

COMMITTEE ON HAWAIIAN AFFAIRS

Testifier Sheet

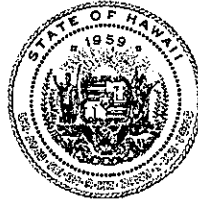
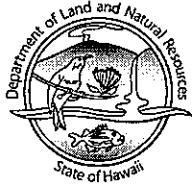
**SB2854** RELATING TO A STATEWIDE ISLAND BURIAL COUNCIL.

HWN, WAM

Consolidates the five Island Burial Councils into a single Statewide Island Burial Council as a means to address long-standing quorum issues.

<u>Testifier</u>	<u>Organization</u>	<u>Position</u>	<u>Proposes Amend.</u>
William Aila, JR.	Dept. of Land and Natural Resources	Supports	<input type="checkbox"/>
	Office of Hawaiian Affairs	Submits Comments	<input type="checkbox"/>
Jonathan Scheuer, Ph.D.	Oahu Island Burial Council	Opposes	<input type="checkbox"/>
Edwin Miranda	Hawaii Island Burial Council	Opposes	<input type="checkbox"/>
Thomas Shirai	Individual	Opposes	<input type="checkbox"/>
Sara Collins, Ph.D	Society for Hawaiian Archaeology	Opposes	<input type="checkbox"/>
Charles Flaherty	Individual	Opposes	<input type="checkbox"/>
Malia Evans, M.A.	Individual	Opposes	<input type="checkbox"/>
Puanani Rogers	Hookipa Network	Opposes	<input type="checkbox"/>
Ehu Cardwell	Individual	Opposes	<input type="checkbox"/>
Harry Fergstrom	Na Kupuna Moku o Keawe	Opposes	<input type="checkbox"/>
Cheryl Lovell-Obatake	Individual	Submits Comments	<input type="checkbox"/>
	Dept. of Land and Natural Resources	Supports	<input type="checkbox"/>
Kamuela Kalai	Individual	Opposes	<input type="checkbox"/>
Patrick Kahawaiolaa	Keaukaha Community Association	Submits Comments	<input type="checkbox"/>
Evern Williams	Kupaa Mahope o Liliuokalani	Opposes	<input type="checkbox"/>
Emily Kandagawa	Individual	Opposes	<input type="checkbox"/>
Keith Yap	Kauai Niihau Burial Council	Opposes	<input type="checkbox"/>
David Inciong, II	Individual	Opposes	<input type="checkbox"/>
Terri napeahi	Pele Defense Fund	Opposes	<input type="checkbox"/>

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  
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COMMISSION ON WATER RESOURCE MANAGEMENT  
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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 Committee on  
HAWAIIAN AFFAIRS**

**Wednesday, February 1, 2012  
2:45 P.M.  
State Capitol, Conference Room 224**

**In consideration of  
SENATE BILL 2854  
RELATING TO A STATEWIDE BURIAL COUNCIL**

Senate Bill 2854 seeks to consolidate the five Island Burial Councils into a single statewide island burial council as a means to address long-standing quorum issues. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

The purpose of Section 6E-43, Hawaii Revised Statutes (HRS), is to ensure that Native Hawaiians and landowners have a forum to discuss and voice their opinions on the treatment of burials on their respective island. However, lack of quorum, particularly difficulty in getting large landowner representation on small islands, has hindered the ability of island burial councils to meet. The Molokai Island Burial Council has not been able to meet since April 2008 because the State has not been able to attract large landowners (Section 6E-43.5(b), HRS, requires the representation of development and large property owners on island burial councils) on Molokai to serve on the Island Burial Council. Recently, this has also become a problem for the other island burial councils. Maui/Lanai and Hawaii have canceled nine meetings due to quorum issues and Kauai/Niihau has lost two regional representatives and is seeking an additional large landowner.

The bill seeks to address the quorum issue by reducing the number of island burial councils to one statewide island burial council with equal representation from all islands, while maintaining the quorum ratio of large landowners to regional representatives. In addition to fixing long-standing quorum problems, the statewide island burial council will also address the following long-standing concerns of the Island Burial Councils:

- (1) It will allow for statewide coordination and more consistent statewide decisions when dealing with burials. This has been a concern for the island burial councils who have been unable to have statewide meetings due to funding issues.
- (2) It will distribute the need for large landowners across a broader base, and allow landowners who have lands on multiple islands (Crown Trusts) to sit one person, rather than commit staff from multiple islands.

Lastly, the statewide island burial council would meet once a month rather than having separate respective island burial council meetings, thus reducing time for preparation and taking minutes of meetings.



**SB2854**  
**RELATING TO A STATEWIDE ISLAND BURIAL COUNCIL**  
Senate Committee on Hawaiian Affairs

February 1, 2012

2:45 p.m.

Room: 224

The Office of Hawaiian Affairs (OHA) offers the following comments on SB2854, which seeks to consolidate the island burial councils into one statewide burial council.

The idea of consolidating the island burial councils in order to solve to recent quorum issues, while well intentioned, may tentatively address one issue while creating a host of new problems. The island burial councils successfully met for over a decade under the current statute and administrative rules. The island of Molokai currently suffers from quorum issues due to a lack of large landowners on that island, and the bill suggests that this has recently become a reported problem for other councils.

There are systemic reasons for these recent quorum issues, and amending Chapter 6E to create a statewide burial council as a panacea unfairly punishes the whole to address the issues of a few. Contrary to the suggestions in the bill, the island councils do not seek to consolidate at this time. The requests by the island burial councils for a statewide meeting do not stem from a desire for better "Statewide coordination," as stated in the bill, but rather from a desire to understand the dynamics and workings of other councils on other islands facing similar development issues and administrative challenges.

Native Hawaiian 'ohana and next of kin exercise kuleana with respect to the appropriate treatment of human remains, and an island burial council represents a region or Hawaiian community authorized to make decisions on behalf of the 'ohana, or next of kin in certain circumstances. To exercise this kuleana properly, these councils must remain local and intact. One way to accomplish this is to remove the landowner requirement from the statute for burial council composition. Landowners' rights are already well-protected by the public meeting process, the appellate process, the notification and consultation process, and the U.S. Constitution and other property rights, including case law on takings. Removing the landowner requirement would solve the recent quorum issues while maintaining the culturally appropriate local burial councils.

Mahalo for the opportunity to testify on this measure.

