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GOVERNOR OF HAWAII



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

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BOATING AND OCEAN RECREATION
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
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
WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS**

March 12, 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.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME LOCAL 152, AFL-CIO
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The Twenty-Fourth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Water, Land, Ocean Resources and Hawaiian Affairs

Testimony by
Hawaii Government Employees Association
March 12, 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,

A handwritten signature in black ink, appearing to read "Nora A. Nomura", is written over the typed name.

Nora A. Nomura
Deputy Executive Director.



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

House Committee on Water, Land, Ocean Resources and
Hawaiian Affairs

March 12, 2008

9:00 a.m.

Room: 312

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 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, 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 historical 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 Committees to PASS S.B. 2644, S.D. 1. Thank you for the opportunity to testify.

-----Original Message-----

From: kawikam@hawaii.rr.com [mailto:kawikam@hawaii.rr.com]
Sent: Tuesday, March 11, 2008 9:25 AM
To: WLHtestimony
Subject: Support of SB 2644, SD1- WLH Committee Meeting, 3/12/08 9 a.m.

TO: Representative Ken Ito, Chair
Representative Jon Riki Karamatsu, Vice Chair
House of Representative Committee on Water, Land, Ocean Resources, &
Hawaiian Affairs

FROM: Kawika McKeague, O'ahu Island Burial Council (OIBC) Legislative
Committee (LC) Committee Chair & Members of the OIBC-LC
Telephone: 808-265-7901
Email: kawikam@hawaii.rr.com

HEARING: Wednesday March 12, 2008, Conference Room 312

SUBJECT: Testimony in Support of SB 2644, SD 1, Relating to the State
Historic Preservation Officer

Aloha kakou, e Chair Ito and the members of the Water, Land, Ocean
Resources, & Hawaiian Affairs Committee:

I am Kawika McKeague, Moku o 'Ewa Representative and Vice-Chair of the O'ahu Island Burial Council (OIBC). I also serve as the liaison representing the interests of the OIBC Legislative Committee, which was formed in a meeting held on February 13, 2008, the OIBC voted to support the formation of a Legislative Committee (LC). The OIBC-LC is comprised of OIBC Chair Jace McQuivey, Councilmember Kehau Abad, Councilmember Hinaleimoana Wong, Councilmember Kekuewa Kikiloi, and I. The purpose of the OIBC-LC is to advocate the position and interests of the larger Council in legislative action that are pertinent to the fulfillment of the Council's duties, as promulgated under Hawai'i Revised Statutes 6E-43.5(f)(3). One of these duties authorizes the Council to "make recommendations regarding appropriate management, treatment, and protection of native Hawaiian burial sites, and on any other matters relating to native Hawaiian burial sites." As such, it is the position of the Council that it is within its legal purview and culturally-mandated sense of kuleana to lend its recommendation within the legislative process.

We submit this testimony as a supplement to our previous support of SB 2644, SD 1 with a request for your Committee to consider the following qualifications we deem as important in consideration the role and duties of the State Historic Preservation Officer. In our humble mana'o, the individual must reflect the following, specific to the understanding of Hawaiian history, culture, and perspective:

o Pono e kulana Hawaii ma kona moaukala nona iho no a peia nohoi ma kana mau mea i hana ai (a distinct and distinguishable Hawaiian manner, demeanor, character, and persona justifiable and identifiable by his/her personal history and accomplishment)

o Pono e akamai ma ta moaukala o to katou poe Hawaii, to katou nohona he lahui kanaka ma teia pae aina nei, to katou nohona/lawena he Hawaii i teia ta poai a puni to ta kaiaulu o Polenekia nei, aole he Ilikini o Amelika Hui Pu Ia (Knowledgeable in the history of our Hawaiian people, our ways and way

of life, our practices and concepts with particular attention given to his/her cognizance in being Hawaiian as a part of the larger Polynesian peoples of the Pacific region and NOT as an Indian or Native American native to the U.S. continental region)

o Pono e malama kuleana ma ke ano o to Hawaii oiwi ponoi ame tela e apono ia na na hanauna tupuna o katou poe Hawaii a e ite ia ma o o tana noonoo haakaiaulu, haalokahi, haakuikahi, a hoolomua I to Hawaii nei mau lahui alakai ia na ka loina Hawaii (Must be able to undertake responsibility in a manner consistent with the accordance of our native people and that which would be deemed as appropriate according to traditional knowledge base given the obvious cultural and other conflicting life dictates of foreign influence ; must be evidenced in his/her thought processes of communal and family connections, sense of unity and desire to unite seemingly oppositional perspectives to common, mutual cultural ground; as well as be willing and able to lead and make decisions by and for that which is just for the native community of the Hawaiian people)

o Pono e akamai i ta moolelo a mootuahau o to katou poe Hawaii ame tona haatoitoi (Must possess knowledge of Hawaiian genealogical affairs and historical perspective with regards to its scope and sphere of governance of native Hawaiian lead decision making)

