

JAN 25 2010

A BILL FOR AN ACT

RELATING TO THE LICENSING OF ARCHAEOLOGISTS.

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

1 SECTION 1. The legislature finds that it is the public
2 policy of the State of Hawaii to protect significant
3 archaeological and burial sites.

4 The practice of archaeology is often affected and driven by
5 development needs. Accordingly, the practice of archaeology
6 should be subject to regulation and control to ensure the public
7 that standards to preserve and protect archaeological sites are
8 being met.

9 The legislature further finds that the practice of
10 archaeology is dynamic and continues to evolve with more
11 sophisticated techniques and the incorporation of knowledge from
12 past work in the field. Additionally, the public is
13 increasingly interested in the archaeology and history of the
14 places that they live in. As the bridge between the past and
15 present, archaeologists have both a public and private duty to
16 ensure that significant archaeological and burial sites are
17 protected.

1 The purpose of this Act is to regulate the practice of
2 archaeology by authorizing the director of commerce and consumer
3 affairs to establish licensure requirements for and regulate
4 archaeologists.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding to title 25 a new chapter to be appropriately designated
7 and to read as follows:

8 **"CHAPTER**

9 **ARCHAEOLOGY**

10 **§ -1 Definitions.** For the purposes of this chapter:

11 "Archaeologist" means a person who shall have the following
12 professional qualifications to practice archaeology in Hawaii:

13 (1) A graduate degree from an accredited institution in
14 archaeology, or anthropology, with a specialization in
15 archaeology, or an equivalent field;

16 (2) At least one year of cumulative archaeological
17 experience in Hawaii or the Pacific;

18 (3) At least four months of supervised archaeological
19 field and analytic experience in Hawaii;

20 (4) At least one year of archaeological research,
21 administration, or management at a supervisory level
22 with at least four months of field experience;

1 (5) A demonstrated ability to carry research to
2 completion, as shown by completed theses,
3 publications, and manuscripts; and

4 (6) A demonstrated knowledge of historic preservation
5 laws, rules, and guidelines.

6 "Department" means the department of commerce and consumer
7 affairs.

8 "Director" means the director of commerce and consumer
9 affairs.

10 § -2 **Limitations.** Nothing in this chapter shall
11 override the requirements of chapter 6E or any rules adopted
12 thereunder.

13 § -3 **License required.** No person shall use the title
14 "archaeologist" or like title, or serve as principal
15 investigator on an archaeological study permitted by the State
16 of Hawaii unless licensed as an archaeologist under this
17 chapter.

18 § -4 **Powers and duties of the director.** In addition to
19 any other powers and duties authorized by law, the director
20 shall:

21 (1) Adopt rules pursuant to chapter 91 to develop
22 standards for licensure;

- 1 (2) Work with the University of Hawaii anthropology
2 program to prepare and administer examinations
3 sponsored by the Society for Hawaiian Archaeology;
4 (3) Issue, deny, renew, refuse to renew, suspend, revoke,
5 fine, and condition licenses;
6 (4) Conduct hearings regarding any violation of this
7 chapter or any rules adopted to implement this
8 chapter; and
9 (5) Establish a fee schedule for the administration and
10 enforcement of this chapter, including but not limited
11 to fees for original licensure, renewal, and license
12 restoration.

13 § **-5 Qualifications for license.** Notwithstanding any
14 other law to the contrary, to qualify for an archaeologist's
15 license an individual shall meet:

- 16 (1) Apply in writing on a form prescribed by the director
17 and submit the fee set by the director for
18 application;
19 (2) Meet the requirements specified in section 13-281-3,
20 Hawaii Administrative Rules, as amended; and
21 (3) Pass a background check that shall include a review of
22 the applicant's archaeological practice in other

1 jurisdictions and a review of any alleged misconduct.
2 or neglect in the practice of archaeology on the part
3 of the applicant.

4 § -6 **Disciplinary actions.** (a) The director may
5 revoke, suspend, deny, or refuse to renew a license, place a
6 licensee on probation, or issue a letter of admonition upon
7 proof that the licensee:

8 (1) Has procured or attempted to procure a license by
9 fraud, deceit, misrepresentation, misleading omission,
10 or material misstatement of fact;

11 (2) Has willfully acted in a manner inconsistent with the
12 public policy to protect archaeological resources; or

13 (3) Has committed a fraudulent act.

14 (b) In addition to suspension, revocation, denial, or
15 refusal to renew a license, the director shall fine a person
16 found to have violated any provision of this chapter or any rule
17 adopted by the director under this chapter not less than \$100
18 nor more than \$5,000 for each violation."

19 SECTION 3. New statutory material is underscored.

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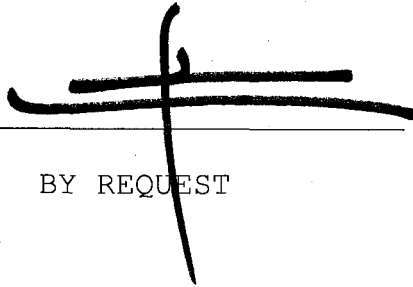
S.B. NO. 2739

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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BY REQUEST

Report Title:

Archaeology Practice; Licensing

Description:

Establishes licensing requirements for archaeologists practicing archaeology in the State of Hawaii.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO THE LICENSING OF ARCHAEOLOGISTS.

PURPOSE: To regulate the practice of archaeology by authorizing the Director of the Department of Commerce and Consumer Affairs (DCCA) to establish licensure requirements for and regulate archaeologists.

MEANS: Add a new chapter to title 25, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The practice of archaeology is often affected and driven by development needs. Accordingly, the practice of archaeology should be subject to regulation and control to ensure the public that standards to preserve and protect archaeological sites are being met.

Further, the practice of archaeology is dynamic and continues to evolve with more sophisticated techniques and the incorporation of knowledge from past work in the field. Additionally, the public is increasingly interested in the archaeology and history of the places that they live in. As the bridge between the past and present, archaeologists have both a public and private duty to ensure that significant archaeological and burial sites are protected.

This bill would authorize the Director of DCCA to establish licensure requirements for and regulate archaeologists in the State of Hawaii.

Impact on the public: Archaeological research in the State would be standardized and inventory surveys could be processed in more timely fashion.

Impact on the department and other agencies:
This bill ensures that archaeology in Hawaii is practiced at a minimum professional standard and subject to oversight, thereby meeting the important public policy purposes of chapter 6E, HRS, in preserving Hawaii's significant cultural and historical sites and structures.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 802.

OTHER AFFECTED
AGENCIES: Department of Commerce and Consumer Affairs,
Office of the Auditor

EFFECTIVE DATE: Upon approval.