

JAN 22 2008

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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 Development and maintenance of a statewide survey
5 and inventory to identify and document burial sites. The state
6 historic preservation officer, in consultation with the island
7 burial councils, shall be responsible for developing and
8 maintaining a comprehensive statewide survey of all known burial
9 sites in the State. The survey shall be updated every five
10 years. The survey shall include categorization, in writing and
11 in picture, of all contents found at a site, including human
12 skeletal remains and burial goods, according to generally
13 approved archaeological methods. The survey also shall make
14 recommendations on preserving the site and its contents. The
15 society for Hawaiian archaeology shall be permitted to review
16 the survey upon request by its board through its president. The
17 survey shall not be made public except to carry out the purposes



1 of this chapter and for legal enforcement purposes; provided
2 that any public disclosure shall be limited strictly to those
3 parts of the survey that are necessary to carry out such
4 purposes.

5 §6E-B Hawai'i burial sites special fund. (a) There is
6 established a Hawai'i burial sites special fund into which shall
7 be deposited the following moneys:

- 8 (1) Appropriations by the legislature to the special fund;
- 9 (2) Gifts, donations, and grants from public agencies and
10 private persons; and
- 11 (3) Civil, criminal, and administrative penalties, fines,
12 and other charges collected under this chapter or any
13 rule adopted pursuant to this chapter.

14 All interest earned or accrued on moneys deposited in the
15 fund shall become part of the fund. The fund shall be
16 administered by the department; provided that the department may
17 contract with the Society for Hawaiian Archaeology to provide
18 the day-to-day management of the fund.

19 (b) Subject to legislative authorization, the department
20 may expend moneys from the fund:

- 21 (1) For permanent and temporary staff positions;
- 22 (2) To replenish supplies;



- 1 (3) To develop and maintain a statewide survey pursuant to
- 2 section 6E-A;
- 3 (4) To provide financial assistance in accordance with
- 4 chapter 42F to public agencies and private agencies
- 5 involved in burial site preservation activities other
- 6 than those covered by section 6E-9; and
- 7 (5) To cover the administrative and operational costs of
- 8 burial site preservation activities.
- 9 (c) The department shall adopt rules in accordance with
- 10 chapter 91 for the purposes of this section."

11 SECTION 2. Section 6E-2, Hawaii Revised Statutes, is
12 amended by amending the definition of "burial good" to read as
13 follows:

14 ""Burial good" means any item reasonably believed to have
15 been intentionally placed in close proximity to or with the
16 human skeletal remains of an individual or individuals at the
17 time of burial."

18 SECTION 3. Section 6E-7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§6E-7 State title to historic property. (a) All
21 historic property located on lands or under waters owned or
22 controlled by the State shall be the property of the State. The



1 control and management of the historic property shall be vested
2 in the department.

3 (b) The department shall enter into an agreement or
4 agreements with any agency or officer of the State managing
5 public lands, including public land set asides, to identify and
6 evaluate historic property, including burial sites, on such
7 lands and to manage historic property on such lands. The
8 department shall develop such agreements through rules adopted
9 pursuant to chapter 91.

10 [~~b~~] (c) The department may dispose of the historic
11 property subject to chapter 171 and subject further to those
12 reservations, restrictions, covenants, or conditions which
13 relate to the preservation of the historic property, such as
14 rights of access, public visitation, operation, maintenance,
15 restoration, and repair. The department shall determine the
16 conditions for any research affecting the historic property and
17 may issue permits for the research.

18 [~~e~~] (d) The State shall hold known burial sites located
19 on lands or under waters owned or controlled by the State in
20 trust for preservation or proper disposition by the lineal or
21 cultural descendants.



1 ~~[(d)]~~ (e) The State shall not transfer any historic
2 property or aviation artifact under its jurisdiction without the
3 concurrence of the department, and shall not transfer any burial
4 site under its jurisdiction without consulting the appropriate
5 island burial council."

6 SECTION 4. Section 6E-72, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[(1)]~~ §6E-72 ~~[(1)]~~ Taking, appropriation, excavation, injury,
9 destruction, or alteration of a burial site; penalty. (a) A
10 person commits the offense of taking, appropriation, excavation,
11 injury, destruction, or alteration of a burial site if the
12 person knowingly:

13 (1) Takes, appropriates, excavates, injures, destroys, or
14 alters any burial site or the contents thereof,
15 located on private land or land owned or controlled by
16 the State or any of its political subdivisions, except
as permitted by the department; or

18 (2) Takes, appropriates, excavates, injures, destroys, or
19 alters any burial site or the contents thereof during
20 the course of land development or land alteration
21 activities to which section 6E-42 applies, without
22 obtaining the required approval.



1 (b) Taking, appropriation, excavation, injury,
2 destruction, or alteration of a burial site is a misdemeanor for
3 which a fine not to exceed \$25,000 may be imposed, in addition
4 to any other penalty authorized by chapter 706 for a
5 misdemeanor.

6 (c) Each day of a continued violation of this section
7 shall constitute a distinct and separate offense.

8 (d) All moneys collected under this section shall be
9 deposited into the Hawai'i burial sites special fund."

10 SECTION 5. Section 708-800, Hawaii Revised Statutes, is
11 amended by amending the definition of "property" to read as
12 follows:

13 "Property" means any money, personal property, real
14 property, thing in action, evidence of debt or contract, human
15 skeletal remains or burial goods as defined in chapter 6E, or
16 article of value of any kind. Commodities of a public utility
17 nature such as gas, electricity, steam, and water constitute
18 property, but the supplying of [~~sueh-a~~] the commodity to
19 premises from an outside source by means of wires, pipes,
20 conduits, or other equipment shall be deemed a rendition of a
21 service rather than a sale or delivery of property."



1 SECTION 6. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect upon its approval.

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INTRODUCED BY:

Orin Helle



Report Title:

Caves; Inventory of Burial Sites; Penalties; Special Fund

Description:

Authorizes a inventory of burial sites in the State and increases the penalties for removal of artifacts from burial sites.

