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**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON  
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**on Senate Bill 2644, Senate Draft 1 – Relating To The State Historic Preservation Officer**

**BEFORE THE HOUSE COMMITTEE ON  
FINANCE**

**March 28, 2008**

Senate Bill 2644, Senate Draft 1 proposes to amend Section 6E-5 Hawaii Revised Statutes, relating to the State Historic Preservation Officer (SHPO). The Department of Land and Natural Resources (Department) strongly opposes this bill.

Senate Bill 2644, Senate Draft 1, requires that any person, who is appointed by the Governor as a SHPO, meet the required standards established by the United States Secretary of Interior. The current organizational flow of the State Historic Preservation Division (SHPD) has the Chairperson of the Department (Chairperson) serving as the SHPO while the SHPD Administrator serves as the Deputy SHPO. Having the Chairperson serve as the SHPO allows for oversight over the SHPD and staff's work with federal partners.

The United States Department of Interior requirements state, "The SHPO is responsible for maintaining a staff that meets the professional qualifications requirements of 36 CFR 61. At a minimum, a State must have full-time access to a historian, architectural historian, and archeologist who meet these professional qualifications."

Additionally, when asked to review the position description of the SHPO, Paula Falk Creech, a National Park Service Program Manager, commented,

*"The NPS does not require SHPOs to have professional qualifications. The NPS requires that certain professional disciplines make up the SHPO and that those disciplines have certain professional qualifications, but there is no standard for Deputies or SHPOs. There is a list in Chapter 3 of the Historic Preservation Fund Grants Manual which outlines the SHPOs responsibilities but that is all. The Deputy SHPO also does not have professional qualifications. The SHPO in Hawaii is over so many programs and head of the Department - this also occurs in other States. However, the Deputy is usually the person who actually leads the Historic Preservation Office. I would recommend the focus for professional standards be placed on the Deputy SHPO position rather than the SHPO. You may have a better chance of establishing the merits of the Deputy SHPO, rather than the political appointment of a SHPO. Senate Bill 2644, Senate Draft 1 states*

*that the Department of Interior has established qualifications for SHPO but we have not."*

Thus, the current practice of having the Chairperson serve as SHPO and the Administrator serve as Deputy SHPO meets federal guidelines.

The Department agrees, however, that there should be qualification requirements in state law, and proposes the alternative language:

"(b) The state historic preservation officer or the deputy historic preservation officer shall: ..."

This amendment will ensure one or both the SHPO or Deputy SHPO meet the required minimum qualifications. It will also ensure the Administrator of SHPD is held strictly accountable to and by the Chairperson. Clear lines of accountability are essential for the oversight of this significant Division. Senate 2644, Senate Draft 1, as written muddies accountability. The Department's proposed amendment however offers a solution, which (1) Ensures qualified staff is overseeing the determinations of SHPD; and (2) The Administrator of SHPD is held to clear accountability.



**SB 2644, S.D. 1, RELATING TO THE STATE HISTORIC  
PRESERVATION OFFICER**

House Committee on Finance

March 28, 2008

2:00 p.m.

Room: 308

The Office of Hawaiian Affairs (OHA) **SUPPORTS** S.B. 2644, S.D. 1, which would ensure the proper professional qualifications of the State Historic Preservation Officer (SHPO) through adherence to the required standards established by the United States Secretary of the Interior.

OHA has substantive obligations to protect the cultural and natural resources of Hawai'i for its beneficiaries, the people of this land. Part of this mission is to identify and protect traditional cultural landscapes, which serve as the last vestiges of meaningful connections with the ancestors of Hawai'i and the unique and fragile natural, cultural, and historical resources these connections rely upon.

The administration of the comprehensive historic preservation program, as outlined in Chapter 6E, Hawaii Revised Statutes (HRS), and through the various promulgated administrative rules in support of this important chapter, serves as an integral component of OHA's advocacy efforts in perpetuating, protecting and preserving the historic landscape.

