

APR 26 2007

SENATE CONCURRENT RESOLUTION

ESTABLISHING A JOINT SENATE-HOUSE INVESTIGATIVE COMMITTEE TO
INVESTIGATE THE SECURITY OF RECORDED DOCUMENTS, PRIVATE
COMPUTER ACCESS AND TAMPERING OF SUCH DOCUMENTS, AND THE
OPERATIONS AND MANAGEMENT OF THE BUREAU OF CONVEYANCES.

1 WHEREAS, in April 2007, during the preparation for and the
2 course of the confirmation hearing of the Chairperson-nominee of
3 the Board of Land and Natural Resources, the Senate Committee on
4 Water, Land, Agriculture, and Hawaiian Affairs was informed of
5 an ongoing criminal investigation by the Department of the
6 Attorney General and an ethics probe by the State Ethics
7 Commission; and

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9 WHEREAS, the Department of the Attorney General and the
10 State Ethics Commission indicated that the ongoing
11 investigations were focused on the Bureau of Conveyances at the
12 Department of Land and Natural Resources, and requested from the
13 Senate Committee on Water, Land, Agriculture, and Hawaiian
14 Affairs that questions and witnesses relating to the focus of
15 the investigations be conducted in executive session to protect
16 the confidentiality of and not jeopardize the investigations;
17 and

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19 WHEREAS, both investigations center on several concerns
20 involving the security of recorded documents, private computer
21 access with potential for tampering of such documents, and
22 questionable personnel conduct and management at the Bureau of
23 Conveyances and lack of accountability; and

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25 WHEREAS, the Auditor's Report No. 06-04, *Financial Audit of*
26 *the Department of Land and Natural Resources*, June 2006,
27 indicated that the Bureau of Conveyances does not effectively
28 manage its staff resources or meet its customer service
29 requirements; and

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1 WHEREAS, although overtime at the Bureau of Conveyances
2 increased to address the work backlog, the Auditor's report
3 further concluded that the work productivity had decreased; and
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5 WHEREAS, individuals who appeared pursuant to a subpoena in
6 front of the Senate Committee on Water, Land, Agriculture, and
7 Hawaiian Affairs during the confirmation hearing for the
8 Chairperson-nominee of the Board of Land and Natural Resources
9 indicated a long history of factionalism, low employee morale,
10 and personnel mismanagement within the Bureau of Conveyances;
11 and
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13 WHEREAS, furthermore, it was indicated that the ongoing
14 investigations were focused on the information sharing
15 agreements between the Bureau of Conveyances with private title
16 companies, and allegations of preferential treatment among
17 certain private title companies; and
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19 WHEREAS, testimony of other individuals who appeared
20 pursuant to a subpoena in front of the Senate Committee on
21 Water, Land, Agriculture, and Hawaiian Affairs during the
22 confirmation hearing as well as from the Chairperson-nominee,
23 indicated that there was a lack of written contracts for the
24 sharing of information of the Bureau of Conveyances, inadequate
25 information sharing service subscription records, user fee
26 schedules, or established rules and procedures for the use of
27 this information sharing service; and
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29 WHEREAS, the lack of additional information relating to the
30 sharing of information developed into a source of great concern
31 during the Senate confirmation process, and resulted in
32 additional questions and concerns about the safety and security
33 of the private and sensitive information that is held within the
34 Bureau of Conveyances; and
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36 WHEREAS, despite the ongoing investigations by the
37 Department of the Attorney General and the State Ethics
38 Commission, the Legislature is highly concerned with the
39 security of recorded documents, private computer access and
40 potential tampering of the documents as well as with the overall
41 personnel and fiscal management of the Bureau of Conveyances;
42 now, therefore,
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1 BE IT RESOLVED by the Senate of the Twenty-fourth
2 Legislature of the State of Hawaii, Regular Session of 2007, the
3 House of Representatives concurring, that:

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5 (1) The Legislature hereby establishes a Joint Senate-
6 House investigative committee pursuant to chapter 21,
7 Hawaii Revised Statutes, to investigate the fiscal and
8 personnel management of the Bureau of Conveyances at
9 the Department of Land and Natural Resources;

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11 (2) The purpose and the duties of the Joint Senate-House
12 investigative committee and the subject matter and
13 scope of its investigatory authority shall be to
14 investigate, gather information, assess, and make
15 recommendations to the Legislature concerning:

16
17 (A) The management of the employees and
18 administrators of the Bureau of Conveyances;

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20 (B) The fiscal management and accountability of the
21 Bureau of Conveyances;