February 1, 2012

Senator Brickwood Galuteria, Chair  
Senate Committee on Hawaiian Affairs  
State Capitol  
Honolulu, Hawai'i 96813

**RE: Testimony in Opposition to SB 2854, Relating to a Statewide Island Burial Council**

Aloha e Senator Galuteria and Members of the Committee:

My name is Jonathan Likeke Scheuer. I serve as a Kona Moku representative and Vice Chair of the O`ahu Island Burial Council (O`ahu IBC), though I am submitting this testimony solely as an individual. I urge you to defer action on SB 2854, Relating to a Statewide Island Burial Council.

My primary opposition to this bill is that I believe it is a solution looking for a problem to solve. The primary reason given in the bill to support the creation of a Statewide Island Burial Council is that there has been difficulty achieving quorum on some IBCs due to lack of membership by a large landowner representative. However, there is no evidence offered that the responsible parties (the Governor's Office, the Department of Land and Natural Resources, or the State Historic Preservation Office) have taken any meaningful steps to solicit nominations for these seats. If quorum and membership is the problem that this bill is seeking to solve, it would deserve a better solution: namely this committee directing the Executive Branch to implement the law as it stands, which is their obligation to do.

I would further observe that when bills such as this are introduced and head – that is bills that lack a logical connection between problem and solution -- it can serve to diminish the community's confidence in government. It can also be perceived as being disrespectful to those of us who faithfully attempt to discharge our duties in the IBC's, despite needed support from the Administration. Killing this bill and introducing a resolution to examine the Administration's implementation of our burial laws, however, would restore some of this confidence.

Because the bill is titled in such a manner that it would not allow amendment to address more significant issues related to the IBCs – namely needed support from the Administration – I urge that this measure be held.

Mahalo for the opportunity to submit this testimony, and for your service to our islands.

Jonathan Likeke Scheuer, Ph.D.  
Scheuerj001@hawaii.rr.com

## **galuteria1 - Davis**

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**From:** Edwin Miranda [emiranda169@gmail.com]  
**Sent:** Monday, January 30, 2012 3:08 PM  
**To:** HWN Testimony  
**Subject:** S.B. 2854

Aloha To Hawaiian Affairs Senate Committee Chairman Brickwood Galuteria, Vice-Chairman Pohai Ryan and fellow members:

My name is Edwin L.P. Miranda and I presently sit on the Big Island Burial Council. I oppose the idea of a Statewide Burial Council. The Big Island burial council has been doing very well since Sept. of 2011. I believe the Big Island Burial Council is a great team and that each members skills complement each other. We have no quorum issues. I can't speak for the other island councils but I know we are a special group. I believe the Big Island Burial Council has sent in testimony regarding this bill.

A Statewide Burial Council will not truly address on how to resolve burial issues for each and every island but create more of a disservice to the public.

First, this bill will be placing a financial burden on the lineal and cultural descendants to travel off-island to state their concerns if a meeting is held on another island. This bill will take away the neighbor islands ownership in this process and make it Oahu-centric.

Second, the "composition" component is the real problem. Because of this component, it makes it hard for the other island councils to make quorum. I choose to volunteer for this council because of my willingness to serve, not because I had a hundred acres of more.

In conclusion, please don't pass this bill. This bill serves only to fast-track projects and not fully address the concerns of our iwi Kupuna, their descendants, our culture, and the reputation of the Island Burial Councils.

Mahalo,

Edwin L.P. Miranda  
Keaukaha Homesteader

Thomas T Shirai Jr  
P O Box 601  
Waialua, HI 96791  
Email: [Kawaihapai@hawaii.rr.com](mailto:Kawaihapai@hawaii.rr.com)

January 31, 2012

COMMITTEE ON HAWAIIAN AFFAIRS (HWN)  
Senator Brickwood Galuteria, Chair  
Senator Pohai Ryan, Vice Chair

Notice of Hearing

DATE: Wednesday, February 1, 2012  
TIME: 2:45PM  
PLACE: Conference Room 224

RE: Testimony OPPOSING SB 2854 (Relating to a Statewide Island Burial Council)

*Aloha* Chair Galuteria, Vice Chair Ryan & Committee Members,  
I oppose SB 2854. Having served on the *Oahu Island Burial Council (OIBC)* as *Waialua Moku Regional Representative*, a big concern is attendance and quorum however, each specific geographical island should be able to address burial matters on that island. Perhaps the criteria should be re-written to have a list of alternates in the event primary representatives (regional or private land owners) can't attend scheduled meetings instead of canceling meetings due to no quorum. Additionally this measure would also add financial cost due to transportation. In conclusion urge SB 2854 be HELD. Thank you for your time. Malama Pono.

*Thomas T Shirai Jr*  
*Mokule'ia, Waialua*

TO: Senator Brickwood Galuteria, Chair  
Senator Pohai Ryan, Vice-Chair  
Senate 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 1, 2012, 2:45 PM, Conference Room 224  
SUBJECT: Testimony in OPPOSITION to SB 2854, Relating to a Statewide Island Burial Council

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 opposition to SB 2854, which calls for consolidation of the five Island Burial Councils (IBCs) into a single Statewide Island Burial Council as a means to address long-standing quorum issues. Many of our members have a vital interest in the outcome of this bill. In the more than 20 years since the IBCs were established, SHA members have spent thousands of hours at IBC meetings providing background information on individual burials and on projects – information that is critical to the councils' deliberations. Our primary concern is that the proposed changes cannot be implemented in a way that fulfills the fundamental intent of the State law governing historic burials, particularly §§ 6E-43 and 6E-43.5, Hawaii Revised Statutes (HRS). We do not believe that these proposed amendments will achieve the intended results for the following reasons.

- The proposed amendments greatly diminish an important element of the original law which was to provide a process by which native Hawaiians and others could make decisions or recommendations based on their particular knowledge of local and regional practices and perspectives prevailing on a given island. This bill would essentially sever the burial councils' members, deliberations, and proceedings from their roots in regional communities. Our members have found the help and advice of individual burial council members to be invaluable over the years precisely because they had these ties to their communities and the perspectives on approach or actions appropriate to specific circumstances.

- Given the variety and number of items that currently appear on the five IBC agendas, we don't believe that it is feasible to collapse them into a single meeting where adequate public participation and council deliberation can occur. The burial council agendas for each island usually contain multiple projects and each item on an agenda can appear before a council multiple times. Even if certain determinations and requests for recommendations are prioritized, it is still easy to imagine a statewide council having to meet for two days or more in order to provide sufficient time for all agenda items, in some cases. In addition, each IBC carries out field visits to selected burial sites that are agenda items. If this practice continues, the agenda of a Statewide IBC will only become larger, and considerable delays will result in the handling of all cases, whether or not field visits occur.

