



**HB 1969 RELATING TO HISTORIC PRESERVATION**

House Committees on Hawaiian Affairs and Water, Land &  
Ocean Resources

January 27, 2010

9:00 a.m.

Room: 329

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** House Bill 1969 which requires the State Land Surveyor to prepare and file with the Bureau of Conveyances a survey map of an approved burial preservation or mitigation plan.

According to the existing State Historic Preservation Division (SHPD) burial rules, Section 13-300-38(g):

*In order to provide perpetual protection for previously identified Native Hawaiian burial sites, all council determinations to preserve in place or relocate shall be recorded in the bureau of conveyances by the department following acceptance by the applicant, or upon completion of reconsideration or appeal. Any affected landowner may enter into an in situ burial or a reburial agreement with the State.*

Section 13-300-39, HAR, contains a similar requirement with regard to departmental decisions by the SHPD with the same recordation requirement. The purpose behind these two sections of rule is to provide greater protection of unmarked burial sites through greater recorded public notice to avoid future disturbance. The efficacy of the current Chapter 13-300, HAR, rule implementation has yet to be fully realized.

HB 1969 would greatly effectuate this much needed recordation.

Thank you for this opportunity to testify.

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committees on  
HAWAIIAN AFFAIRS  
and  
WATER, LAND, & OCEAN RESOURCES**

**Wednesday, January 27, 2010  
9:00 A.M.  
State Capitol, Conference Room 329**

**In consideration of  
HOUSE BILL 1969  
RELATING TO HISTORIC PRESERVATION**

House Bill 1969 requires the State Land Surveyor to prepare and file with the Bureau of Conveyances a survey map of approved burial preservation or mitigation plan. The Department of Land and Natural Resources (Department) opposes this measure as it will require additional expenses and staff time for the State during a time of decreasing budgets. The General Fund appropriation to the Department has been cut by over 32% in two years, and it is not possible to take on additional responsibilities at this time. The Department would recommend that the preparation and filing of a survey map of burials rest with the landowner rather than the State.

**LAURA H. THIELEN**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**RUSSELL Y. TSUJI**  
FIRST DEPUTY

**KEN C. KAWAHARA**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



**STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING  
AND GENERAL SERVICES  
P.O. BOX 119  
HONOLULU, HAWAII 96810-0119**

WRITTEN TESTIMONY  
OF  
RUSS K. SAITO, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
HOUSE COMMITTEES  
ON  
HAWAIIAN AFFAIRS  
AND  
WATER, LAND, & OCEAN RESOURCES  
ON  
JANUARY 27, 2009

H.B. 1969

RELATING TO HISTORIC PRESERVATION

Chair Carroll, Chair Ito, and members of the Committees, thank you for the opportunity to provide written testimony on H.B. 1969.

The Department of Accounting and General Services (DAGS) opposes this bill in its current form because it would require the DAGS Land Survey Division to perform functions that should be required of the land owner and the State Historic Preservation Division (SHPD).

DAGS believes that the land owner should bear the burden and expense of providing a survey map and that SHPD may refer the survey map to the state land surveyor to be checked as to form and mathematical correctness, if necessary, and should file the survey map with the bureau of conveyance. Section 502-17 is for File Plan plat subdivisions and not appropriate for preservation and mitigations plans. SHPD should also draft requirements for the survey map.

Thank you for the opportunity to provide written testimony on this bill.

TO: Representative Mele Carroll, Chair  
House Committee on Hawaiian Affairs  
And  
Representative Ken Ito, Chair  
House Committee on Water, Land & Ocean Resources

FROM: Sara L. Collins, Ph.D., Legislative Committee Chair  
Society for Hawaiian Archaeology  
Email: [sara.l.collins.sha@gmail.com](mailto:sara.l.collins.sha@gmail.com)

HEARING: Wednesday, January 27, 2010, 9:00 AM, Conference Room 329  
SUBJECT: Comments on HB 1969 (Relating to Historic Preservation)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 200 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing comments on HB 1969, which requires a state land surveyor to prepare and file with Bureau of Conveyances (BOC) a survey map of an approved burial or mitigation preservation plan.

This bill attempts to address long-standing concerns that burial sites might be damaged or destroyed, despite strong preservation commitments and protection measures, if future land owners, construction crews, or agency planners and regulators do not have adequate access to accurate information on the site's location. Having professionally prepared survey maps and descriptions that are permanently carried with the conveyance records of a parcel would reduce the chance of these sites being accidentally disturbed in the future. While we share these concerns and agree with the intent of the bill, it is not clear that the proposed amendments will accomplish the stated goals. Clarifying and strengthening existing administrative rules and their implementation would probably be more effective.