o Pono e akamai ma to katou olelo Hawaii a e pono tela iteita e hookalaiwa i tona iini e hana no ta pono o to katou poe Hawaii, aole no ta pono haawaiwai malihini a pela aku (Must possess fluency and be able to articulate with a level of professional skill in the Hawaiian language of which shall be a driving impetus to work for the benefit of the Hawaiian community first and foremost and not simply a guided manipulative of foreign commercial and capitalist interest)

o Pono e akamai i ta malama pilina o kanaka e laa o na kanaka limahana o ua papahana nei ame na ano papahana likeole; pono e akamai i ta hoonohonoho a kaana akula i ta hana i na limahana tohu hoi me ta lakou e pono nei (Must possess strong managerial skills, able to disseminate and assign according to the technical skills of the Hawaiian community members that he/she shall hire and oversee; foreigners are welcome into these positions given their subsequent ability to meet and/or exceed the established criteria for employ)

o Pono e taulike tona iteita o ta hana like me na poe oiwi ame na malihini lahui likeole ketahi i ite ia ta iteita o ta poe Hawaii ma ka lawena/nohona malihini (Must possess the necessary interpersonal skills to work with natives and non-natives alike while maintaining integrity with regards to what is an acceptable format for Hawaiian perspective integrated into the oversight and management of foreign presence and inclusion in native Hawaiian affairs; must maintain strong working with relationships with stakeholders of the various endeavors of the position)

o Pono e iteita hoi ma tona kulana elele/moho o ta kaiaulu pili maitai me ta poe o te aupuni Hawaii ame ona mau poe limahana i loa ai ta maitai no to katou kaiaulu nei (Must possess fortitude and integrity as a representative of and on behalf of the Hawaiian community with regards to his/her ability to convey this in the work setting and given the various political and community issues and perspectives)

o Pono ta hoomaopopo no ta nohona aina ame na kulana konohiki aina a pela wale aku e like no me tela o ta wa o na Hawaii e hoohatu nei ia Hawaii (Must possess knowledge and understanding of traditional land tenure and governance)

o Pono ta hoomaopopo, ta ite ame ka naauao no na lolina likeole o katou poe Hawaii i mau na hooholo maitai ma ke ano he pono no na Hawaii; ina no he pono no to Hawaii pono, he pono no to Hawaii malihini (Must possess knowledge and understanding of cultural traditions and practices of the native Hawaiian community and shall be guided by such understanding with regards to decision making and execution of job responsibilities)

o Pono e iteita ma ta hoopapa Hawaii ame ta hoopapa malihini i hiti te hele ma mua o na aha likeole o na aina e a peia hoi me to Hawaii nei pae aina i ite ia ta iteita ma tona mau ano iho no he mea haapolitikala (Must be able to engage in a varied of arena before a diversity audiences on a wide array of concerns including but not limited to politics within the Hawaiian community and larger governmental bodies; must possess public and political awareness and understanding)

o Pono ka lolohuamea me ta paihihi ma na ano likeole o ta haapolitikala kanaka oiwi pa ma waho a pae i to ka malihini pae o ka nohona (Must be comfortable to engage in sensitive political issues in various political levels; must possess the skill, eloquence, diplomacy, and dignity complementary to an individual whom shall be charged to work both within and outside of the native Hawaiian community)

o Pono e eleu ma ka lono o ia au nei o katou e ola nei (Must be aware and conscious as well as conscientious of contemporary issues impacting the culture and history of Hawaii in both the native and larger context the community)

o He maitai hou ae paha nana o ka mea e tulia nei i ta kuleana alakai o SHPD kahi mahele noeau a naauao hou aku e laa o ta eli aina/huli pili hulikoehana a pela wale aku (Must possess experience in a given area of historical practice complementary to pre-established criteria as mentioned above to include but not limited to archaeology and anthropology)

o Pono keia poe e akamai ma ka hooiteita pilina kanaka ma waena o na oiwi Maoli ame na Malihini ketahi a e peia ana hoi me tona ite ma tona ano hootipa/hoolauna/hootamaaina i waena no o na lahui likeole paha e hootupaa nei ma to Hawaii nei pono (Must possess a strong sense of diplomacy in native Hawaiian and western protocol, social skills and formats; must be able to bridge native and western sphere of existence while maintaining integrity and obligation to the native community of Hawaii)

o Pono e tamaaina iaia na kanawai e tu nei e pili ana no ta pulama iwi tupuna me tela o to ke Aupuni Amelika Hui Pu Ia a me ka noho ia mai o Hawaii na teia aupuni otoa ihola; no na mea pili kanawai akula (Must be familiar with existing historic preservation laws at both the state and federal levels; legal and judicial case knowledge; while maintaining and upholding first and foremost the religious, socio-cultural, and historical laws of governance of the native Hawaiian people prior to western contact;

The above is once again humbly submitted with confidence that your consideration of these specific criteria will strengthen the process by which a true leader and champion for the native Hawaiian community and

historic preservation community at-large can restore the fortitude, dignity, honor, and respect to our generations past, present, and future. We place our faith and trust in your discerning ability to employ our ancestral knowledge in the task before you and that your choice is one that shall set precedent on behalf of our people.