- We doubt that the proposed amendments will result in any cost savings and may actually create greater expense for the State Historic Preservation Division (SHPD). As written, a statewide burial council will need a significant amount of travel funds to meet on other islands regardless of where its members lived because of the bill's stipulation that "Meetings shall rotate to each different island, with no one island hosting more than two meetings per year." Thus, for



most of its meetings, airfare will be required for most council members, a Deputy Attorney General, SHPD staff to assist the council and record minutes, and staff archaeologists if their island's burial cases are being heard on another island. We believe that a feasibility analysis is warranted before it is assumed that this will save money or increase efficiency over current practice.

- Consolidation of the IBCs into a single Statewide Burial Council could significantly raise the cost of providing archaeological and project information to the burial councils and increase the amount of time consulting archaeologists would spend traveling to provide this information. Many of our members work for archaeological consulting firms that are either based solely on a single island or have neighbor-island satellite offices. Currently, they usually don't need to travel inter-island to provide this information to the appropriate IBC. Under the proposed amendments, they would need to travel to other islands between potentially 50% of the time.

- Qualifications are specified in one of the amended sections where it is stated that representatives will be chosen, in part, based on "their understanding of land use in the State." This should be clarified. Is this an understanding of land use law and regulations or is it knowledge of Native Hawaiian or other land use practices (i.e., what people actually do or did with the land)?

- We are puzzled by the assertion that quorum issues have arisen from any difficulty large landowners or developers have had in finding representatives. In our experience, these entities have consistently made appropriate staff available for such community service, usually without any hiatus. On the other hand, the Moloka'i Island Burial Council, for multiple reasons, has been the most difficult to convene on a regular basis and the one that can truly be called a long-standing problem. Since the lack of meetings for the Moloka'i Island Burial Council is cited as an issue, perhaps the administration and Legislature should consider disbanding the Moloka'i council and adding some its members into the existing Maui/Lana'i Islands Burial Council.

Consequently, in view of the above points, we respectfully urge that the subject bill not be passed. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

January 31, 2012

## TESTIMONY IN OPPOSITION TO SB 2854

Welina mai Mr. Chair and members of the Senate Hawaiian Affairs Committee,

I am writing in opposition to Senate Bill 2854.

During the recent Association of Hawaiian Civic Clubs annual convention at Turtle Bay, Governor Abercrombie made an unscheduled visit and addressed the House of Delegates, which consisted of club leaders from across the state and the United States. He was given a lukewarm reception. The Governor proceeded to give an emotional apology to the Hawaiian people for the actions of his administration to that date and promised to devote the remainder of his administration to helping the Hawaiian people. This statement was greeted with enthusiastic applause.

The prior day, during the same convention, State Historic Preservation Division Director, Pua Aiu, gave a presentation to the Native Rights Committee. When she stated that she was supporting proposed legislation to eliminate the island burial councils and to create one state-wide burial council, the audience became upset to the point that the Committee Chair had to repeatedly interrupt the meeting and remind those in attendance that Ms. Aiu had been invited as their guest. It was clear that no one supported the proposal of one state-wide burial council with the most common complaint being that it would destroy the ability of the average Hawaiian 'ohana to protect their iwi kupuna.

It is clear from the discussion contained within Section 1 of SB 2854 that the source of the problem with the island burial councils are large landowner and development interests, interests that can shutdown any island burial councils by not participating in the process. These shutdowns indicate a lack of respect for constitutionally-protected Native Hawaiian rights and traditional and customary practices as related to burials.

Large landowner and development interests have no legal rights to iwi kupuna. When large landowner and development interests purchase land in Hawai'i, they either know that there are burials on the property or that burials may be present, especially if Native Hawaiian cultural sites are present. Caveat emptor, "let the buyer beware", is a basic law of real estate.

Since large landowner and development interests have no vested legal rights to burials, the question that we should be asking is why are large landowner and development interests being asked to sit on the island burial councils? Section 1 of SB 2854 speaks for itself as to their unwillingness to participate and how this unwillingness impedes the ability of the island burial councils and the State Historic Preservation Division to carry out their legal mandates.

In addition, why is the Governor, who promised the AOHCC that he would do everything in his power to protect and enhance the Native Hawaiian people, and two self-described Hawaiians, DLNR Director William Aila and SHPD Director, Pua Aiu, introducing legislation that will

irreparably harm Native Hawaiian traditional and customary practices and the ability of average Native Hawaiian 'ohana to protect their iwi kupuna?

Because Senate Bill 2854, as currently written would result in irreparable harm to a constitutionally-protected resource, I respectfully urge this committee to defeat SB 2854.

The solution to the problem is legislation to maintain the current island burial councils and to remove the requirement for large landowner and developer interests participation, not only because these interests have no vested constitutional interest in Native Hawaiian burials, but also because they have apparently lost interest in participating on the island burial councils in a constructive, meaningful manner.

Then the kanaka maoli can truly ho'omua with the island burial councils to protect the iwi kupuna.

Mahalo,  
Charles Flaherty  
P O Box 922  
Captain Cook HI 96704  
(808)323-3454  
oneheart@aloha.net

**WRITTEN TESTIMONY TO THE SENATE COMMITTEE ON HAWAIIAN AFFAIRS**

by

Malia K. Evans, M.A.

Anthropologist

Hearing date: Wednesday, February 1, 2012

2:45pm: Conference Room 224

February 1, 2012

**TO:** Senator Brickwood Galuteria, Chair  
Senator Pohai Ryan, Vice-Chair  
and members of the Committee on Hawaiian Affairs

**SUBJECT: OPPOSITION to SB 2854: Relating to a Statewide Island Burial Council**

Aloha, my name is Malia Kapuaonalani Evans and I wish to offer testimony in opposition to the consolidation of the five Island Burial Councils (IBC) into a single Statewide Island Burial Council. I have over 20 years experience and engagement in Hawaiian cultural practice, and cultural resource protection and preservation in Hawai'i nei. My western academic credentials include a Bachelors and Masters degree in Anthropology with a specialization in Applied Archaeology and Historic Preservation.

Justifications for the proposed change are attributed to "long standing quorum issues" regarding the lack of large landowner representation. Essentially, large landowners are not fulfilling their responsibilities to represent landowner/developer interests at the neighbor island meetings. Secondly, large landowners with holdings on multiple islands want to commit a single staff member statewide, rather than a staff member for each IBC.

Surely, these large landowners have the financial and personnel resources to attend monthly IBC meetings. The largest landowners in Hawai'i besides the state and federal governments include:

- Kamehameha Schools: (360,000 acres) spent \$299,000,000 (299 MILLION) in 2010.
- Alexander & Baldwin: (113,000 acres) profit of \$85,000,000.00 (85 MILLION) on these landholdings in 2010.
- Parker Ranch: (106,000 acres) revenue of \$18,000,000 (18 MILLION) in 2010.
- Castle & Cooke: (119,000 acres) along with Dole Foods has over 63,000 employees in 90 countries.
- Moloka'i Ranch/Moloka'i Properties Ltd.: (58,000 acres) a subsidiary of Guoco Group, which posted revenue of \$7,600,000 (7.6 MILLION).
- Grove Farm: (36,000 acres) posted \$21,000,000 (21 MILLION) in annual sales.

