

JAN 22 2008

S.B. NO. 2869

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION OF HEIAU.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended
2 by adding two new sections to be appropriately designated and to
3 read as follows:

4 "**§6E-A Heiau; consultation; caretaker.** (a) The
5 department shall consult with the office of Hawaiian affairs on
6 all matters relating to heiau.

7 (b) If, after public hearings and consultation with
8 appropriate Hawaiian organizations, the office of Hawaiian
9 affairs deems it necessary to preserve Hawaiian history, the
10 office of Hawaiian affairs may designate an individual or
11 organization as caretaker to be responsible for the care and
12 preservation of the heiau.

13 **§6E-B Inadvertent discovery of heiau.** (a) All heiau are
14 significant and shall be preserved in place.

15 (b) If a possible heiau is inadvertently discovered, any
16 activity in the immediate area that could damage the potential
17 heiau shall cease until the requirements of subsection (c) and

18 (d) are met.



1 (c) The discovery shall be reported as soon as possible to
2 the department. As soon as practicable, the department shall
3 notify the office of Hawaiian affairs.

4 (d) After notification of the discovery of a potential
5 heiau, within two working days, if on Oahu, and three working
6 days, if on any other island, the department, in consultation
7 with the office of Hawaiian affairs, shall gather sufficient
8 information, including oral tradition, to document the nature of
9 the heiau and determine appropriate care and preservation of the
10 heiau.

11 (e) If the designation of a caretaker for the heiau is
12 deemed warranted by the office of Hawaiian affairs, the office
13 of Hawaiian affairs, in consultation with appropriate
14 organizations, shall conduct public hearings on the island where
15 the heiau is located and receive information from the community
16 prior to naming a qualified caretaker.

17 (f) For any inadvertently discovered heiau for which a
18 caretaker has been designated, a mitigation plan shall be
19 developed by the office of Hawaiian affairs, in consultation
20 with the designated caretaker, and with the concurrence of the
21 department for the care and preservation of the heiau.



1 (g) The mitigation plan shall be carried out in accordance
2 with the following:

3 (1) In discoveries related to development where land
4 alteration project activities exist, the landowner,
5 permittee, or developer shall be responsible for the
6 execution of the mitigation plan. Justifiable delays
7 resulting from the discovery of the heiau shall not
8 count against any contractor's completion date
9 agreement;

10 (2) Project activities shall resume once necessary
11 archaeological excavations and any other conditions
12 required by the mitigation plan have been completed;

13 (3) In nonproject contexts, the department, in
14 consultation with the office of Hawaiian affairs and
15 the designated caretaker, shall be responsible for the
16 execution of the mitigation plans; and

17 (4) The department, in consultation with the office of
18 Hawaiian affairs and any designated caretaker, shall
19 verify the successful execution of the mitigation
20 plan."

21 SECTION 2. Section 6E-10, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Before any construction, alteration, disposition or
2 improvement of any nature, by, for, or permitted by a private
3 landowner may be commenced which will affect an historic
4 property on the Hawaii register of historic places, the
5 landowner shall notify the department of the construction,
6 alteration, disposition, or improvement of any nature and allow
7 the department opportunity for review of the effect of the
8 proposed construction, alteration, disposition, or improvement
9 of any nature on the historic property. The proposed
10 construction, alteration, disposition, or improvement of any
11 nature shall not be commenced, or in the event it has already
12 begun, continue, until the department shall have given its
13 concurrence or ninety days have elapsed. Within ninety days
14 after notification, the department shall:

15 (1) Commence condemnation proceedings for the purchase of
16 the historic property if the department and property
17 owner do not agree upon an appropriate course of
18 action;

19 (2) Permit the owner to proceed with the owner's
20 construction, alteration, or improvement; or

21 (3) In coordination with the owner, undertake or permit
22 the investigation, recording, preservation, and



1 salvage of any historical information deemed necessary
2 to preserve Hawaiian history, by any qualified agency
3 for this purpose[-]; provided that if the historic
4 property is a heiau, the office of Hawaiian affairs
5 may designate a qualified caretaker pursuant to
6 section 6E-A."

7 SECTION 3. In codifying the new sections added by section
8 1 of this Act, the revisor of statutes shall substitute
9 appropriate section numbers for the letters used in designating
10 the new sections in this Act.

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

14

INTRODUCED BY: Russell K. Kuli B/R



Report Title:

Historic Preservation; Heiau; Consultation; OHA; Caretakers

Description:

Requires the department of land and natural resources to consult with the office of Hawaiian affairs on issues relating to heiau. Establishes procedures for inadvertent discovery of heiau. Authorizes the office of Hawaiian affairs to designate caretaker for heiau.

