

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, January 29, 2011 4:59 PM
To: WLOtestimony
Cc: michael.s.yoshinaga@hawaii.gov
Subject: Testimony for HB155 on 1/31/2011 10:00:00 AM
Attachments: HB155_LNR_01-31-11_WLO-HAW.PDF

Testimony for WLO/HAW 1/31/2011 10:00:00 AM HB155

Conference room: 325
Testifier position: oppose
Testifier will be present: No
Submitted by: michael yoshinaga
Organization: Dept. of Land and Natural Resources
Address:
Phone: 587-0241
E-mail: michael.s.yoshinaga@hawaii.gov
Submitted on: 1/29/2011

Comments:

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

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

**Monday, January 31, 2011
10:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 155
RELATING TO BURIAL SITES**

House Bill 155 proposes to amend Chapter 6E, Hawaii Revised Statutes (HRS), by transferring jurisdiction for inadvertent burials from the State Historic Preservation Division to the Island Burial Councils. The Department of Land and Natural Resources (Department) opposes House Bill 155 because it significantly increases the timeframe for making determinations for the treatment of inadvertently discovered native Hawaiian remains.

Jurisdiction of inadvertent discoveries was given to the Department to ensure a timely response, and to provide for a resolution that minimizes exposure of the burial site and adverse impacts, if any, on the activity that resulted in the discovery. Presently, Chapter 6E, HRS, requires the Department to respond to an inadvertent discovery of a single burial on Oahu within 24 hours. The response time is extended to 48 hours for discoveries found on the Neighbor Islands. Within these time frames, the Department is required to make a decision on whether to preserve a burial in place or relocate it. House Bill 155 would transfer this authority to Burial Councils and requires them to reach a decision regarding preservation in place or relocation within 15 days of the referral by the Department. State Sunshine Law requires Burial Councils to post an agenda at least six days prior to a meeting, and this requirement alone would slow the current response time to an inadvertent discovery by five to six days. In addition, Burial Councils often do not enjoy the flexibility of scheduling or the quorum necessary to allow them to meet on demand, or in a manner timely enough to render a decision within 15 days of referral by the Department which further extends the response times that will likely result from the proposed amendments to Chapter 6E, HRS.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
INTERIM 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
KAIKOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

har3 - Megan

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 28, 2011 3:41 PM
To: WLOtestimony
Cc: donaldc@oha.org
Subject: Testimony for HB155 on 1/31/2011 10:00:00 AM
Attachments: 20110128205428.pdf

Testimony for WLO/HAW 1/31/2011 10:00:00 AM HB155

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: 'Donald B. Cataluna
Organization: Individual
Address: 711 Kapiolani Blvd., Ste. 500 Honolulu, HI
Phone: 808-594-1881
E-mail: donaldc@oha.org
Submitted on: 1/28/2011

Comments:



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
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TESTIMONY OF TRUSTEE DONALD B. CATALUNA

HB 155, RELATING TO BURIAL SITES

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

Monday, January 31, 2011, 10:00 am
Conference Room 325

Aloha Chair Chang, Chair Hanohano, Vice Chair Har, Vice Chair Lee and Members of the Committees:

I am Don Cataluna and I write today in strong support of HB 155. My support today is in my capacity as an individual member of the Office of Hawaiian Affairs Board of Trustees, representing Kaua'i and Ni'ihau.

HB 155 would treat inadvertently discovered Hawaiian burial sites in the same manner as previously discovered burial sites, via DLNR's Island Burial Councils. More importantly, this bill would provide much-needed parity in the treatment, care, and protection of Native Hawaiian graves.

Living on and representing the island of Kaua'i, I have seen firsthand how the issue of discovery and care of burial sites divides our community. Across Kaua'i and across Hawai'i, many people have heard about the Brescia case. Like many Native Hawaiians, I believe that construction such as this should stop. I further believe that HB 155 would help remedy future similar situations by creating a single standard for all to follow.

