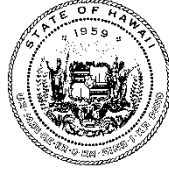


LATE

NEIL ABERCROMBIE
GOVERNOR



Dean H. Seki
Comptroller

Maria E. Zielinski
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
DEAN H. SEKI, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
April 1, 2013

S.B. 1171, S.D. 1, H.D. 1

RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS

Chair Luke and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 1171, S.D. 1, H.D. 1.

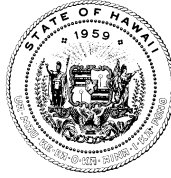
The Department of Accounting and General Services (DAGS) supports S.B. 1171, S.D. 1, H.D. 1, because it incorporates clarifying language on “phased project reviews” by the Department of Land and Natural Resources, State Historic Preservation Division (DLNR-SHPD). DAGS also provides the following comments:

1. S.B. 1171, S.D. 1, H.D. 1 will:
 - A. Grant DLNR-SHPD the option of fashioning customized and adaptable preservation plans and measures for complex, multi-year, multi-phased

development projects. Having the authority to take that approach will allow DLNR-SHPD to implement precise project-phase specific preservation plans and measures in a timely and efficient manner.

- B. Make section 6E-8, Hawaii Revised Statutes, consistent with Federal historic preservation law, and minimize future conflicts and duplication of efforts when projects involve both State and Federal agency reviews.
2. Requiring an “archaeological inventory survey” (AIS) for a State development project in its entirety prior to allowing any construction phase work to begin will result in significant delays, increased project costs, and possibly cause unnecessary disturbance of potential burial sites and historic properties.
 3. “Phased project reviews” will allow an AIS to be conducted at the start of final design phase work for the portion of a State development project that is intended to be built, thereby minimizing the amount of area disturbed. Thereafter, if burial or preservation sites are found during design phase work, there is still an opportunity to make changes to avoid the burial or preservation sites.
 4. S.B. 1171, S.D. 1, H.D. 1 should have no detrimental impact on DLNR-SHPD’s and the burial council’s oversight of the handling of burial remains and cultural artifacts or the treatment of such items with the proper levels of care and respect.

Thank you for the opportunity to submit written testimony on this matter.



STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805



TESTIMONY OF JOBIE M. K. MASAGATANI, CHAIRMAN
HAWAIIAN HOMES COMMISSION
TO THE HOUSE COMMITTEE ON FINANCE
IN SUPPORT OF

**SB 1171 SD 1 HD 1, RELATING TO REVIEW OF HISTORIC PRESERVATION
PROJECTS**

April 1, 2013

Chair Luke, Vice-Chair Nishimoto, Vice-Chair Johanson, and Members of
the Committee:

The Department of Hawaiian Home Lands supports SB 1171 SD 1 HD 1
that authorizes the State Historic Preservation Division to give its
approval of archaeological inventory surveys and preservation plans
based on a phased review of a project that consists of corridors or
large areas, or where access is restricted or construction needs to be
done in phases.

This bill makes Hawaii's historic preservation law Section 6E-8
consistent with the federal historic preservation law, and minimizes
conflicts and duplication when projects involve both State and federal
reviews. The inability to utilize phased reviews will negatively
affect projects, specifically certain road projects in Kapolei that
could negatively impact Hawaiian Home Lands if the projects are
delayed.

Mahalo for your consideration of our testimony.

LATE

NEIL ABERCROMBIE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 04/01/2013

Committee: House Finance

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 1171,SD1,HD1(hscr1221) RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS

Purpose of Bill: Authorizes the phased review of certain projects by the Department of Land and Natural Resources' State Historic Preservation Division to ensure consistency between state and federal law. Effective January 1, 2050. Deletes language that provided the governor with the option to request the Hawaii advisory council on historic preservation to report an action to overrule or sustain a department when an agency, officer, or other person is dissatisfied with a decision of the Hawaii historic places review board. (SD1)

Department's Position:

The Department of Education (DOE) supports Senate Bill 1171, which would allow the Department of Land and Natural Resources (DLNR) the flexibility to approve reviews of archaeological inventory surveys in phases. While the impact of this bill would most directly impact strongly linear projects such as those of the State Department of Transportation, the DOE, like many other agencies have also had to construct large projects in phases, due to fiscal or other constraints. The flexibility provided by this bill will help the DOE in planning out larger projects without having to absorb the whole cost of archaeological surveys up front, but as projects develop.

The proposed bill should have no detrimental effect on DLNR's oversight responsibilities but would provide needed flexibility for large, complicated projects.

Thank you for the opportunity to testify.

LATE



SB1171 SD1 HD1
RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS
House Committee on Finance

April 1, 2013

2:00 p.m.

Room 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB1171 SD1 HD1, which authorizes the Department of Land and Natural Resources (DLNR) State Historic Preservation Division (SHPD) to review and approve large development projects in phases. **This bill would allow construction of development projects to start before an inventory of all archaeological resources has been completed, threatening iwi kfiipuna and irreplaceable historic sites.**

Allowing phased review would undermine the spirit of current federal and state historic preservation laws and put valuable and irreplaceable historic sites — as well as iwi kupuna — at great risk. **When burial sites and historic properties are not identified before fundamental planning decisions are made, many options that could protect those sites are effectively foreclosed** (including scope, size, location, design). The later in the development process that burials are identified, the more difficult and financially burdensome adjustments become. Developers have, on multiple occasions, insisted that they have no alternative but to disinter iwi discovered in the path of projects that have already expended significant costs.

OHA understands that developers may be frustrated by the significant delays in project completion and cost that comes with inadvertent burial discoveries, but the answer is not to sidestep the law at the expense of the iwi kiiipuna. Instead the developer should identify likely burial locations **prior to** planning developments and beginning construction to avoid these situations. **The allowance of phased reviews will lead to increased inadvertent discoveries.** We must protect "our most cherished possession" and better plan development at the outset to avoid these problems.

Many expansive development projects have demonstrated that a full EIS and AIS can and should be completed prior to final planning phases and especially before construction. Full compliance with the current processes responsibly preserves options to protect iwi and other historic resources and ensure more timely and efficient completion of development projects. This bill would endanger our iwi kfiipuna and irreplaceable historic sites and resources to save developers the time and expense required to do adequate archaeological pre-planning. We have an obligation to uphold our current law and continue to strive to protect the heritage of this land.

Therefore, OHA urges the committee to **HOLD** SB1171 SD1 HD1. Mahalo for the opportunity to testify on this important measure.

LATE

DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 3RD FLOOR
HONOLULU, HAWAII 96813

Phone: (808) 768-8305 • Fax: (808) 768-4730 • Internet: www.honolulu.gov

KIRK CALDWELL
MAYOR



MICHAEL D. FORMBY
DIRECTOR

MARK N. GARRITY, AICP
DEPUTY DIRECTOR

April 1, 2013

The Honorable Sylvia Luke, Chair
and Members
House Committee on Finance
Hawaii State Capitol
415 South Beretania Street, Room 308
Honolulu, Hawaii 96813

Dear Chair Luke and Committee Members:

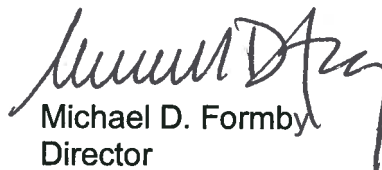
Subject: SB 1171 SD1, HD1, Relating to the Review of Historic
Preservation Projects

The Department of Transportation Services (DTS) appreciates the opportunity to testify in support of SB 1171.

