



**HB2806 HD2 SD1**  
**RELATING TO NATIVE HAWAIIANS**  
Senate Committee on Ways and Means

April 4, 2012

9:10 a.m.

Room 211

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The Office of Hawaiian Affairs (OHA) **OPPOSES** HB2806 HD2 SD1 because it would place the proposed 'Aha Moku Advisory Committee within OHA. Our opposition is based solely on the bill's financial impacts to OHA, and not on the merits of establishing the 'Aha Moku Advisory Committee. We believe that placing the committee within the Department of Land and Natural Resources (DLNR) would ensure that the 'Aha Moku directly advises the agency with the regulatory and decision-making authority over the management of our natural and cultural resources.

OHA commends the intent of creating an 'Aha Moku Advisory Committee. The advisory committee would empower Native Hawaiians to participate in the management of Hawai'i's natural, cultural, and historical resources. It would also aid the State in making better resource management decisions. Local communities that have lived off the resources of their respective ahupua'a and have studied the area's conditions and resources over generations have the best knowledge regarding the proper time to harvest, kapu, heal, monitor, inspect, and take accountings. Native Hawaiians have centuries of traditional knowledge to draw upon and have an interest in perpetuating Native Hawaiian traditions and customs, and the resources they rely upon, for generations to come.

For many months, OHA has been working with key interested parties to resolve questions regarding where to place the 'Aha Moku Advisory Committee and how to fund it. On April 4, 2012, the OHA Board of Trustees' (BOT) Committee on Asset and Resource Management and Committee on Beneficiary Advocacy and Empowerment are slated to jointly consider the possible solutions proposed by the key parties. We look forward to continued collaboration with all parties, including the Legislature, on how best to bring the 'Aha Moku Advisory Committee to fruition.

HB2806 HD2 SD1 also addresses the meeting quorum issues that have reportedly prevented several island burial councils from meeting and conducting business. Specifically, HB2806 HD2 SD1 addresses this issue by establishing the quorum for island burial council meetings as the number of councilmembers present at the scheduled start of any meeting.

Please note that OHA facilitated a meeting of island burial council representatives and interested community members to discuss a separate measure (SB2854) that proposed to address the same issue by consolidating the five existing island burial councils into one statewide burial council. The meeting was held on February 24, 2012, with representatives of all five island burial councils in attendance.

On February 27, 2012, OHA Interim Chief Executive Officer Richard Pezzulo sent a letter to the leadership of the Senate Committee on Hawaiian Affairs detailing the discussions of the February 24 meeting and the resulting plans for moving forward. Please find attached the February 27 letter, as well as the resolution signed by all five island burial councils requesting that the Legislature “reject” measures being considered this year that would amend Chapter 6E, Hawaii Revised Statutes, because “there has been no consultation with the Burial Councils and the Hawaiian community on actions that are needed to address current concerns and strengthen our burial law and Councils.” The resolution also requested OHA’s support to facilitate further consultation among the councils and the Hawaiian community to develop proposed legislation for the 2013 Legislative Session to address critical island burial council issues, including but not limited to quorum, composition, and enforcement.

OHA is currently developing a plan of action that will, to the extent feasible, facilitate the broader discussion on burial councils that has been requested.

Mahalo for the opportunity to testify on this measure.



**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**  
711 KAPI'OLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

February 27, 2012

Senator Brickwood Galuteria, Chair,  
Senator Pohai Ryan, Vice Chair and  
Members of the Senate Committee on Hawaiian Affairs  
415 South Beretania Street  
Honolulu, Hawai'i 96813

**Re: Island Burial Council Representatives Meeting**

Aloha e Chair Galuteria, Vice Chair Ryan and Members of the Senate Committee on Hawaiian Affairs,

At the request of our beneficiaries, the Office of Hawaiian Affairs (OHA) facilitated a meeting of Island Burial Council representatives and interested community members to discuss concerns relative to S.B. 2854 which proposes to consolidate the five existing Island Burial Councils into a single Statewide Island Burial Council as a means to *address long-standing quorum issues*. This meeting was held on February 24, 2012 with representatives of all five (5) Island Burial Councils in attendance.