- Robinson Family: (55,000 acres) posted \$2,200,000 (2.2 MILLION) in annual ranching sales.

February 1, 2012

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Let us not be deceived by large landowners who have abundant financial resources and adequate staff to represent their interests and fully participate in the monthly IBC meetings held on the various islands. They are in essence holding the Island Burial Councils in a hostage situation and should be held accountable by our public officials and our community for delaying and circumventing the law.

The second justification for consolidation is the inability of the various IBC to conduct statewide meetings due to funding issues. The increased costs of \$5,000 a month/\$60,000 a year, to pay for DLNR//IBC members travel related expenses should instead be used to initiate a video conferencing platform from which statewide IBC meetings can be conducted.

A prime example for secure video conferencing is WEBEX. Participants need only a computer with internet access. The video conferencing is interactive, providing accessibility to documents on the desktop to video partners. The proceedings can be recorded, which facilitates the minute taking process and importantly, the conferences can be secured and private when sensitive/confidential matters concerning burial locations are discussed. The costs for this type of video conferencing are minimal compared to the proposed travel related expenses.

The third justification is again related to large landowners with holdings on multiple islands seeking to commit a single staff member, rather than multiple staff members for the five IBC. Why can't this change be implemented into the existing five councils? Having one or two staff members from the large landowner/developer interests who can attend and contribute to the five IBC monthly meetings should help streamline the process and prevent the aforementioned quorum issues. A further recommendation is to ensure that the IBC on each island be consulted at the beginning of the development review process, not at the end! Our ancestral remains have the right to remain where they were placed. We need to honor and respect that right.

If you allow this bill to become law, you will be subjecting a multitude of lineal and cultural descendants to incredible financial hardship. A roundtrip airline ticket - \$200. A compact rental car - \$50. A hotel room -\$120. Meals -\$50. You will be placing a burden of several hundred dollars on our families who are merely fulfilling their kuleana to protect their iwi kupuna. Census data indicates that 62% of Hawaiian households make less than \$50,000 a year compared to 37.9% of non-Hawaiian households (Hawaiian Data Book 2006). Those who can least afford it are being unjustly burdened, while the large landowners are catered to. Where is the equity and justice in that?

February 1, 2012

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Our first line of defense in identifying, protecting and preserving our na iwi kupuna, are those who have specialized knowledge of places, events, practices and burials in their community. These cultural and lineal descendants are the essential link between those who have passed and those who remain. The people whose culture it is, whose ancestors will be impacted, need to make the decisions and recommendations about what happens to them and their associated sacred burial places.

Let us not forget our history and the reasons for the establishment of the Island Burial Councils in 1989. Let us not forget the thousands of ancestral Hawaiian remains that have been victimized, and traumatized and sacrificed on the altar of corporate and development greed.

**Honokahua, Maui. Hokuli'a, Hawai'i. Nau'e, Kaua'i. Kaka'ako and Mokapu, Oahu.**

I would like to share a quote with you, a quote that is on the State Historic Preservation Division website.

I would recommend and plead with all the people now, to respect your kupuna; regardless (if they are) Hawaiian, Japanese, all the different nationalities. You don't give up your family, don't sell your family short in life. Give them the best, even when they die.

Papa Henry Auwae.

Mahalo nui for your consideration.

Malia K. Evans

## galuteria1 - Davis

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**From:** Angienora Rogers [rangien2010@yahoo.com]  
**Sent:** Wednesday, February 01, 2012 9:40 AM  
**To:** galuteria1 - Davis  
**Subject:** Testimony in strong OPPOSITION to SB 2854- Mahalo Davis!!

Committee on Hawaiian Affairs  
Conference room 224  
2:45 PM

Testimony in strong Opposition to SB 2854

Aloha e Senator Galuteria and Committee members,

My name is Puanani Rogers, I am submitting my testimony to strongly oppose SB 2854.

I live on the island of Kaua`i and because of many issues on burial desecrations that we are presently experiencing here and all our efforts to stop the hewa, we need to continue the opportunities to voice our concerns on our island to our Kaua`i Ni`ihau Burial Council. This bill will take away those rights; our human, moral and cultural rights and our freedom to speak regarding our concerns for our na iwi kupuna. That is so blatantly wrong and sinful.

Why is it that this bill's proposal was not brought to the communities for hearings first? I suggest that hearings be held on all islands first before any vote is taken in the Senate and House. Please, I humbly ask that this bill be deferred and that all efforts are made to take this bill to the people, your constituents first; do not shut us out, which is what I believe is the real reason of this bill.

Please respond to my testimony in strong opposition of SB 2854.

Mahalo a nui,

Puanani Rogers  
Ho`okipa Network - Kauai  
Ph. (808) 652-1249

Think Sovereign.....Think Ahupua`a

February 1, 2012

**LATE**

Committee on Hawaiian Affairs  
Testimony on Senate Bill 2854

Aloha mai,

My name is `Ehu Kekahu Cardwell. I wish to submit public testimony in opposition to bill SB 2854 – Relating to a Statewide Island Burial Council. I strongly oppose this bill. This bill is a bad idea on all levels as it seeks to combine all of the island burial councils into one statewide council. This costly bill will effectively delete and silence the voices of the family members and community from having a voice on their own island to address concerns about their iwi kupuna, the bones of our ancestors.

This bill was created by the administration of the Department of Land and Natural Resources with absolutely no input from any of the burial council members, family or community members. It was presented to the O`ahu Island Burial Council after it had been drafted by Pua Aiu of the State Historic Preservation Department and submitted for review and approval through the administration of the Department of Land and Natural Resources. There was no input from any of the council members or any family members on the creation of this proposal. This is an administrative bill that will have a huge negative impact on our communities and families.

This bill was created to address the quorum issues that some of the burial councils are having. If one of the main reasons for this bill is because the councils are not able to meet quorum, one needs to look at the reason for this problem. If the inability to meet quorum is because of the absence of large landowner participation, that responsibility should be on the landowner not on the council itself. If there is a lack of landowner participation, the burial councils should maintain the right to meet every month with or without the landowner present. If the landowner wants to have a voice in the decision making process, it is their responsibility to be present and accounted for in these meetings.