The preservation of the historical and cultural heritage of Hawaii is important. Equally important, however, is the ability of government, on behalf of its taxpayers, to responsibly implement projects which, due to their design, necessarily involve construction in stages. This bill permits phased review of projects involving corridors, large land areas, or where access to properties is restricted, or where circumstance dictate that construction be done in stages, balancing the need for responsible project implementation with statutorily required reviews of archaeological inventory surveys (AIS). The only change DTS would recommend is that "federal laws," under the definition of "Programmatic agreement," be broadened to "applicable laws."

SB1171 is a practical solution to a real issue highlighted by the Hawaii Supreme Court in Kaleikini v. Yoshioka, 128 Haw. 53 (2012). The Department of Transportation Services would appreciate this committee's favorable review and support.

Very truly yours,


Michael D. Formby
Director

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 11TH FLOOR
HONOLULU, HAWAII 96813
Phone: (808) 768-8480 • Fax: (808) 768-4567
Web site: www.honolulu.gov

LATE

KIRK CALDWELL
MAYOR



CHRIS T. TAKASHIGE, P.E., CCM
DIRECTOR DESIGNATE

MARK YONAMINE, P.E.
DEPUTY DIRECTOR

April 1, 2013

The Honorable Sylvia Luke, Chair
and Members
House Committee on Finance
State Capitol
Honolulu, Hawaii 96813

Dear Chair Luke and Members:

SUBJECT: SENATE BILL NO. 1171 SD1 HD1 RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS

The Department of Design and Construction (DDC) respectfully **supports** Senate Bill No. 1171 SD1 HD1, which authorizes the phased review of projects by the Department of Land and Natural Resources' (DLNR) State Historic Preservation Division to ensure consistency between State and federal law.

The existing requirement, based on a 2012 Hawaii Supreme Court ruling that a project must be evaluated for archaeology as a single project and not in phases, has adversely affected a major City and County of Honolulu (City) infrastructure project and has the potential to adversely affect many future City-designed and financed infrastructure projects, including streets, highways and utility lines. Such projects are often designed and constructed in phases to accommodate practical considerations, such as project funding, land acquisition, and minimizing service interruptions.

If this bill is not passed, significant delays and cost increases, which would negatively impact City taxpayers, are anticipated for many City infrastructure projects.

The proposed amendment should have no detrimental impact on the State DLNR's and burial councils' oversight of the handling of burial remains and cultural artifacts or the treatment of such items with the proper care and respect.

For these reasons, DDC respectfully **supports** Senate Bill 1171 SD1 HD1.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in cursive script that reads "Chris Takashige".

Chris Takashige, P.E., CCM
Director

CTWB:pt



To: Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair
Committee on Finance

From: Kiersten Faulkner
Executive Director, Historic Hawai'i Foundation

Committee Date: Monday, April 1, 2013
2:00 p.m..
Conference Room 308

Subject: **SB1171 SD1 HD1, Relating to Review of Historic Preservation Projects**

On behalf of Historic Hawai'i Foundation (HHF), I am writing in opposition to SB1171 SD1 HD1, which authorizes the phased review of projects by the Department of Land and Natural Resources' State Historic Preservation Division (SHPD). The bill also would delete a statutory reference to the "Hawai'i advisory council on historic preservation."

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

SB1171 SD1 HD1 would amend state law (HRS §6E-8 and §6E-42), which currently requires that prior to any state, county or public project commencing, that the proposed project shall be referred to the State Historic Preservation Division (SHPD) for its review of the proposed project's potential effect on historic properties, aviation artifacts, or burial sites, especially those listed on the state register of historic places. The proposed project shall not commence until the department gives its written concurrence.

SHPD's review of proposed projects is an important safeguard to ensure that historic properties are identified and appropriate treatment measures are in place during planning and design work, which also then limits surprises or delays during construction.

SB1171 SD1 HD1 proposes to amend statute to provide a mechanism by which SHPD can provide its review, comments and concurrence based on a phased approach. The bill states that it is intended to parallel the process by which federal undertakings that are reviewed under the National Historic Preservation Act and its implementing regulations for phased reviews. The federal regulations related to phased review of proposed projects make it clear that the key to all of these provisions is that a conscious decision is made to phase the consultation, and the decision is made in coordination with the other consulting parties.

Without such a deliberative and inclusive process, the ability to offer phased approvals may lead to circumvention of the intent of completing an adequate investigation that well informs a project's impact prior to issuance of any permit/approval that allows a project to proceed.

Although the bill has been amended through the committee process to address some of these same parameters, it is still not in alignment with the parallel federal process. Although SB1171 SD1 HD1 added a requirement to development programmatic agreements when a project is to use a phased approach, the mechanism is still unclear. Who would initiate the consultation, and at what stage, and who would decide if the approach is warranted? Would other parties be invited to participate in the consultation or would it merely involve SHPD and the project agency or proponent? Would a state-level programmatic agreement be required regardless of the presence of a federal trigger, or only when a federal undertaking is involved? What elements of the project would be addressed in the programmatic agreement, and how would historic and cultural resources be identified and protected?

These are some of the issues that should be addressed in order in any regulatory framework for a standard, fair, equitable and transparent review process. The rules and procedures should include assurances that the review process would address fundamental fairness, consultation with other parties, review of direct, indirect and cumulative effects, and protection of historic and cultural resources. Absent these parameters, the proposed approach would be arbitrary, inconsistent and risky.

HHF does not object to the section of the bill that would delete the reference to the "Hawai'i council on historic preservation" as this is a fictitious entity that appears never to have been constituted.

Thank you for the opportunity to comment.

Historic Hawai'i Foundation

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • www.historichawaii.org

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability, and economic viability of the state.



LATE

HAWAII ISLAND CONTRACTORS' ASSOCIATION

494-C Kalanikoa Street * Hilo, Hawaii 96720 * Phone: 808/935-1316 * Fax: 808/934-7779 * Email: hical@hawaiiantel.net

Testimony to the House Committee on Finance

Monday, April 1, 2013

2:00 pm

State Capitol - Conference Room 308

RE: S.B. 1171, S.D. 1, RELATING TO THE REVIEW OF HISTORIC PRESERVATION PROJECTS

Dear Chair Luke, Vice-Chairs Nishimoto and Johanson, and members of the Committee:

My name is Craig Takamine and I am writing this letter on behalf of the Hawaii Island Contractors Association and our 130+ member companies on Hawaii Island. The Hawaii Island Contractors Association **strongly supports** S.B. 1171, S.D.1, H.D.1, which authorizes the phased review of certain projects by the Department of Land and Natural Resources' State Historic Preservation Division (SHPD) to ensure consistency between state and federal law. Removes language that provided the Governor with the option to request the Hawaii Advisory Council on Historic Preservation to report an action to overrule or sustain a department when an agency, officer, or other person is dissatisfied with a decision of the Hawaii Historic Places Review Board.

This measure is in response to *Kaleikini v. Yoshioka*, where the Hawaii Supreme Court ruled that SHPD violated its own rules by allowing construction of the Honolulu Rapid Transit Corridor to start prior to the completion of an archeological survey (AIS) for the entire project. However, SHPD relied on Federal law, which allows for a phased review of linear projects, in making its determination. This measure aims to align State law with Federal law.

The current law would likely have a detrimental impact on many long-term, phased highway projects by the Department of Transportation, or the Department of Hawaiian Homeland's residential projects that are also phased over time. We understand the SHPD is not proposing to allow phasing for all projects, only specific types that are linear or may require doing an AIS over time.