While OHA recognizes that there are many stakeholders who were unable to attend the meeting on February 24, 2012, those who were in attendance support the attached resolution which we respectfully transmit to the Senate Committee on Hawaiian Affairs for consideration. In addition to establishing a position on any legislation introduced during the 2012 Legislative Session which involves proposed amendments to Chapter 6E, Hawaii Revised Statutes, this resolution also requests additional support from OHA to facilitate broader discussion with Island Burial Councils, the Hawaiian community and interested stakeholders over the next year to develop an appropriate course of action to address the long standing and complex issues facing Island Burial Councils. OHA is currently developing a plan of action which will to the extent possible, facilitate the broader discussion which has been requested and identify immediate, interim and long range solutions based on input from the Hawaiian community and stakeholders.

An immediate step OHA hopes to take in the days to come is to work with the Department of Land and Natural Resources and the Office of the Governor-Boards and Commissions to see that any qualified applicants interested in serving on island burial councils with vacancies are duly considered and that any current representatives on Island Burial Councils whose terms may have expired continue serving as a "holdover" to the extent permitted by law.

OHA stands prepared to work in a collaborative effort with all parties who have an interest in this most important matter so that Island Burial Councils receive the support they require in order to fulfill their tremendous kuleana of determining the appropriate treatment for iwi kūpuna throughout Hawai'i nei. Mahalo for your consideration and thank you for your continued support.

'O wau iho nō me ka 'oia'i'o,



Richard Pezzulo  
Interim Chief Executive Officer

RP:kl

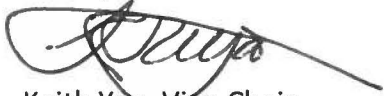
Attachments (1): February 24, 2012 Resolution

C: OHA- Board of Trustees  
Representative Faye P. Hanohano, Chair, Chris Lee, Vice Chair and Members of the  
House Committee on Hawaiian Affairs  
William Aila, Jr., Chairman, Department of Land and Natural Resources  
Guy Kaulukukui, Deputy Director- Department of Land and Natural Resources  
Pua Aiu, Administrator, State Historic Preservation Division  
Office of the Governor-Boards and Commissions

Be it resolved by the leadership of the Island Burial Councils from Kaua'i/Ni'ihau, O'ahu, Moloka'i, Maui/Lāna'i, and Hawai'i Island, as well as community members present on February 24, 2012 that we ask the Legislature to reject SB 2854, HB2592, and/or any other bills or portions thereof (e.g. SB3053 SD1) that would amend the Burial Law (HRS 6E) during the 2012 Legislative Session, because there has been no consultation with the Burial Councils and the Hawaiian community on the actions that are needed to address current concerns and strengthen our burial law and Councils. With the support from the Office of Hawaiian Affairs and others, we are in the process to continue over the next year to consult within the Councils and the Hawaiian community to identify the critical issues (including but not limited to quorum, composition, enforcement) that should be addressed, and shall propose legislation for the 2013 session.



Kunane Aipoalani, Chair  
Kaua'i/Ni'ihau Island Burial Council



Keith Yap, Vice-Chair  
Kaua'i/Ni'ihau Island Burial Council



Ke'eaumoku Kapu, Chair  
Maui/Lāna'i Island Burial Council

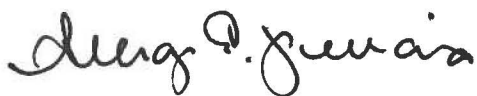


Scott Fisher, Vice-Chair  
Maui/Lāna'i Island Burial Council



Miki'ala Pescaia, Chair  
Moloka'i Island Burial Council





Imhael Kumu Kawaha Lee

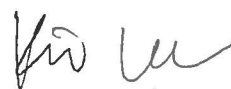
KAHU of Royal Iwi of Waipouli Ewa



Hinaleimoana Kalu, Chair  
O'ahu Island Burial Council



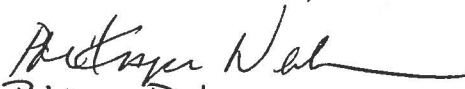
Jonathan Scheuer, Vice Chair  
O'ahu Island Burial Council



