates a task force on human trafficking and specifies members. Appropriates funds to increase payments for physician services to medicaid-eligible persons, up to a certain per cent of the current medicare rate. Requires DHS to report to the legislature baseline medicaid and additional funds needed for fiscal years 2013-2014 and 2014-2015. Requires DHS to seek an appropriation in an amount equal to at least the amount appropriated in 2012-2013 for additional payments for physician services during the 2013-2015 fiscal biennium; to take effect 7/1/2050. Allows for a fair and equitable reimbursement system for all clients under the medicaid program for community based caregiver services. Allows for a fair and equitable referral system for clients transferring from hospitals to community-based care homes. Requires all commercial health care insurers operating in Hawaii to share with DHS a listing of their members for medicaid eligibility determination. (SD1)	C

7	<u>HB2012 HD1</u>	RELATING TO THE STATE BUDGET.	To adjust and request appropriations for Fiscal Biennium 2011 13 funding requirements for operations and capital improvement projects of Executive Branch agencies and programs. (HB2012 HD1)	C
8	<u>HB2501 HD1 SD1</u>	RELATING TO MORTGAGE LOAN ORIGINATION.	Amends the Secure and Fair Enforcement for Mortgage Licensing Act to reflect recent changes to federal law and to adjust fees in consideration of the new regulatory requirements. (SD1)	M
9	<u>HCR148</u>	Papahānaumokuākea Marine National Monument; Customary Exchange	URGING THE PRESIDENT OF THE UNITED STATES TO AMEND PRESIDENTIAL PROCLAMATION 8031, AS AMENDED BY PROCLAMATION 8112, TO INCLUDE CUSTOMARY EXCHANGE AS A PERMITTED ACTIVITY WITHIN THE PAPAĦANAUMOKUĦKEA MARINE NATIONAL MONUMENT.	O
10	<u>HCR163</u>	Banyan Drive; Land and Natural Resources; Study; Public-Private Partnership	URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE PUBLIC LAND DEVELOPMENT CORPORATION, WITH THE ASSISTANCE OF THE COUNTY OF HAWAII, TO CONDUCT A STUDY ON THE ESTABLISHMENT OF A PUBLIC-PRIVATE PARTNERSHIP TO DEVELOP AND IMPROVE THE EAST HAWAII AREA OF HAWAII COUNTY.	M
11	<u>HCR207</u>	Molokai Irrigation System; Task Force	REQUESTING THE CHAIRPERSON OF THE BOARD OF AGRICULTURE TO CONVENE A TASK FORCE TO DEVELOP LONG-RANGE GOALS AND PLANS FOR THE MOLOKAI IRRIGATION SYSTEM.	M
12	<u>HCR208</u>	Irrigation Water	REQUESTING THE DEPARTMENT OF AGRICULTURE TO ADDRESS THE DANGEROUSLY LOW LEVEL OF IRRIGATION WATER SUPPLY AND IMPROVE THE AGRICULTURAL ECONOMY.	M
13	<u>HR110</u>	Papahānaumokuākea Marine National Monument; Customary Exchange	URGING THE PRESIDENT OF THE UNITED STATES TO AMEND PRESIDENTIAL PROCLAMATION 8031, AS AMENDED BY PROCLAMATION 8112, TO INCLUDE CUSTOMARY EXCHANGE AS A PERMITTED ACTIVITY WITHIN THE PAPAĦANAUMOKUĦKEA MARINE NATIONAL MONUMENT.	O
14	<u>SB1197 SD2 HD1</u>	RELATING TO ENERGY.	Authorizes the Public Utilities Commission (PUC) to establish a grid reliability rate surcharge to electric utility companies to encourage the negotiation of new or existing power purchase agreements with renewable energy producers that contain an avoided cost rate and generally eliminate curtailment. Authorizes the PUC to provide a higher rate of return to an electric utility company for capital investments made to support the integration of new renewable energy based power generation facilities. (SB1197 HD1)	M
15	<u>SB2666 SD2</u>	RELATING TO ENERGY.	Creates an income tax credit for development and construction costs for qualifying biofuel production facilities. Repeals 1/1/2029. Defines "oil refinery". Clarifies that an environmental assessment is required for an action proposing the expansion of an existing oil refinery. Takes effect on 7/1/2050. (SD2)	O
16	<u>SCR078</u>	Education; Attendance	REQUESTING THE BOARD OF EDUCATION TO REQUIRE EACH SCHOOL COMMUNITY COUNCIL TO REVIEW ITS SCHOOL'S ATTENDANCE POLICY, CREATE BENCHMARKS TO IMPROVE ATTENDANCE, AND DEVELOP AN IMPLEMENTATION PLAN TO MEET THOSE BENCHMARKS.	M
17	<u>SCR085</u>	Hunting; Trespass on Private Lands; Written Permission	URGING THE ADOPTION OF LAWS TO REQUIRE WRITTEN PERMISSION FROM THE LANDOWNER IN ORDER TO HUNT ON PRIVATE LANDS AND TO DEFINE PLACES OF FORMAL HUNTING.	O