Thank you for the opportunity to share with you our support for S.B. 1171, S.D.
1, H.D. 1.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Craig Takamine
President 2012-2013

LATE



March 31, 2013

Representative Sylvia Luke, Chair
Representative Scott Y. Nishimoto, Vice Chair
Representative Aaron Ling Johanson, Vice Chair
House Committee on Finance

Testimony in Support of original version of SB 1171, SD1, HD1 Relating to Review of Historic Preservation Projects. (Authorizes the phased review of certain projects by the Department of Land and Natural Resources' State Historic Preservation Division to ensure consistency between state and federal law. Removes language that provided the Governor with the option to request the Hawaii Advisory Council on Historic Preservation to report an action to overrule or sustain a department when an agency, officer, or other person is dissatisfied with a decision of the Hawaii Historic Places Review Board. Effective January 1, 2050.)

Monday, April 1, 2013, 2:00 p.m., in House Conference Room 308

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

SB 1171, SD1, HD1. This bill proposes to authorize the phased review of certain projects by the Department of Land and Natural Resources' State Historic Preservation Division ("SHPD") to ensure consistency between state and federal law; removes language that provided the Governor with the option to request the Hawaii Advisory Council on Historic Preservation to report an action to overrule or sustain a department when an agency, officer, or other person is dissatisfied with a decision of the Hawaii Historic Places Review Board; effective January 1, 2050.

The HD1 version of this bill added unnecessary requirements, including, among other things: (1) Requiring a programmatic agreement to be in place between the Department of Land and Natural Resources ("DLNR") and the project applicant that identifies each phase and the estimated timelines for each phase where there is a phased review of the project; (2) Inserting a definition for "programmatic agreement" under Chapter 6E, Hawaii Revised Statutes ("HRS"), relating to historic preservation; and (3) Requiring the DLNR to adopt administrative rules regarding the phased review of proposed projects.

LURF's Position. LURF strongly supports the original version of SB 1171 and urges your favorable consideration of this bill, without the unnecessary HD1 amendments, based on, among other things:

- This provisions proposed by the original version of this bill are consistent with federal law, specifically, the provisions of the National Historic Preservation Act, which concerns the identification of historic properties under federal law and specifically allows for a phased historic review of certain projects.
- This bill does not circumvent HRS Chapter 6E, the State's historic preservation law, or any rule implementing HRS Chapter 6E;
- All required archaeological inventory studies ("AIS") required by HRS Chapter 6E will be completed, reviewed and necessary mitigation or other action will be completed before any construction is done in the affected project areas.

Background. For applicable government projects, the State and county departments comply with Section 106 of the National Historic Preservation Act, which requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Council a reasonable opportunity to comment on such undertakings. The procedures in this part define how Federal agencies meet these statutory responsibilities. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of federal consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

The original version of SB 1171 is consistent with the National Historic Preservation Act, Section 106, 36 C.F.R. Section 800.4(b) (2) (2010), which provides, in pertinent part:

Phased identification and evaluation. Where alternatives under consideration consist of corridors or large land areas, or where access to properties is restricted, the agency official may use a phased process to conduct identification and evaluation efforts. The agency official may also defer final identification and evaluation of historic properties if it is specifically provided for in a memorandum of agreement executed pursuant to § 800.6, a programmatic agreement executed pursuant to § 800.14(b), or the documents used by an agency official to comply with the National Environmental Policy Act pursuant to § 800.8. The process should establish the likely presence of historic properties within the area of potential effects for each alternative or inaccessible area through background research, consultation and an appropriate level of field investigation, taking into account the number of alternatives under consideration, the magnitude of the undertaking and its likely effects, and the views of the [State Historic Preservation Officer/Tribal Historic Preservation Officer] and any other consulting parties. As specific aspects or locations of an alternative are refined or access is gained, the agency official shall proceed with the identification and evaluation of historic properties in accordance with paragraphs (b) (1) and (c) of this section.

36 C.F.R. § 800.4(b) (2) (emphasis added).

While there is no identical provision in State law, or in the SHPD rules, for years, the SHPD, State and counties have approved programmatic agreements and plans for government projects pursuant to the above NEPA law and a consistent interpretation of State laws and the SHPD rules.

In August 2012, however, the Hawaii Supreme Court (“Court”) ruled in *Kaleikini v. Yoshioka* that SHPD had violated its own rules in allowing construction to begin on the Honolulu Rapid Transit Corridor (“Rail Project”), before the completion of an AIS for the entire project. SHPD had relied on federal law to justify acceptance of a phased AIS. The Court ruled that the application of federal law was invalid because there was no specific Hawaii law or rule to allow for a phased review. Thus, although the State and the City and County of Honolulu considered the Rail Project as a “phased” project, the Court ruled that Rail was a “single” project and thus must be evaluated for archaeology as a single project, and not in phases. This meant that an AIS would be required for the entire Rail corridor, prior to starting the first phase of the Rail project. In a footnote, however, the Court also suggested that SHPD could amend its rules so that state law would be consistent with the federal law in the National Historic Preservation Act, which allows phased reviews.

Although the subject project in *Kaleikini v. Yoshioka* is the City and County of Honolulu’s Rail Project, the ruling is likely to have a far greater effect on major State highway, harbor, airport and renewable energy projects which are part of a state master plan, or other large state projects which are often phased due to federal funding, timelines, and practical considerations such as the timing of condemnations. If large government projects cannot be phased, it is possible that major, master-planned new state facilities will face great obstacles in being built and existing state facilities will also face obstacles in constructing master-planned improvements.

For years, the State agencies and SHPD have worked with phased projects and programmatic agreements without the requirements proposed by the HD1 version – and without major problems. The HD1 version adds unnecessary requirements which would create further delays and litigation, and should be deleted.

Given the above, LURF strongly supports the original version of SB 1171 and urges your favorable consideration of this bill, without the HD1 amendments.

Thank you for the opportunity to provide comments and support relating to this measure.

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

We, the Lima ʻohana of Molokaʻi, respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawaiʻi's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawaiʻi's Historic properties and iwi kūpuna.

For the aforesaid reason, we respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

Vashti Lima
Shannon Lima
Hiʻi kapu Lima
Kainalu Lima
Pualei Lima
Kahiau Lima
Edmund Lima
Breezy Lima
Ekemana Lima
Kiara Lima
Maya Lima

Doreen Lima
Nakita Coelho
Dawn Coelho
Herman Coelho Jr.
Melissa Poepoe
Glenette Lima
Kiaka Lima-Mollena
Keao Poepoe
Kairee Lima-Villa
Nahoa Lima-Villa
Lono Lima-Maioho

Liam-John Coelho
Dylan Coelho
Ryan Coelho
Tyra Coelho
Hunter Coelho
Aidan-James Coelho
Brennan Coelho
Karly-Ann Lima-
Mollena
Chassen Lima-
Mollena

Kaiwai Poepoe
Waileia Poepoe

Naizah-Rae Lima-
Mollena

Kashton Poepoe

THE LIMA FAMILY OF MOLOKA I



HUI MĀLAMA I NĀ KŪPUNA O HAWAI'I NEI
(GROUP CARING FOR THE ANCESTORS OF HAWAI'I)

LATE

House Committee on Finance

Testimony in Opposition to SB1711 SD1 HB1 Relating to the Review of Historic Preservation Projects April 1, 2013

Of all the bills that Hui Mālama is tracking this year, there is no bill more troubling than SB1171. As such, on behalf of our Board of Directors and members, I offer our testimony in **strong opposition** to SB1171 SD1 HB1.

