

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ESTHER KIA'AINA
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

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

Testimony of
WILLIAM J. AILA, Jr.
Chairman

Before the House Committee on
WATER & LAND

Wednesday, February 5, 2013
9:15 AM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 1914
RELATING TO PUBLIC LANDS

House Bill 1914 proposes to amend Section 6E-7, Hawaii Revised Statutes, to require that any conveyance, transfer or exchange of any interest in a historic property for which the Department holds title or of public land involving a historic property advance the purposes of historic preservation. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department holds and manages the historic properties to which it holds title and public lands as a public trust for both present and future generations of Hawaiians. The Department recognizes that the interests of historic preservation may not always best be met by public ownership of such properties. In addition, the Department acknowledges that there are times when interest of the people of Hawai'i can best be met by transfer of public lands out of public ownership.

Historic properties and historic properties involved in public lands transferred out of public ownership are no longer protected by public management. This measure specifically requires that covenants, reservations, restrictions or conditions incorporated into the transfer agreements specifically relate to the preservation of such properties.

The Department regards this measure as a useful clarification of existing law and fully supports it.

TO: Representative Cindy Evans, Chair
Representative Nicole E. Lowen, Vice Chair
House Committee on Water & Land

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

HEARING: Wednesday, February 5, 2014 at 9:15 AM in Conference Room 325

SUBJECT: Comments on HB 1914, Relating to Public Lands

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. HB 1914 proposes to amend Chapter 6E-7, Hawaii Revised Statutes (HRS) to require conveyances, transfers, and exchanges of historic property or public land involving a historic property be done to advance historic preservation. The proposed amendments would affect both historic properties owned by the State and public lands involving a historic property.

We support the intent of this bill but believe that the proposed amendments are unclear in their current form and therefore might not achieve the stated purpose.

- The definition of "Historic Property" under Chapter 6E-2 is very broad and includes all properties over 50 years old. Including all such properties in the proposed amendment would be impractical. Not all historic properties are necessarily significant and therefore would not contribute to the advancement of historic preservations. A process for determining which of these State owned properties advance historic preservation is needed. As stated in Chapter 6E-2, a "Historic property" means any building, structure, object, district, area, or site, including heiau and underwater site, which is over fifty years old.
- We recommend using the statutory phrase "historic property" exclusively when referring to a historic site; the phrase "history property" – used in HB 1914 -- appears to be a typographic error.
- HB 1914 does not indicate what measures might be take to protect such sites or lands. What are the appropriate reservations, restrictions, covenants, or conditions needed to protect or preserve the historic property or to advance preservation?
- In the case of public lands involving historic properties, the subject bill emphasizes access and restoration but does not identify appropriate means to protect or restore such sites.
- We question the usefulness of distinguishing between historic property owned by the State and public lands involving historic properties. Are there situations in which the State owns a historic property but not the land? We do not understand what circumstances this distinction intends to address.

We believe that one way to address the foregoing issues would be to amend HB 1914 to say explicitly that "the conveyance, transfer, and exchange of a historic property or public land involving a significant historic property shall be subject to written concurrence from the Department of Land and Natural Resources in accordance with Chapter 6E-8, HRS, and its implementing regulations." These regulations establish a process for determining the significance of historic properties and for determining appropriate measures to protect and restore historic properties.

Thank you for the opportunity to provide comments on HB 1914. Since the State is by far the largest landowner in Hawai'i, it would be very good for it to take responsibility for the historic properties on its lands.

Should you have any questions, please feel free to contact me at the above email address.



TO: Rep. Cindy Evans, Chair
Rep. Nicole E. Lowen, Vice Chair
Committee on Water & Land

FROM: Kiersten Faulkner, Executive Director
Historic Hawaii Foundation

Committee: Wednesday, February 5, 2014
9:15 a.m.
Conference Room 325

RE: **HB 1914, Relating to Public Lands**

On behalf of Historic Hawaii Foundation (HHF), I am writing in **support for HB 1914**. The bill proposes to amend §6E-7, Hawaii Revised Statutes (HRS) to establish guidelines to be met by the State before it conveys, transfers, or exchanges an interest in public land involving historic property.

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 Hawai'i'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.

Currently, the statute allows the department of land and natural resources to dispose of historic property in which the state has an ownership interest. However, the statute does not explicitly state that such disposal should be done in the best interest of the preservation and perpetuation of the historic resource.

The proposed amendment makes it clear that the State's responsibility for historic properties are part of its public trust and that any conveyance, transfer, sale or other exchange needs to be structured to provide for the long-term protection and enhancement of the historic resources.

Historic Hawai'i Foundation supports this change and recommends approval. Thank you for the opportunity to comment.



HB1914
RELATING TO PUBLIC LANDS
House Committee on Water and Land

February 5, 2014

9:15 a.m.

Room 325

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees **SUPPORT** HB1914, which would require any sale, conveyance, or exchange of public lands involving historic property to substantially advance the interests of historic preservation. **This bill will ensure that any disposal of public lands with historic sites and resources is consistent with the state's mandate to protect historic sites and resources for future generations.**

In 1976, the Hawai'i State Legislature established the State's commitment to Hawai'i's historic sites, declaring that:

"[T]he 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. . . . The legislature further declares that it shall be the public policy of this State to provide leadership in preserving, restoring, and maintaining historic and cultural property . . . in a spirit of stewardship and trusteeship for future generations[.]" HRS § 6E-1.

State agencies, especially those that may own or manage land, are required "to conduct activities, plans, and programs in a manner consistent with the preservation and enhancement of historic and cultural property." HRS § 6E-1. **This bill gives further meaning to this requirement, by ensuring that historic and cultural properties, as well as rights of access to them, would continue to be protected even if the State relinquishes title to their underlying lands.**

Therefore, OHA urges the committee to **PASS** HB1914. Mahalo for the opportunity to testify on this important measure.