18	<u>SCR092</u>	Banyan Drive; Land and Natural Resources; Study; Public-Private Partnership	URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES AND THE PUBLIC LAND DEVELOPMENT CORPORATION, WITH THE ASSISTANCE OF THE COUNTY OF HAWAII, TO CONDUCT A STUDY ON THE ESTABLISHMENT OF A PUBLIC-PRIVATE PARTNERSHIP TO DEVELOP AND IMPROVE THE EAST HAWAII AREA OF HAWAII COUNTY.	M
19	<u>SCR093</u>	Pilot Program; Medicaid; DHS; DOH	REQUESTING THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF HEALTH TO DEVELOP A PILOT DEMONSTRATION PROGRAM FOCUSED ON THE TOP FIVE PERCENT OF MEDICAID BENEFICIARIES WHOSE CARE NEEDS ACCOUNT FOR A SIGNIFICANT PORTION OF MEDICAID EXPENDITURES IN THE STATE.	M
20	<u>SCR107</u>	Governor's Special Task Force; Hawaiian Historical Sites Preservation	REQUESTING THE GOVERNOR TO CONVENE A GOVERNOR'S SPECIAL TASK FORCE ON HAWAIIAN HISTORICAL SITES PRESERVATION.	S
21	<u>SCR151</u>	Hawaiian Fishponds; DLNR; DOH; Office of Planning	URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, DEPARTMENT OF HEALTH, AND OFFICE OF PLANNING TO STREAMLINE THE PERMITTING PROCESS FOR THE RESTORATION OF HAWAIIAN FISHPONDS.	S
22	<u>SCR158</u>	Geothermal Royalties; DLNR; DBEDT	REQUESTING THE AUDITOR TO CONDUCT AN AUDIT RELATING TO GEOTHERMAL RESOURCES.	M
23	<u>SCR170</u>	Maui Regional Public Safety Complex at Puunene	REQUESTING THE DEPARTMENT OF PUBLIC SAFETY TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT FOR THE PLANNING, DESIGN, CONSTRUCTION, TURNKEY, AND FINANCING OF A NEW MAUI REGIONAL PUBLIC SAFETY COMPLEX AT PUUNENE, MAUI.	M
24	<u>SCR175</u>	PLDC; Reporting Requirements	REQUESTING THE PUBLIC LAND DEVELOPMENT CORPORATION TO SUBMIT A SEMI-ANNUAL REPORT TO THE LEGISLATURE AND THE BOARD OF DIRECTORS OF THE CORPORATION TO SUBMIT AN ANNUAL EVALUATION OF THE EXECUTIVE DIRECTOR OF THE CORPORATION TO THE LEGISLATURE.	M

Bill Positions for Reconsideration

25	HB2246 HD2 SD1	RELATING TO HAIKU VALLEY.	Establishes the Haiku Valley cultural preserve commission to provide policy and management oversight of the Haiku Valley cultural preserve. Initiates process of conveying Haiku valley in fee simple to the Department of Land and Natural Resources. (SD1)	C > O
26	HCR167	Review; ESL; Hawaiian Language Programs	REQUESTING A REVIEW OF THE STATE'S FUNDING FOR EXISTING ESL PROGRAMS AND HAWAIIAN LANGUAGE PROGRAMS OFFERED IN HAWAII AND ANY DISPARITIES IN FUNDING FOR THE STATE'S TWO OFFICIAL LANGUAGES.	C > S
27	SB3071 SD2 HD1	RELATING TO EDUCATION.	Appropriates funds for three permanent positions and operating expenses for Ho'okulaiwi: 'Aha Ho'ona'auao 'Oiwai, the Center for Native Hawaiian and Indigenous Education, within the University of Hawaii at Manoa. Effective July 1, 2050. (SB3071 HD1)	S > O
28	SCR087	Review; ESL; Hawaiian Language Programs	REQUESTING A REVIEW OF THE STATE'S FUNDING FOR EXISTING ESL PROGRAMS AND HAWAIIAN LANGUAGE PROGRAMS OFFERED IN HAWAII AND ANY DISPARITIES IN FUNDING FOR THE STATE'S TWO OFFICIAL LANGUAGES.	C > S
34	GM755	Commission on Water Resource Management	Submitting for consideration and confirmation to the Commission on Water Resource Management, Gubernatorial Nominee, TED YAMAMURA, for a term to expire 6-30-2016.	M > C
97	HB2806 HD2 SD1	RELATING TO NATIVE HAWAIIANS.	Establishes the aha moku advisory committee within OHA. Establishes a quorum requirement for island burial councils. Makes an appropriation. (SD1)	SA > O

Chair Waihe`e asks for a MOTION:

To approve Administration's recommendations regarding New Bills and Bill Positions for Reconsideration on the OHA Legislative matrix dated March 28, 2012, as amended.

