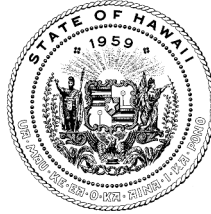
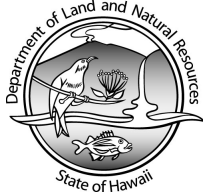


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Before the Senate Committee on
WAYS AND MEANS**

**Tuesday, February 28, 2012
9:00 AM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 3053, SENATE DRAFT 1
RELATING TO NATIVE HAWAIIANS**

Senate Bill 3053, Senate Draft 1 proposes to: 1) Create an aha moku advisory committee within the Office of Hawaiian Affairs (OHA) to advise the chairperson of the Board of Trustees of OHA on matters related to land and natural resources management through the aha moku system; and 2) Facilitate island burial council meetings and business by establishing a reduced quorum requirement for island burial council meetings. The Department of Land and Natural Resources (Department) supports this measure and offers the following comments with regard to PART II dealing with Island Burial Councils.

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. PART II of this measure proposes that "the members present at the scheduled start time of any meeting shall constitute a quorum to do business."

The Department supports this proposed language which clarifies the definition of what constitutes a quorum, and allows a burial council meeting and business to be conducted without regard to ratio requirements proscribed in Section 6E-43.5(b), HRS, for development and large property owner burial council representatives attending a meeting, as long as any member of the respective burial council is present at that meeting.

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



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

February 27, 2012

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

Honorable David Ige, Chair
& Members
Senate Committee on Ways & Means

Re: S.B. 3053, S.D. 1 – Relating to Native Hawaiians

Aloha Senators:

The Ko'olaupoko Hawaiian Civic Club supports Senate Bill 3053, S.D. 1, which would establish an advisory committee of Native Hawaiian cultural practitioners within the Dept. of Land and Natural Resources. We think this is a good idea. Our club has long advocated for a system to incorporate Hawaiian thinking into the policies, rules, regulations and laws of the State of Hawai'i – and even the county and federal governments as well.

We urge you to approve this legislation and pass it out of committee.

Mahalo for allowing me to offer testimony on this bill.

Me kealoha pumehana,

ALICE P. HEWETT
President

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: darakawa@lurf.org
Subject: Testimony for SB3053 on 2/28/2012 9:00:00 AM
Date: Monday, February 27, 2012 8:56:03 AM

Testimony for WAM 2/28/2012 9:00:00 AM SB3053

Conference room: 211
Testifier position: Support
Testifier will be present: Yes
Submitted by: David Arakawa
Organization: Land Use Research Foundation of Hawaii
E-mail: darakawa@lurf.org
Submitted on: 2/27/2012

Comments:

LURF Supports the SD1 version of SB 3053, and recommends that some additional funding be provided to OHA to incorporate the concept of the Aha Moku Advisory Committee into OHA's their existing programs.



KAKO`O `O IWI

EIN: 57-1236490

OFFICE

46-005 Kawa Street, Suite 104
Kaneohe, Hawaii 96744

PHONE

1 808 235 8111

EMAIL

kakooiwi@gmail.com

WEB

www.kakooiwi.org

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Christiane Lucas

David Henkin

February 28, 2012

To: Senator David Ige
And Members
Senate Ways & Means Committee

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

Subject: S.B. 3053, S.D.1, Relating to Native Hawaiians

Aloha from the Board of Directors of Kako`o `O iwi, a Native Hawaiian initiative dedicated to restoring lands to productivity while preserving our Hawaiian culture and environment.

We ask your support for the passage of S.B. 3053, S.D. 1, to allow Native Hawaiian practitioners to serve as advisors to the Dept. of Land and Natural Resources as the Aha Moku Advisory Committee. Several years ago, the Legislature passed into law a statute creating the Aha Moku system of integrating Hawaiian practices into policies and regulations. Unfortunately, that law has been sunsetted; this bill will enable us as Hawaiians to provide regular input to the process of setting rules and regulations regarding the `aina and the sea.

Please pass this bill out of committee.

Mahalo for allowing me to testify.

From: [Julia Estrella](#)
To: [WAM Testimony](#)
Subject: Testimony in support of SB3053
Date: Sunday, February 26, 2012 7:06:10 PM

SB3053

Good morning.

My name is Julia K. Matsui Estrella and I am the director of PACTS (Pacific and Asian American Center for Theologies and Strategies).