HB 1969 proposes to amend §6E-43, Hawaii Revised Statutes (HRS) primarily by adding a new paragraph (f) which requires the state land surveyor to prepare a map of a Native Hawaiian burial site preserved as part of a preservation or mitigation plan approved by the Department of Land and Natural Resources (DLNR) within 90 days of such approval. The filing is to be prepared as stipulated in §502-17, HRS and filed with the Bureau of Conveyances (BOC).

With regard to proposed paragraph (f), we note the following:

- The existing administrative rule pertaining to historic burials (Hawaii Administrative Rules [HAR] 13-300-38(g), -39(f), -40(i)(3) and -40(j)(3), already contains provisions for recording burial sites, both those preserved in place and those relocated, with the Bureau of Conveyances and for landowners to enter into a burial agreement with the state for the purpose of providing perpetual protection for the site. DLNR is required to record determinations regarding the disposition burial sites and inadvertently discovered human remains with the BOC and landowners may enter into burial agreements with the State to codify approved a mitigation or burial treatment plan.

- The existing administrative rules pertaining to preservation of archaeological sites (HAR 13-277) contain required components and actions for the short-term and long-term preservation of historic sites that include accurate maps with buffer zones, site description, and a mechanism for long-term monitoring of the preservation area(s).
- While site locations and description prepared by professional surveyors are the most accurate, they are not always necessary, appropriate, or practical. They are most effective and critical for burial sites in highly developed areas where survey points and benchmarks are well established and burials are vulnerable due to on-going development, multiple parcel and easement boundaries, or long-term infrastructure improvements. For other areas, location maps prepared by archaeologists and landuse planners are sufficient and more cost effective.
- We assume that the title "state land surveyor" refers to a professional surveyor on staff at the Land Survey Division of the Department of Accounting and General Services (DAGS). If so, we believe the remaining field surveyor positions in DAGS were eliminated in 2009. Consequently, there are no longer any state land surveyors to conduct mapping and recordation fieldwork. Given this situation, it is not clear how the mandates of proposed paragraph (f) would be accomplished.

Therefore, in view of the above facts, we believe that the proposed amendments in HB 1969 are unnecessary. We believe that procedures required by the existing administrative rules, if followed by DLNR and applicants, will provide a reasonable level protection for burial sites and ensure that they are recorded in BOC documents. In addition, we believe that if DLNR and other state and county agencies follow the existing review and compliance processes outlined in Chapters 6E-8 and 6E-42, HRS, and their implementing regulations, there will be adequate opportunity to identify burial sites early in the process and to ensure that they are appropriately recorded and preserved.

Thank you for the opportunity to testify on the important issues raised by HB 1969. We look forward to working with the committee on these and other measures intended to improve the protection of significant historic sites. Should you have any questions, please feel free to contact me at the above email address.

George Hook, Kupuna  
Na Kupuna Moku O Keawe  
PO Box 134  
Hawi, HI 96719

COMMITTEE ON HAWAIIAN AFFAIRS  
COMMITTEE ON WATER, LAND, & OCEAN RESOURCES  
Wednesday 27, 2010  
Time: 9:00 am

HB 1969

Na Kupuna Moku O Keawe strongly supports HB 1969. HB 1969 requires state land surveyor to prepare and file with bureau of conveyances survey map of an approved burial preservation or mitigation plan. This is very important for the protection of significant cultural and traditional sites as well as our Kupuna Iwi. This will assure that there is no reason for inadvertent finds in areas that have been identified and submitted to the Bureau of Conveyances. Developers and private interest will be held responsible for their negligence if they fail to get this information from the Bureau of Conveyances.

We ask your support in passing this bill.

Mahalo nui loa,

George Hook, Kupuna

House of Representatives – 25<sup>th</sup> Legislature  
Regular Session of 2010

Committee: Hawaiian Affairs  
Chairperson: Honorable Mele Carroll  
Vice-Chair: Honorable Maile Shimabukuro  
Hearing: January 27, 2010

Re: Testimony in Support of H.B. 1969

Aloha Chairperson Carroll, Vice-Chair Shimabukuro and Honorable Board  
Members:

My name is Dexter K. Kaiama and I wish to submit my testimony in support of H.B. 1969 and revision of H.R.S. Chapter 6E to mandate the preparation and filing and/or recording with the Bureau of Conveyances a survey map of an approved burial preservation or mitigation plan.

While DLNR/SHPD currently represents that the preparation and filing/recording of a survey map is authorized by related administrative rules, the revision of H.R.S. 6E makes clear a statutory requirement to prepare and file the survey map.

Having represented clients on issues concerning the determination of burials as “known burials” or “inadvertent finds” there has been much concern over DLNR/SHPD’s failure in the implementation of their administrative rules and the often subjective manner in which determination of burial finds are made.

This Statutory mandate resolves the issue of burial determination, and their treatment, for future contemplated or planned development of the specific site covered by the survey map.

Mahalo nui,

Dexter K. Kaiama  
700 Richards Street, Suite 805  
Honolulu, Hawai’i 96813  
Tel. No. (808) 545-2922