This bill also proposes to name the chair of the proposed statewide council with the Chair of the DLNR or its designee. This is a conflict of interest and it eliminates the ability of the council to elect it's own leadership from its peers.

This bill will effectively eliminate the ability of concerned family members from participating in a process of having their voices heard regarding concerns about their iwi kupuna on a their own island. The island burial councils are currently the one and only place families can officially express their concerns at the state level.



The cost to travel to neighbor islands is prohibitive for most families and they cannot afford to pay this expense each month. I have attended every meeting on Oahu in the past year but I am sure I would not have been able to afford the price of a round trip ticket if I were required to travel to the neighbor island to have my concerns heard.

This proposed bill will add to the full agendas of each island council. Oahu Island Burial Council meeting agendas are always full and they will meet for 5-6 hours to address each agenda item. How is a Statewide Burial Council expected to meet the challenge of hearing and addressing issues on every island in one monthly meeting? It would be impossible to do.

Currently there are representatives from each moku on each island. This bill proposes to select only two members from each island. This is not an efficient way to address all of the concerns our iwi kupuna face in their respective moku. This also eliminates home rule. There is no way families will have their voices heard in an effort to protect iwi kupuna if this bill is allowed to pass in its current form.

This bill will cost the taxpayer \$60,000.00 more than it does now. With the fiscal challenges the State of Hawai'i currently faces, it makes no sense to allocate \$60,000.00 from a government budget that needs to save money. This bill is fiscally irresponsible and counter productive to the ability of meeting the needs of family members, the community and large landowners.

As someone who has been able to attend meetings at the O`ahu Island Burial Council meetings as a venue to express my concerns for my own kupuna, I ask that you reject SB 2854. If the main issue is the inability for the councils to meet quorum because of the absence of the landowner, the only change in the law needed is to allow the individual island burial council meetings to be held with or without the landowner. I am certain if this change is implemented, large landowners would be present and accounted for at every meeting just as the volunteer moku representatives currently are.

This one small change will save the State of Hawai'i \$60,000.00 of taxpayer money and allow the individual island burial councils to perform their duties as needed. I oppose SB2854 and ask that you reject this bill as being inefficient, unnecessary and costly.

Mahalo nui.

`Ehu Kekahu Cardwell

**galuteria1 - Davis**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 12:49 PM  
**To:** HWN Testimony  
**Cc:** hankhawaiian@yahoo.com  
**Subject:** Testimony for SB2854 on 2/1/2012 2:45:00 PM

**LATE**

Testimony for HWN 2/1/2012 2:45:00 PM SB2854

Conference room: 224  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Harry Fergerstrom  
Organization: Individual  
E-mail: [hankhawaiian@yahoo.com](mailto:hankhawaiian@yahoo.com)  
Submitted on: 2/1/2012

**Comments:**

Relating to a Statewide Island Burial Council Aloha Kakou,

I would like to start with declaration of opposition to all legislative bills relating to the creation of a Statewide Island Burial council. Although there are many problems within current island burial councils (Hawaii, Maui, Oahu, Kauai) those problems can be corrected.

Don't throw out the baby (Protection of Kupuna Iwi) while keeping the filthy bath water (the illusion that the State Historic Preservation Division has a priority of protecting Kupuna Iwi). A better approach and in keeping consistent with Article 12 section 7 of the State of Hawaii's Constitution, along with being consistent with the intent of NAGPRA (Native American Grave Repatriation Act) would be to remove the island burial councils from the State Historic Preservation Division and create a separate entity that deals solely with Grave and Burial protections.

The problems cited in the various bills to create a Statewide Burial Council is a prefect reflection of the inability and inadequately of the State Historic Preservation Division to protect burials. The problems of meeting quorum to conduct business reflect more on the criteria set by SHPD than the ability and desire to participate in burial protection process.

Let's look at some of these inherent problems. The first problem is "Public Notice". The way notice has been handled has been very ineffective and deprives the general public of pertinent information by limiting notice to only the island that a burial is associated with. Not providing general notice to all the islands has lead to inferior / limited information, has caused irreparable harm to many Hawaiian families and has lead to State sponsored Grave desecration, intentional or not.

Another problem associated with the process of establishing standing either by lineal descent or cultural affiliation. Presently to establish lineal descent, one must prove genealogical ties, yet SHPD does not have a genealogist and has not had one for several years now. Cultural affiliation has also been denied or simply overlooked as there is no procedure revealed to make this claim. I, myself, as a ancient religious and cultural practitioner has tried many times over several years to claim all unclaimed Kupuna Iwi with the simple logic that prior to western influences, there was only one religion of the Hawaiian people and therefore all pre-contact Kupuna Iwi must belong to us.

No doubt there are many problems that need careful attention and revisiting the process is of great need. The answer is not to further limit the protection process by creating a single State burial counsel but to address the problems with the State Historic Preservation Division.

A copy of this letter is going to be sent to the National Park Service who provides funds to the State for the purposes stated under the Native American Graves Repatriation Act.

Please feel free to contact me if I can be of any assistance in helping us all to be in compliance with State and Federal Laws.

Thank you for your considerations.

Hanalei Fengerstrom  
Member of The Temple of Lono;  
Spokesperson for Na Kupuna Moku O Keawe  
P.O Box 951 Kurtistown, Olaa, Hawaii  
808 938-9994  
[hankhawaiian@yahoo.com](mailto:hankhawaiian@yahoo.com)

**galuteria1 - Davis**

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**From:** Cheryl Obatake [kuhiau@hotmail.com]  
**Sent:** Wednesday, February 01, 2012 1:16 PM  
**To:** galuteria1 - Davis  
**Subject:** SB 2854

**LATE**

Aloha Senator,

My name is Cheryl Lovell-Obatake. After reviewing SB 2854 and attending burial council meetings and served on the Kauai/Niihau Islands Burial Council (1992 - 2000); ask yourself why there is a lack of quorum.

Allow me to share my observation. The problem is at the State Historic Preservation Division. Agendas and burial council packets were not delivered timely, several meeting minutes are missing and meetings were not recorded. Audit SHPD burial program.

Respectfully submitted,  
Cheryl Lovell-Obatake  
Nawiliwili, Puna, Kaua'i

February 1, 2012

Committee on Hawaiian Affairs  
Testimony on Senate Bill 2854

**LATE**

Aloha mai,

My name is Kamuela Andrea Kapuananialiiokama Kala`i. I am here today to submit public testimony in opposition to bill SB 2854 – Relating to a Statewide Island Burial Council. I strongly oppose this bill. This bill is a bad idea on all levels as it seeks to combine all of the island burial councils into one statewide council. This costly bill will effectively delete and silence the voices of the family members and community from having a voice on their own island to address concerns about their iwi kupuna, the bones of our ancestors.