We all have ancestors; the desecration of ancestral graves should not be an acceptable practice, whether they are Native Hawaiian or not. HB 155 is a policy change that is well-done, balanced, fair, and culturally-appropriate in the 21st century. I again urge you to pass this legislation.

Mahalo and much aloha for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, January 29, 2011 6:58 PM
To: WLOtestimony
Cc: sterlingw@oha.org
Subject: Testimony for HB155 on 1/31/2011 10:00:00 AM
Attachments: HB 155 Burial Sites.pdf

Testimony for WLO/HAW 1/31/2011 10:00:00 AM HB155

Conference room: 325
Testifier position: comments only
Testifier will be present: No
Submitted by: Sterling Wong
Organization: Office of Hawaiian Affairs
Address: 711 Kapiolani Blvd Ste 500 Honolulu, HI
Phone: 594-1834
E-mail: sterlingw@oha.org
Submitted on: 1/29/2011

Comments:



HB 155
RELATING TO BURIAL SITES
House Committee on Water, Land and Ocean Resources
House Committee on Hawaiian Affairs

January 31, 2011

10:00 a.m.

Room: 325

The Office of Hawaiian Affairs (OHA) offers the following comments on HB 155, which would require that appropriate island burial councils (IBCs) render statutory determinations of preservation in place or relocation for inadvertently discovered Native Hawaiian burial sites. Under the current statute, IBCs only make such determinations for previously discovered Native Hawaiian burial sites.

The OHA Administration will recommend that the OHA Board of Trustees support HB 155. The intent of this bill addresses an issue that has become a concern to all of Hawai'i through the years: ensuring that decisions rendered on burials are made through the most comprehensive process possible. Sadly, inadvertent burial discoveries have become an all too common occurrence in Hawai'i, and the current provisions of Chapter 6E, HRS, place a tremendous amount of pressure and nearly impossible requirements on State Historic Preservation (SHPD) staff.

OHA does recognize that if passed, this bill will result in additional meetings of IBCs to fulfill the 15-day time frame to render determinations, placing additional requirements on the volunteer members of IBC and the workloads of the SHPD staff that support them.

IBCs are generally viewed as appointed commissions comprised of knowledgeable individuals with demonstrated expertise concerning Native Hawaiian burials. IBC meetings are currently the forum where knowledgeable community members may share their thoughts and concerns on a broad range of traditional knowledge and inter-disciplinary information. These are important considerations when a determination on previously identified Native Hawaiian burials is rendered. Whenever the location or description of a burial site is being discussed, IBC meetings can be closed to the public, ensuring that sensitive traditional and family knowledge is protected if necessary.

Current Hawai'i Administrative Rules promulgated to implement Chapter 6E authorize SHPD staff to temporarily remove Native Hawaiian burials, remains and burial goods to protect them from "imminent harm," until a statutory determination

can be made. We believe this provides necessary protections for Native Hawaiian burials should the circumstances surrounding their discovery warrant them immediate protective action.

This bill will ensure that all Native Hawaiian burials are afforded the respect of a comprehensive decision making process. We look forward to working with all parties in a collaborative effort as development of this process moves forward.

The OHA Administration will make this recommendation to our Board of Trustees at its meeting on February 3, 2011. Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 30, 2011 11:23 AM
To: WLOtestimony
Cc: robertharris@me.com
Subject: Testimony for HB155 on 1/31/2011 10:00:00 AM
Attachments: HB155- Inadvertent Burial Sites.pdf

Testimony for WLO/HAW 1/31/2011 10:00:00 AM HB155

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: Robert Harris
Organization: Sierra Club
Address: P.O. Box 2577 Honolulu, HI
Phone: 808 538 6616
E-mail: robertharris@me.com
Submitted on: 1/30/2011

Comments:



Sierra Club Hawai'i Chapter

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HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES HOUSE COMMITTEE ON HAWAIIAN AFFAIRS

January 31, 2011, 10:00 A.M.
(*Testimony is 1 page long*)

TESTIMONY IN SUPPORT OF HB 155

Aloha Chair Chang, Chair Hanohano and Members of the Committees:

The Hawai'i Chapter of the Sierra Club supports HB 155, which closes a perverse incentive for a developer to avoid doing a thorough investigation of possible burial sites before starting new construction.