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23 (C) The rules, procedures, and fee schedules relating
24 to information sharing between the Bureau of
25 Conveyances and private title companies and
26 individual users/subscribers; and

27
28 (D) The security of recorded documents, access to
29 such documents from private computers, and the
30 potential for tampering of such documents;

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32 (3) The Joint Senate-House investigative committee shall
33 have every power and function allowed to an
34 investigating committee by law, including without
35 limitation the power to:

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37 (A) Adopt rules for the conduct of its proceedings;

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39 (B) Issue subpoenas requiring the attendance and
40 testimony of witnesses and subpoenas duces tecum
41 requiring the production of books, documents,
42 records, papers, or other evidence in any matter
43 pending before the investigative committee;

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- 1 (C) Hold hearings appropriate for the performance of
2 its duties, at such times and places as the
3 investigative committee determines;
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- 5 (D) Administer oaths and affirmations to witnesses at
6 hearings of the investigative committee;
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- 8 (E) Report or certify instances of contempt as
9 provided in section 21-14, Hawaii Revised
10 Statutes;
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- 12 (F) Determine the means by which a record shall be
13 made of its proceedings in which testimony or
14 other evidence is demanded or adduced;
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- 16 (G) Employ professional, technical, clerical, or
17 other staff and expend such funds appropriated
18 for Senate and House operating expenses for 2007
19 as necessary for the proper performance of its
20 duties; and
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- 22 (H) Exercise all other powers specified under chapter
23 21, Hawaii Revised Statutes, with respect to
24 investigative committees;
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- 26 (4) The Joint Senate-House investigative committee shall
27 be appointed by the Senate President and the Speaker
28 of the House of Representatives exclusively from the
29 membership of the Senate and House of Representatives,
30 respectively; provided that the investigative
31 committee membership shall consist of not less than
32 six members with an equal number of members from the
33 Senate and House of Representatives;
34
- 35 (5) The Joint Senate-House investigative committee shall
36 provide by rule for the submission, by a witness's own
37 counsel and counsel for another individual or entity
38 about whom the witness has devoted substantial or
39 important portions of the witness's testimony, of
40 written questions to be asked of the witness by the
41 Co-Chairs;
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- 43 (6) The Joint Senate-House investigative committee shall
44 provide by rule for the submission of proposed



1 questions at a hearing in accordance with section
2 21-11(b), Hawaii Revised Statutes;

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4 (7) The Joint Senate-House investigative committee shall
5 provide by rule that each witness intended to be
6 called be given ten days notice of:

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8 (A) The date and time of the witness's appearance;

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10 (B) A short plain statement of the areas to be
11 inquired into with respect to that witness's
12 anticipated testimony; and

13
14 (C) A list of or copies of the principal documents
15 about which that witness may be questioned;

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17 provided that these requirements shall not limit the
18 Joint Senate-House investigative committee's
19 discretion to inquire into related matters; provided
20 further that the rules may provide that the Co-Chairs
21 may waive the ten days notice if the witness so
22 agrees;

23
24 (8) The Joint Senate-House investigative committee shall
25 provide by rules that a draft report of the
26 investigative committee's findings and conclusions
27 concerning any matter that is the subject of its
28 hearings shall be made available to all those entities
29 or persons who were the subject of or who were
30 witnesses who testified at any hearing; provided that:

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32 (A) Any person or entity to whom a draft report is
33 made available shall be given a period of no less
34 than fourteen days within which to make written
35 responses to the draft findings or conclusions;
36 and

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38 (B) The written responses, if any, shall be included
39 as an appendix to the final report of the Joint
40 Senate-House investigative committee; and

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42 (9) The Joint Senate-House investigative committee is
43 authorized to exercise its powers continuously
44 throughout the interim between the 2007 and 2008



Regular Sessions, and shall thereafter be dissolved unless further extended by the Senate and the House of Representatives; and

BE IT FURTHER RESOLVED that the Senate President and the Speaker of the House of Representatives, from time to time, may refer to the Joint Senate-House investigative committee specific matters that are within the scope of the investigative committee's jurisdiction, and that the investigative committee shall work in cooperation with the Senate President and Speaker of the House of Representatives for the purposes stated in this Concurrent Resolution; and

BE IT FURTHER RESOLVED that the Joint Senate-House investigative committee shall submit its written findings and recommendations to the Legislature not later than twenty days prior to the convening of the Regular Session of 2008; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chairperson of the Board of the Land and Natural Resources.

OFFERED BY: Russell Kohb

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