

TESTIMONEY OF: KAHU CHARLES KAULUWEHI MAXWELL SR.

LATE TESTIMONY

February 3, 2010

To: Representative Mele Carroll, Chair
Representative Maile Shimabukuro, Vice Chair
House Hawaiian Affairs Committee

Re: **Testimony in support of HB 2240 and 2242, Relating to the Office of Hawaiian Affairs.**

Dear Chair Carroll, Vice Chair Shimabukuro and Members of the House Hawaiian Affairs Committee:

I am presently the Chair of the Maui/Lanai Islands Burial Council and have been for the last 3 years. I have been a member of the Council since its creation in 1990 and prior to that involved with the Burials of Honokahua. Because of what happened at Honokahua, the Burial Law was created.

Since the Lingle administration came into office, new directors and personal were hired in the Historic Preservation Division. The quality of service dropped and many burials were overlooked and ignored because the administrators failed administer the law. At a Burial Council meeting here on Maui, Nancy McMann, and the Assistance Administrator of the Burial Sites Program admitted that "the Historic Preservation "Is broken".

I truly support this bill because OHA would be the proper agency to handle this Hawaiian Cultural issue and the program would get the proper funding to protect and preserve our Iwi 'Kupuna.

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
LAURA H. THIELEN
Chairperson

Before The House Committees On
HAWAIIAN AFFAIRS
and
WATER, LAND & OCEAN RESOURCES

Wednesday, February 3, 2010
9:00 AM
State Capitol, Conference Room 329

In consideration of
HOUSE BILL 2242
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

House Bill 2242 proposes to transfer the functions and duties of the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources (Department) and the Kaho'olawe Island Reserve Commission (KIRC) relating to Hawaiian burial sites to the Office of Hawaiian Affairs (OHA). While the Department is taking no position on House Bill 2240, which deals with substantially the same issues, the Department recommends further discussion with KIRC, which we understand would prefer to retain its role as the burial council for Kahoolawe. KIRC is the body most familiar with the Kahoolawe and with the cultural protocols established for that Island Reserve.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 2242, RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

BEFORE THE:

HOUSE COMMITTEES ON HAWAIIAN AFFAIRS AND ON
WATER, LAND, AND OCEAN RESOURCES

LATE TESTIMONY

DATE: Wednesday, February 3, 2010 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Mark J. Bennett, Attorney General, or
Randall K. Ishikawa, Deputy Attorney General

Chairs Carroll and Ito and Members of the Committees:

The Department of the Attorney General has the following concerns with this bill:

- (1) The bill uses the term "prehistoric or historic burial sites associated with the native Hawaiian people," at p. 19, ln. 17-19, p. 20, ln. 9-10, p. 22, ln. 9-11, and p. 23, ln. 21-22. The term "associated with the native Hawaiian people" is not defined. To eliminate confusion, a definition of that term should be included. In addition, it is unclear whether the use of the term "associated with the native Hawaiian people" as opposed to the term "of native Hawaiian origin" has any significance.
- (2) The bill uses the term "of native Hawaiian origin" at p. 26, ln. 10-12. The term "of native Hawaiian origin" is not defined. To eliminate confusion, a definition of that term should be included. In addition, it is unclear whether the use of the term "associated with the native Hawaiian people" as opposed to the term "of native Hawaiian origin" has any significance.

- (3) The bill repeals section 6E-43.6, Hawaii Revised Statutes, relating to inadvertent discovery of human remains. While the provisions of the new section 10-H, set forth at pp. 8-9, restate the provisions of section 6E-43.6, the proposed section 10-H applies only to native Hawaiian burial sites. Section 6E-43.6 presently applies to both native Hawaiian and non-native Hawaiian burials. Repeal of section 6E-43.6 would then leave the Department of Land and Natural Resources without guidance as to how to deal with inadvertent discoveries of non-native Hawaiian remains.