

clee1 - Lina

From: Sterling Wong [sterlingw@oha.org]
Sent: Tuesday, March 13, 2012 11:12 AM
To: HAWtestimony
Subject: Testimony on SB3053
Attachments: Island Burial Council Representatives resolution 2 24 2012.pdf; SB3053 SD2 Aha Moku Testimony 3.14.12 HAW.pdf

Aloha mai kakou,

Please find our testimony on SB3053 attached, along with the attachment. Mahalo

Sterling Wong
Senior Public Policy Advocate
Office of Hawaiian Affairs
711 Kapi'olani Blvd, Ste. 500
Honolulu, HI 96813
Office: (808) 594-1834
Fax: (808) 594-1865
sterlingw@oha.org



SB3053 SD2
RELATING TO NATIVE HAWAIIANS
House Committee on Hawaiian Affairs

March 14, 2012

8:45 a.m.

Room: 329

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB3053 SD2 because it would establish the ‘Aha Moku Advisory Committee within OHA.

On February 16, 2012, the OHA Board of Trustees adopted a policy to “take a position of Oppose on any legislative measure that places an entity into OHA, or that requires an OHA funding allocation, without prior consultation with, and approval by, the Board of Trustees.”

In recent years, we have seen an increase in the number of measures introduced— often without advance consultation with OHA – that require OHA funding or place entities administratively within OHA, or both.

OHA currently funds a number of state commissions and task forces, including the Native Hawaiian Roll Commission, the Taro Security and Purity Task Force and the Criminal Justice Task Force. Cumulatively, OHA expends hundreds of thousands of dollars to finance these state entities. OHA has a responsibility to commit its financial and human resources to furthering its statutory mandate of bettering the conditions of Native Hawaiians. Before committing our resources to any legislative initiative, the OHA Board of Trustees needs the opportunity to weigh the costs and benefits to OHA’s beneficiaries.

Our opposition to SB3053 SD2 is based solely on the bill’s financial impacts to OHA, and not on the merits of the ‘Aha Moku Advisory Committee. OHA currently supports HB2806 HD2, which establishes the ‘Aha Moku Advisory Committee within the Department of Land and Natural Resources (DLNR). We believe that placing the committee within DLNR would ensure that the ‘Aha Moku directly advises the agency with the regulatory and decision-making authority over the management of our natural and cultural resources.

SB3053 SD2 also addresses the meeting quorum issues that have reportedly prevented several island burial councils from meeting and conducting business. SB3053 SD2 addresses this issue by establishing the quorum for island burial council meetings as the number of councilmembers present at the scheduled start of any meeting.

Please note that OHA facilitated a meeting of island burial council representatives and interested community members to discuss a separate measure (SB2854) that proposed to address the same issue by consolidating the five existing island burial councils into one statewide burial council. The meeting was held on February 24, 2012, with representatives of all five island burial councils in attendance.

On February 27, 2012, OHA Interim Chief Executive Officer Richard Pezzulo sent a letter to the leadership of the Senate Committee on Hawaiian Affairs detailing the discussions of the February 24 meeting and the resulting plans for moving forward. Please find attached the February 27 letter, as well as the resolution signed by all five island burial councils requesting that the Legislature “reject” measures being considered this year that would amend Chapter 6E, Hawaii Revised Statutes, because “there has been no consultation with the Burial Councils and the Hawaiian community on actions that are needed to address current concerns and strengthen our burial law and Councils.” The resolution also requested OHA’s support to facilitate further consultation among the councils and the Hawaiian community to develop proposed legislation for the 2013 Legislative Session to address critical island burial council issues, including but not limited to quorum, composition, and enforcement.

OHA is currently developing a plan of action that will, to the extent feasible, facilitate the broader discussion that has been requested.

OHA urges your committee to HOLD SB3053 SD2. Mahalo for the opportunity to testify on this measure.



STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
711 KAPI'OLANI BOULEVARD, SUITE 500
HONOLULU, HAWAII 96813

February 27, 2012

Senator Brickwood Galuteria, Chair,
Senator Pohai Ryan, Vice Chair and
Members of the Senate Committee on Hawaiian Affairs
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: Island Burial Council Representatives Meeting

Aloha e Chair Galuteria, Vice Chair Ryan and Members of the Senate Committee on Hawaiian Affairs,

At the request of our beneficiaries, the Office of Hawaiian Affairs (OHA) facilitated a meeting of Island Burial Council representatives and interested community members to discuss concerns relative to S.B. 2854 which proposes to consolidate the five existing Island Burial Councils into a single Statewide Island Burial Council as a means to *address long-standing quorum issues*. This meeting was held on February 24, 2012 with representatives of all five (5) Island Burial Councils in attendance.