Since 1988, Hui Mālama I Nā Kūpuna O Hawai'i Nei has been protecting Native Hawaiian burials through a range of efforts, including drafting and advocating for the passage of amendments to Chapter 6E (6E-43, 6E-43.5, 6E-43.6) addressing unmarked Native Hawaiian burials. Since the passage of these amendments in 1990, Hui Mālama's members throughout our islands have been active stakeholders in numerous development projects that have encountered burials.

Whether relating to burials or other historic sites, Chapter 6E requires that an archaeological inventory survey (AIS) is done early in the project planning process. This appropriate timing of an AIS provides developers with a complete picture while planning a development—maximizing informed decision making and minimizing unpredictable, costly problems.

By enabling a phased AIS approach, **SB1171 allows** permitting and construction to occur before burials and historic sites are identified in a project area. This approach establishes **a bad planning process leading to costly delays and redesign requirements, and ultimately wasted taxpayer dollars** (for public-sector projects) or **business losses** (for private-sector projects). Further, in such a scenario, **sites will be poorly treated** when they are identified late in the process **when few action options remain**. More importantly, this process will fail to protect unmarked Hawaiian burials and undo years of efforts to provide equal protection of the law to ancestral Hawaiian ancestors. **SB1171 would not serve the best interests of developers or historic preservation proponents.**

Therefore, we implore you to hold SB1171 and maintain the appropriate early timing of AIS completion defined in Chapter 6E and its related administrative regulations.

Ola nā iwi,

KIHEI NAHALE-A, Board President
EDWARD HALEALOHA AYAU, Executive Director

**P. O. Box 365 Ho'olehua, Hawai'i 96729
808.646.9015 halealoha@wave.hicv.net**

Sean Permito

5333 Likini St.
Honolulu, HI 96818
(808) 839-4299
sean.permito@gmail.com



House Finance Committee

Honorable Chair, Representative Sylvia Luke
Honorable Vice Chair, Representative Scott Nishimoto
Honorable Vice Chair, Representative Aaron Johansen

Testimony on SB1711 SD1 HB1
Relating to the Review of Historic Preservation Projects

My voice in **firm opposition to SB1171** likely represents a large sector of the state’s population. I am not a historic preservation buff, nor do I have strong development interests. I am, however, a tax-paying citizen who does not want to see my **hard earned tax dollars wasted on poor planning.**

Recently, I learned about this bill and was highly disturbed by what I discovered. SB1171 in essence facilitates a **“Don’t look, Don’t find” approach to historic sites in development projects**—that is, until late in a project when a final phase of an archaeological inventory survey (AIS) discovers sites. At that point tax dollars will have been wasted in planning that did not account for all historic sites.

Anyone who has paid attention to news headlines over the years has seen how projects have needed to adjust plans when they did not anticipate encountering the number or concentration of sites as turned out to be on the properties involved. Such late-stage encounters led to delays, costly adjustments, and overall bad public relations for developers. And in the end, the sites do not seem to have fared well in the process either.

Instead, it makes far more sense to **leave the law intact** and not adopt a phased AIS approach. It will **save tax dollars and ensure a more informed, planful approach to developments.**

Submitted respectfully (electronically),
Sean Permito



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

LATE

HOUSE COMMITTEE ON FINANCE

April 1, 2013, 2:00 P.M.
(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO SB 1171, SD1, HD1

Aloha Chair Luke and members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *opposes* SB 1171 SD1 HD1. This measure allows for a phased review of construction projects, which threatens Native Hawaiian burials and historic sites by not requiring an archaeological inventory survey for the entire project before granting permits.

We note this measure claims it is attempting to come into conformance with federal law. Federal law does not permit phased reviews, but rather the administrative rules have created a process by which involve stack holders and an analysis of the project by the group, rather than putting the decision in the hands of the developing agency.

Here, allowing construction to begin without knowing where 'iwi are buried and cultural sites are located increases the risk of destroying Hawaii's unique and precious cultural history. Subsequent discovery (during construction) delays projects and increases costs.

We urge this Committee to defer this bill, and urge the parties to pursue administrative rules instead.

Mahalo for the opportunity to testify.

LATE

April 1, 2013

Hawaii State House of Representatives
Committee on Finance
The Honorable Sylvia Luke, Chair
State Capitol
415 South Beretania Street
Honolulu, HI 96813



Working together for Kapolei

Hearing Date:
Monday, April 1, 2013, 2:00 pm
Conference Room 308

Testimony in Support of SB 1171, SD1 HD1 – Relating to the Review of Historic Preservation Projects

The Kapolei Chamber of Commerce works on behalf of its small and large business members and the entire business community to improve the regional and state economic climate, as well as help Kapolei businesses to establish themselves, grow and thrive. We are writing to express our support for Senate Bill 1171, SB1 relating to the review of historic preservation projects.

We feel the flexibility allowed by SB 1171 to provide the State Historic Preservation Division (SHPD) the option of reviewing and approving adaptable phased preservation plans when dealing with complex multi-year, multi-phase projects strikes an appropriate balance between thorough review and allowing important regional infrastructure projects to proceed without unnecessary delay. Providing the ability for SHPD to employ this approach will allow for the effective use of limited resources and the implementation of more effective historic preservation standards. S.B. 1171 will make the State's historic preservation law consistent with the federal historic preservation laws, and minimize conflicts and duplication when projects involve both State and federal reviews.

We also concur with the Department of Transportation's request that the definition of programmatic agreement in the current draft of SB 1171 be changed so as not to limit its application to just compliance with federal laws, but with all laws.

We appreciate the opportunity to provide our support for this bill along with the variety of public agencies that recognize the importance of this bill to efficient and timely reviews of projects important to the State's economy.

Sincerely,

A handwritten signature in black ink that reads "Theresia C. McMurdo". The signature is fluid and cursive.

Theresia C. McMurdo
President



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

LATE

March 29, 2013

IN OPPOSITION

To: Rep. Sylvia Luke, Chair / And Members
House Finance Committee

From: Alice P. Hewett, President
Ko`olaupoko Hawaiian Civic Club

Subject: S.B. 1171, SD1, HD1 – Relating to the Review of Historic Preservation Projects

Aloha, Chair Luke, Vice Chair Nishimoto and Committee Members:

The Ko`olaupoko Hawaiian Civic Club is deeply concerned about Senate Bill 1171, Senate Draft 1, House Draft 1, and strongly urges this committee to file this bill.

While the proponents may appear well-meaning in their intentions to streamline the process of reviewing potential impacts on historic or cultural resources, this bill's passage will prove disastrous to the preservation of historic sites and cultural properties and will actually result in higher costs to the state and developers.

Practically speaking, phased review of potential impacts on historic or cultural areas is foolish and short-sighted. Developers – whether public or private – would be wiser to identify all of the potential impediments or sensitive segments of their project's footprint in the early stages of development, rather than trying to adjust their design when unexpected discoveries or impacts are revealed. Piece-meal archaeology is not historic preservation; it is systematic destruction of cultural landscapes and precious historic resources.

A smart developer finds out all of the sensitive or “problem” areas early in his planning, mitigates potential impacts, and avoids stop-work delays that can tremendously inflate the total cost of construction.

We urge you to file this measure, as it is pono`ole – a bad bill.

Mahalo for this opportunity to share our mana`o.