As Haw. Rev. Stat. § 6E-43 is currently drafted, developers are tacitly encouraged to avoid finding burial sites before starting construction. It's easier to find them after construction starts and treat them as "inadvertently discovered," with lower statutory obligations for preservation and care.

This measure attempts to treat the discovery of burial sites more consistently, thus ensuring a developer is not incentivized to do minimal exploration before construction.

We have an obligation to respect the culture and remains of those that were here before us. This bill furthers our state's commitment to that principle.

Mahalo for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, January 30, 2011 1:10 PM
To: WLOtestimony
Cc: sara.l.collins.sha@gmail.com
Subject: Testimony for HB155 on 1/31/2011 10:00:00 AM
Attachments: 2011.HB155.pdf

Testimony for WLO/HAW 1/31/2011 10:00:00 AM HB155

Conference room: 325
Testifier position: comments only
Testifier will be present: Yes
Submitted by: Sara Collins
Organization: Society for Hawaiian Archaeology
Address: PO Box 22458 Honolulu, HI 96823
Phone: 808-348-2937
E-mail: sara.l.collins.sha@gmail.com
Submitted on: 1/30/2011

Comments:

TO: Representative Jerry Chang, Chair, House Committee on Water, Land & Ocean Resources
Representative Faye Hanohano, Chair, House Committee on Hawaiian Affairs

FROM: Sara L. Collins, Ph.D., Legislative Chair
Society for Hawaiian Archaeology
sara.l.collins.sha@gmail.com

HEARING: January 31, 2011, 10:00 AM, Conference Room 325
SUBJECT: Comments on HB 155 (Relating to Burial Sites)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing testimony in opposition to HB 155.

HB 155 proposes to amend Chapters 6E-43, 6E-43.5, and 6E43.6, Hawaii Revised Statutes (HRS) by clarifying provisions relating to inadvertently discovered native Hawaiian burial sites by amending sections 6E-43, 6E-43.5, 6E-43.6, Hawaii Revised Statutes. The intent of these amendments is to conform the treatment of inadvertently discovered native Hawaiian discovered burial sites with the treatment of previously discovered burial sites by the burial councils under the Department of Land and Natural Resources (DLNR).

Many of our members play a major role in the identification of historic burials and provide the burials councils with much of the information they need to make treatment decisions. A review of burial council agendas will show that archaeologists regularly meet with the councils as part of the processes outlined in Chapters 6E-43, 6E-43.5, and 6E43.6, HRS. We furthermore work closely with the archaeological and cultural staff of the State Historic Preservation Division (SHPD) in order to ensure timely and appropriate treatment of historic burials when they are found.

We are sympathetic to the desire to have the burial councils make the treatment decisions for all burials, inadvertently discovered or previously identified, since it would potentially reduce the current point of controversy over what is or is not an inadvertently discovered burial. We are concerned, however, whether or not the burial council system, as currently established and supported, can meet the greater expectations promoted by these amendments.

We note that the burial council members are all volunteers who already devote considerable time and effort to participating in the current setup of monthly council meetings. These meetings frequently take the better part of a work day to carry out, and may also include site visits to specific burial locations. We doubt the current practice of one meeting per month can address the increased workload that the proposed amendments would bring. Consequently, it seems that the councils would have to move to a twice-a-month schedule, at least, in order to meet the proposed deadlines for decision-making. Should these amendments to the HRS be adopted, concomitant changes to the regulations at HAR 13-300 would also be needed. We also wonder if the DLNR could meet the increased demands for support that a twice-a-month schedule would bring; specifically, will it be possible to continue having a deputy Attorney General at every council meeting, given this new meeting schedule?

Thank you for the opportunity to provide comments on HB 155. Should you have any questions, you may reach me at the above email address.