These proposed amendments to Chapter 6E, HRS, would ensure that the SHPO would be uniquely qualified to understand the many complexities associated with the area of historic preservation. This would in turn greatly assist in the protection and perpetuation of the unique traditional cultural landscape and associated historic properties for all the people of Hawai'i and, more importantly, for our future generations.

OHA urges the Committee to PASS S.B. 2644, S.D. 1. Thank you for the opportunity to testify.



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The Twenty-Fourth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance

Testimony by  
Hawaii Government Employees Association  
March 28, 2008

**S.B. 2644, S.D. 1 – RELATING  
TO THE STATE HISTORIC  
PRESERVATION OFFICER**

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 2644, S.D. 1, which establishes standards for the State Historic Preservation Officer within the Department of Land and Natural Resources. This position performs an important role in preserving historical sites throughout the state. Recent problems with the division were due in large part to the previous State Historical Preservation Officer lacking the appropriate job qualifications.

S.B. 2644, S.D. 1 requires that the person appointed by the Governor meet the qualifications set by the U.S. Secretary of the Interior, and have professional experience with historic preservation in Hawaii. The Governor must also inform the Legislature about the person's qualifications to serve in that position.

The State Historic Preservation Officer should be a qualified historic preservation official in architecture, architectural history, archaeology, history, culture or a closely related field. They should also have professional experience with historical preservation locally.

Thank you for the opportunity to testify in support of S.B. 2644, S.D. 1.

Respectfully submitted,

Nora A. Nomura  
Deputy Executive Director.



## FINTestimony

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**From:** Thomas Dye [sha@tsdye2.com]  
**sent:** Thursday, March 27, 2008 6:46 AM  
**To:** FINTestimony  
**Cc:** Society for Hawaiian Archaeology  
**Subject:** Testimony in Strong Support of SB 2644, SD1, Relating to the State Historic Preservation Officer

TO: Representative Marcus Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair House Committee on Finance  
Email: FINtestimony@Capitol.hawaii.gov

FROM: Thomas S. Dye, Ph.D., President  
Society for Hawaiian Archaeology  
Telephone: 808-529-0866, FAX: 808-529-0884  
Email: sha@TSDYE2.com

HEARING: March 28, 2008, 2:00 PM, House Conference Room 308, AGENDA #1

SUBJECT: Testimony in Strong Support of SB 2644, SD1, Relating to the State Historic Preservation Officer

I am Dr. Thomas Dye, President of the Society for Hawaiian Archaeology (SHA). We have over 200 members that include professional archaeologists and advocates of historic preservation in general. I am testifying in strong support of SB 2644, SD1, a bill that amends section 6E-5, Hawaii Revised Statutes (HRS), to clarify and strengthen the professional qualifications required of the Hawaii State Historic Preservation Officer.

Section 6E-5, HRS, authorizes the Governor to appoint a "state historic preservation officer." This is required of all states wanting to participate in the nation-wide, federal historic preservation program and to receive annual grant support from the Historic Preservation Fund which is administered by the National Park Service. Under federal law and section 6E-5, HRS, the designated "state historic preservation officer" is responsible for ensuring that the state's comprehensive historic preservation program meets federal program requirements and that the State Historic Preservation Office is staffed with qualified professionals.

When the State of Hawaii chose to participate in the federal historic preservation program in 1976 and enacted legislation to enable Hawaii's participation, the Legislature envisioned a Hawaii State Historic Preservation Officer who would be of "professional competence" and have "experience in the field of historic preservation" (section 6E-5, HRS). The amendment proposed in SB 2644 serves to strengthen what the Legislature envisioned in 1976 by tying these qualifications to established national standards which should, in turn, reduce any ambiguity over who is and is not qualified for the position. If enacted, the Hawaii State Historic Preservation Officer would need to meet standards established for historic preservation professionals by the U.S. Secretary of the Interior ("Secretary of the Interior's Professional Qualifications Standards") which are long-standing and have been used widely in multiple circumstances as a measure of professional competence.