I write in strong support of SB3053. I commend 'Ohana Hoopakele for its vision and hard work at the grassroots level to bring to the fore a Wellness Center that heals rather than punishes. This is an exciting concept that will lead the way here and nationally and also in the Pacific region to heal the spirits of indigenous peoples who have experienced loss of land and culture, thus often leading to the 'loss of hope' here in Hawaii.

I feel that Kulani Correctional Facility is the perfect place for a Pu'uhonua and would thus encourage all of you to support a wellness center at Kulani and not delay the dream from being implemented as soon as possible.

With much hope for a Vision becoming Reality in our State of Hawaii and becoming a beacon for the rest of the nation and the rest of the world.

Thank you for your consideration of this request.

Much aloha,

Julia K. Matsui Estrella, Director

PACTS



TESTIMONY IN SUPPORT OF SB3053
With a recommendation for amendment
RELATING TO NATIVE HAWAIIANS

Hearing, Tuesday, February 28, 2012, Conference Room 211, State Capitol

Senator David Y. Ige
Senator Michelle N. Kidani
Members, Committee on Committee on Ways and Means

From: Kitty M. Simonds, President Maunalua Hawaiian Civic Club

Aloha,

The Maunalua Hawaiian Civic Club supports of SB3053, we have been involved with the initiative since 2006. The Association of Hawaiian Civic Clubs has supported formal recognition of the Aha Moku system since 2006 when the first Aha Ki`ole/Aha Moku resolution, tabled by our club, was heard and adopted at the AOHCC annual convention and subsequent conventions.

SB3053 should be amended to place the Aha Moku Advisory Committee in the Department of Land and Natural Resources and Section 2, appending the Burial Council bill to this bill, should be deleted as inappropriate to this initiative. The Burial Council resolves issues arising from the disturbance and destruction of native Hawaiian burials. The Aha Moku Advisory Committee is about natural resource management. The Aha Moku Advisory Committee will support and help facilitate the participation of communities in the management of our natural resources, based on a system of traditional practices, to protect, conserve and sustain the resources of the State of Hawaii. It is for all Hawai`i's people not just the Hawaiian community.

An amendment made in the joint hearing by the Committee On Hawaiian Affairs and Water, Land and Housing to move this advisory committee into the office of Hawaiian Affairs does not make sense since OHA's mandate is to serve the Hawaiian people and the system is for all of the people of Hawai`i.

At the HWN and WLH joint committee hearing the Aha Moku Advisory Committee was portrayed as conflicting with a new act under DLNR's authority. We reviewed the new Acts and Act 55 appears to be that Act. However, this advisory

Maunalua Hawaiian Civic Club
P.O. Box 240388. Aina Haina Station
Honolulu, Hawai`I 96824



committee would in fact complement the operation of the Public Land Development Corporation by making that process more open and transparent.

The Aha Moku process is an opportunity to improve natural resource management within the current resource management regime. The potential for improvement created broad support for the aha moku system. It was discussed throughout the community. The process was inclusive rather than exclusive, giving all Hawai`i's residents an opportunity to participate in a traditional successful Hawaiian process.

The people of Hawai`i deserve the best of Hawai`i's traditions and after six years of community consultation--meetings, workshops and puwalu--this is the best that native Hawaiians can share.

Maunalua Hawaiian Civic Club
P.O. Box 240388. Aina Haina Station
Honolulu, Hawai`I 96824



Ko`olau Foundation

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

Ph. (808) 218-4915

February 27, 2012

To: Senator Clayton Hee, Chair / & Members
Senate Committee on Judiciary and Labor

Senator David Ige, Chair/ & Members
Senate Committee on Ways and Means

From: Leialoha "Rocky" Kaluhiwa
Member, Board of Directors
Ko`olau Foundation

Re: S. B. 3053, S.D. 1, Relating to Native Hawaiians

Aloha, Chair Hee, Chair Ige, and Committee members:

My name is Rocky Kaluhiwa and I am speaking in favor of S.B. 3053, S.D.1. I am testifying on behalf of the Ko`olau Foundation in strong support of H.B. 2806, House Draft 1, which would establish an Aha Moku Advisory Committee to assist the state in a process to integrate Hawaiian cultural practices into rules and regulations governing land, water and cultural resources.

We were very disappointed when the law regarding the Aha Moku system was allowed to sunset. However, we are encouraged by this legislation, and hope you will consider it favorably.

This new advisory committee would be housed in the Department of Land and Natural Resources. We have two specific comments about the bill:

- 1) The burial councils already have kuleana for iwi kupuna – and that responsibility should remain with them and not be part of this advisory committee's work.
- 2) For more than two decades now, the Kane`ohe Bay Master Plan has been sitting in the Department of Land and Natural Resources – a plan that took more than 1,500 hours of work involving both practitioners and the general community and stakeholders. It was a plan to maintain and sustain the life of Kane`ohe bay. The act became law in the 1990s, a law that until today has not been complied with by the department.