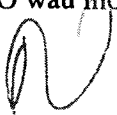
While OHA recognizes that there are many stakeholders who were unable to attend the meeting on February 24, 2012, those who were in attendance support the attached resolution which we respectfully transmit to the Senate Committee on Hawaiian Affairs for consideration. In addition to establishing a position on any legislation introduced during the 2012 Legislative Session which involves proposed amendments to Chapter 6E, Hawaii Revised Statutes, this resolution also requests additional support from OHA to facilitate broader discussion with Island Burial Councils, the Hawaiian community and interested stakeholders over the next year to develop an appropriate course of action to address the long standing and complex issues facing Island Burial Councils. OHA is currently developing a plan of action which will to the extent possible, facilitate the broader discussion which has been requested and identify immediate, interim and long range solutions based on input from the Hawaiian community and stakeholders.

An immediate step OHA hopes to take in the days to come is to work with the Department of Land and Natural Resources and the Office of the Governor-Boards and Commissions to see that any qualified applicants interested in serving on island burial councils with vacancies are duly considered and that any current representatives on Island Burial Councils whose terms may have expired continue serving as a "holdover" to the extent permitted by law.

Senator Brickwood Galuteria, Chair,
Senator Pohai Ryan, Vice Chair and
Members of the Senate Committee on Hawaiian Affairs
February 27, 2012
Page 2 of 2

OHA stands prepared to work in a collaborative effort with all parties who have an interest in this most important matter so that Island Burial Councils receive the support they require in order to fulfill their tremendous kuleana of determining the appropriate treatment for iwi kūpuna throughout Hawai'i nei. Mahalo for your consideration and thank you for your continued support.

'O wau iho nō me ka 'oia 'i 'o,




Richard Pezzulo
Interim Chief Executive Officer

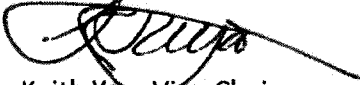
RP:kl


Attachments (1): February 24, 2012 Resolution

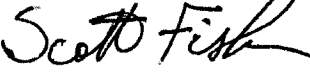
C: OHA- Board of Trustees
Representative Faye P. Hanohano, Chair, Chris Lee, Vice Chair and Members of the
House Committee on Hawaiian Affairs
William Aila, Jr., Chairman, Department of Land and Natural Resources
Guy Kaulukukui, Deputy Director- Department of Land and Natural Resources
Pua Aiu, Administrator, State Historic Preservation Division
Office of the Governor-Boards and Commissions


Be it resolved by the leadership of the Island Burial Councils from Kaua'i/Ni'ihau, O'ahu, Moloka'i, Maui/Lāna'i, and Hawai'i Island, as well as community members present on February 24, 2012 that we ask the Legislature to reject SB 2854, HB2592, and/or any other bills or portions thereof (e.g. SB3053 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.

