

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 Committee on  
HAWAIIAN AFFAIRS**

**Wednesday, February 2, 2011  
8:30 AM**

**State Capitol, Conference Room 329**

**In consideration of  
HOUSE BILL 224  
RELATING TO HISTORIC PRESERVATION**

House Bill 224 proposes to raise the fee for archaeological permits from \$50 to \$1,000 and to create the Special Fund for Archaeological Permits. The Department of Land and Natural Resources (Department) opposes the creation of an additional special fund, particularly because it will generate only \$49,000.

The Department appreciates the increase in fees to cover costs of operating its State Historic Preservation Division, however we would note that application of permit fees is currently not equitable, and the increase in fees will create further inequalities. The specific problem is that large companies pay the fee once to cover their Principal Investigator and all other archaeologists operate under that one permit. Thus small companies with only one or two archaeologist will be disproportionately affected by the fee increase. The Legislature may want to consider limiting the number of archaeologists covered under one permit, in which case the Department could possibly support this measure.

**LATE TESTIMONY**

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  
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



**Papa Ola Lokahi**  
Nana I Ka Pono Na Ma

**Papa Ola Lokahi**  
894 Queen Street  
Honolulu, Hawaii 96813

Phone: 808.597.6550 ~ Facsimile: 808.597.6551

**Papa Ola Lokahi**

A non-profit Native Hawaiian organization founded in 1988 for the purpose of improving the health and well-being of Native Hawaiians and other native peoples of the Pacific and continental United States.

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**Member Organizations**

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*Hui No Ke Ola Pono*

*Hui Malama Ola Na Olu*

**ALUMI**

*Ke Ola Mamo*

*Ke Ola Mau*

*University of Hawaii*

*Hawaii State Department of Health*

*Na Pahuwai*

*Office of Hawaiian Affairs*

**Ex-Officio Members**

*Hawaii Primary Care Association*

*Ke Alaui*

**Executive Director**

*Hardy Spoehr*

**TESTIMONY: HB 224, RELATING TO HISTORIC PRESERVATION**

**HOUSE COMMITTEE ON HAWAIIAN AFFAIRS**

Rep. Faye Hanohano, Chair  
Sen. Chris Lee, Vice Chair

Wednesday, February 2, 2011  
8:30 am

Conference Room 329  
State Capitol

Hardy Spoehr, Executive Director

Aloha Chairman Hanohano, Vice Chair Lee, and Members of the House Committee on Hawaiian Affairs. Papa Ola Lokahi supports for this measure.

An important aspect of Native Hawaiian health and wellbeing is a firm understanding and appreciation of the past. In Hawai'i, archaeological studies are critically important to understanding, preserving, and perpetuating our history and cultures, particularly that of our Indigenous heritage for Native Hawaiians. For too long the Historic Sites Division has been "shortchanged." It is time to provide this aspect of our public administrative responsibilities all the support necessary to carry out its mandate. This bill goes some way in providing additional resources to enable this to happen.

Thank you for the opportunity to provide strong supportive testimony for this important measure.



**HB 224**  
**RELATING TO HISTORIC PRESERVATION**  
House Committee on Hawaiian Affairs

February 2, 2011

8:30 a.m.

Room 329

The Office of Hawaiian Affairs offers the following comments on HB 224 which will direct the Department of Land and Natural Resources (DLNR) to increase archaeological permit fees from \$50 to no less than \$1000 and require that the DLNR deposit collected fees into an "archaeological permit special account" (account) within the "Hawai'i historic preservation special fund". Monies from the account shall be used to first manage the archaeological permitting system and then as currently provided for in Chapter §6E-16, Hawaii Revised Statutes.

The OHA Administration will recommend that the OHA Board of Trustees **SUPPORT H.B. No. 224 WITH AMENDMENTS.**

If passed, OHA sees this bill as directing needed monies to improve the administration and operations of the State Historic Preservation Division (SHPD), which will benefit all of Hawai'i. OHA does respectfully recommend that the committee consider the following amendments to this bill:

First, the bill should be amended to exempt those who will be conducting archaeological activities strictly for educational purposes or community benefit from the increased permit fees. SHPD archaeological permit applications can be revised so applicants can request this exemption by providing adequate justification and/or documentation. Current Hawaii Administrative Rules (Chapter §13-282) require that any individual, firm, agency, organization or institution, must obtain a permit from the SHPD in order to conduct archaeological activities in Hawai'i, regardless of whether these activities are for- or non-profit.