Our Hawaiians planned for seven generations with our food and sustainability. In today's world, our Native Hawaiians' plans have to go through this bureaucracy to stay afloat.

That is why I feel we need this legislation, and we need this formal connection and relationship between the DLNR and our Native Hawaiian practitioners. Otherwise, the director of the department will feel like he can only listen to the Western way of making rules, and may not be able to give equal weight to the mana`o and recommendations of Native practitioners.

My plea to you is to pass this bill, with the amendment I suggested, for the betterment of the Hawaiian people and for our entire State of Hawai`i.

Mahalo for allowing me to offer my testimony.

Sincerely,

/s/ LEIALOHA KALUHIWA

LEIALOHA KALUHIWA
Member, Board of Directors



O`ahu Council
Association of Hawaiian Civic Clubs
P. O. Box 37874
Honolulu, HI 96837-1122

Feb. 29, 2012

TO: Sen. David Y. Ige, Chair
Sen. Michelle N. Kidani, Vice Chair
& Members
House Committee on Finance

FROM: Mahealani Cypher, President
O`ahu Council, Association of Hawaiian Civic Clubs

RE: S.B. 3053, S.D. 1, Relating to Native Hawaiians

Aloha, Chair Ige, Vice Chair Kidani, and Committee Members:

The O`ahu Council of the Association of Hawaiian Civic Clubs urges your support and passage of Senate Bill 3503, Senate Draft 1, relating to the establishment of the Aha Moku Advisory Committee to advise the State of Hawai`i on Native Hawaiian cultural practices and approaches to wise management of the natural and cultural resources of our islands.

Our Council is comprised of 25 Hawaiian Civic Clubs from throughout the island of O`ahu, and our members are deeply concerned about the kinds of rules and regulations that govern our `aina and kai. Often, some rules don't make sense and run counter to what works better for our environment or cultural resources. It is our view that Hawaiian ways of caring for the land and waters were very effective in sustaining the large population that thrived here in the islands for centuries before Western contact.

This advisory committee of practitioners bring with them many generations of knowledge about careful and prudent resource management, and no doubt will prove an asset and help to those government agencies that promulgate rules, regulations and laws regarding resource protection and management.

We ask your kokua and vote in favor of reporting this bill out of committee and, soon, into law.

Mahalo for this opportunity to share our mana`o with you.

Mahealani Cypher

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

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

HEARING:

SUBJECT: Comments on SB 3053, SD1, Relating to Native Hawaiians

I am Dr. Sara Collins, Chair of the Legislative Committee of the Society for Hawaiian Archaeology (SHA). We have over 150 members that include professional archaeologists and advocates of historic preservation in general. On behalf of SHA, I am providing comments on SB 3053, SD 1. The subject bill originally pertained to establishment of the Aha Moku advisory committee but was amended with the addition of a Part II that included language pertaining to the island burial councils. Our comments address only the amendments in Part II. The stated purpose of these amendments is to address the increasing problems the island burial councils have in meeting quorum by establishing in statute a very minimal quorum requirement for island burial council meetings. The specific amendments pertaining to island burial councils affect Chapter 6E-43.5(d), Hawaii Revised Statutes (HRS) and read as follows:

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

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

- As written, it appears that a quorum could consist of one person if he or she is the only member in attendance at the start of a burial council meeting. It is also possible that only two or three individuals out of a maximum of 9 to 15 burial council members may be present, in which case these individuals will constitute a quorum, as defined by SB 3053, SD 1. The determinations and recommendations made by the burial councils are too important to too many people, often for very different reasons, to leave these decisions solely to one or two members who were, by chance, able to make that meeting. The councils were rightly designed to represent the islands' diverse geographic areas and the interests of those communities. This amendment potentially undermines the very real benefits of this diversity and the credibility of the councils' deliberations.

