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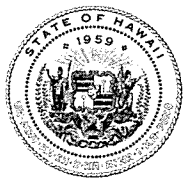
GOVERNOR
STATE OF HAWAII
Ke Kia'āina o ka Moku'āina 'o Hawai'i

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
Ka Hope Kia'āina o ka Moku'āina 'o Hawai'i



WILLIAM J. AILA, JR
CHAIRMAN, HHC
Ka Luna Ho'okele

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawai'i

P. O. BOX 1879
HONOLULU, HAWAII 96805

December 30, 2022

The Honorable Ronald D. Kouchi
President and Members of the Senate
32nd State Legislature
State Capitol, Room 409
Honolulu, HI 96813

The Honorable Scott K. Saiki
Speaker and Members of the House
of Representatives
32nd State Legislature
State Capitol, Room 431
Honolulu, HI 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is in response to Senate Concurrent Resolution No. 46, Senate Draft 1 (2022) requesting the Department of Hawaiian Home Lands to conduct a feasibility study on the creation of an enforcement division for the Department of Hawaiian Home Lands. DHHL testified in support of the resolution and since the resolution's adoption, several actions reflect the intention to pursue the establishment of a compliance and enforcement program rather than conduct a feasibility study.

Act 278 (2022)

Act 278 (2022) establishing a Department of Law Enforcement to consolidate and administer criminal law enforcement and investigations functions of the State is signed into law on July 8, 2022. The Act specifically requires the Director of Law Enforcement to administer public safety programs and formulate and implement state goals and objectives for state law enforcement programs and homeland security, including the deployment of adequate resources and coordination with county police departments to protect the health and safety of homestead communities on Hawaiian home lands. The Act also clearly expressed the Legislature's intent in noting the following: "The legislature does not intend to impair or diminish the longstanding authority and responsibility of county police departments to enforce the laws, along with state law enforcement, on state lands within their respective counties. County police departments will continue to have full law enforcement authority and responsibility, and in particular will continue to have concurrent jurisdiction with respect to state parks, state buildings, state highways, Hawaiian home lands, and other state lands and facilities." Enactment of this law with specific references to Hawaiian home lands was envisioned as a first step toward ensuring adequate law enforcement response to illegal activity on Hawaiian Home Lands.

Hawaiian Home Commission Approves A Legislative Proposal Establishing a Compliance and Enforcement Program

The Hawaiian Homes Commission on September 19, 2022, approved legislative proposals to be recommended for inclusion in the Administration's legislative package for the 2023 Regular Session. One of the proposals would establish a compliance and enforcement program within the Department to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with state law, including the Hawaiian Homes Commission Act, 1920, as amended, and the rules adopted thereunder, as well as all other state laws and rules and county ordinances on Hawaiian Home Lands. This action evidences the Commission's decision to introduce a measure that would move this issue forward for consideration by the legislature. The most updated version of this proposal is included in this response.

DHHL General Plan Update 2022

The Hawaiian Homes Commission on November 21, 2022 adopted the DHHL General Plan Update 2022 to provide comprehensive direction and guidance to the Department of Hawaiian Home Lands. The updated General Plan includes a section detailing the Land Use Planning Goals, Policies, and Metrics for 2040 and Goal LU-4 is to responsibly steward and manage Hawaiian home lands not planned for development within the Island Plans in a manner that is culturally grounded, environmentally sound, and maintains opportunities for future uses. Policy LU-4E within Goal LU-4 is to obtain funding to hire staff and establish and enforcement and compliance division to better manage possible unauthorized criminal, administrative, and civil matters on Hawaiian Home Lands. The metrics for this policy is that funding is requested/provided, the enforcement branch is established, and staff positions for enforcement are funded by the Legislature.

In light of the enactment of Act 278 (2022) and the decisions of the Hawaiian Homes Commission, DHHL believed it was more prudent to move toward implementation rather than utilize precious resources to conduct a feasibility study. The proposed legislation included with this response is submitted for the Legislature's consideration.

DHHL transmits this response to SCR46, SD1 (2022) in accordance with Section 93-16, Hawaii Revised Statutes, and notes that the response may be viewed electronically at https://dhhl.hawaii.gov/reports/.