Trustee Haunani Apoliona moves.

Trustee Robert Lindsey seconds the motion.

Chair Waihe`e asks the committee if there is any further discussion. There is none.

							3:33 p.m.
TRUSTEE		1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA	AKANA						Not Present at Time of Vote
PETER	APO						EXCUSED
HAUNANI	APOLIONA	1		X			
DONALD	CATALUNA						EXCUSED
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO						EXCUSED
OSWALD	STENDER			X			
CHAIR JOHN	WAIHE'E			X			
TOTAL VOTE COUNT				5	0	0	4

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe`e notes for the record that the **MOTION CARRIES**.

VI. EXECUTIVE SESSION**

None.

VII. BENEFICIARY COMMENTS*

None.

VIII. ANNOUNCEMENTS

None.

IX. ADJOURNMENT

Trustee Apoliona moves to adjourn the BAE meeting.

Trustee Robert Lindsey seconds the motion.


Chair Waihe`e asks if any members vote NO or ABSTAIN. There are no dissenting votes.

							3:34 p.m.
TRUSTEE		1	2	AE (YES)	A`OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA	AKANA						Not Present at Time of Vote
PETER	APO						EXCUSED
HAUNANI	APOLIONA	1		X			
DONALD	CATALUNA						EXCUSED
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO						EXCUSED
OSWALD	STENDER			X			
CHAIR JOHN	WAIHE`E			X			
TOTAL VOTE COUNT				5	0	0	4

MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED

Chair Waihe`e adjourns the BAE meeting at 3:34 p.m.

Respectfully submitted,

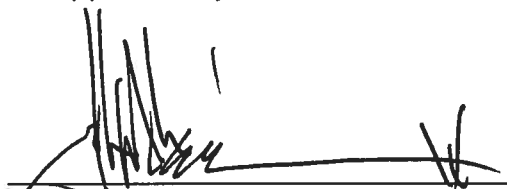


Melissa Wennihan

Trustee Secretary

Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on May 2, 2012.



Trustee John D. Waihe'e, IV

Chair

Committee on Beneficiary Advocacy and Empowerment

ATTACHMENTS:

- Notice of Excused Absence (3)
- Community Sign-In Sheet dated March 28, 2012.
- Mahealani Wendt Community Concern Testimony

COMMUNITY CONCERN:

Governor's Non-native Practitioner Nominee to
Commission on Water Resources Management

BAE - 3/28/12

My name is Mahealani Wendt. My husband and his family, including myself, farm 25 taro patches in Wailuanui, East Maui, which is an ahupua`a adjacent to Ke`anae on the Hana side. All of you trustees here know me but for trustee Hulu Lindsey, let me introduce myself. My most relevant credential here today is that I was Executive Director of the Native Hawaiian Legal Corporation for 33 years before retiring in 2009.

My husband Ed, a Maui boy who wanted to be here today to address you in person, sends his aloha to our new trustee and to all of our trustees. I am here to ask you, on behalf of our family and East Maui community, to please reconsider your decision not to oppose Governor Abercrombie's proposed nominee, Ted Yamamura, to the Commission on Water Resources Management. The reason we request this reconsideration is that the Water Code which established the Water Commission explicitly provides for at least one native Hawaiian practitioner to sit as a Commissioner. Yet not once in all of the 25 years that have passed since enactment of the Water Code has a practitioner ever been appointed to serve as a Commissioner.

In our legal system, this Commission has all the say over who gets the water. Even though Hawaiian taro farmers have priority rights in our Hawaii Constitution and in the law, in actual practice and on the ground, they don't have the water and legal rights don't seem to mean anything. Because of power politics, the water has stayed with the same corporations, who took over from the plantations, and who have always monopolized the water since Kingdom Days.

In our legal system, the taro farmers must ask the Water Commission for water. Unfortunately, the Water Commission has almost always ruled against the taro farmers, forcing them to file appeals in the Courts. On appeal, the taro farmers have always won and the corporations have always lost. This is small consolation, however, because even though the farmers eventually win, they lose many years of their lives, many decades, with many dying along the way, without ever seeing the water returned.