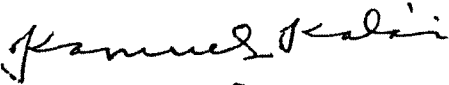


Kunane Aipoalahi, Chair
Kaua'i/Ni'ihau Island Burial Council

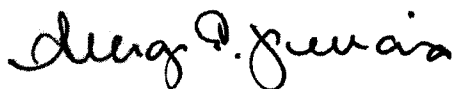

Keith Yap, Vice-Chair
Kaua'i/Ni'ihau Island Burial Council

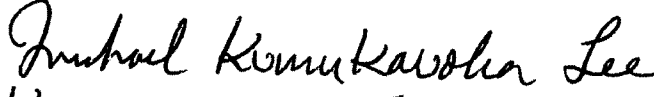

Ke'eaumoku Kapu, Chair
Maui/Lāna'i Island Burial Council


Scott Fisher, Vice-Chair
Maui/Lāna'i Island Burial Council



Miki'ala Pescaia, Chair
Moloka'i Island Burial Council



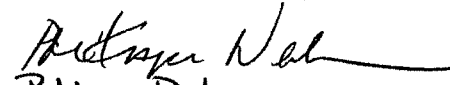

KATHU of Royal Iwi of Waipouli Ewa

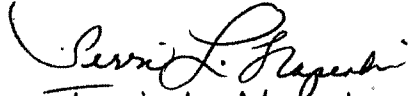

Hinaleimoana Kalu, Chair
O'ahu Island Burial Council

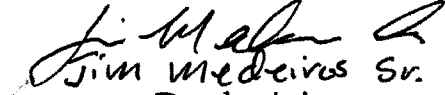

Jonathan Scheuer, Vice Chair
O'ahu Island Burial Council


Kimo Lee, Chair
Hawai'i Island Burial Council


Charles Young, Vice-Chair
Hawai'i Island Burial Council


Palikapu Dedman
President Pele Defense Fund


Terri L. Napuehi
V. P. Pele Defense Fund


Jim Medeiros Sr.
CEO Protect Keopuka Ohana

clee1 - Lina

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 7:39 AM
To: HAWtestimony
Cc: moana.bjur@hawaii.gov
Subject: Testimony for SB3053 on 3/14/2012 8:45:00 AM
Attachments: SB3053SD2_LNR_03-14-12_HAW.pdf

Testimony for HAW 3/14/2012 8:45:00 AM SB3053

Conference room: 329
Testifier position: Support
Testifier will be present: Yes
Submitted by: William Aila Jr.
Organization: Dept. of Land and Natrual Resources
E-mail: moana.bjur@hawaii.gov
Submitted on: 3/13/2012

Comments:

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

**Before the House Committee on
HAWAIIAN AFFAIRS**

**Wednesday, March 14, 2012
8:45 AM
State Capitol, Conference Room 329**

**In consideration of
SENATE BILL 3053, SENATE DRAFT 2
RELATING TO NATIVE HAWAIIANS**

Senate Bill 3053, Senate Draft 2 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 supports this measure.

Thank you for the opportunity to provide testimony.

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

clee1 - Lina

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 09, 2012 3:05 PM
To: HAWtestimony
Cc: philferna@gmail.com
Subject: Testimony for SB3053 on 3/14/2012 8:45:00 AM

Testimony for HAW 3/14/2012 8:45:00 AM SB3053

Conference room: 329
Testifier position: Support
Testifier will be present: No
Submitted by: Philip Fernandez
Organization: Individual
E-mail: philferna@gmail.com
Submitted on: 3/9/2012

Comments:

I am a resident of the Big Island and a fisherman. I support the Aha Moku council and their efforts to guide the state's management of its natural resources. However, this bill needs to be modified so that the Aha Moku council IS NOT A PART of OHA. As a council of residents involved in the management of natural resources, it should be part of the Department of Land and Natural Resources.

The Aha Moku council is not a council of Native Hawaiians, instead it is a council of residents utilizing traditional and generational Hawaiian natural resource knowledge and methods.

Please amend this bill and support it.

Thank you.

clee1 - Lina

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 13, 2012 11:05 AM
To: HAWtestimony
Cc: sara.l.collins.sha@gmail.com
Subject: Testimony for SB3053 on 3/14/2012 8:45:00 AM
Attachments: 2012 SB 3053, SD 1 Final.pdf

Testimony for HAW 3/14/2012 8:45:00 AM SB3053

Conference room: 329
Testifier position: Comments Only
Testifier will be present: No
Submitted by: Sara L Collins
Organization: Society for Hawaiian Archaeology
E-mail: sara.l.collins.sha@gmail.com
Submitted on: 3/13/2012

Comments:

TO: Representative Faye Hanohano, Chair
Representative Chris Lee, Vice Chair
House Committee on Hawaiian Affairs

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

HEARING: March 14, 2012, 8:45 AM, Room 329

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'i'hau, 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.

- We believe DLNR may be incorrectly interpreting the quorum requirements for Island Burial Council meetings to require that one or more landowner representatives be present before a quorum exists. We believe that the present legal requirements for a quorum do not specify that any particular member or group of members be represented at a given meeting if the number of members present, whatever their affiliation, is equal to or greater than the number of individuals required for quorum. We note, for example, that applying a similar quorum requirement to the Water Commission might mean that it could never meet the quorum requirement if no member knowledgeable in traditional water use were present. We recommend that the Committee ask DLNR to clarify its current legal position to explain whether or not they believe a quorum may exist if no landowner representative is present at a particular meeting and, if so, to provide the legal justification for that position, including any written advice on the subject by the Attorney General's Office.

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.