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The Interior Department will not pursue a rule creating an administrative mechanism for recognizing a future Native Hawaiian government if the consensus from written and oral testimony is against that path

The Interior Department will not pursue a rule creating an administrative mechanism for recognizing a future Native Hawaiian government if the consensus from written and oral testimony is against that path, an agency spokeswoman told the Honolulu Star-Advertiser.

The feedback the department has received so far through written comments online and from two weeks of public meetings in Hawaii overwhelmingly rejects that route. But the department is continuing to accept written comments until Aug. 19 and also will hold a series of meetings from July 29 through Aug. 7 in Native American communities on the mainland to get more feedback.

If the current trend shifts and proponents of the administrative process voice their opinions in strong enough numbers by mid-August, that could affect the decision of Interior Secretary Sally Jewell, who ultimately makes the call.

As of Friday afternoon, however, the public testimony largely was against any Interior Department involvement.

Only about 10 percent of the roughly 260 comments posted online favored the rule-making approach, according to a Star-Advertiser review of the postings.

The comments mostly mirrored the overwhelming opposition the Interior panel encountered from hundreds of people during more than 45 hours of testimony at its 15 meetings statewide.

If a consensus against the rule-making approach is evident once the comment period ends, "then a proposed rule would not be crafted and the process would end there," Interior spokeswoman Jessica Kershaw told the newspaper Friday.

Rhea Suh, the department's assistant secretary who headed the panel, issued a statement to the Star-Advertiser the same day thanking community members for their willingness to be part of the feedback process, assured them that their voices were heard, urged people to continue submitting comments and even seemed to hint at the possibility of the rule-making process ultimately not advancing.

"The dialogue now is for the Native Hawaiian community to begin to chart their course forward towards the future," Suh said. "At the very least, we hope we have

been able to be a catalyst for the community to discuss how to develop these next steps."

Former Gov. John Waihee, the state's first Native Hawaiian chief executive, said the department should finish the rule-making process even if a consensus is not reached, noting that the effort syncs nicely with the nation-building process overseen by the Native Hawaiian Roll Commission.

"It would be a tragedy if they didn't (finish)," said Waihee, who heads the roll commission. "They shouldn't quit what they started."

From the first meeting June 23 at the state Capitol to the last one Tuesday on Maui, opponents of the rule-making process dominated the 15 sessions to argue against any Interior involvement in the re-establishment of a government-to-government relationship with Native Hawaiians.

They said the agency had no jurisdiction, the Hawaiian kingdom still exists and the United States has illegally occupied the islands since the 1893 overthrow of the monarchy.

But since the meetings ended, a tiny but growing number of people have submitted online comments to the department expressing support for the rule-making process.

As of Friday, they numbered roughly two dozen -- still a fraction of those who have publicly spoken against the process.

"I am dismayed that the only voices being heard are the loudest ones," wrote an unidentified non-Hawaiian who works for a Native Hawaiian organization, has lived on Oahu for more than 25 years and says Interior's efforts are a step in the right direction. "Most of the Hawaiians I am close to as friends do not agree with these voices, nor do they wish to be governed by them."

A part-Hawaiian commenter offered a similar view.

"I do not believe that a majority of Hawaiians want to secede from the U.S.," the unidentified person wrote. "However, a majority of activists have hijacked the committee's meetings to provide a skewed view."

Kurt Klein, 26, was among the Hawaiians who told the department that he favors the rule-making process and wants it to ultimately result in federal recognition of a future Native Hawaiian government. Like some others, he testified at one of the meetings and also submitted online comments.

In those comments and in a phone interview with the Star-Advertiser, Klein, the son of former Hawaii Supreme Court Justice Robert Klein, said recognition is important

because it would be a formal acknowledgement by the U.S. that the pre-existing and inherent sovereignty of a Native Hawaiian governing body never was extinguished.

Recognition also would help protect the many federal and state benefits for Hawaiians from race-based constitutional challenges, according to Klein.

