



GOV. MSG. NO. 1040

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 10, 2007

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB870 SD1 HD2 CD1, without my approval, and with the statement of objections relating to the measure.

SB870 SD1 HD2 CD1

A BILL FOR AN ACT RELATING TO THE  
DESIGNATION OF A HAWAII ARCHAEOLOGICAL  
DATA SURVEY.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

P R O C L A M A T I O N

WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of the Governor's plan to return with the Governor's objections any bill presented to the Governor less than ten days before adjournment sine die or presented to the Governor after adjournment sine die of the Legislature; and

WHEREAS, Senate Bill No. 870, entitled "A Bill for an Act Relating to the Designation of a Hawaii Archaeological Data Survey," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, Senate Bill No. 870 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, LINDA LINGLE, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return Senate Bill No. 870 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,  
State of Hawaii, this 25th  
day of June, 2007.



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LINDA LINGLE  
Governor of Hawaii

EXECUTIVE CHAMBERS

HONOLULU

July 10, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 870

Honorable Members  
Twenty-Fourth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 870, entitled "A Bill for an Act Relating to the Designation of a Hawaii Archaeological Data Survey."

The purpose of this bill is to establish as an online database a Hawaii archaeological data survey consisting of archaeological documents and materials including reports, maps, and artifacts beginning with the collections of the Bishop Museum and including records of the State Historic Preservation Division.

First, this bill is objectionable because the broad online public availability of records concerning the location of archaeological artifacts could put these artifacts in jeopardy. The test in the bill for withholding such information, Section 92F-13(3), Hawaii Revised Statutes, applies to records maintained by State and county agencies. Because Bishop Museum is a private, nonprofit organization, not a State agency, this section of the statutes would not be applicable.

Second, this bill may result in a constitutional

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 870  
Page 2

violation. Although the Bernice Pauahi Bishop Museum has been designated as the "State Museum of Natural and Cultural History," the designation did not make the Bishop Museum a government agency. Because the Bishop Museum remains a private, nonprofit organization, this bill's mandate to make available the Bishop Museum's collection of archaeological material without compensation may result in an unconstitutional taking of property without just compensation.

Finally, there is concern that disclosure of items on federal lands, Department of Hawaiian Home Lands, and lands utilizing federal funds violates the Archaeological Resources Protection Act of 1979. Failure to secure and protect information on cultural and archaeological sites exposes the State and county agencies to federal funding sanctions. Additionally, the bill fails to recognize the homeland security restrictions that apply to sites on military installations.

For the foregoing reasons, I am returning Senate Bill No. 870 without my approval.

Respectfully,



LINDA LINGLE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO THE DESIGNATION OF A HAWAII ARCHAEOLOGICAL DATA SURVEY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Chapter 6E, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4 "§6E- Archaeological data survey; designation. (a) A  
5 Hawaii archaeological data survey is established and designated  
6 as a program of the State of Hawaii Museum of Natural and  
7 Cultural History. The survey shall be an online database of  
8 archaeological documents and materials, including but not  
9 limited to reports, maps, archived documents, and artifacts  
10 obtained through archaeological work in Hawaii, beginning with  
11 the collections of Bishop Museum. To expand the use and  
12 knowledge of Hawaii's archaeological artifacts, the data survey  
13 shall be conducted and maintained in consultation with the  
14 department of land and natural resources and other appropriate  
15 organizations.

16 (b) The museum, in consultation with the office of  
17 Hawaiian affairs and department of land and natural resources,



1 may withhold from the database, temporarily or permanently,  
2 information that is not required to be disclosed under section  
3 92F-13(3), due to a valid threat that disclosure may frustrate  
4 the legitimate government function of protecting valuable  
5 archaeological sites and artifacts. A consensus of these three  
6 entities shall determine what information shall be withheld from  
7 the data survey."

8 SECTION 2. New statutory material is underscored.

9 SECTION 3. This Act shall take effect upon approval.