Kimo Lee, Chair  
Hawai'i Island Burial Council



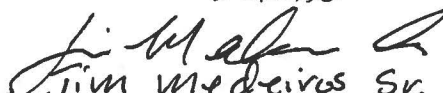
Charles Young, Vice-Chair  
Hawai'i Island Burial Council



Palikapu Dedman  
President Pele Defense Fund

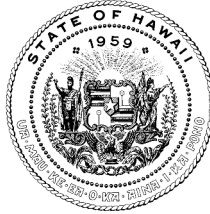


Terri L. Napuehi  
V.P. Pele Defense Fund



Jim Medeiros Sr.  
CEO Protect Keopuka Ohana

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 Senate Committee on  
WAYS AND MEANS**

**Wednesday, April 4, 2012  
9:10 AM  
State Capitol, Conference Room 211**

**In consideration of  
HOUSE BILL 2806, HOUSE DRAFT 2, SENATE DRAFT 1  
RELATING TO NATIVE HAWAIIANS**

House Bill 2806, House Draft 2, Senate Draft 1 proposes to: 1) Create an Aha Moku Advisory Committee within the Office of Hawaiian Affairs (OHA) to advise the Chairperson of the Board of Trustees on the application of best management practices as they relate natural resources management with traditional practices and knowledge in PART I; and 2) Facilitate Island Burial Council meetings and business by establishing a reduced quorum requirement for Island Burial Council meetings in PART II. Upon further consideration, the Department of Land and Natural Resources (Department) would not oppose the establishment of the Aha Moku Advisory Committee within the Department, provided that OHA funds the expenses of the Committee. The Department has no objections to PART II of this measure.

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

**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

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [info@schha.com](mailto:info@schha.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 1:34:36 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Herbert Hew Len, President  
Organization: Waianae Kai Homestead Community Assn, SCHHA  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 4/2/2012

Comments:

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
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**Cc:** [info@schha.com](mailto:info@schha.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 1:33:57 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Kamaki Kanahale, Chairman  
Organization: SCHHA  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 4/2/2012

Comments:



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**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 1:33:34 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Mike Kahikina, Legislation Committee Chair  
Organization: SCHHA  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 4/2/2012

Comments:

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**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 1:34:16 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Annie Au Hoon, President  
Organization: Kewalo Hawaiian Homestead Community Assn, SCHHA  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 4/2/2012

Comments:

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**Cc:** [info@schha.com](mailto:info@schha.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 1:34:53 PM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Beatrice Hew Len, Secretary  
Organization: Sovereign Mokuuni Council O Oahu  
E-mail: [info@schha.com](mailto:info@schha.com)  
Submitted on: 4/2/2012

Comments:

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [apohi21@gmail.com](mailto:apohi21@gmail.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 9:40:18 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Bill Brown  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 4/2/2012

Comments:

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**Cc:** [apohi21@gmail.com](mailto:apohi21@gmail.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 9:41:26 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Norman Macomber Jr.  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 4/2/2012

Comments:

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**Cc:** [apohi21@gmail.com](mailto:apohi21@gmail.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Monday, April 02, 2012 9:40:50 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: SAMSON BROWN  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 4/2/2012

Comments:

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [hspoehr@papaolalokahi.org](mailto:hspoehr@papaolalokahi.org)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Tuesday, April 03, 2012 8:23:10 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Hardy Spoehr  
Organization: Papa Ola Lokahi  
E-mail: [hspoehr@papaolalokahi.org](mailto:hspoehr@papaolalokahi.org)  
Submitted on: 4/3/2012

Comments:

Aloha. Papa Ola Lokahi supports this legislation as it provides for the community to be a part of self-determination. Thank you for the opportunity to provide supportive testimony.