As a Council, we welcome the opportunity to further participate and comment on this measure with each respective Committee.

Mahalo for your time and consideration to our thoughts shared.

Respectfully submitted,

Mark Kawika McKeague,
OIBC 'Ewa District Representative
OIBC Vice-Chair
OIBC Legislative Committee Member

TO: Representative Ken Ito, Chair
Representative Jon Riki Karamatsu, Vice Chair
Committee on Water, Land, Ocean Resources & Hawaiian Affairs

FROM: Ty P. Kāwika Tengan, Assistant Professor
Departments of Ethnic Studies and Anthropology, University of Hawai‘i-Mānoa

HEARING: Wednesday, March 12, 2008, 9:00 am, Conference Room 312

SUBJECT: **Support of SB2644 SD1, Relating to the State Historic Preservation Officer**

Aloha. My name is Ty Tengan and I am an assistant professor in the Departments of Ethnic Studies and Anthropology at the University of Hawai‘i at Mānoa. Today I submit testimony in full support of SB2644 SD1.

I have been involved in matters dealing with archaeology, anthropology, and burial sites protection since 1996 when I was still an undergraduate. While a graduate student in anthropology at UH Mānoa, I received a Research Assistantship to support the efforts of community organizations working to repatriate human remains and burial objects from Mōkapu on O‘ahu. As an assistant professor of ethnic studies and anthropology here, my research, teaching and service have revolved around the practices and politics of anthropology, repatriation, and cultural sites, and I have been actively involved in the creation of an applied archaeology program. In the community I have worked with approximately forty-five other Native Hawaiians involved in archaeology and anthropology to form an organization called Nāki‘ikeaho, which has called for a greater level of Native Hawaiian participation in archaeology, anthropology, historic preservation, cultural resource management, land stewardship and burial sites protection. Through Nāki‘ikeaho and my affiliation with the Department of Anthropology, I have become a member of the Friends of the State Historic Preservation Division (SHPD), a coalition of archaeologists, Native Hawaiians, and other community members that have worked to resolve the present crisis at SHPD and to implement long term changes and improvements in the historic preservation community.

It is vitally essential that the State Historic Preservation Officer (SHPO) be qualified according to national standards set forth by the Secretary of the Interior. The lack of a qualified SHPO has recently led to the deterioration of the SHPD and the consequent neglect of Hawaiian burials, cultural resources and archaeological sites. This bill will help to ensure that the SHPO will have the professional qualifications that will be needed to help rebuild and repair SHPD in the short term and to maintain the strength of the division in the future. Amendments to the original bill clarify the legislative history behind the State’s mandate (and failures) to appoint a properly qualified SHPO. This present version of the bill will better enable the state to fulfill its mandate to protect our past. I strongly urge the committees to pass SB2644 SD1. Mahalo.

From: Thomas Dye [mailto:sha@tsdye2.com]
Sent: Tuesday, March 11, 2008 7:18 AM
To: WLHtestimony
Cc: Society for Hawaiian Archaeology
Subject: Testimony in Strong Support of SB 2644, SD1, Relating to the State Historic Preservation Officer

TO: Representative Ken Ito, Chair
Representative Jon Riki Karamatsu, Vice Chair
House Committee on Water, Land, Ocean Resources, and Hawaiian Affairs

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 12, 2008, 9:00 AM, House Conference Room 312

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 administrators.

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.

From: Halealoha [mailto:halealoha@wave.hicv.net]

Sent: Tuesday, March 11, 2008 7:07 AM

To: WLHtestimony

Cc: Dana Naone Hall; Ihilani Chu; Kaleikoa Ka'eo; Ka'ohulani McGuire; Kauila Keli'ikanaka'ole; Kehau Abad; Kekailoa Perry; Kekuewa Kikiloi; Konia Freitas; Landis Ornellas; Pele Hanoa; Poki'i Seto; Ty Kawika Tengan; Charles Kauluwehi Maxwell; Ka'ohuoka'ala Seto; Kaumakaiwa Keli'ikanaka'ole; Kihei Nahale'a; Pualani Kanahale; William & Melva Aila; Wilma Holi; Alan Murakami; Moses Haia

Subject: Hui Malama Testimony in Support of Bill Specifying Qualifications of State Historic Preservation Officer

Aloha no kakou,

This testimony is provided in support of SB 2644, SD 1 relating to the establishment of specific qualifications of the State Historic Preservation Officer. Please send an email confirmation that the testimony was received, mahalo.

Ola na iwi,

Edward Halealoha Ayau
Executive Director
Hui Malama I Na Kupuna O Hawai'i Nei