

# HB2246

RELATING TO HAIKU VALLEY.

Establishes the Haiku Valley cultural preserve commission to provide policy and management oversight of the Haiku Valley cultural preserve. Initiates process of conveying Haiku valley in fee simple to the Department of Land and Natural Resources. Effective July 1, 2030. (HB2246 HD2)

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
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

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

**Before the Senate Committees on  
WATER, LAND, AND HOUSING  
and  
JUDICIARY AND LABOR**

**Tuesday, March 20, 2012  
12:30 P.M.  
State Capitol, Conference Room 016**

**In consideration of  
HOUSE BILL 2246, HOUSE DRAFT 2  
RELATING TO HAIKU VALLEY**

House Bill 2246, House Draft 2 proposes to establish the Haiku Valley Cultural Preserve Commission to have management oversight of the Haiku Valley Cultural Preserve, and limits the uses of the Valley to Native Hawaiian cultural practices, the protection of the Valley's archaeological, historical, cultural and environmental resources, protection and restoration of habitat and vegetation, education and other purposes as determined by the Commission. While the Department of Land and Natural Resources (Department) understands the frustration of some citizens regarding the importance of protecting the Valley, the Department **does not support the bill in its current form.**

The Department is concerned that it should not be required to provide administrative support to the Commission if the Commission can hire its own staff and funds are appropriated to it. As such, should the Legislature provide funding by way of SECTION 4 in this measure, the Department recommends that, in addition to funding for acquisition, that no less that \$150,000 be allocated annually to the Commission for the hiring of an executive director, support staff and operating expenses.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

**NEIL ABERCROMBIE**  
GOVERNOR  
**RICHARD C. LIM**  
DIRECTOR  
**MARY ALICE EVANS**  
DEPUTY DIRECTOR  
**JESSE K. SOUKI**  
DIRECTOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846  
Fax: (808) 587-2824

Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON WATER, LAND, AND HOUSING  
AND  
SENATE COMMITTEE ON JUDICIARY AND LABOR**  
Tuesday, March 20, 2012  
12:30 PM  
State Capitol, Conference Room 16

in consideration of  
**HB 2246 HD2**  
**RELATING TO HAIKU VALLEY.**

Chairs Dela Cruz and Hee, Vice Chairs Solomon and Shimabukuro, and Members of the Senate Committees on Water, Land, and Housing and Judiciary and Labor.

H.B. 2246 HD 2 establishes the Haiku Valley Cultural Preserve Commission. **Section 3 of the bill should be deleted or revised.** Section 3 directs the Office of Planning (OP) and Department of the Attorney General to initiate the conveyance of Haiku valley in fee simple to the Department of Land and Natural Resources. OP does not own land in Haiku valley and is not involved in the conveyance of property.

Thank you for the opportunity to provide testimony on this measure.



**HB2246 HD2**  
**RELATING TO HAIKU VALLEY**  
Senate Committee on Water, Land, and Housing  
Senate Committee on Judiciary and Labor

March 20, 2012

12:30 p.m.

Room 016

The Office of Hawaiian Affairs (OHA) offers the following comments on HB2246 HD2, which would establish a Ha'ikū Valley Cultural Preserve Commission located administratively in the Department of Land and Natural Resources (DLNR). The commission would have policy and management oversight of a Ha'ikū Valley Cultural Preserve.

OHA supports the intent of this bill. The bill would greatly assist in protecting and perpetuating this unique cultural landscape and heritage center for all the people of Hawai'i and for future generations.

We note that the HD2 differs substantially from the original measure. For example, unlike the original version, the HD2 identifies specific parcels from Haiku Valley that would constitute the cultural preserve.

We wish to call your committees' attention to page 7, lines 10-12 of the bill, which would transfer to the commission, with regard to the cultural preserve, certain powers and duties of the City and County of Honolulu pertaining to coastal zone management. This provision is not necessary to the bill.

Mahalo for the opportunity to testify on this measure.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON WATER, LAND AND HOUSING AND  
JUDICIARY AND LABOR  
ON  
HOUSE BILL NO. 2246, H.D. 2

March 20, 2012

RELATING TO HAIKU VALLEY

House Bill No. 2246, H.D. 2, establishes the Haiku Valley Cultural Preserve Commission to provide policy and management oversight of the Haiku Valley cultural preserve and creates the Haiku Valley Cultural Preserve Trust Fund to administer the program.

While the Department of Budget and Finance does not take any position on establishment of the Haiku Valley Cultural Preserve Commission, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 2246, H.D. 2, it is difficult to determine whether the fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.

