SB2078
RELATING TO THE HAWAI’I TOURISM AUTHORITY

SENATE COMMITTEES ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM and WATER AND LAND

February 11, 2022 3:10 p.m. Conference Room 224

Aloha e Chairs Wakai and Inouye, Vice Chairs Misalucha and Keith-Agaran, and Members of the Committees,

The Native Hawaiian Legal Corporation (“NHLC”) offers the following testimony in OPPOSITION to SB2708, which adds the Hawai’i Tourism Authority (“HTA”) president and chief executive officer as an ex officio member of the Board of Land and Natural Resources (“BLNR”) and Land Use Commission (“LUC”).

Currently, BLNR and LUC are statutorily composed of members representing each district or county, see Hawai’i Revised Statutes (“HRS”) §§ 171-4(a) and 205-1(a), and includes a member with expertise on Native Hawaiian traditional and customary practices and land usage. See HRS §171-4(c) and 205-1(a). The BLNR also requires a member with expertise in conservation and natural resources. See HRS §171-4(b). This specialized knowledge and cross section of voices from across our pae ‘āina ensure that the Board and Commission can carry out their respective kuleana with a clear understanding of the issues affecting each community and the ‘ike required to ensure that their constitutional duties to public trust resources and Native Hawaiian cultural practices are met. See Haw. Const. Art. XI, §1 and XII, §7.

Those who serve on the BLNR and the LUC are in a unique position to make significant decisions with critical and lasting impacts on Native Hawaiian traditional and customary rights and natural and cultural resources, including public trust resources. However, these individuals must also discharge an affirmative duty, based in our State constitution, to preserve and protect these rights and resources. They also carry immense kuleana—that is, a responsibility and privilege—to be of service to communities and to discharge their duties with meaningful purpose and intention. Insufficient competence and appreciation for these duties and responsibilities leads to poor decision-making, and as has been seen before, irreversible and irreparable harm including damage to historic sites, changes to ecosystems, and the decline of traditional practice and culture.

The HTA should not have an ex officio membership role with BLNR and LUC, because its interests materially conflict with the kuleana to manage and protect natural resources.

ulu'o'a – to stand erect, stand upright; ulu – to grow, o'a – support beams, uluo’a – grow the support beams of a hale
Tourism is currently a significant part of Hawai‘i’s economy, and like many other organizations that represent economic and industrial sectors, the HTA may have opinions and knowledge relevant to BLNR and LUC’s work. HTA can sufficiently provide that using mechanisms to appear before and provide testimony to BLNR and LUC, like any other organization. Membership with BLNR and LUC, and the decision-making authority that comes with it, however, must be reserved for parties that are free of conflict to discharge the critically important duties that BLNR and LUC have. The HTA can not. Though HTA’s stated intention is to sustainably manage Hawai‘i tourism, HTA discloses on its website that its performance is measured by “visitor satisfaction, resident sentiment, per person per day spend, and total visitor expenditures.” These metrics are largely grounded in consumption and increased load on Hawai‘i’s resources through the lens of what will best suit visitors first, not the people of Hawai‘i nor the long term best interests of our lands, water, and delicate ecosystem. And indeed tourism in Hawai‘i does put significant load on the State’s resources and infrastructure.

There is encouraging global effort across the tourism industry to make tourism more sustainable as well as more inclusive, respectful of, and equitable for indigenous peoples and communities. HTA’s stated goals in these areas are important and hold promise for progress to alleviate the deleterious impacts tourism has on Hawai‘i’s cultural and natural resources. Nevertheless, HTA’s aspirations for the future do not negate its clear conflicts of interest with the duties of BLNR and LUC.

HTA’s conflict of interest is necessarily a bar to its BLNR and LUC membership. The potential consequences are too severe. Decision-making authority over our natural and cultural resources must be entrusted to parties able to discharge their constitutional duties to preserve and protect, and the HTA’s conflicting interests do not allow it to fulfill that duty.

The State bears a great kuleana to protect Hawai‘i’s cultural and natural resources. These resources are expressly safeguarded in the constitution. These resources are critical components of our distinctive identity as Hawai‘i. BLNR members and LUC commissioners must be positioned to put that kuleana first and foremost in their decision making. There can be no room for conflicts of interest in those roles. For these reasons, NHLC opposes SB2078.

Mahalo for the opportunity to testify.

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