- On February 24, 2012, I attended a meeting of the Chairs and Vice-Chairs of the IBCs from Kaua'i/Ni'ihau, Maui/Lana'i, Moloka'i, O'ahu, and Hawai'i Islands sponsored by the

Office of Hawaiian Affairs; interested members of the Native Hawaiian community also participated. The purpose of the meeting was to discuss the problems with achieving and maintaining quorum at IBC meetings, and to come up with solutions. The following statement was issued as a result of the meeting, and SHA supports this statement in its entirety:

Be it resolved by the leadership of the Island Burial Councils from Kaua'i/Ni'ihau, O'ahu, Moloka'i, Maui/Lana'i, and Hawai'i Island, as well as community members present on February 24, 2012 that we ask the Legislature to reject SB 2854, HB 2592, and/or any other bills or portions thereof (e.g., SB 3053, SD1) that would amend the Burial Law (HRS 6E) during the 2012 Legislative Session, because there has been no consultation with the Burial Councils and the Hawaiian community on the actions that are needed to address current concerns and strengthen our burial law and Councils. With the support from the Office of Hawaiian Affairs and others, we are in the process to continue over the next year to consult within the Councils and the Hawaiian community to identify the critical issues (including but not limited to quorum, composition, enforcement) that should be addressed, and shall propose legislation for the 2013 session.

Given the above, we respectfully suggest that the amendments in Part II of SB 3053, SD1 pertaining to the island burial councils be stricken entirely from the subject bill. Thank you for considering our comments. Should you have any questions, please feel free to contact me at the above email address.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: keeaumokukapu@yahoo.com
Subject: Testimony for SB3053 on 2/28/2012 9:00:00 AM
Date: Sunday, February 26, 2012 12:52:49 PM

Testimony for WAM 2/28/2012 9:00:00 AM SB3053

Conference room: 211
Testifier position:
Testifier will be present: No
Submitted by: Ke'eaumoku Kapu
Organization: Individual
E-mail: keeaumokukapu@yahoo.com
Submitted on: 2/26/2012

Comments:
Aloha to all State Legislators,

My name is Ke'eaumoku Kapu and i would like to comment on the pending Bill before you SB3053 of the Aha Moku System.

I have have been very supportive of this bill from the time of inception 2006 then Signed into Law by Governor Linda Lingle of the creation of Act 212 of the Aha Moku system in 2007. SB 3053 has always been about creating a process that would allow for Traditions on Land and Ocean Management that would come from the people who practiced and understand these islands and have grown to adapt then adopt our island principles, customs, and heritage. SB3053 is for everyone.

SB3053 of the Aha Moku System is a peoples bill, and does not belong in OHA it should be placed back under DLNR where it belongs. A peoples Management system.

Please support SB3053 by placing it back under DLNR and not under OHA were it would benefit all who live here.

Mahalo for your consideration and your time.

Ke'eaumoku Kapu

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: philferna@gmail.com
Subject: Testimony for SB3053 on 2/28/2012 9:00:00 AM
Date: Friday, February 24, 2012 10:56:06 AM

Testimony for WAM 2/28/2012 9:00:00 AM SB3053

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: Phil Fernandez
Organization: fisherman
E-mail: philferna@gmail.com
Submitted on: 2/24/2012

Comments:

While I support the intent of the legislation, the placement of the Aha Moku Advisory Council within OHA is wrong.

The Aha Moku System is the use of traditional Hawaiian generational knowledge as the basis of natural resource management. It is not a race-based nor blood-quantum based group of people. The council is a group of resource managers, of any race or ethnic background, who utilize Hawaiian traditional knowledge and apply this non-Western management knowledge to the management of natural resources of Hawaii.

Therefore, this council should be independent of OHA.

Thank you.

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: tookie49_2004@yahoo.com
Subject: Testimony for SB3053 on 2/28/2012 9:00:00 AM
Date: Monday, February 27, 2012 8:49:36 AM

Testimony for WAM 2/28/2012 9:00:00 AM SB3053

Conference room: 211
Testifier position: Comments Only
Testifier will be present: No
Submitted by: daniel kanahele
Organization: Individual
E-mail: tookie49_2004@yahoo.com
Submitted on: 2/27/2012

Comments:

I support the Aha Moku Bill, but the Burial Council Bill should not be attached to it. These are two completely distinct and separate issues, like apples and oranges, and should be voted on in separate bills. That way each bill/issue can stand and fall on their own merits. Putting them together in one bill only serves to muddy the waters.

It would be better for the Aha Moku Council to remain under DLNR rather than OHA. The bill is about a traditional resource system that would benefit all of Hawaii and its people. It is not a "Hawaiian issue" to benefit one group of people only. Putting the Aha Moku under OHA would give the appearance that this is a for Hawaiian program only. It is not. This program has broad base support and it is designed to benefit all the people of Hawaii.

Please put the Aha Moku back under the DLNR and separate the Burial Council from SB3053 so that both issues can succeed or fail on their own merit.

Mahalo,

daniel kanahele
resident Maui Island