

SB2524

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.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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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**

**Wednesday, February 15, 2012
10:00 A.M.
State Capitol, Conference Room 16**

**In consideration of
SENATE BILL 2524
RELATING TO HAIKU VALLEY**

Senate Bill 2524 establishes 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 feels that the bill is overly broad and vague and therefore does not support the bill in its current form.

Specific items within the bill that should be addressed:

- 1) There is no definition of the boundaries of the Haiku Valley Cultural Preserve, nor is there any discussion of how to set boundaries in the current legislation.
- 2) The Department is held responsible for the enforcement of policies not vetted by its own governing board and there is no language in the bill to define a process for the Board of Land and Natural resources to vet decisions of the Commission.
- 3) The language in the bill does not limit the jurisdiction of the Commission to public lands, nor is there any discussion of allowing existing uses to continue. This may be problematic if private lands are included in the valley boundaries.
- 4) The Department 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.

- 5) The Executive Director of the Koolau Foundation, or his/her designee should serve on the Commission.
- 6) The Administrator of the Office of Hawaiian Affairs or designee should serve on the commission.
- 7) There should be a list of Native Hawaiian organizations that will provide a list of names to the Governor for appointment to the final commission seat.
- 8) It is unclear whether this is an advisory council or a council with decision making Commission with authority to determine land uses in the Valley. The bill allows the Commission to act in both capacities.

For these reasons, and as stated before, the Department feels that the bill is overly broad and vague and therefore does not support the bill in its current form.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON WATER, LAND, AND HOUSING
AND JUDICIARY AND LABOR
ON
SENATE BILL NO. 2524

February 15, 2012

RELATING TO HAIKU VALLEY

Senate Bill No. 2524 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 Senate Bill No. 2524, 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.



SB2524
RELATING TO HAIKU VALLEY
Senate Committee on Water, Land, and Housing
Senate Committee on Judiciary and Labor

February 15, 2012

10:00 a.m.

Room: 016


The Office of Hawaiian Affairs (OHA) **SUPPORTS, with Amendments**, SB2524. This bill would establish a Ha'ikū Valley Cultural Preserve Commission that will have policy and management oversight of a Ha'ikū Valley Cultural Preserve. 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.

However, we urge your committees to delete from the bill the following paragraphs that would transfer to the new Commission, with regard to the new cultural preserve, certain existing powers and duties that would otherwise be held by other entities:

- “(6)” at page 6, lines 14-22 (powers and duties of the Board of Land and Natural Resources and the Land Use Commission pertaining to dispositions and approvals)
- “(7)” at page 7 lines 1-3 (powers and duties of the City and County of Honolulu pertaining to Coastal Zone Management)
- “(8)” at page 7, lines 4-9 (powers and duties of the Department of Land and Natural resources pertaining to proper treatment of burial sites and iwi kupuna)

The paragraphs enumerated above are not necessary to the bill and in some cases could disrupt major existing regulatory functions.

Therefore, OHA urges the committees to PASS SB2524 with our recommended amendments. Mahalo for the opportunity to testify on this measure.



From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 14, 2012 1:02 PM
To: WLH Testimony
Cc: publicpolicy@oha.org
Subject: Testimony for SB2524 on 2/15/2012 10:00:00 AM

Testimony for WLH/JDL 2/15/2012 10:00:00 AM SB2524

Conference room: 016
Testifier position: Support
Testifier will be present: Yes
Submitted by: Sterling Wong
Organization: Office of Hawaiian Affairs
E-mail: publicpolicy@oha.org
Submitted on: 2/14/2012

Comments:



KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 5, 2012

TO: Senator Donovan Dela Cruz, Chair
And Members
Committee on Water, Land and Housing

Senator Clayton Hee, Chair
And Members
Committee on Judiciary and Labor

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

SUBJECT: S.B. 2524, Relating to Haiku Valley

Aloha. My name is Alice Hewett, president of the Ko'olaupoko Hawaiian Civic Club. Our club was established in 1937 and includes members from Kualoa to Kane'ohē, in the nine ahupua'a surrounding Kane'ohē Bay.

On behalf of our club, I am asking your support and passage of Senate Bill 2524, which will help establish a cultural preserve in Ha'iku Valley.

Our members have worked long and hard to ensure the protection and preservation of important historic and cultural sites within this valley. Kane a me Kanaloa Heiau, and Kanehekili Heiau, are only two of the known sites in this area. There are others whose names are not known but which we are finding as we clear the overgrowth from parts of the valley.

We feel this land can be put to much better use as a cultural preserve where our community can learn from the 'aina, both cultural and environmental education, and where we can gather for cultural activities.

Our community has been concerned about growing problems with vandalism and trespassing on this state-controlled property over the past 10-15 years. We think it is time for all of us to get to work and make this place pono.

