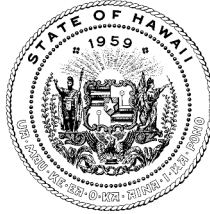
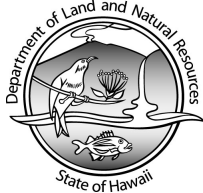


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EDT/WTL

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 Senate Committees on
ECONOMIC DEVELOPMENT AND TECHNOLOGY
and
WATER, LAND, AGRICULTURE AND HAWAIIAN AFFAIRS**

**Wednesday, February 11, 2009
1:15 PM
State Capitol, Conference Room 016**

**In consideration of
SENATE BILL 1143
RELATING TO THE STATE HISTORIC PRESERVATION OFFICER**

Senate Bill 1143 proposes to Require the State Historic Preservation Officer (SHPO) possess professional qualification in specific fields of study. The Department of Land and Natural Resources (Department) strongly opposes this bill.

Senate Bill 1143 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 Archaeology and Historic Preservation Manager 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."

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:

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

RUSSELL Y. TSUIJI
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

"(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 Archaeology and Historic Preservation Manager 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 1143, 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 Archaeology and Historic Preservation Manager of SHPD is held to clear accountability.



SB 1143 Relating to the State Historic Preservation Officer
Senate Committees on Economic Development and Technology;
and Water, Land, Agriculture, and Hawaiian Affairs

February 11, 2009

1:15 pm

Room: 016

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB 1143, which would strengthen the professional qualifications required of the Hawai'i State Historic Preservation Officer (SHPO).

OHA sees the intent of the bill as ensuring that the individual appointed as the SHPO meets the standards established by the United States Secretary of the Interior. This will be especially important in ensuring that the State Historic Preservation Office and programs will continue to receive annual grant support from the National Park Service.

The State Historic Preservation Office and programs are at a critical juncture in the effort to ensure that our cultural and historic resources are here for future generations to honor, appreciate and admire. OHA believes that by having a qualified professional in place as the SHPO, the challenges facing historic preservation in Hawai'i can be overcome through a collaborative effort among all interested parties.


Therefore, OHA urges the Committees to **PASS** SB 1143. Thank you for the opportunity to testify.

HISTORIC HAWAII FOUNDATION

VIA EMAIL: EDTtestimony@capitol.hawaii.gov

To: Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair
Committee on Economic Development and Technology

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair
Committee of Water, Land, Agriculture and Hawaiian Affairs

From: Kiersten Faulkner 
Executive Director, Historic Hawai'i Foundation

Committee Date: Wednesday, February 11, 2009
1:15 p.m.
Conference Room 016

Subject: **SB1143, Relating to the State Historic Preservation Officer**

On behalf of Historic Hawai'i Foundation (HHF), I am writing with comments on SB1143, which would require the state historic preservation officer to possess professional qualifications in specific fields of study, including architecture, architectural history, archaeology, history, culture or a closely related field.

Historic Hawai'i Foundation supports the intent of the bill, which is to ensure that the State's comprehensive historic preservation program is developed and implemented with credibility, professionalism and in accordance with best practices consistent with national standards for qualified preservation professionals.

The National Historic Preservation Act provides for each state to have a State Historic Preservation Officer (SHPO); in many states, including Hawai'i, the titular SHPO is a political appointee who oversees a resource protection agency. The daily functions related to historic preservation are conducted by a staff of historic preservation professionals who make determinations and recommendations on a variety of undertakings and activities that have the potential to impact historic resources. For federal undertakings, these staff members are required to meet professional qualification standards of education and experience as established by the Secretary of the Interior (SoI Standards). While the individual person in the role of SHPO may meet the standards, the SHPO may also delegate to a qualified deputy or administrator for formal review and regulatory actions.

Although the SoI Standards define qualifications in a variety of preservation-related fields, there is no parallel requirement in state law for State Historic Preservation Division (SHPD) employees to meet similar requirements when reviewing or acting on undertakings that do not have federal applicability. The administrative rules governing professional qualifications (HAR13-281) provide the qualifications for those submitting projects to SHPD for review, not the qualifications of either the SHPO or the assigned staff reviewers themselves. HRS 6E-3 states that the Historic Preservation Program should include "employment of sufficient professional and technical staff for the purposes of this chapter," but it does not specifically define those professional qualifications, even by reference to the SoI Standards.



HHF supports the intent to have a well-qualified Historic Preservation staff that meets not only the SoI Standards, but that also is well-versed in Hawai'i-specific preservation issues. A well-credentialed staff is necessary to qualify for federal funding and recognition of the state's preservation program, and to provide the education, background and experience to provide credible reviews of various proposals that could either harm or benefit the historic resources of Hawai'i.

There are many different administrative structures that could attain this intent. Some options include:

- Adding specific qualification requirements for SHPD staff in the fields of architecture, architectural history, preservation planning, archeology, history or culture that parallel the SoI Standards, not only for those submitting projects but also for those who review them;
- Requiring that the Division head or deputy meet the SoI Standards; or
- Requiring that the titular SHPO meet the standards.

Any of these options would have far-reaching implications for the structure, administration and budget for the Division, as well as for recruitment, training and compensation of qualified individuals. These implications should be understood and accommodated prior to any new requirements going into effect.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

TO: Senator Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology
Senator Clayton Hee, Chair
Senate Committee on Water, Land, Agriculture & Hawaiian Affairs

FROM: Sara L. Collins, Ph.D., Chair, Legislative Committee
Society for Hawaiian Archaeology
Telephone: 808-348-2937
Email: sara.l.collins.sha@gmail.com

HEARING: February 11, 2009
1:15 PM
Conference Room 016

SUBJECT: Testimony in Support of SB 1143, Relating to the State
Historic Preservation Officer

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. I am testifying in strong support of SB 1143, 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 amendments proposed in SB 1143 serve 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.

We recommend that the following amendments be made in order to clarify SB 1143:

SECTION 1. The legislature finds that the state historic preservation officer requires extensive training and professional experience as the ~~administrator~~ head of the state historic preservation program.

~~Due to the important role that a state historic preservation officer serves with regard to federal historical preservation matters, the United States Secretary of the Interior has established standards for determining the qualifications required for a state historic preservation officers. In 1976, the legislature established the requirements for the Hawaii state historic preservation officer, tying them to the standards for professionals in historic preservation that have been set by the United States Secretary of the Interior. The legislature clearly intended for the state historic preservation officer to be a qualified historic preservation professional.~~ The legislature further finds, however, that past and present governors of the State have appointed state historic preservation officers based on broadly worded qualifications that do not meet nationally accepted ~~professional~~ standards for qualified historic preservation professionals. Requiring that the individual appointed possesses the specified qualifications would bring accountability and consistency to the position of state historic preservation officer.

The purpose of this Act is to require that any person who is appointed by the governor as a state historic preservation officer, meets the standards for historic preservation professionals established by the United States Secretary of Interior.

Over the last four 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 of meet its mandated responsibilities and we, collectively, are now facing the difficult task of trying to advocate for the resurrection of a viable program. We believe that SB 1143, 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 considering our comments. Should you have any questions, please feel free to contact me at the above phone number or email address.