SHA strongly supports this measure because it believes that having a qualified professional responsible for the statewide historic preservation program and related federal program requirements will be a significant step towards ensuring that the program is administered in a professional manner, that it is staffed appropriately by professionals meeting national standards, and that decisions will be well grounded in historic preservation law and professional practice.

Over the last three years, we had the opportunity to witness what can happen to the program when neither the Hawaii State Historic Preservation Officer nor Deputy State Historic Preservation Officer had a professional background in historic preservation. There was a general and marked deterioration in the program's ability to meet its mandated responsibilities and we, collectively, are now facing the difficult task of trying to advocate for the resurrection of a viable program. Our members wish to avoid, if

possible, this unfortunate situation in the future. We believe that SB 2644, SD1, if passed, will provide greater accountability and consistency to the position of state historic preservation officer and to the program that official administers.

Thank you for the opportunity to testify on the important issues raised by SB 2264, SD1. We respectfully urge you to pass this bill out of committee as currently worded. Should you have any questions, please feel free to contact me at the above telephone number and email address.

Thomas S. Dye, Ph.D  
President, Society for Hawaiian Archaeology

## **FINTestimony**

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**From:** David Lawrence Brown [david\_lawrence\_brown@yahoo.com]  
**Sent:** Thursday, March 27, 2008 1:30 PM  
**To:** FINTestimony  
**Subject:** Re: Testimony in Strong Support of SB 2644, SD1

TO: House Committee on Finance  
Representative Marcus Oshiro, Chair  
Representative Marilyn B. Lee, Vice Chair

FROM: David Lawrence Brown, MA  
Anthropologist/Archaeologist  
Phone: (808) 696-9454  
Email: [david\\_lawrence\\_brown@yahoo.com](mailto:david_lawrence_brown@yahoo.com)

HEARING: March 28, 2008, 2:00 PM, House Conference Room 308, AGENDA #1

SUBJECT: Testimony in Strong Support of SB 2644, SD1,  
Relating to the State Historic Preservation Officer

I am David Lawrence Brown, a former Branch Chief Archaeologist of the Hawaii State Historic Preservation Division. I am testifying in strong support of SB 2644, SD1, a bill that amends section 6E-5, Hawaii Revised Statutes (HRS), and provides guidelines for the professional qualifications required of the Hawaii State Historic Preservation Officer (SHPO).

As drafted, SB 2644, SD1, seeks to connect existing State of Hawaii legislative doctrine (6E-5, HRS) regarding the qualifications required of a SHPO with the federal professional qualifications set forth by the U.S. Secretary of the Interior. ("Secretary of the Interior's Professional Qualifications Standards – CFR 36 Part 61).

The State Historic Preservation Division has tragically suffered collateral damage as a consequence of having a SHPO and Deputy SHPO who did not have "experience in the field of historic preservation" (section 6E-5, HRS). More alarming, previous appointees are alleged to have managed our State Historic Preservation Division with callous disregard for ethics, accountability, or the mission of an historic preservation program; against the better judgment and advisement of their experienced, professionally qualified staff. This ultimately lead to the breakdown of the State Historic Preservation Division, the exodus of over 20 qualified historic preservation professionals, and the irreversible damage, destruction, and loss of many nonrenewable historic resources (cultural, architectural, and archaeological) including the often avoidable desecration of human remains, and other deleterious issues.

The inexcusable situation regarding our SHPD must not be allowed to occur in the future. The SHPO and the Deputy SHPO should both meet State and Federal professional qualifications standards; they must be accountable for their actions and must uphold the regulatory and ethical obligations of their appointments; disregarding all politically directed requests and special interest agendas that violate the mission and goals of an historic preservation program.

I respectfully advocate that this committee pass SB 2644, SD1, as worded. Thank you for the opportunity to testify. If you have any questions or concerns, please let me know.

David Lawrence Brown, MA

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