



UNIVERSITY OF HAWAI'I SYSTEM

TESTIMONY

SB 904 RELATING TO THE MANAGEMENT OF THE
UNIVERSITY OF HAWAII

Testimony Presented Before the
Committee on Higher Education

February 8, 2005

By

Ruth Tsujimura
University Deputy General Counsel
University of Hawaii

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Good afternoon, Chair Hee and Vice Chair Inouye and Committee Members:

I am Ruth Tsujimura, University Deputy General Counsel, University of Hawai'i, and I am here this afternoon to testify in support of S.B. 904.

The purpose of S.B. 904 is to provide express statutory authority to the University to allow it to adopt administrative rules pursuant to chapter 91, Hawaii Revised Statutes (HRS), to manage and regulate public activity on lands it controls. By rules, the University will be able to regulate activities to ensure safety and to charge administrative fines for violation of those rules. Currently, section 304-4, HRS, authorizes the University to adopt rules pursuant to chapter 91, HRS, to "manage the inventory, equipment, surplus property, and expenditures of the university" and to control and regulate the same. The University also has authority to promulgate rules pursuant to chapter 91 for purposes of defining "residence" for tuition purposes. It currently does not have express authority to regulate public or commercial activity on lands it controls.

The University receives land or interests in land from various sources, such as private donors, the state or the federal government, and by various means, including long term leases, executive orders, and deeds. Often, within the context of its primary mission as the sole public institution for higher education for the State, limited public and commercial activity is permitted on the lands. Although it may be argued that the University has the implied authority to adopt rules to regulate public or commercial

activity occurring on lands it controls, to avoid uncertainty, the University seeks express authority to adopt rules pursuant to chapter 91.

The University of Hawai'i has worked with the Department of Land and Natural Resources (DLNR) and the Attorney General's Office. It was suggested that we seek statutory authorization to impose administrative fines similar to those of the DLNR. Please amend this bill by adding language that would authorize administrative fines. The imposition of administrative fines for violation of regulatory rules would allow the University to maintain order in the use of lands granted to it and used for public or commercial activities. We have attached draft language as suggested.

The University supports the passage of this bill.

I would be happy to respond to any questions. Thank you for your thoughtful consideration of this bill.