Second, while we defer to the Department of Land and Natural Resources to advise whether an increase in the fee for obtaining an archaeological permit from \$50 to \$1000 is sufficient, OHA recognizes that in these difficult economic times a drastic increase within a single calendar year could cause financial hardships. Thus, OHA recommends that any fee increase should be phased in over time.

Therefore, OHA urges the committee to amend this bill, taking our comments into consideration and then **PASS** the amended bill. Mahalo for the opportunity to testify on this important measure.



**Papa Ola Lokahi**  
Nana I Ka Pono Na Ma

**LATE TESTIMONY**

**Papa Ola Lokahi**  
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- Ke Ola Mau
- University of Hawaii
- Hawaii State Department of Health
- Na Puuwa
- Office of Hawaiian Affairs

**Ex-Officio Members**

- Hawaii Primary Care Association
- Ke Alaule

**Executive Director**  
Hardy Spoehr

**TESTIMONY: HB 225, RELATING TO HISTORIC PRESERVATION**

**HOUSE COMMITTEE ON HAWAIIAN AFFAIRS**

Rep. Faye Hanohano, Chair  
Sen. Chris Lee, Vice Chair

Wednesday, February 2, 2011  
8:30 am

Conference Room 329  
State Capitol

Hardy Spoehr, Executive Director

Aloha Chairman Hanohano, Vice Chair Lee, and Members of the House Committee on Hawaiian Affairs. Papa Ola Lokahi supports for this measure.

An important aspect of Native Hawaiian health and wellbeing is a firm understanding and appreciation of the past. In Hawai'i, archaeological studies are critically important to understanding, preserving, and perpetuating our history and cultures, particularly that of our Indigenous heritage for Native Hawaiians. Too often we, as a Polynesian island society, have lost important cultural and historic data to the bulldozer. Similar laws as is proposed in this bill are found in island nations throughout the Pacific. It is time that we do likewise and protect our unique and important heritage.

Thank you for the opportunity to provide strong supportive testimony for this important measure.

## Jennifer Wilbur

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 02, 2011 3:33 AM  
**To:** HAWtestimony  
**Cc:** NaLeoHawaiian@aol.com  
**Subject:** Testimony for HB225 on 2/2/2011 8:30:00 AM

Testimony for HAW 2/2/2011 8:30:00 AM HB225

Conference room: 329  
Testifier position: support  
Testifier will be present: No  
Submitted by: Mahelani Sylva  
Organization: Individual  
Address: 4160 Hoala Street, 22C Lihue, HI 96766  
Phone: 808-635-4735  
E-mail: [NaLeoHawaiian@aol.com](mailto:NaLeoHawaiian@aol.com)  
Submitted on: 2/2/2011

Comments:  
Madam Chair Hanohano and Members of the House Committee on Hawaiian Affairs,

Mahalo for the opportunity to testify in support of HB 225.

This bill will deter a property owner, who is aware that the property is "unsuitable for development", from selling it to an unsuspecting buyer.

Mahalo, for your attention to this matter. If you have any questions, feel free to contact me:

Respectfully,

Mahelani Sylva  
P. O. Box 927  
Lihue, HI 96766  
Kaua'i Moku  
808-635-4735

TO: Representative Faye Hanohano, Chair,  
Representative Chris Lee, Vice-Chair  
House Committee on Hawaiian Affairs

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

HEARING: February 2, 2011, 8:30 AM, Conference Room 329  
SUBJECT: Testimony in SUPPORT of the Intent of HB 225 (Relating to Historic Preservation)

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 support of the intent of HB 225.