This bill was created by the administration of the Department of Land and Natural Resources with absolutely no input from any of the burial council members, family or community members. It was presented to the O`ahu Island Burial Council after it had been drafted by Pua Aiu of the State Historic Preservation Department and submitted for review and approval through the administration of the Department of Land and Natural Resources. There was no input from any of the council members or any family members on the creation of this proposal. This is an administrative bill that will have a huge negative impact on our communities and families.

This bill was created to address the quorum issues that some of the burial councils are having. If one of the main reasons for this bill is because the councils are not able to meet quorum, one needs to look at the reason for this problem. If the inability to meet quorum is because of the absence of large landowner participation, that responsibility should be on the landowner not on the council itself. If there is a lack of landowner participation, the burial councils should maintain the right to meet every month with or without the landowner present. If the landowner wants to have a voice in the decision making process, it is their responsibility to be present and accounted for in these meetings.

This bill also proposes to name the chair of the proposed statewide council with the Chair of the DLNR or its designee. This is a conflict of interest and it eliminates the ability of the council to elect it's own leadership from its peers.

This bill will effectively eliminate the ability of concerned family members from participating in a process of having their voices heard regarding concerns about their iwi kupuna on a their own island. The island burial councils are currently the one and only place families can officially express their concerns at the state level.

**From:** Pat Kahawaiolaa [kcaiprez@gmail.com]  
**Sent:** Thursday, February 02, 2012 8:28 AM  
**To:** HWN Testimony  
**Subject:** Relating to Statewide Burial Council SB2854

**LATE**

Aloha Senators Galuteria & Ryan, I am Patrick L. Kahawaiola'a a native Hawaiian as defined in the HHCA,1920 as amended and the current president of the Keaukaha Community Association (KCA) and as such we discussed and voted @ our last community meeting held in January to OBJECT to the consolidation of the five (5) Burial Councils into one (1) Statewide council to address the fact that there is a long standing quorum issue. It should be taken on an "island-by-island" basis. If the problem exist as is stated than that particular island council should be consolidated. Hawaii island is very large and with its land mass we believe as pressure is put on towards "more" rather than "less" developments a burial council is a necessary means to protect and perserve our iwi kupuna. Realizing this testimony is LATE, I apologize but as a very small homestead association we cannot always keep up to date on bill that move through the legislature without partnership with other homestead associations or entities that have a concern that will directly affect those rights constitutionally protected by the Hawaii State constitution and the Hawaiian race. Mahalo for allowing KCA to make testimony albeit LATE. "Owau Patrick L. Kahawaiola'a President KCA

## galuteria1 - Davis

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 5:20 PM  
**To:** HWN Testimony  
**Cc:** evernw@aol.com  
**Subject:** Testimony for SB2854 on 2/1/2012 2:45:00 PM

**LATE**

Testimony for HWN 2/1/2012 2:45:00 PM SB2854

Conference room: 224  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: EVERN WILLIAMS  
Organization: Kupa'a Mahope O Liliuokalani  
E-mail: [evernw@aol.com](mailto:evernw@aol.com)  
Submitted on: 2/1/2012

**Comments:**

My name is Evern Williams. I am opposed to SB 2854 - Relating to a Statewide Island Burial Council;

My reasons are because the bill

**COMMUNITY & FAMILY INPUT**

- seeks to combine all of the island burial councils into one statewide council. This costly bill will effectively delete and silence the voices of the family members and community from having a voice on their own island to address concerns about their iwi kupuna, the bones of our ancestors.
- was created by the administration of the Department of Land and Natural Resources with absolutely no input from any of the burial council members, family or community members;
- will effectively eliminate the ability of concerned family members from participating in a process of having their voices heard regarding concerns about their iwi kupuna on a their own island. The island burial councils are currently the one and only place families can officially express their concerns at the state level. The cost to travel to neighbor islands is prohibitive for most families and they cannot afford to pay this expense each month;
- was presented to the O`ahu Island Burial Council AFTER it had been drafted by Pua Aiu of the State Historic Preservation Department and submitted for review and approval through the administration of the Department of Land and Natural Resources. There was no input from any of the council members or any family members on the creation of this proposal;
- proposes to select only two members from each island versus representatives from each moku on each island. This is not an efficient way to address all of the concerns our iwi kupuna face in their respective moku. This also eliminates home rule. There is no way families will have their voices heard in an effort to protect iwi kupuna if this bill is allowed to pass in its current form.
- is an administrative bill that will have a huge negative impact on our communities and families.

QUORUM

- was created to address the quorum issues that some of the burial councils are having. If one of the main reasons for this bill is because the councils are not able to meet quorum, one needs to look at the reason for this problem. If the inability to meet quorum is because of the absence of large landowner participation, that responsibility should be on the landowner not on the council itself. If there is a lack of landowner participation, the burial councils should maintain the right to meet every month with or without the landowner present. If the landowner wants to have a voice in the decision making process, it is their responsibility to be present and accounted for in these meetings.

#### CONFLICT OF INTEREST

- proposes to name the chair of the proposed statewide council with the Chair of the DLNR or its designee. This is a conflict of interest and it eliminates the ability of the council to elect it's own leadership from its peers.

#### UNREALISTIC EXPECTATIONS

- will add to the full agendas of each island council. Oahu Island Burial Council meeting agendas are always full and they will meet for 5-6 hours to address each agenda item. How is a Statewide Burial Council expected to meet the challenge of hearing and addressing issues on every island in one monthly meeting? Clearly impossible to do.

#### EXCESSIVE EXPENSE

- cost the taxpayer \$60,000.00 more than it does now. With the fiscal challenges the State of Hawai'i currently faces, it makes no sense to allocate \$60,000.00 from a government budget that needs to save money. This bill is fiscally irresponsible and counter productive to the ability of meeting the needs of family members, the community and large landowners.

#### MAIN ISSUE

If the main issue is the inability for the councils to meet quorum because of the absence of the landowner, the only change in the law needed is to allow the individual island burial council meetings to be held with or without the landowner. I am certain if this change is implemented, large landowners would be present and accounted for at every meeting just as the volunteer moku representatives currently are.

This one small change will save the State of Hawai'i \$60,000.00 of taxpayer money and allow the individual island burial councils to perform their duties as needed.

I oppose SB2854 and ask that you reject this bill as being inefficient, unnecessary and costly.