Sincerely,

William J. Ailā, Jr., Chairman
Hawaiian Homes Commission

___.B. NO._____

A BILL FOR AN ACT

RELATING TO COMPLIANCE ON HAWAIIAN HOME LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that illegal activity occurring on Hawaiian home lands threatens the health and safety of the community. The purpose of this Act is to establish a compliance and enforcement program within the department of Hawaiian home lands to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with state law, including the Hawaiian Homes Commission Act, 1920, as amended, and the rules adopted thereunder, as well as all other state laws and rules and county ordinances on Hawaiian home lands.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

COMPLIANCE ON HAWAIIAN HOME LANDS

§ -1 Compliance and enforcement program on Hawaiian home lands; established. The department of Hawaiian home lands shall establish a compliance and enforcement program on Hawaiian home

lands to enforce state laws and rules, and county ordinances on Hawaiian home lands and shall employ or appoint, and remove, the following persons, subject to chapter 76 and section 78-1, Hawaii Revised Statutes, who shall be provided with suitable badges or insignia of office by the department of Hawaiian home lands:

(1) An enforcement chief of the department of Hawaiian home lands, who shall be the head of the compliance and enforcement program and shall have charge, direction, and control, subject to the direction and control of the chair of the Hawaiian homes commission, of all matters relating to compliance with the Hawaiian Homes Commission Act, 1920, as amended and rules adopted thereunder as well as all other state laws and rules, and county ordinances on Hawaiian home lands and such other matters as the chair of the Hawaiian homes commission may from time to time direct. The enforcement chief shall be an administrator experienced in law enforcement and management; and

(2) Personnel and enforcement officers of the compliance and enforcement program on Hawaiian home lands,

1 including but not limited to enforcement officers on a
2 voluntary basis and without pay.
3 § -2 **Compliance and enforcement program on Hawaiian home**
4 **lands enforcement officers.** (a) The compliance and enforcement
5 program on Hawaiian home lands enforcement officers, with
6 respect to all Hawaiian home lands shall:
7 (1) Investigate complaints, gather evidence, conduct
8 investigations, and conduct field observations and
9 inspections as required or assigned;
10 (2) Cooperate with enforcement authorities of the State,
11 counties, and federal government in development of
12 programs and mutual aid agreements for compliance and
13 enforcement activities on Hawaiian home lands;
14 (3) Cooperate with established search and rescue agencies
15 of the counties and the federal government in
16 developing plans and programs and mutual aid
17 agreements for search and rescue activities on
18 Hawaiian home lands;
19 (4) Check and verify all homestead leases, general leases,
20 permits, and licenses and all other land dispositions
21 issued by the department of Hawaiian home lands;

1 (5) Enforce the laws relating to firearms, ammunition, and
2 dangerous weapons contained in chapter 134; and
3 (6) Carry out other duties and responsibilities as the
4 department of Hawaiian home lands from time to time
5 may direct.
6 **§ -3 Department of Hawaiian home lands; police powers.**
7 (a) The Hawaiian homes commission shall have police powers.
8 The chair of the Hawaiian homes commission may appoint and
9 commission enforcement officers within the compliance and
10 enforcement program on Hawaiian home lands. Persons appointed
11 and commissioned under this section shall have and may exercise
12 all of the powers and authority of a police officer, including
13 the power of arrest, and may enforce all state laws and rules,
14 and county ordinances on Hawaiian home lands; provided that such
15 powers shall remain in force and effect only while in actual
16 performance of their duties, which shall include off-duty
17 employment when such employment is for other state departments
18 or agencies. These enforcement officers shall consist of
19 personnel whose primary duty will be the enforcement of state
20 and local laws on Hawaiian home lands and to carry out work
21 related to compliance with Hawaiian home lands leases and
22 permits, and other requirements.

1 § -4 **Rules.** The department of Hawaiian home lands may
2 promulgate rules and regulations, pursuant to chapter 91,
3 necessary for administration of this chapter."
4 SECTION 3. There is appropriated out of the general
5 revenues of the State of Hawaii the sum of $500,000 or so much
6 thereof as may be necessary for fiscal year 2023-2024 and the
7 same sum or so much thereof as may be necessary for fiscal year
8 2024-2025 for the compliance and enforcement program on Hawaiian
9 home lands.
10 The sums appropriated shall be expended by the department
11 of Hawaiian home lands for the purposes of this Act.
12 SECTION 4. This Act shall take effect upon its approval.
13
14 INTRODUCED BY:_____
15 BY REQUEST

__.B. NO._____

Report Title:
Compliance and Enforcement; Hawaiian Home Lands

Description:
Establishes a compliance and enforcement program within the Department of Hawaiian Home Lands to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with all state laws and rules, and county ordinances on Hawaiian home lands.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO COMPLIANCE ON HAWAIIAN HOME LANDS.

PURPOSE: To establish a compliance and enforcement program within the Department of Hawaiian Home Lands to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with the Hawaiian Homes Commission Act, 1920, as amended, and rules adopted thereunder as well as all other state laws and rules, and county ordinances on Hawaiian home lands.

MEANS: Add a new chapter to the Hawaii Revised Statutes.

JUSTIFICATION: Criminal activity that is threatening the health and safety of the community must be addressed. The establishment of a compliance program within the Department of Hawaiian Home Lands will help to ensure responsive action is taken to address the noted concerns.

Impact on the public: This proposal protects the health and safety of communities.

Impact on the department and other agencies: Additional resources will be needed to implement this program.

GENERAL FUND: $500,000.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: Department of Budget and Finance.

EFFECTIVE DATE: Upon approval.