



OHA-3

SB436/HB207

Boards and Commissions Training Course

This bill requires certain state board and commission members with training on Native Hawaiian and public trust law, so that they have access to information to make decisions that are consistent with the State's fiduciary obligations to the Native Hawaiian people.

State boards and commissions listed in SB436/HB207 (e.g. the land use commission, board of land and natural resources, commission on water resource management, board of agriculture, etc.) administer resources and programs that directly impact Native Hawaiian traditional and customary rights, natural and cultural resources, and the public trust. The state constitution, Hawai'i Revised Statutes, and Hawai'i's common law accordingly impose on these boards and commissions specific and affirmative legal obligations to the Native Hawaiian community as well as the general public, in their administration of such resources and programs.

Despite their affirmative legal obligations, such board and commission members are not provided with any related training of the unique rights and responsibilities that relate to the Native Hawaiian community, and to the public trust. Unfortunately, this has likely contributed to the sense of disenfranchisement felt by many in the Native Hawaiian community, and resulted in policy decisions that have failed to uphold the duties of the State.

WHAT WILL THIS BILL DO?

This bill would provide for a semiannual training course, paid for by OHA, which would ensure that all relevant board and commission members are provided with the information they need to successfully fulfill the State's legal obligations towards Native Hawaiians and the public trust.

WHAT TYPES OF LEGAL OBLIGATIONS EXIST RELATING TO NATIVE HAWAIIANS AND THE PUBLIC TRUST?

Examples of the state's legal obligations towards Native Hawaiians and the public trust include: analyzing the impacts and mitigation options for policy decisions that affect Native Hawaiian traditional and customary practices; ensuring that public trust resources are used and managed for the benefit of the public; following procedural protections for iwi kupuna and sacred sites; etc.

WHY IS THIS BILL NECESSARY, PARTICULARLY IF OHA IS ALREADY OFFERING THE TRAINING COURSE ON A VOLUNTARY BASIS?

While OHA intends to continue offering the course for voluntary attendees, mandating attendance will ensure that all relevant board and commission members are provided with important legal information regarding their obligations towards Native Hawaiians.

ARE THERE ANY FISCAL IMPLICATIONS OF THE BILL?

OHA does not intend this bill to impact the state's general fund, and is committed to funding the development and administration of the training course. In fact, the bill may save the State money that would otherwise be expended on contested policy decisions.