He said the Hawaiian community is willing and capable of engaging in self-governance, citing the roll commission process, and should do so without direct guidance from the Interior Department.

"Only through a process anchored in pure self-determination will legitimate Native Hawaiian leaders emerge to build a government by Native Hawaiians, for Native Hawaiians," he wrote.

Klein told the Star-Advertiser that he believes the possibility of Hawaii becoming an internationally recognized independent nation -- a status that kingdom advocates push -- is so remote that the existing Native Hawaiian benefits should not be put at further risk for the sake of "a dream."

Another online commenter, Kali Watson, who heads a nonprofit that develops housing for Hawaiians and is a former Department of Hawaiian Home Lands chairman, emphasized the economic impact of recognition.

To underscore the magnitude of that impact, Watson cited an analysis by the late Sen. Daniel Inouye's staff that estimated the federal government spent more than \$440 million on Native Hawaiian programs from 1989 to 2000. That amount, he added, didn't account for the "multiplier effect" as the money filtered into the local economy, touching businesses and supporting jobs throughout the state.

With federal recognition, this type of funding would be much less at risk from legal challenges because the government-to-government relationship would be based on Hawaiians' special political status, not race, according to Watson and others.

Pursuing recognition through the rule-making process would provide the administrative means for the U.S. government to negotiate with a Native Hawaiian entity, but the rule-making will not take away any options, including independence, from Hawaiians as they separately pursue their self-governing rights, added Watson, an attorney.

"We're not giving up anything," he said.

Watson submitted his online testimony as chairman of economic development and housing for the Sovereign Councils of the Hawaiian Homelands Assembly, a statewide organization that represents more than 30,000 Hawaiian beneficiaries on DHHL lands. He said he did so with the approval of the group's president.

Some of the rule-making supporters in their online comments urged the Interior Department to assist Hawaiians in forming a governing body.

"I believe that this community is too divided to come to a consensus and that this process needs the resources of the United States government to (facilitate) a fully fair process where all who wish to be heard are heard -- not just those who can yell the loudest," wrote a 63-year-old Native Hawaiian and Oahu social worker.

Kershaw, the Interior spokeswoman, told the Star-Advertiser that even if an administrative recognition mechanism was created through the rule-making process, Native Hawaiians still would have to choose to exercise that option.

"It is not some action that the federal government could exercise or unilaterally impose upon the community," she said in an email. "All we are asking about is if and how to create the procedures we would follow if a Native Hawaiian government came to us seeking federal recognition at some point in the future."

Some advocates say the rule-making process would not interfere with but rather complement the roll commission's nation-building effort, called Kanaiolowalu. Others say the federal initiative will add to confusion surrounding the controversial state-backed commission effort, roundly criticized by kingdom advocates.

Waihee, who said he believes a majority of Hawaiians favor federal recognition, said the nation-building process will advance no matter what happens to the rule-making proposal. If an administrative rule is not pursued, though, Waihee acknowledged a loss of some momentum.

"There's kind of a nice symmetry right now," he said of the two ongoing but separate efforts.

But even if the Interior Department drops its approach, the federal government eventually will have to develop a process for recognizing and negotiating with the governing entity formed through Kanaiolowalu, Waihee said.

Watson, the former DHHL chairman, said Hawaiians should work within the system, including with the federal government, and he views the rule-making approach as a practical and positive step.

"The federal government is not going to go away," Watson said. "I'm a realist."

MAKE YOUR VOICE HEARD

The U.S. Department of the Interior is accepting written comments until Aug. 19 on whether it should pursue establishing an administrative process for recognizing a

future Native Hawaiian government:

>> Online: www.regulations.gov

>> Mail: Office of the Secretary, Department of the Interior, Room 7329, 1849 C St.
NW, Washington, DC 20240

>> Direct: John Strylowski at john_strylowski@ios.doi.gov