My husband Ed and his family have farmed the same taro patches dating back to before the Mahele of 1848. His family members are buried on a family graveyard overlooking those taro patches. Ed has been farming taro all his life. He is a much-decorated Vietnam veteran who served as a paratrooper with 173rd Combat Airborne Brigade. In the 1990's, he personally worked 52 taro patches while simultaneously operating his own small business, Wailua Poi Mill. It was during this period that he was named Maui Farmer of the Year.

Before that, in the early 1980's, the community had already been experiencing water shortages because of the Alexander & Baldwin diversions. Uncle Harry Mitchell, the well-known Kaho`olawe activist and Keanae taro farmer, contacted the Native Hawaiian Legal Corporation to ask for its assistance with restoring water to Waiokamilo Stream, a main source of water for the taro farmers of Keanae and Wailuanui. After Uncle Harry passed away, Joyce Kainoa, who also has roots in Ke`anae, took over as lead client. NHLHC's attorneys were not successful in getting Alexander & Baldwin, and East Maui Irrigation, to return any water.

It was in the 1990's that a big water conference was held at Keanae YMCA, with a huge community turnout, at which representatives of Alexander & Baldwin and East Maui Irrigation were also present. Shortly after that conference, where there was much enthusiastic talk about water rights and the public trust doctrine and native Hawaiian kuleana rights and appurtenant rights, EMI intensified its diversion activities. Whereas prior to the conference there had been some water available to the farmers, within a short period following the conference, every possible drop that could be diverted was taken by EMI. The farmers' patches, all of Wailuanui's 300-plus acres of taro lands, and all of Keanae, about 1/3 that size, were left dry and without water. In addition, farmers discovered clusters of apple snails, which had an appearance of being dumped wholesale into the taro patch auwai, for they appeared in unusual clusters of many hundreds. As you may know, these apple snails, which were introduced as a commercial alternative for escargot by Maui Economic Development, devastated taro crops statewide.

Against this background of hardship, suffering and devastation, the East Maui taro farmers persevered and endured. Although they no longer had wetland areas, they did their best to preserve the ancestral huli of the taro species that had always been cultivated by their kupuna. They did this by planting on dry land, to preserve their huli species. The 1990's is when, inspired by another leader, Bumpy Kanahele, the community organized to assert themselves more forcefully and collectively to restore their water. They formed a non-profit, Na Moku Aupuni o Ko`olau Hui, to continue and strengthen their legal challenges. My husband Ed served as president of the non-profit Na Moku for fifteen years until his resignation two years ago to encourage young leadership. He and I are both still active with the organization.

I understand former Maui Trustee Boyd Mossman is supporting Mr. Ted Yamamura, as is his successor interim Trustee Hulu Lindsey, because Mr. Yamamura is a nice guy. First, I would like to say that we don't know Mr. Yamamura and have no reason to believe he is not a nice guy. The issue for us is the fact that Mr. Yamamura is not a native practitioner, and there is nothing in his resume to suggest he understands native traditional practices. Because he doesn't understand native traditional practices, he is unlikely to be sympathetic to taro farmers' requests for water. This is what we have experienced for the past 25 years, and all of the water has not yet been restored. The water case is complicated, but Na Moku, represented by the Native Hawaiian Legal Corporation, recently won a Supreme Court decision that gives it a right to a hearing

before the Commission on Water Resources Management regarding restoration of some 19 streams, a right that the Commission denied the community.

Secondly, I would like to tell you of an incident concerning Trustee Mossman. Trustee Mossman called our house and asked for a meeting with my husband on election day in November, 2008. He said he wanted to discuss the water issue. When my husband got to Trustee Mossman's office, he was greeted not only by Trustee Mossman, but by Garrett Hew, the operations manager for East Maui Irrigation. My husband was shocked and surprised because there was ongoing litigation where my husband, as president of Na Moku, and Garrett's employer, EMI, were adverse parties. Mr. Mossman, a retired judge, knew it was not ethical to bring these parties together without their attorneys. Nevertheless, Trustee Mossman proceeded to facilitate a mediation-type process where the EMI representative offered my husband one million gallons of water and a five-acre state lease that the community had been already been maintaining with a right-of-entry permit from DLNR. Again, we believe this was very unethical on the part of Trustee Mossman. Moreover, EMI diverts 160 to 400 million gallons of water every day out of the East Maui watershed, and one million gallons is inadequate to cultivate the 300 acres in Wailuanui and acreages in Keanae.

I apologize for this long statement, but this is a very important issue for our community. We have nothing against Mr. Yamamura personally. This is not personal. It's just that we know we are entitled to a true representative on the Water Commission and have been blocked for 25 years. Please send a strong message to Governor Abercrombie and the Senate that you stand behind your beneficiaries in their quest to assert their rights to be meaningfully represented on this Commission.

Ed & Mahealani Wendt
185 Wailua Road
Haiku, Hawai'i 96708
Ph. 248-7730
wailuanui@starband.net