Center for Hawaiian Sovereignty Studies  
46-255 Kahuhipa St. Suite 1205 Kane'ohe, HI 96744  
Tel/Fax (808) 247-7942  
Kenneth R. Conklin, Ph.D. Executive Director  
e-mail Ken\_Conklin@yahoo.com



Unity, Equality, Aloha for All

Re: HB 2246 HD2  
RELATING TO HAIKU VALLEY.

For Hearing before WLH/JDL, Tuesday, March 20, 2012

#### TESTIMONY IN OPPOSITION

I must strongly object to certain provisions of HB 2246 HD2.

For 20 years I have been a resident of Kane'ohe, and have visited Ha'iku Valley on many occasions. Every time I stand at my doorway, I see the majestic Ko'olau peaks of Ha'iku Valley. I'm often blessed to see the rains and mists moving slowly across the landscape, with perhaps 20 waterfalls and occasionally a rainbow. It's easy to recognize the gods here -- that's why I have chosen to live here. The "Stairway to Heaven" ascending to Pu'u Keahiakahoe is visible from my doorway when the sun shines on it at the right angle. I worked for a time with a community group in the 1990s trying to find a way to create a preserve to protect historical, natural, and cultural aspects of the valley; and I toured the old Omega Station and an outbuilding used as a workshop/garage -- buildings which would be good for a museum, cultural center, or place for launching hikes. It's a shame that those buildings have been allowed to fall into disrepair.

It's also a shame that the "Stairway to Heaven", renovated with a million tax dollars, remains closed to the public -- and there's no mention of it in this bill. Failure to mention that hiking trail in this bill clearly implies that it is to be treated as a blight upon the landscape, to be forgotten until it disintegrates.

While I applaud the effort to resolve jurisdictional conflicts in Ha'iku Valley and to preserve historical, natural, and cultural resources, I vehemently

oppose (1) the effort to place the valley under the control of a racially and ideologically stacked commission; and (2) the requirement in section 11 that DLNR "shall transfer management and control of the valley cultural preserve to the sovereign native Hawaiian entity upon its recognition by the United States and the State"; and (3) to single out one particular racial group and its cultural heritage as the sole source of value for historic and cultural preservation.

Ha'iku Valley belongs to all the people of Hawaii, and should stay that way. Ha'iku Valley has been used for a variety of agricultural, cultural, and religious purposes by people of various racial heritages. May it always be so! That's why this bill must be rejected.

It appears that this bill is a trojan horse for establishing Hawaiian sovereignty in Ha'iku Valley and could very likely result in a loss of rights for access to the valley by people lacking Hawaiian native blood, and loss of the right to engage in any agricultural or religious activities other than taro growing and worshipping the Hawaiian or Christian gods.

I believe this entire bill should be thrown in the trash because it is hopelessly laced with racist provisions. But if the committee is determined to pass this bill in some form or other, then here are some proposed deletions and insertions:

Section 1: Delete the word "native" in sentence #1. The valley is indeed "of significant cultural and historic importance to ALL the people of Hawaii" -- Insert the word ALL.

In section 2, the proposed new chapter of HRS:

Title of the chapter should not designate Ha'iku Valley as exclusively a cultural preserve, but a rather a combination natural, historical, and cultural preserve. Subsection 3 has a list of enumerated purposes which clearly shows this is a natural and historical preserve, not only a cultural preserve.

In subsection 6, the requirements for selecting the 7 members of the commission are currently written to guarantee a racial majority of ethnic Hawaiians. The provisions cited here virtually guarantee that at least five of the seven members of the commission will be ethnic Hawaiians, even if the CC Honolulu representative in item #4 and the BLNR representative in item

#5 might possibly not be. It is legally and morally bad for our multiracial, multicultural society to have any government commission where 5 out of 7 members are statutorially required to be of one particular racial group.

Subsection 7 item #5 should remove race-specific language and allow the Commission to enter into curator or stewardship arrangements with ANY cultural or environmental groups regardless of their specific race or culture. Many races, cultures and religions should be involved in preserving Ha'iku Valley and helping it to thrive for educational, cultural, historical and spiritual purposes.

Subsection 8 allows farming activities. Of course the writers of the bill have in mind that the land should be used for taro production; however, it should be noted that rice production and animal farming were also done here historically. So this section should avoid creating the impression that taro is the only farming activity likely to be allowed under management as envisioned. This section should specifically mention taro, rice, cattle, and poultry farming as examples of what would be permitted. Farmers who sell their produce should be required to pay a percentage of their gross revenue to the state for commercial farming use of the land. Subsistence farmers who only use their products to feed their own families would not be selling it and therefore should pay only rent for the privilege of using our land.

