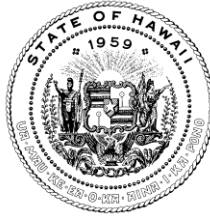


**SB 2942**

**EDT-WLH**

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

HISTORIC PRESERVATION DIVISION  
KAHUHIHEWA BUILDING  
601 KAMOKILA BLVD, KAPOLEI HI 96706

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**GUY H. KAULUKUKUI**  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committees on  
ECONOMIC DEVELOPMENT AND TECHNOLOGY  
and  
WATER, LAND AND HOUSING**

**Friday, February 14, 2012  
1:30 p.m.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 2942  
RELATING TO HISTORIC PRESERVATION**

Senate Bill 2942 proposes to increase the cost for permits to do archaeology in the State of Hawaii. The Department of Land and Natural Resources (Department) supports this bill as the Department believes that the current fee of \$50 is too low. However, the Department would suggest that a sliding fee scale be incorporated. Currently one \$50 fee can cover the archaeology permit for an entire firm. The fee should be raised to \$100.00 per individual archaeologist acting as project investigator within a firm.

## fukunaga2 - Ashley-Jane

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 03, 2012 11:29 AM  
**To:** EDTTestimony  
**Cc:** russell@ehawaii.gov  
**Subject:** Testimony for SB2942 on 2/14/2012 1:15:00 PM

Testimony for EDT/WLH 2/14/2012 1:15:00 PM SB2942

Conference room: 225  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Russell Castagnaro  
Organization: Hawaii Information Consortium, LLC  
E-mail: [russell@ehawaii.gov](mailto:russell@ehawaii.gov)  
Submitted on: 2/3/2012

Comments:  
Strong Support

TO: Senator Carol Fukunaga, Chair, Committee on Economic Development and Technology  
Senator Donavan Dela Cruz, Chair, Committee on Water, Land, and Housing

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 14, 2012, 1:30 PM, Conference Room 225

SUBJECT: Comments on SB 2942 (Relating to Historic Preservation)

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am submitting comments on SB 2942, which directs the Board of Land and Natural Resources (BLNR) of the Department of Land and Natural Resources (DLNR) to amend any appropriate administrative rules to increase archaeological permit fees from the current rate of \$50 to an unspecified amount. Furthermore, SB 2942 directs that the permit fees are to be deposited into the Hawaii historic preservation special fund established under section 6E-16, Hawaii Revised Statutes.

We understand the need to seek additional sources of revenue for State government functions but question whether focusing on an increase in archaeological permit fees is the most effective means of doing so. We raise the following points for your consideration while deliberating on SB 2942:

- The regulation and permitting of archaeologists is not the real cause of the State Historic Preservation Division's (SHPD) costs; it is the reviewing of documents submitted by project proponents that imposes the real cost, and it is at that point in the process that SHPD should be imposing fees--so much per review, not so much per archaeologist. If the fee is imposed on archaeologists, not project reviews, the fee won't be proportional to the real cost imposed on the system because a part-timer who does one project per year would pay the same fee as a major consulting firm's principal that does a hundred of them.
- If the SHPD analyzed the funds it expends on running the regulatory program implemented under §6E-3(13), we believe they'll find that the bulk of regulatory costs to SHPD are derived from the review of documents, reports, and plans, and not from issuing annual permits. Consequently, charging archaeologists fees as individuals could well be unlawful if the fees generated from permitting are greater than the overall costs of that particular step in the regulatory process. Thus, it would be improper to allow that overage to be used to subsidize the regulatory process as a whole.
- We would recommend instead that consideration be given to reasonable increases in the fees charged by DLNR for reviewing various reports, plans, and other documents prepared in compliance with Chapter 6E. We believe that it is more likely such fee increases would generate significant income, certainly enough to partially defray the SHPD's costs of implementing §6E-3(13).
- The 2012 list of archaeological permit holders (<http://hawaii.gov/dlnr/hpd/pdfs/2012-Permittee.pdf>) includes 22 companies engaged in commercial work in cultural resources

management (CRM) archaeological work, and four entities engaged in non-CRM, academic or government-related archaeological work. Using these numbers, the archaeological permit fees – at \$50 per firm or other entity -- currently total \$1,300. Even if the permit fees were doubled or tripled, we don't believe that such an increase would bring in nearly the amount of income that would be derived from increasing fees for reviewing documents.

- We note that annual renewal fees for individuals licensed by the State of Hawaii to conduct various business and professional activities range from \$90 for an Activity Desk or Travel Agent to \$300 for an M.D. In a number of cases, such as nurses or architects, licenses are valid for two years.
- As noted above, several of the archaeological permits issued by SHPD are for non-commercial entities, such as universities. We would recommend that their permit fees either not be raised or even eliminated altogether because imposing a charge on academic archaeologists who do their work for purely research purposes may abridge their First Amendment rights. Imposing a fee on academic researchers discriminates against free speech by these archaeologists in a manner that is content-based since persons in other professions who undertake activities that are equally or more destructive to historic properties aren't subject to the fee.

Thank you for the opportunity to provide comments on HB 1972. Should you have any questions, you may reach me at the above email address.