P. O. Box 664
Kaneohe, HI 96744
Ph. (808) 235-8111
www.koolaupokohcc.org



Ko`olau Foundation

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



March 31, 2013

Rep. Sylvia Luke, Chair
And Members
House Committee on Finance
415 S. Beretania Street
Honolulu, HI 96813

Re: Testimony in Opposition to S.B. 1171, SD1, HD1
Relating to the Review of Historic Preservation Projects

Aloha Chair Luke and Committee Members:

On behalf of the Ko`olau Foundation, I offer strong opposition to S.B. 1171, SD1, HD1, which would weaken our historic preservation laws by allowing “programmatic agreements” which are nothing more than plans for destruction of historic and cultural properties in the state of Hawai`i.

We are appalled that this measure has advanced this far in the process, and urge the honorable members of this committee to exercise wisdom and caution should you be contemplating passage of this bill out of your committee.

We have dealt with programmatic agreements before, and we know how seriously they can adversely affect good-faith efforts to protect historic places or sensitive cultural landscapes. What programmatic agreements actually do is remove the protections – what few there are – that are already in our laws; and enable developers, both public and private, to steamroll ahead regardless of how important the cultural areas or historic sites may be.

The “P.A.” is another word for “MOU” or “MOA”, and we are familiar with the document that enabled the state DOT and Federal Highways to bulldoze hundreds of wahi kapu – sacred sites – during the building of H-3. We saw first-hand how these “agreements” can circumvent laws that were adopted over the past 60 years to protect the treasured cultural resources of Native Hawaiians, our host people.

Because of that H-3 MOU, we lost dozens of heiau in Halawa Valley; we lost one of the largest and most elaborate lo`i kalo irrigation systems at Luluku dating back to the 5th century; we lost history and culture both, dating back as much as 2,000 years, done with the sweep of a pen on a document labeled “agreement”.

It is a dishonorable strategy, and we truly hope that all of you on this committee will do the honorable thing and file this unfortunate piece of legislation. Mahalo.

Mahealani Cypher



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MĀNOA

LATE

March 31, 2013

Aloha,

‘O au ‘o Dr. Noelani Arista and I am an Assistant Professor of Hawaiian and U.S. History at the University of Hawai‘i at Manoa. It is with great urgency that I write in opposition of SB1171, which will allow developers to receive permits and begin projects without a complete Archaeological Inventory Survey (AIS).

The bill, which allows phased AIS will be detrimental to those who are charged with Historic Preservation of places and the very important items that may be found therein. The bill will also adversely affect the ability of developers to plan appropriately for an entire project because phased Archaeological surveys may well turn up materials of a significant historic or sacred nature well after development plans have been crafted and infrastructures built, in short after much investment has been made – new information yielded at a later date may push the cost of building higher, or stop a project in its tracks.

However, what is of more concern to me, as a Historian, Professor, and as a Kanaka Maoli is that when significant monies and resources have been invested in a project the tendency will be to maintain “future progress” in what may be perceived as the irrelevance of what is “past.” Once monies and resources have been invested to a large degree, whatever stands in the way, whether it is sacred or historic, may be pushed to the margins in favor of solutions that save money and keep projects already in process on track.

I’ve consulted a few of my friends who work in the field of Archaeology, and here is what one of them, a principal investigator for a local archaeological firm, wrote back as their professional opinion, this bill “ runs contrary to the intent of historic preservation, as well as to the interest of the public, planners, developers, contractors, and government agencies. The phasing of the archaeological inventory surveys (AIS) would build in poorly informed decision-making and planning regarding the protection of cultural resources. We do not see how anyone would benefit from this.”

Finally, I know that in these trying financial times Hawai‘i Historic Preservation needs safeguarding. The present process, which requires a complete AIS before development can move forward, is part of the system of checks and balances that affords power to protect and preserve what cannot be assessed in dollars. Eroding this system, which is what this bill aims to do, will only further threaten the State’s ability to protect the historic and sacred sites that belong to Hawai‘i and Hawai‘i’s people in our generation and for generations to come. And for my part professionally, losing places to development

2530 Dole Street, Sakamaki Hall A203
Honolulu, Hawai‘i 96822 2383
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at such a stunning rate, impedes our ability to collectively remember and write histories even of the recent past.

Me ke aloha 'oi'ai'o nō,

A handwritten signature in black ink, appearing to read 'Dr. Noelani Arista'.

Dr. Noelani Arista
Assistant Professor

2530 Dole Street, Sakamaki Hall A203
Honolulu, Hawai'i 96822 2383
Fax: (808) 956 9600

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HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKA
KALAELOA

Neil Abercrombie
Governor

Brian Lee
Chairperson

Anthony J. H. Ching
Executive Director

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96813

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Web site
www.hcdaweb.org

LATE

STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON FINANCE

ON

MONDAY, APRIL 1, 2013

2:00 P.M.

State Capitol, Conference Room 308

in consideration of

**S.B. 1171, S.D. 1, H.D.1 – RELATING TO THE REVIEW OF HISTORIC
PRESERVATION PROJECTS.**

Purpose: The purpose of this measure is to amend Section 6E-8, Hawaii Revised Statutes. The measure seeks to grant the Department of Land and Natural Resources (DLNR), Historic Preservation Division the flexibility to approve reviews of archeological inventory surveys in phases for multi-year and multi-phase projects and make Hawaii’s historic preservation laws consistent with that of the National Historic Preservation Act. It deletes language regarding the Hawaii Advisory Council on Historic Preservation. Language was inserted regarding that a Programmatic Agreement be put in place between the DLNR and the project applicant, and requires that administrative rules are adopted regarding the phased review of projects. The measure minimizes potential negative conflicts when projects may require both reviews.

Position: I am in support of the passage of this proposal. However, It should be noted that this testimony reflects only my viewpoint as the Authority has not yet had an opportunity to review as a group on this measure.

Testimony reflects the view and position of the Executive Director and not that of the Authority.

The HCDA notes the current statues adversely affects large multi-year development projects that are phased due to constraints regarding Federal funding, timelines, and technical logistics. Master planned improvements slated for existing State facilities and proposed new facilities face costly delays as they work to comply with the current archeological inventory survey requirements.

The HCDA, as the agency in charge of the Kakaako Community Development District, Kalaeloa Community Development District and the Heeia Community Development District, notes that it is tasked with promoting and coordinating public and private sector community development for these three (3) areas. If passed this measure will positively affect projects that are located within these community development districts, which would in turn enhance the HCDA's ability to create a livable community in which people can work, live, visit, learn, and play.

Thank you for the opportunity to provide comments on this legislative measure.

LATE

To: Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair
Rep. Aaron Ling Johanson, Vice Chair
Committee on Finance

From: J. Stephen Athens, Tim Rieth, and Jane Allen
International Archaeological Research Institute, Inc.
jsathens@iarii.org, trieth@iarii.org, jallen@iarii.org

Committee Date: April 1, 2013
2:00 pm
Conference Room 308

Bill SB 1171 SD 1 HD 1, Relating to the Review of Historic Preservation Projects

Chair and Vice Chair,

Thank you for the opportunity to provide testimony on SB 1171 SB 1 HD 1, Relating to the Review of Historic Preservation Projects. International Archaeological Research Institute, Inc. (IARII), having 27 years of experience with historic preservation compliance services in Hawai'i, would like to express **opposition** to SB 1171. This bill runs contrary to the intent of historic preservation, as well as to the interests of the public, planners, developers, contractors, and government agencies. The phasing of archaeological inventory surveys (AIS) would build in poorly informed decision-making and planning regarding the protection of cultural resources. We do not see how anyone would benefit from this. A complete record of cultural resources at the outset, as provided by an AIS, is essential prior to project design because it allows maximum flexibility in planning and implementation of historic preservation measures.