Subsection 12 "Transfer" should be deleted entirely, because it contemplates turning over the entire valley to a race-based government. "[T]he department shall transfer management and control of the valley cultural preserve to the sovereign native Hawaiian entity upon its recognition by the United States and the State."

Such a provision must never be allowed to pass, because it is contrary to the Aloha Spirit and the kokokahi sentence of the Constitution of 1840 to divide the lands and people of Hawaii along racial lines. "God hath made of one blood all races of people to dwell upon this earth unity and blessedness." The "Transfer" provision is also very bad for the negotiating position of the State of Hawaii when the time comes to chop up the lands and resources of Hawaii to be divided between the State of Hawaii and the Akaka tribe or the Act 195 tribe. If the State of Hawaii gives away these valuable lands even before negotiations begin, then the State's ability to negotiate against the tribe would be significantly weakened. You legislators have a fiduciary duty to represent the interests of ALL Hawaii's people, and to stand up for our



rights against a future tribe.

I am strongly opposed to taking any public lands now belonging to all the people of Hawaii and transferring them to a racially exclusionary governmental or private agency.

PLEASE HAVE COURAGE TO EXERCISE YOUR RESPONSIBILITY TO REPRESENT THE INTERESTS OF ALL HAWAII'S PEOPLE, NOT JUST A VOCAL AND POWERFUL MINORITY. PLEASE DEFEND US AGAINST RACIAL SEPARATISM AND ETHNIC NATIONALISM. See my book:

"Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State" available at the library or through webpage  
<http://tinyurl.com/2a9fqa>



March 20, 2012

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice Chair  
And Members, Committee on Water, Land, and Housing

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
And Members, Committee on Judiciary and Labor

Subject: Testimony in Support of H.B. 2246, H.D. 2, Relating to Ha`iku Valley

Aloha, Chairs Dela Cruz and Hee, and Members of both committees:

The O`ahu Council of the Association of Hawaiian Civic Clubs speaks in strong support of H.B. 2246, H.D. 2, Relating to Ha`iku Valley.

Our Council voted to support the establishment of a cultural preserve in Ha`iku Valley in 2005, and we note that one of our civic clubs – Ko`olaupoko – has partnered with the Ko`olau Foundation for many years to malama this important wahi pana.

Among the important kuleana that we as Native Hawaiians accept is our responsibility to be good stewards of our `aina. These lands in the upper reaches of Ha`iku Valley are important because they hold cultural and natural resources that are vital not just to our people, but to our entire community.

This cultural preserve will provide the framework for us to restore the mana of Ha`iku.

We urge you to pass this bill out of committee, and to continue your support through its passage into law.

Mahalo for allowing me to share our mana`o.

Me kealoha pumehana,

A handwritten signature in cursive script, reading 'Mahealani Cypher'.

**About the O`ahu Council, Association of Hawaiian Civic Clubs (AHCC)**

The O`ahu Council is one of five councils that comprise the AHCC. It advocates actions that enhance the civic, economic, educational, health and social welfare of our communities and elevates the social and intellectual status of all Hawaiians. Twenty-five clubs located throughout the island of O`ahu comprise the council.

[REDACTED]

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 12:52 PM  
**To:** WLH Testimony  
**Cc:** jsabas@hawaii.rr.com  
**Subject:** Testimony for HB2246 on 3/20/2012 12:30:00 PM

Testimony for WLH/JDL 3/20/2012 12:30:00 PM HB2246

Conference room: 016  
Testifier position: Comments Only  
Testifier will be present: Yes  
Submitted by: John and Jennifer Sabas  
Organization: Individual  
E-mail: [jsabas@hawaii.rr.com](mailto:jsabas@hawaii.rr.com)  
Submitted on: 3/19/2012

Comments:

Aloha Honorable Senators:

While we support the intent of HB2246, HD2, we are concerned with some of activities that may be allowed in an effort to create a Haiku Valley Cultural Preserve. Specifically, pedestrian and vehicular access to the valley is limited and any additional traffic will become an increasing concern to the residents who live in the area.

At the very least, we recommend that the bill be amended to include representation on the Haiku Valley Cultural Preserve Commission by at least two area residents; one living in the Hokulele subdivision and the other to reside in the upper Haiku Village subdivision.

Thank you for this opportunity to provide comment.