Mahalo for doing the pono thing and NOT passing it.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 4:54 PM  
**To:** HWN Testimony  
**Cc:** ekandagawa@gmail.com  
**Subject:** Testimony for SB2854 on 2/1/2012 2:45:00 PM

**LATE**

Testimony for HWN 2/1/2012 2:45:00 PM SB2854

Conference room: 224  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Emily Kandagawa  
Organization: Individual  
E-mail: [ekandagawa@gmail.com](mailto:ekandagawa@gmail.com)  
Submitted on: 2/1/2012

**Comments:**

Aloha mai,

I wish to submit public testimony in opposition to bill SB 2854 - Relating to a combined Statewide Island Burial Council. I very strongly oppose this bill. This costly bill will effectively delete and silence the voices of the family members and community from having a voice on their own island to address concerns about their iwi kupuna, the bones of our ancestors.

This bill was created by the administration of the Department of Land and Natural Resources with absolutely no input from any of the burial council members, family or community members. It was presented to the O`ahu Island Burial Council after it had been drafted by Pua Aiu of the State Historic Preservation Department and submitted for review and approval through the administration of the Department of Land and Natural Resources. There was no input from any of the council members or any family members on the creation of this proposal. This is an administrative bill that will have a huge negative impact on our communities and families.

This bill was created to address the quorum issues that some of the burial councils are having. If one of the main reasons for this bill is because the councils are not able to meet quorum, one needs to look at the reason for this problem. If the inability to meet quorum is because of the absence of large landowner participation, that responsibility should be on the landowner not on the council itself. If there is a lack of landowner participation, the burial councils should maintain the right to meet every month with or without the landowner present. If the landowner wants to have a voice in the decision making process, it is their responsibility to be present and accounted for in these meetings.

This bill also proposes to name the chair of the proposed statewide council with the Chair of the DLNR or its designee. This is a conflict of interest and it eliminates the ability of the council to elect it's own leadership from its peers.

This bill will effectively eliminate the ability of concerned family members from participating in a process of having their voices heard regarding concerns about their iwi kupuna on a their own island. The island burial councils are currently the one and only place families can officially express their concerns at the state level. The cost to travel to neighbor islands is prohibitive for most families and they cannot afford to pay this expense each month. I have attended every meeting on Oahu in the past year but I am sure I would not have been able to afford the price of a round trip ticket if I were required to travel to the neighbor island to have my concerns heard.

This proposed bill will add to the full agendas of each island council. Oahu Island Burial Council meeting agendas are always full and they will meet for 5-6 hours to address each agenda item. How is a Statewide Burial Council expected to meet the challenge of hearing and addressing issues on every island in one monthly meeting? It would be impossible to do.

Currently there are representatives from each moku on each island. This bill proposes to select only two members from each island. This is not an efficient way to address all of the concerns our iwi kupuna face in their respective moku. This also eliminates home rule. There is no way families will have their voices heard in an effort to protect iwi kupuna if this bill is allowed to pass in its current form.

This bill will cost the taxpayer \$60,000.00 more than it does now. With the fiscal challenges the State of Hawai'i currently faces, it makes no sense to allocate \$60,000.00 from a government budget that needs to save money. This bill is fiscally irresponsible and counter productive to the ability of meeting the needs of family members, the community and large landowners.

I ask that you reject SB 2854. If the main issue is the inability for the councils to meet quorum because of the absence of the landowner, the only change in the law needed is to allow the individual island burial council meetings to be held with or without the landowner. I am certain if this change is implemented, large landowners would be present and accounted for at every meeting just as the volunteer moku representatives currently are.

This one small change will save the State of Hawai'i \$60,000.00 of taxpayer money and allow the individual island burial councils to perform their duties as needed. I oppose SB2854 and ask that you reject this bill as being inefficient, unnecessary and costly.

Mahalo nui.

**LATE**

Testimony on Senate Bill 2854

Relating to a Statewide Island Burial Council

To: The Committee on Hawaiian Affairs and the Ways and Means Committee

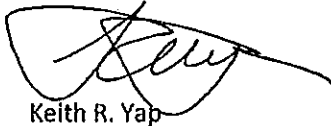
Dear Committee Members:

We recently found out that the Senate has referred this bill to your committees just two days ago on the same day this bill was introduced. We understand that although we were not able to meet the timeline that all testimony must be submitted 24 hours in advance, we hope you will reconsider and accept this testimony.

We the Kauai Niihau Burial Council are opposed to the proposed SB 2854. We believe that each island poses its own unique customs and cultural practices regarding the treatment of burials. Often, even among our own Kauai island people, we have been presented with varied suggestions and recommendations that don't always agree. We believe that this will be exponentially exasperated if the Island burial councils are combined. Our issues are often carried over from month to month and may take several meetings to resolve. As a result we believe that logistically you cannot have a statewide meeting held on alternating islands as the agenda items may not be resolved and cannot be discussed on another island or wait until that island comes around for its turn. Which I assume, may be three to four months. This would be a great disservice to the intent of the law and to the people who also may have to incur undue cost to travel in order to be heard. We simply do not believe it will work. We do not believe the lineal descendents and community affected will be involved under the senate bills proposal. And as a result, the intent of the burial council's role will be lost.

We feel that the number of burial council members required and the ratio of landowner to district representatives should be reviewed and adjusted to make it more feasible to attain quorum. We respectfully ask that you involve the burial councils directly to seek a solution and amend the bill to reflect the collective decision making that will solve the problems as noted in the bill.

Respectfully Submitted on behalf of the Kauai Niihau Burial Council,



Keith R. Yap  
Vice Chairman

## galuteria1 - Davis

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 01, 2012 1:40 PM  
**To:** HWN Testimony  
**Cc:** tane\_1@msn.com  
**Subject:** Testimony for SB2854 on 2/1/2012 2:45:00 PM

**LATE**

Testimony for HWN 2/1/2012 2:45:00 PM SB2854

Conference room: 224  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: David MK Inciong, II  
Organization: Individual  
E-mail: tane\_1@msn.com  
Submitted on: 2/1/2012

Comments:  
February 1, 2012

Committee on Hawaiian Affairs

Testimony on Senate Bill 2854

Aloha mai,

I am known as Tane. I wish to submit public testimony in opposition to bill SB 2854 - Relating to a Statewide Island Burial Council. I strongly oppose this bill. It is logical that this bill is a bad idea on all levels as it seeks to combine all of the island burial councils into one statewide council. This costly bill will effectively delete and silence the voices of the family members and community from having a voice on their own island to address concerns about their iwi kupuna, the bones of our ancestors.

This bill was created by the administration of the Department of Land and Natural Resources with absolutely no input from any of the burial council members, family or community members. It was presented to the O`ahu Island Burial Council after it had been drafted by Pua Aiu of the State Historic Preservation Department which has a conflict of interest and submitted for review and approval through the administration of the Department of Land and Natural Resources. There was no input from any of the council members or any family members on the creation of this proposal. This is an administrative bill that will have a huge negative impact on our communities and families.