A phased approach, on the other hand, may result in what would otherwise have been avoidable adverse effects to historic properties, with attendant construction delays and increased costs. Although recent projects such as Wal-Mart on Ke'eaumoku Street, Whole Foods in Kaka'ako, Kawaiha'o Church, and Hokuli'a on the Big Island were not completed through a phased AIS approach, they illustrate the problems that can be expected with its implementation. All of these projects had major problems due to poor historic preservation planning (essentially faulty or incomplete AIS). In contrast, we would like to point out one example of the success of the current approach to AIS with regards to large projects. IARII completed an AIS for the proposed Kawaihae Bypass Road for the Dept. of Transportation (DOT) on the Big Island, which was conducted as a single, integrated project, including 19 proposed road alignments covering approximately 1,600 acres. With the data that we generated, planners and engineers at DOT, historic preservation specialists, and the public were able to assess each alternative and determine which routes or combination of routes would produce the least adverse effect to cultural resources. A phased approach to this project, as is the intent of SB 1171, would have been hard pressed to produce a similar outcome. The big problem is that each subsequent phase would be limited in alternative designs and mitigation by the preceding work and construction. The inevitable result is major conflicts and cost increases.

In conclusion, it is IARII's position that SB 1171 is misguided and detrimental to historic preservation in Hawai'i. The defeat of this bill is in the best interest of all who are concerned with efficient project planning and implementation. Thank you again for considering our testimony. If you should have any question, please feel free to contact either of us at the email addresses listed above.

FINTestimony

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 01, 2013 11:51 AM
To: FINTestimony
Cc: taahine.hina@gmail.com
Subject: Submitted testimony for SB1171 on Apr 1, 2013 14:00PM

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Hinaleimoana Wong-Kalu	Oahu Island Burial Council	Oppose	Yes

Comments: Ua maikai wale no ke kanawai e ku nei, aole pono keia pila SB1171. Ina no he aloha ko oukou e na Senetoa no ka pono o Hawaii nei ame makou na oiwi o ia aina aloha o kakou, a me na kupuna o ke au i hala ame ko lakou mau iwi laa e moe loa nei, aole oukou e holomua ana me keia pila.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Keola Akana
2035 Ha'alelea Place
Honolulu, HI 96813
(808) 457-6800
keola@oiwi.com



House Committee on Finance

Testimony on SB1711 SD1 HB1
Relating to the Review of Historic Preservation Projects

At numerous hearings this past year, many throughout our islands spoke out against the PLDC, which sought to subvert appropriate review processes.

SB1171 is similar to the PLDC in regards to historic preservation reviews, as its intent **sidesteps a vital part of the planning process**: the archaeological inventory survey (AIS).

As outlined in Chapter 6E and its related administrative rules, an AIS provides developers with a full picture of historic sites and burials within an entire project area so that they and engineers, architects, planners, and community members with whom they consult can make informed decisions when the widest range of action options are available for consideration—at the beginning of the planning process.

In contrast, **SB1171 proposes a process that would provide decision makers crucial information about historic sites and burials in a project area *after* plans are in place and when necessary changes will require delays and redesign costs.**

Moreover, the late-stage addressing findings in an AIS resulting from SB1171 would afford **poor and limited options to treat burials and historic sites appropriately.**

I therefore urge your Finance Committee to hold SB1171 and leave Chapter 6E intact.

Respectfully,

Keola Akana

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Elijah Issacs of Waimānalo, Oahu respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawai'i's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawai'i's Historic properties and iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

ELIJAH ISSACS
WAIMĀNALO, OAHU

LATE

March 31, 2013

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

We, the students of the UH North Shore Archaeological Field School, respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

Because the legislature has recognized that "the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage,"¹ it is pertinent for the legislature to realize the potential harm SB 1171 will cause towards Hawai'i's historic and cultural properties as well as iwi kūpuna.

By allowing SHPD to give a written concurrence based on a phased archaeological inventory survey (AIS) review of the project, this basically allows counter-productive legislation. Not only will this bill put Hawai'i's precious historic and cultural properties at substantial risk of destruction, but it will also limit the available alternatives for the protection and preservation of such properties as well.

The purpose of a proper AIS is to "previously identify" any type of historic property as well as iwi kūpuna. For example, previously identified iwi are those discovered *during* an AIS and data recording.² Iwi who are characterized as previously identified are within the jurisdiction of island burial councils that take Native Hawaiian cultural and lineal descendants

¹ Haw. Rev. Stat. § 6E-1 (2012).

² See HAW. ADMIN. R. § 13-300-2 (2012).

into consideration when deciding upon proper burial treatment plans.³ On the converse, inadvertently discovered iwi result from “unintentional disturbance, erosion, or other ground disturbing activity,”⁴ like those that occur during construction. Unlike previously identified iwi, the decision making process of inadvertently discovered iwi is expedited and the role of Native Hawaiians in the process is limited. The decision to preserve in place or relocate inadvertently discovered iwi is within the jurisdiction of DLNR.⁵

By allowing the AIS to be completed and reviewed in phases will play a huge factor in determining whether or not iwi kūpuna are classified as “previously identified” or “inadvertently discovered”, which in turn will tremendously affect their treatment. This has been seen in *Kaleikini v. Thielen*,⁶ in the controversy of Ward Village Shops in Kakaʻako. Additionally, by allowing the AIS review process to be completed in phases, the scope of understanding a properties FULL historic and cultural significance will be limited and in some instances incomplete.

Although the language of this bill may not seem important to overall State financing policies, we respectfully draw your attention to several projects in the Kakaʻako area, which serve as a testament to its relevance. Projects such as the construction of Walmart, Ward Village Shops, and Kawaiahaʻo church, have all demonstrated the results of projects that try to side step the current historic preservation laws in Hawaiʻi specifically the Archaeological Inventory Survey review process. By failing to properly comply with the AIS regulations, all of these projects have ultimately resulted in significant harm to iwi kūpuna, state lawsuits, and state historic preservation programming and evaluation.

Allowing SB 1171 to pass would encourage additional harm to iwi kūpuna and Hawaiʻi’s historic sites as it would foreclose project alternatives. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawaiʻi’s Historic properties and iwi kūpuna. A blanket desire to align state law with federal law provides no insight to the quality of the proposed legislation and in no way indicates how the people of Hawaiʻi will benefit from this

³ See HAW. REV. STAT. § 13-300-38(a) (2012).

⁴ See HAW. ADMIN. R. § 13-300-2 (2012).

⁵ See HAW. ADMIN. R. § 13-300-40(k) (2012).

⁶ *Kaleikini v. Thielen* (2009)

change. Hawai'i's more restrictive law protects the public interest and should not be jeopardized for the sake of speedier development.

For the aforesaid reasons, we respectfully **oppose** Senate Bill 1171.

Thank you for the opportunity to testify.

Sincerely,

Pūlama Lima
Kaunakakai, Molokai

Bee Thao
Chico, California

Lisa Manirath
California

Robin Keli
Waiānae, Oahu

Kamuela Plunkett
Kamuela, Oahu

Leimomi Morgan
Mililani, Oahu

STUDENTS OF THE UNIVERSITY OF HAWAII AT MĀNOA'S
NORTH SHORE ARCHAEOLOGICAL FIELD SCHOOL

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Annemarie Aweau of Pauoa, Oahu respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawai'i's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawai'i's wahi and iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

ANNEMARIE AWEAU
PAUOA, OAHU

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Rainee Taua of Haiku, Maui, respectfully **oppose** Senate Bill No. 1171,
which authorizes the phased review of projects by the Department of Land
and Natural Resources' ("DLNR") State Historic Preservation Division
("SHPD").

