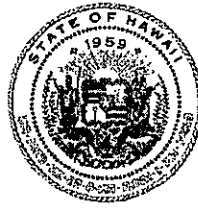


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**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 9, 2011  
8:30 AM  
State Capitol, Conference Room 329**

**In consideration of  
HOUSE BILL 711  
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS**

The purpose of House Bill 711 is to transfer the functions and responsibilities for the preservation and protection of native Hawaiian burial sites, as well as the Island Burial Councils, from the State Historic Preservation Division of the Department of Land and Natural Resources (Department) to the Office of Hawaiian Affairs (OHA). Oversight of historic cemeteries and burial sites of other cultural groups shall remain in the historic preservation division. The Department opposes this bill.

Chapter 6E, Hawaii Revised Statutes (HRS), provides that the Department shall, among other things, coordinate the evaluation and management of burial sites as provided in Section 6E-43, HRS. The Department does not support the transfer of any responsibility or authority provided to it by Chapter 6E, HRS, and more specifically by Section 6E-43, HRS, to OHA or any other state agency.

**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

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 9, 2011, 8:30 AM, Conference Room 329  
SUBJECT: Comments on HB 711(Relating to the Office of Hawaiian Affairs)

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 House Bill 711 which proposes the transfer of the functions and duties of the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (DLNR) relating to Hawaiian burial sites to the Office of Hawaiian Affairs. The subject bill contains numerous revisions to Chapters 6D, 6E and 10 of the Hawaii Revised Statutes (HRS) which will allow the transfer of functions and duties pertaining to Native Hawaiian burial sites from SHPD to OHA. In addition to amending the relevant statutes to establish direct authority for OHA over these important sites, the amendments also call for the transfer of personnel, and items such as records, maps, contracts, books, machines, and supplies from SHPD to OHA.

Many of our members have decades of experience in the identification, recordation, treatment, and disposition of Native Hawaiian burial sites. Since 1990, they have also worked with SHPD and the Island Burial Councils to implement the appropriate and timely treatment of Native Hawaiian burials within the legal framework established by sections 6E-43, 43.5, and 43.6, HRS, and through the historic preservation review process established under sections 6E-8 and 6E-42, HRS.

Our organization does not have a position on whether the statutorily mandated functions and duties relating to the identification and treatment of native Hawaiian burials should remain at DLNR or be transferred to OHA. We do, however, strongly support efforts to systemically improve a process that should be providing sensitive, timely, and appropriate treatment of the *ʻiwi kupuna* and burial sites. To this end, we are willing to provide any assistance appropriate to our professional expertise and experience that would help implement any major changes should they occur.

We have not had a chance to review in detail this seemingly very thorough bill but will continue to study it should it be passed by your committee. We can, however, provide the following comments in hopes that they will allow further clarifying amendments to be made to the subject bills.

- In a number of the amendments proposed for Chapter 6E, HRS, we note that the wording sometimes seems somewhat ambiguous in terms of which agency's review or concurrence must be sought by an applicant. For example, amendments to Chapter 6E-7(b) imply a concurrent review by DLNR and OHA while amendments to 6E-8(a) suggest that one agency or the other may provide the written determination. We suggest that these responsibilities be clearly stated so that no burial site "slips through the crack" due to a confusion over which agency should be conducting review and compliance. In other

words, it should be clear to any applicant which agency's review and approval should be sought.

- We believe that attention and effort should be focused on how both agencies will have access to the records and other information each needs to carry the work mandated by the subject bills. In general, records currently maintained by the SHPD are highly integrative such that it would be difficult at best to segregate only those records pertaining to Native Hawaiian burials and burial sites. In addition, we believe that it is likely that SHPD will still need to consult such records on a regular basis in order to carry out its mandated duties. This applies both to documents submitted by agencies and applicants for review as well those generated over the last 40 years.
  
- In view of the preceding point, we are aware that the SHPD and Division of State Parks have recently established a digital archives to preserve and access digital copies of reports, plans, and other documents related to historic properties and generated by the federal and state-mandated historic preservation review process. Recently prepared documents can be uploaded directly into the web-based document management system (Xerox DocuShare). Authorized users within the system may quickly and easily locate information on shared server even though the paper copies of the documents may not be in the users' office space. We believe that an expansion of this or a similar system would be critical to the success of the transfer called for by the subject bills. We would further recommend that serious consideration be given to establishing a position whose primary function will be to oversee the transfer and maintenance of records, and to ensure that all users who need them – staff of SHPD and OHA, lineal and cultural descendants, archaeologists and planners, interested members of the public – can have access. Access to specified files, those considered particularly sensitive, can be restricted to designated users.

Thank you for considering our comments. We look forward to working with you and other stakeholders on the important issue of treating Native Hawaiian burials and burial sites with sensitivity. Should you have any questions, please feel free to contact me at the above email address.



## KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 8, 2011

TO: Rep. Faye P. Hanohano, Chair/And Members  
House Committee on Hawaiian Affairs

FROM: Alice P. Hewett, President  
Ko'olaupoko Hawaiian Civic Club

SUBJECT: H.B. 711 – Relating to the Office of Hawaiian Affairs

The Ko'olaupoko Hawaiian Civic Club wishes to offer our mana`o regarding House Bill 711, which would transfer the functions and duties of the Department of Land and Natural Resources' Historic Preservation Division, relating to Hawaiian burial sites, to the Office of Hawaiian Affairs.

First of all, while we believe the concept has merit – recognizing the language of our state constitution as with regard to OHA's kuleana – we urge caution as you proceed with this legislation to ensure that our iwi kupuna are given proper respect by whichever agency or process authorized by law and by our traditions and customs.

It has been our observation that, too often, the discovery of native Hawaiian burials in the midst of ongoing or planned construction projects have been mired in controversy and political dispute.

We believe it is pono`ole – inappropriate – for anyone to fight or argue over the remains of our kupuna kahiko. These iwi kupuna should be allowed to rest in peace – that is something that most, if not all of us, can agree upon. Whether they remain in the same place they were buried, or whether our iwi are relocated to more private and protected surroundings seems to be the question many are contemplating today. Sometimes, we think, relocating our kupuna to a quiet, protected area away from the noise and dust of industry and traffic might be preferable.

It is our view that our ancestors have set the precedent. Following battle, warriors were known to have used the iwi of the defeated to fashion arrows or spittoons, or other objects, considered very disrespectful in ancient times. In our recorded history, our ali`i themselves have relocated iwi, the ali`i bones transferred to Maunaala.

So, whether DLNR's O`ahu Island Burial Council, or OHA, becomes the primary agency to safeguard these iwi kupuna, we are hopeful that everyone recognizes that arguments over our ancestral remains could be considered another form of disrespect.

Mahalo for this opportunity to offer our mana`o.

P. O. Box 664  
Kaneohe, HI 96744  
Ph. (808) 235-8111  
koolaupokohcc.org