Illogically, this bill was created to address the quorum issues that some of the burial councils are having. If one of the main reasons for this bill is because the councils are not able to meet quorum, one needs to look at the reason for this problem. If the inability to meet quorum is because of the absence of large landowner participation, that responsibility should be on the landowner not on the council itself. If there is a lack of landowner participation, the burial councils should maintain the right to meet every month with or without the landowner present. If the landowner wants to have a voice in the

decision making process, it is their responsibility to be present and accounted for in these meetings.

This bill also proposes to name the chair of the proposed statewide council with the Chair of the DLNR or its designee. This is a conflict of interest and it eliminates the ability of the council to elect it's own leadership from its peers. The burial councils should be emboldened with more power and jurisdiction on their own island.

This bill will effectively eliminate the ability of concerned family members from participating in a process of having their voices heard regarding concerns about their iwi kupuna on a their own island. The island burial councils are currently the one and only place families can officially express their concerns at the state level. The cost to travel to neighbor islands is prohibitive for most families and they cannot afford to pay this expense each month. I am sure I would not be able to afford the price of a round trip ticket if I were required to travel to the neighbor island to have my concerns heard.

This proposed bill will add to the full agendas of each island council. Oahu Island Burial Council meeting agendas are always full and they will meet for 5-6 hours to address each agenda item. How is a Statewide Burial Council expected to meet the challenge of hearing and addressing issues on every island in one monthly meeting? It would be impossible to do.

Currently there are representatives from each moku on each island. This bill proposes to select only two members from each island. This is not an efficient way to address all of the concerns our iwi kupuna face in their respective moku. This also eliminates home rule. There is no way families will have their voices heard in an effort to protect iwi kupuna if this bill is allowed to pass in its current form.

This bill will cost the taxpayer \$60,000.00 more than it does now. With the fiscal challenges the State of Hawai`i currently faces, it makes no sense to allocate \$60,000.00 from a government budget that needs to save money. This bill is fiscally irresponsible and counter productive to the ability of meeting the needs of family members, the community and large landowners.

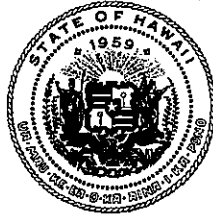
I ask that you reject SB 2854. If the main issue is the inability for the councils to meet quorum because of the absence of the landowner, the only change in the law needed is to allow the individual island burial council meetings to be held with or without the landowner. I am certain if this change is implemented, large landowners would be present and accounted for at every meeting just as the volunteer moku representatives currently are.

This one small change will save the State of Hawai`i \$60,000.00 of taxpayer money and allow the individual island burial councils to perform their duties as needed. I oppose SB2854 and ask that you reject this bill as being inefficient, unnecessary and costly.

Mahalo.  
David M.K. Inciong, II  
AKA: Tane

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII

LATE



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

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

February 1, 2012

MEMORANDUM

TO: Senator Brickwood Galuteria , Chairman  
Senate Committee on Hawaiian Affairs

FROM: Guy H. Kaulukukui, Deputy Director  
Department of Land and Natural Resources *Guy*

RE: SB 2854, Relating to Statewide Island Burial Councils

In support of our written testimony, the Department of Land and Natural Resources provides this additional information:

Over the past two years, the following burial council meetings were proposed or scheduled and subsequently cancelled due to the inability to obtain a quorum of council members.

<u>Hawai'i Island</u>	<u>Maui/Lana'i</u>	<u>Kaua'i</u>
July 2011	July 2011	January 2012
June 2011	June 2011	December 2011
May 2011	May 2011	November 2011
April 2011	April 2011	October 2011
March 2011	March 2011	September 2011
February 2011	February 2011	August 2011
December 2010	January 2011	July 2011
October 2010	December 2010	
March 2010	November 2010	

Oahu  
October 2011  
February 2011

In addition, the Moloka'i Island Burial Council has not met since April 2008.

TESTIMONY OPPOSING BILL S.B. NO. 2854  
BY: Terri L. Napeahi (Pele Defense Fund)  
2/2/12

This testimony is in opposition to the Bill S.B. NO. 2854 The Bill for an act: Relating to a Statewide Island Burial Council, having difficulty finding qualified large landowner representatives to serve on the island burial councils and problems with quorum issues.

We have solutions for these burial council issues that are being addressed. We bring to your attention Bill S.B. 1071 Senate Bill relating to burial sites. This bill should still be active and also has a companion to it in the House, Bill H.B. 155HD1. We support this Bill S.B. 1071 and the items listed in the sections provided, however advocate amending the original statutes to the bill to read as such:

1. Line item 15 page 3 - add comma after the word region and remove the words *"of the island as well as representatives of development and large property owner interests."*
2. Line item 18 page 3 - remove the words *"culture, history"* and add *traditions* instead.
3. Line item 2 and 3 page 4 - add a period after the word *"affairs"* and remove the words *"representatives of development and large property owner interests"*.
4. Line item 18, 19 and 20 page 6 - add the word *"and"* after "Hawaiian Affairs" and remove the words *"representatives of development and large property owner interests, and."*

We encourage you to remove the DEVELOPERS and LARGE PROPERTY OWNER INTERESTS, who are not "Native Hawaiians" from the burial council. There is a need for each MokuPuni to have a burial council with Native Hawaiians "only." Each representative should be from their own MokuPuni because it is their responsibility (kuleana).

Listed below are additional comments to consider:

1. There should be **traditional practitioners** on the burial council.
2. There is a conflict of interest of Attorney Generals.
3. The burial council member may be intimidated by landowners/developers who are not Native Hawaiian.
4. Members may be unfamiliar with Federal and State Statutes of the laws that protect burials, ARFA, NAGPRA, HISTORICAL PRESERVATION ACT and STATE CONSTITUTION.
5. There is a lack of orientation to the above issues/need stronger burial rules and policies to support preservation in place.
6. Decisions should be reviewed by "traditional Native Hawaiian practitioners" for comments.

7. Possible repositories on every island. State building should give us repository.
8. The burials of our iwi should always be held with the upmost respect, if anything every Hawaiian should think this way.
9. We should not be using economics, ignorance and distance between islands as excuses against the proper and ethical treatment of our Kupuna iwi.
10. All decisions made against all of the above can only show the racism that is being enacted upon the Hawaiian people. Ending comment.

If you have any questions pertaining to the comments above please call Terri L. Napeahi Vice President of Pele Defense Fund.

Contact info:

Terri L. Napeahi

Pele Defense Fund

[Peledensefund@gmail.com](mailto:Peledensefund@gmail.com)

(808)315-9996