HB 225 proposes to amend Chapter 6E, Hawaii Revised Statutes (HRS) by requiring an archaeological inventory survey of any undeveloped property in the State prior to its sale or long-term lease. The survey is to be submitted to the state historic preservation officer. The bill further stipulates that the survey may include recommendations by the state historic preservation officer that portions of the undeveloped property be deemed unsuitable for future development and proposed for reclassification or rezoning for preservation purposes. The bill calls for any historic properties found during the survey that are deemed eligible for listing on the Hawai'i Register of Historic Places will be recorded on a plan to be filed at the Bureau of Conveyances. "Undeveloped property" is defined as unimproved real property or real property upon which there are infrastructure or improvements that will be demolished and removed.

We believe that the subject bill is well-intended. We agree with its basic premise, which seems to be that it is best to conduct archaeological inventory surveys at the earliest opportunity to do so, preferably before any development plans are made or approved. We think that the bill's intent and efficacy could be improved, however, by several amendments that, in our view, clarify the proposed actions and include language that comports with existing statute and regulations. In making the following recommended revisions, we assume that both publicly and privately owned lands would be subject to the proposed survey requirement contained in HB 225.

According to the implementing regulations of §§6E-8 and 6E-42, a report documenting the results of an archaeological inventory survey is submitted to the State Historic Preservation Division (SHPD) for review and approval. If significant historic properties are found during the survey, the report must recommend treatment for those sites, which may include preservation or other forms of mitigation such as archaeological data recovery. In addition, neither SHPD nor the Department of Land and Natural Resources have jurisdiction over zoning decisions, which are largely controlled by the counties. Therefore, we believe that is more appropriate for the subject bill to refer simply to preservation of significant historic properties where such is warranted.

There are other difficulties with the subject bill; for example, it is not clear that an inventory survey could be required of a landowner pursuant to Chapter 6E-42 in the absence of a specific permit application. Chapter 6E-42 currently contains no provisions for requiring a survey or any other compliance action when only a sale or lease of lands is contemplated. We are therefore concerned that if HB 225 is passed unamended, its worthwhile goals may not be achieved. Should this bill move forward, we would like to participate in any discussions over amended language that would improve the bill's likelihood of successful implementation.

Thank you for the opportunity to provide comments on HB 224. Should you have any questions, you may reach me at the above email address.



**H.B. No. 225**  
**RELATING TO HISTORIC PRESERVATION**  
House Committee on Hawaiian Affairs

February 2, 2011

8:30 a.m.

Room 329

The Office of Hawaiian Affairs offers the following comments on HB 225 which will amend Chapter 6E, Hawaii Revised Statutes (HRS) and require that an archaeological inventory survey (AIS) be conducted prior to the advertisement of or actual sale or lease for a term in excess of ten years of undeveloped property.

The OHA Administration will recommend that the OHA Board of Trustees **SUPPORTS HB 225 WITH AMENDMENTS.** If passed, this bill will provide a needed regulatory "trigger" for conducting an AIS and identify any historic, burial or cultural sites which may be situated on undeveloped property. The approved AIS will provide important information in the real estate disclosure or lease agreement process.

OHA respectfully recommends two amendments to this bill:

First, the lease of undeveloped property for any length of term should require an AIS as we believe the ten year provision currently proposed has the potential to allow the requirements of Chapter 6E, HRS to be circumvented and historic, burial or cultural sites adversely impacted.

Second, Section 1(a) of the bill should be changed from "*The archaeological inventory survey shall be submitted to the state historic preservation officer. The archaeological inventory survey may include recommendations by the state historic preservation officer that portions of the undeveloped property may be unsuitable for future development and should be reclassified conservation or zoned by a county for preservation zoning*" to "The archaeological inventory shall be submitted to the State Historic Preservation Division (SHPD) for review and approval. Following approval of an archaeological inventory survey, appropriate mitigation plans (preservation and data recovery) shall also be submitted to the SHPD for review and approval. Should burials be identified during the archaeological inventory survey, the provisions of Chapter §6E-43, §6E-43.5, Hawaii Revised Statutes and §13-300, Hawaii Administrative Rules shall determine appropriate treatment and mitigation measures."

Therefore, OHA urges the committee to amend this bill, taking our comments into consideration and then **PASS** the amended bill. Mahalo for the opportunity to testify on this important measure.