SB 1171 has more potential to significantly harm Hawai'i's historic and
cultural properties, as well as iwi kūpuna than the current legislation. There
is really no justified reason for SB 1171, besides attempting to reduce
construction costs and delays at the cost of desecrating Hawai'i's wahi and
iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you
for the opportunity to testify.

Sincerely,

RAINEE TAUA
HAIKU, MAUI

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Chelsea Bitler of Kahaluāu, Oāhū respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawaiī's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawaiī's wahi and iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

CHELSEA BITLER
KAHALUĀU, OĀHU

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Ian Keali ʻilokomaikaʻi Nahulu Maioho of Hoʻolehua, Molokaʻi
respectfully **oppose** Senate Bill No. 1171, which authorizes the phased
review of projects by the Department of Land and Natural Resources'
("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawaiʻi's historic and
cultural properties, as well as iwi kūpuna than the current legislation. There
is really no justified reason for SB 1171, besides attempting to reduce
construction costs and delays at the cost of desecrating Hawaiʻi's wahi and
iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you
for the opportunity to testify.

Sincerely,

IAN KEALI ʻILOKOMAIKAʻI NAHULU MAIOHO
HOʻOLEHUA, MOLOKAʻI

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Kayla Schoff of Puna, Hawai'i, respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawai'i's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawai'i's wahi and iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

KAYLA SCHOFF
PUNA, HAWAII I

March 31, 2013

LATE

The Honorable Sylvia Luke, Chair
and Members
House of Representatives Committee on Finance
State Capitol
Honolulu, HI 96813

Dear Chair Luke, and Members,

Subject: Senate Bill No. 1171, Relating to the Review of Historic
Preservation Projects

I, Dawn Harris of Puna, Hawai'i respectfully **oppose** Senate Bill No. 1171, which authorizes the phased review of projects by the Department of Land and Natural Resources' ("DLNR") State Historic Preservation Division ("SHPD").

SB 1171 has more potential to significantly harm Hawai'i's historic and cultural properties, as well as iwi kūpuna than the current legislation. There is really no justified reason for SB 1171, besides attempting to reduce construction costs and delays at the cost of desecrating Hawai'i's wahi and iwi kūpuna.

For the aforesaid reason, I respectfully **oppose** Senate Bill 1171. Thank you for the opportunity to testify.

Sincerely,

DAWN HARRIS
PUNA, HAWAII I

LATE

SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Sharde Mersberg Freitas	Individual	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Shelley Muneoka	Individual	Oppose	No

Comments: Aloha kākou, My name is Shelley Muneoka and I strongly oppose SB 1171. This bill is a thinly veiled attempt to fast track construction projects. Allowing phased archeological inventory surveys (AIS) is a dangerous precedence. It allows developers to begin construction with taking into serious consideration iwi and other archaeological sites that may be within the project footprint. This bill will hasten what should be a thoughtful and intentional process to protect and respect the bones of our ancestors. Passing SB1171 will put undue pressure to complete projects that have already begun, regardless of how they impact iwi, because it will be expensive to stop construction once it has already begun. Let's avoid this bad situation for everyone and keep the law as it currently reads--requiring developers to complete a full AIS before the start of construction. Mahalo for your consideration, Shelley Muneoka

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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LATE

SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Leon Noe Peralto	Individual	Oppose	No

Comments: Aloha mai kākou. My name is Leon Noe Peralto, and I am from Waiākea, Hilo, Hawai'i. As an ōiwi, I am writing in opposition to Senate Bill No. 1171, which authorizes the phased of projects by the State Historic Preservation Division, Department of Land and Natural Resources. I believe, if passed, SB 1171 would compromise the integrity of the Historic Preservation review process, and lead to further unjust harm to our iwi kūpuna. The historic preservation laws in Hawai'i, Hawai'i Administrative Rules 13-300 and Revised Statutes 6-E, were established to ensure that due process is given to the protection of our ancestral remains and sacred sites. This bill, if implemented, would essentially erode the foundational protections that these laws provide. It is for these reasons that I oppose SB 1171 and encourage you all to do the same. Mahalo.

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LATE

SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Bianca Isaki	Individual	Oppose	No

Comments: Please oppose SB 1171. It is trying to undermine protections to Hawai'i's wahi kupuna and iwi kupuna by allowing phased archaeological surveys (that is, just survey as you go) for big development projects. It is a transparent reaction to the success of the recent Hawai'i Supreme Court decision. The Hawai'i Legislature cannot allow this end run around the well-considered judgments of our highest state court. The case, brought by Ka'onohi Kaleikini, rightly challenged a poorly designed rail project from moving through without doing surveys for the entire route before construction started in order, essentially, to allow developers to stick to their original route without any consideration of burials until they reached Kaka'ako, at which point it would have been deemed too costly---politically and economically---to change the route. If SB 1171 goes through, Hawai'i's ability to care for and protect our iwi and wahi kupuna will be dramatically compromised. Sincerely, Bianca Kai Isaki, Ph.D.

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Finance Committee hearing Monday, 4/1/2013, 2 p.m., conference room 308

Introduced in direct response to the rail suit, this bill is not the way for the state to allow for big projects to move forward. Rather, administrative rules should be amended in a process similar to how the federal government handles historic properties. SB1171 is a very open-ended exception in the law.

Without knowing where 'iwi are buried and cultural sites are located prior to beginning construction, then the risk of destroying Hawaii's cultural history is great. Subsequent discovery (during construction) delays projects and increases costs.

The purpose of our historic review law is to "ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations . . .

."

Please keep this in mind as you consider the ramifications if SB1171 becomes law.

Mahalo for considering these comments.

Nancy Davlantes
Kaneohe

LATE

SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kelley L. Uyeoka	Kumupa'a Cultural Resource Consultants	Oppose	No

Comments: Aloha Members of the House Finance Committee, My name is Kelley L. Uyeoka and I am the owner and Principal Investigator of Kumupa'a Cultural Resource Consultants, LLC, a Native Hawaiian cultural resource management firm. I am testifying in strong opposition to S.B. 1171, SD1, HD1, which authorizes phased reviews of archaeological inventory surveys instead of requiring complete archaeological inventory surveys to be conducted before development plans are complete. Without conducting thorough and complete archaeological inventory surveys, it is impossible to attain all the necessary information needed to make informed and responsible planning decisions. This phased approach will ultimately lead to a negligent planning process and costly delays to both the state and Hawaii's taxpayers. In addition to the negative effects this bill will have on the state, businesses, and taxpayers, more importantly is the damaging effects it will have on Native Hawaiian communities and their ancestral remains. So I urge you to oppose this bill for the sake of protecting Hawaii's precious and unique cultural resources. Aloha 'Aina, Kelley L. Uyeoka, MA

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LATE

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Claire Ann Domingo	Individual	Oppose	No

Comments:

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LATE

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
KASH	CHRISTOPHER-KASH ENTERTAINMENT,LLC.	Oppose	No

Comments: I OPPOSE THIS BILL, I BELIEVE NO MATTER WHAT RACE, NATIONALITY OR COUNTRY A PERSON IS FROM SHALL A GOVERNMENT THAT HOLDS 2 PARTS TO ITS SELF BE ABLE TO NOT NEED TO CHECK INTO A STATE LANDS HISTORIC HISTORY BECAUSE OF FEDERAL LACK OF CONCERN.