We are here to help in whatever way is needed to make this valley healthy again.

Mahalo for allowing me to testify.

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Ko'olau Foundation

P. O. Box 4749, Kane'ohe, HI 96744

Ph. (808) 218-4915

February 15, 2012

TO: Senator Donovan Dela Cruz, Chair
Senator Malama Solomon, Vice Chair / & Members
Committee on Water, Land & Housing

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

FROM: Lawrence Akina, Jr., President
Ko'olau Foundation

SUBJECT: S.B. 2524, Relating to Haiku Valley

Aloha, Chairs and Members of the Committees on Water, Land & Housing, and Judiciary & Labor.

The Ko'olau Foundation strongly supports the passage of Senate Bill 2524, Relating to Ha'iku Valley, which would establish the Ha'iku Valley Cultural Preserve Commission and sets up a process for creation of a cultural preserve on these important uplands of the ahupua'a of He'eia in Ko'olaupoko.

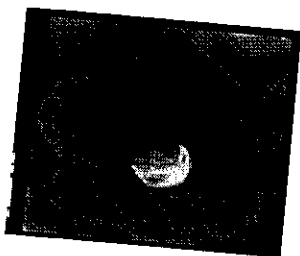
Our Foundation has worked for the preservation of important cultural resources, including at least two heiau and numerous burials, in Ha'iku Valley for almost 20 years. We feel this preserve will prove to be a valuable asset to the State of Hawai'i, to our Native Hawaiian people, and to our community in the years to come.

This new preserve will serve as a venue where not only can we protect and honor the sacred places of our kupuna kahiko, but where we can allow for cultural and environmental educational and passive recreational activities.

In the past 10-15 years since it was conveyed to the State of Hawai'i, this property has been relatively neglected and has become a habitat for illegal activities and vandalism. It is our hope that, with the passage of this legislation, the community and State of Hawai'i can work together to transform this important land area into productivity and added cultural value for generations to come.

Mahalo for this opportunity to offer our mana'o.

February 15, 2012



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**TESTIMONY ON S.B. 2524
RELATING TO HA'IKU VALLEY**

To: Sen. Donovan Dela Cruz, Chair / & Members
Committee on Water, Land & Housing

Sen. Clayton Hee, Chair / & Members
Committee on Judiciary & Labor

From: Jerry Kaluhiwa, President
Kako'o `O'iwi

Aloha, Chairs Dela Cruz and He, and Committee Members:

My name is Jerry Kaluhiwa, president of Kako'o `O'iwi. Our organization is in the process of restoring 400 acres of land back to kalo farming in the ahupua`a of He`eia. We are grateful for the support you gave us last year, which will help make it possible for this farm to supply food products to the people of our island.

We ask your support for this bill, which would help create a cultural preserve in the uplands of our ahupua`a, in Ha`iku Valley.

My family has lived in this ahupua`a for many generations, and we are very concerned about our historic sites and burials up in the valley. We have been working closely with the Ko`olau Foundation and Ko`olaupoko Hawaiian Civic Club to support protection of those sites.

I go regularly into Ha`iku Valley to clear the heiau and malama the `aina, and I know what is up there.

Please pass this bill and help us make this wahi kapu safe by creating the cultural preserve.

Mahalo.

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 12, 2012 2:26 PM
To: WLH Testimony
Cc: Ken_Conklin@yahoo.com
Subject: Testimony for SB2524 on 2/15/2012 10:00:00 AM

Testimony for WLH/JDL 2/15/2012 10:00:00 AM SB2524

Conference room: 016
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Kenneth R. Conklin, Ph.D.
Organization: Individual
E-mail: Ken_Conklin@yahoo.com
Submitted on: 2/12/2012

Comments:

Re: SB 2524
RELATING TO HAIKU VALLEY.

From: Kenneth R. Conklin, Ph.D.
46-255 Kahuhipa St. Apt. 1205
Kane'ohe, HI 96744
tel/fax (808) 247-7942
e-mail Ken_Conklin@yahoo.com

I must strongly object to certain provisions of SB 2524.

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 5, 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 6 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 7 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 11 "Transfer" should be deleted entirely, because it contemplates turning over the entire valley to a race-based government. "The 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>

~~2012/02/13~~

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 13, 2012 12:39 PM
To: WLH Testimony
Cc: ndavlantes@aol.com
Subject: Testimony for SB2524 on 2/15/2012 10:00:00 AM

Testimony for WLH/JDL 2/15/2012 10:00:00 AM SB2524

Conference room: 016
Testifier position: Support
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
E-mail: ndavlantes@aol.com
Submitted on: 2/13/2012

Comments:

I fully support the creation of a cultural preserve commission for Haiku Valley to ensure its cultural, environmental, and historical importance and significance be preserved.

Nancy Davlantes
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