



HB1655/SB2124

Lifting the Cap on OHA's Pro Rata Share of the Public Land Trust

This bill lifts the \$15.1 million cap placed on the state's annual transfers to OHA of public land trust revenue, allows OHA to reclaim approximately \$8 million in overages it has returned to a state holding account in recent years, and establishes a negotiating committee to discuss what amount would more appropriately reflect OHA's annual share.

Ten years after it set a temporary dollar figure as the amount of Public Land Trust revenues that should go toward the benefit of Hawaiians, the state should now examine whether this figure fairly reflects the 20% pro rata share to which Hawaiians are entitled.

The Public Land Trust is comprised of over 1 million acres of former Hawaiian Kingdom government and crown lands, currently held by the state, that were seized without the consent of or compensation to the Hawaiian people or their sovereign government.

Hawai'i's constitution provides that a share of Public Land Trust income be used for the betterment of the conditions of native Hawaiians. Accordingly, state law requires that OHA expend 20% of all funds derived from the Trust. For decades, however, OHA and the state disagreed on how OHA's 20% share should be calculated.

In 2006, OHA and the state agreed on an interim resolution, by the passage of Act 178, which temporarily set OHA's annual share as \$15.1 million, "until further action is taken by the legislature." Importantly, Act 178 also required individual state agencies to report all revenue generated from the Public Land Trust; these reports can now be used to better estimate OHA's 20% share.

According to the state's own reports, the state generated an average of at least \$158,077,656 annually in Public Land Trust revenues over the last three fiscal years. 20% of this amount is \$31,615,531, more than twice the \$15.1 million received annually by OHA under Act 178.

Moreover, the state's actual transfers to OHA have exceeded the \$15.1 million cap for the last three years. These transfers, which are made by individual state agencies each quarter, reflect only a portion of what the agencies report and are calculated using historically undisputed revenue streams, like lease rent and parking fees. Since these transfers collectively exceeded the \$15.1 million annual cap, OHA has had to return approximately \$8 million it has received over the last three years. This money could be helping Hawaiians and the community right now. Instead, it has been kept, unused, in a trust holding account held by the state.

Based on the state's own information, the temporary, \$15.1 million cap established ten years ago no longer fairly reflects OHA's 20% share, and should at the very least be lifted until the issue can be re-evaluated and discussed by the Legislature, the Governor, and OHA.

HOW WILL THIS BILL BENEFIT THE HAWAIIAN COMMUNITY?

Providing OHA with its fair share of the Public Land Trust revenues will benefit the Hawaiian community as well as the social, economic, environmental, and cultural welfare of our islands. Just this past year alone, OHA provided over \$10 million in grants for programs addressing our state's most critical issues, including environmental stewardship, food security, housing and homelessness, education, and healthcare. OHA also provided over \$1 million in loans for beneficiary needs ranging from home and auto repairs to legal fees and educational opportunities. OHA further manages over 27,000 acres of conservation and agricultural lands, consistently advocates for policies that better the conditions of Hawaiians, and monitors government actions to ensure their compliance with environmental laws and the public trust. Lifting the \$15.1 million annual cap will allow OHA to continue to improve its support and advocacy for Hawaiians and, by extension, all those who live in and love Hawai'i nei.

HOW MUCH MONEY WILL OHA RECEIVE FROM THIS MEASURE?

First, OHA will be entitled to reclaim about \$8 million it returned to the state over the last three years. This amount was initially transferred to OHA as 20% of historically undisputed Public Land Trust revenue streams to which OHA should be otherwise entitled, and was only returned due to the Act 178 cap. It has since been deposited in a trust holding account maintained by the state.

Second, removing the Act 178 cap will allow OHA to keep any such overages going forward, and based on past overages may result in approximately \$3 million a year being made available for programs, operations, and services that benefit the Hawaiian community.

The negotiating committee established by this measure will discuss what amount would more fairly reflect OHA's 20% share of the Public Land Trust, which the state's own reports indicate should be substantially higher than the \$15.1 million annual amount established ten years ago.

HOW MUCH WILL THIS COST THE STATE?

Very little, and it may in fact provide great financial and social benefits to the Hawaiian and broader communities. The approximately \$8 million in overages transferred back to the state has been set aside in a trust holding account, and allowing OHA to reclaim this amount will not impact the state's treasury in any way. Moreover, lifting the \$15.1 million cap established ten years ago will not result in an increase in transfers from state agencies- it would merely ensure that the 20% of revenues that the state already transfers actually goes to Hawaiians via OHA, rather than be returned and sit unused in a state holding account. Allowing OHA to expend the money to which it is rightfully entitled on behalf of its Hawaiian beneficiaries will only serve the social, environmental, economic, and cultural interests of both Hawaiians and the state, without impacting the state general fund.