TO: Senator David Ige, Chair  
Senator Michelle Kidani, Vice-Chair  
Senate Committee on Ways and Means

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

HEARING: Wednesday, April 4, 2012, 9:10 AM, Room 211

SUBJECT: Comments on HB 2806, HD2, SD1, Relating to Native Hawaiians

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 comments on HB 2806, HD2, SD1. The subject bill originally pertained to establishment of the Aha Moku advisory committee but was amended with the addition of a Part II that included language pertaining to the island burial councils. Our comments pertain only to the amendments in Part II. The stated purpose of these amendments is to address the increasing problems the island burial councils have in meeting quorum by establishing in statute a very minimal quorum requirement for island burial council meetings. The specific amendments pertaining to island burial councils affect Chapter 6E-43.5(d), Hawaii Revised Statutes (HRS) and read as follows:

(d) The councils shall hold meetings and acquire information as they deem necessary and shall communicate their findings and recommendations to the department. Notwithstanding section 92-3, whenever the location and description of burial sites are under consideration, the councils may hold closed meetings. The members present at the scheduled start time of any meeting shall constitute a quorum to do business. Concurrence of a majority of the members present at a meeting shall be necessary to make any action of a council valid."

While we understand the concern generated by quorum problems and the resulting inability of the island burial councils to meet on a regular basis, we do not believe that the proposed amendments will solve these problems. We provide the following comments and suggestions for your consideration.

- As written, it appears that a quorum could consist of one person if he or she is the only member in attendance at the start of a burial council meeting. It is also possible that only two or three individuals out of a maximum of 9 to 15 burial council members may be present, in which case these individuals will constitute a quorum, as defined by HB 2806, HD2, SD 1. The determinations and recommendations made by the burial councils are too important to too many people, often for very different reasons, to leave these decisions solely to one or two members who were, by chance, able to make that meeting. The councils were rightly designed to represent the islands' diverse geographic areas and the interests of those communities. This amendment potentially undermines the very real benefits of this diversity and the credibility of the councils' deliberations.

- SHA believes that consultation with burial council members, the Native Hawaiian community, and other stakeholders should occur on how to resolve these problems,



rather than resorting first to a legislative solution. On February 24, 2012, I attended a meeting of the Chairs and Vice-Chairs of the IBCs from Kaua'i/Ni'ihau, Maui/Lana'i, Moloka'i, O'ahu, and Hawai'i Islands sponsored by the Office of Hawaiian Affairs (OHA); interested members of the Native Hawaiian community also participated. The attendees have issued a statement requesting that all bills or portions thereof pertaining to burial council quorums and related issues be rejected. SHA concurs with this statement. With OHA's assistance, the meeting attendees will be working on real solutions to these problems over the next year and plan to propose legislation for the 2013 legislative session.

- We note that the Senate companion bill to the subject bill (SB 3053, SD 2, HD1) has had the language pertaining to burial councils removed by the House committee that heard it.

Given the above, we respectfully suggest that the amendments in Part II of HB 2806, HD2, SD1 pertaining to the island burial councils be stricken entirely from the subject bill. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

**From:** [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
**To:** [WAM Testimony](#)  
**Cc:** [rnfishing@gmail.com](mailto:rnfishing@gmail.com)  
**Subject:** Testimony for HB2806 on 4/4/2012 9:10:00 AM  
**Date:** Tuesday, April 03, 2012 7:01:42 AM

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Testimony for WAM 4/4/2012 9:10:00 AM HB2806

Conference room: 211  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Roy N. Morioka  
Organization: Individual  
E-mail: [rnfishing@gmail.com](mailto:rnfishing@gmail.com)  
Submitted on: 4/3/2012

Comments:

Chair Ige, Vice Chair Kidani and Members of the Senate Committee on Ways and Means:

Many non-Hawaiians attended the Aha Moku and Puwalu regarding the use of the Hawaiian practices of natural resource management and I am concerned that the alignment of the Aha Moku Council under the Office of Hawaiian Affairs creates the perception that this process is a Hawaiian only process and strongly believe that the Council be aligned under the Department of Land and Natural Resources the State agency responsible for natural resource management that is all inclusive and subject to the HRS Chapter 91 process.

Mahalo a nui loa.  
Respectfully,  
Roy N. Morioka  
349-9297