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SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Keani Rawlins-Fernandez	Individual	Oppose	No

Comments: This land is not for sale to foreign invasion.

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SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Crystal Branco	Individual	Oppose	No

Comments: Please do not pass bill SB1171. We need to make sure we study the 'aina before it is used for other purposes. Please respect our iwi kupuna & all that is sacred to our lahui! Mahalo, Crystal Branco

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SB1171

Submitted on: 3/31/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Mana Kaleilani Caceres	Individual	Oppose	No

Comments: Allowing an AIS to be done in phases will not prevent litigation. Any time and EVERYTIME the government knowingly allows the desecration of iwi kupuna, a kanaka maoli will step-up to sue you. The lawsuit for the rail was only the beginning.

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SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Pono Kealoha	Individual	Oppose	No

Comments: this is a continuation of GENOCIDE with an ILLEGAL FAKESTATE with NO TREATY/NO ANNEXATION this is a NATIONAL & INTERNATIONAL WAR CRIME check your facts here hawaiiankingdom.org

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SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Michele Nihipali	Individual	Oppose	No

Comments: Without knowing where 'iwi are buried and cultural sites are located prior to beginning construction, then the risk of destroying Hawaii's cultural history is great. Subsequent discovery (during construction) delays projects and increases costs. The purpose of our historic review law is to "ensure the administration of such historic and cultural property in a spirit of stewardship and trusteeship for future generations" The proper way for the state to allow for big projects to move forward is to amend our administrative rules, similar to how the federal government handles historic properties, rather than creating a very open-ended exception in the law.

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Nameaaea Hoshino
SB 1171

Aloha e Kākou,

Once again we are face to fight a corporation that will affect the well being of Native Hawaiians, Non-Native, and this place Hawaii Nei. I do not agree or support this idea of using Crown Lands in which this State of Hawaii calls it "Public Land" for private interest. These should be protected and not used for Private Corporation or developers to create more economy growth this is not the answer.

This situation will cause more problems for the next generation and us now. We cannot have this idea of profit, profit, and profit. When profit in play greed and corruption is in play also. These backdoor deals must STOP because if the motto that our late King Kamehameha said that hangs at the State Building UA MAU KE EA O KA ʻĀINA I KA PONO if it is not being perpetuated in righteousness I feel Hawaii Nei will be in jeopardy.

There is a saying Ka wā ma mua, ka wā ma hope translating "The Future is in the Past" if we don't continue to listen to the kūpuna of the past on what happen back then will happen again in the future. Like a David Malo said before he died "Bury me where the high tide cannot reach me" He referred High Tide as "Foreign Invasion"

I, an Kanaka Maoli, Kanaka Lepo Popolo, and Kamaʻāina from this ʻāina oppose Senate Bill 1171.

LATE

April 1, 2013

Dear Representatives of the House Finance Committee,

I urge you to oppose SB1171 that would allow phased Archaeological Inventory Surveys. The notion of “phasing” defeats the purpose of such surveys, which can only help to ensure good planning if such surveys are completed before the processes of permitting and construction begin. Such legislation that calls for such phasing before the completion of the archaeological and cultural studies of an entire project area is another bad faith proposal that does not respect the public’s input on potentially sensitive sites. Like the legislation that established the PLDC, legislation proposing the phased Archaeological Inventory Surveys bulldozes over public participation in meaningful and sustainable land use. The State is responsible for “preserving, restoring and maintaining historic and cultural property,” and I urge you to uphold the current laws that enable us to engage in better planning for all people in Hawai‘i. Please oppose SB1171.

Thank you,

Candace Fujikane

Associate Professor of English, University of Hawai‘i

Board member of KAHEA: The Hawaiian-Environmental Alliance

FINTestimony

LATE

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 01, 2013 10:05 AM
To: FINTestimony
Cc: Maceyj001@hawaii.rr.com
Subject: Submitted testimony for SB1171 on Apr 1, 2013 14:00PM

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
James Macey	Individual	Oppose	No

Comments: Strongly oppose.

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SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Ann Marie Kirk	Individual	Oppose	No

Comments: SB 1171 does not protect our cultural sites, burial sites and historic properties in Hawai'i. All cultural sites, burial and historic sites in Hawai'i need proper protection and care. If sites have not previously been identified, and then are discovered during a development project, it should not mean these important sites and burials lose the protection needed to make sure they are properly cared for and preserved. SB 1171 SD1 takes away protection for these important cultural sites. Please OPPOSE SB 1171. Mahalo.

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FINTestimony

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From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 01, 2013 11:09 AM
To: FINTestimony
Cc: kalanisq@hotmail.com
Subject: *Submitted testimony for SB1171 on Apr 1, 2013 14:00PM*

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Neil S. Quitevis	Individual	Oppose	No

Comments:

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Aloha pumehana kākou,

ʻO Keely Sumiko Kauʻilani Rivera koʻu inoa a he kupa au no ka mokupuni o Maui, ka ahupuaʻa a o Kula, a me ka ʻili o Pueo. Aia au ma ke kulanui o Hawaiʻi i ma Hilo e imi naʻauao nei no koʻu kēkelē laepua i ka Haʻawina Hawaiʻi, ke Kālaikanaka, a he maina i ka Mōʻaukala Hawaiʻi. Ikaika nō koʻu pilina i koʻu aoʻao Hawaiʻi a ma koʻu ano he Kanaka Hawaiʻi i i hoihoi loa i ke Kālaikanaka, aʻole loa au i kākoʻo o iki i kēia pila SB1171.

My name is Keely Sumiko Kauʻilani Rivera and I am a native of Maui, from the ahupuaʻa of Kula, and the ʻili of Pueo. As of right now, I am a student at the University of Hawaiʻi at Hilo endeavoring for my Bachelor's degree in Hawaiian Studies and Anthropology with a minor in Hawaiian History. I feel that I have a very strong connection to my Hawaiian roots, and as a concerned Native Hawaiian with great interest in Anthropology, I strongly oppose Bill SB1171. Archaeological surveys are extremely vital for Hawaiian communities all throughout the archipelago. Not only do these surveys give us slight hope that our land can be saved from further destruction and development, but they allow us to gain a better understanding of our people who inhabited those areas, a better understanding of who we are and who we come from. These surveys are an imperative part of the Section 106 process at the federal level and the Chapter 6E Historic Preservation Bill at the state level. Negligence of following this act and bill will lead to further controversies in Hawaiian communities and greater spite for developing companies. SB1171 will be extremely detrimental to the progress that the State Historic Preservation Department has made in their attempt to better the views of

Hawaiians towards archaeology. Another huge and negative impact this bill will have is on our iwi kūpuna. Prior experiences have already pointed out the fact that there are so many sacred burials all throughout Hawaiʻi and without following the proper steps and protocol for handling these burials, they will just be further desecrated and continually removed from their Native lands. It should be a right for us, Kanaka Maoli to have these surveys done so that we can have that slim chance to fight for and possibly save our ʻāina and kūpuna from further destruction. It is with great humility that I ask for the party at hand to earnestly contemplate this bill and all of the negative consequences that will arise from passing it. Do what is ethically pono; this bill is much more destructive than beneficial for ko Hawaiʻi i poʻe.

Me ka haʻaahaʻa,

Kauʻilani Rivera

LATE

SB1171

Submitted on: 4/1/2013

Testimony for FIN on Apr 1, 2013 14:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Kaliko Amona	Individual	Oppose	No

Comments:

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