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SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

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ACTING DEPUTY DIRECTOR - WATER

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CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
HAWAIIAN AFFAIRS
and
WATER AND LAND
Thursday, February 08, 2024
01:15PM
State Capitol Room 224 & Via Videoconference

In consideration of
SENATE BILL 2295
RELATING TO BURIAL SITES

Senate Bill 2295 proposes to establish a Department of Land and Natural Resources (Department) inter-division program between the State Historic Preservation Division, the Burial Councils from each county, the Office of Conservation and Coastal Lands, and the Land Division in partnership with the Office of Hawaiian Affairs to identify and protect, restore or relocate burial sites threatened by sea level rise, winter storms and erosion. **The Department appreciates the intent of this measure and offers comments.**

The Department recognizes that historically many Native Hawaiians lived near the shorelines, and thus, coastal erosion is a threat to iwi kūpuna or Hawaiian burial sites. Every year sea level rise, winter storms, and erosion expose burial sites. While Section 6E-43, Hawaii Revised Statutes (HRS), and Chapter 13-300 Hawaii Administrative Rules (HAR) provide a framework for addressing these occurrences, these are generally measures taken after iwi kūpuna have been discovered rather than proactive measures. However, the Department currently lacks the resources to timely respond to the exposure of burial sites from these events and does not have the capacity to proactively address iwi kūpuna that could likely be exposed by coastal erosion caused by rising sea level. The Department believes that this measure provides a starting place for developing a program or coordinated approach that will allow the Department to address protection of burials threatened by sea level rise, climate change, and extreme weather events in a proactive, effective, and timely manner.

The Department offers the following comments on portions of this measure that we believe need clarification or amendment.

Senate Bill 2295 SECTION 2(b)(2) at page 3, lines 6-7, calls for the relocation of burials disturbed by sea level rise or extreme climate events “to areas further inland within the same moku” There can be no question that some burials will need to be relocated away from high impact zones. The Department is aware, however, that not all descendants prefer relocation, the program should not be premised on the belief that there will be one proper solution to the treatment of all burial sites threatened by sea level rise and extreme weather events.

Senate Bill 2295 SECTION 1(b)(4), at page 3, lines 13-15, directs the inter-division program to “develop policies and procedures to protect iwi and burial sites that have not been relocated or that have been relocated.” The Department notes that such policies and procedures currently exist in HAR Chapter 13-300. The Department recommends that this subparagraph be deleted so that the inter-division group focuses its efforts on the development of proactive policies, procedures, and programmatic measures to address protection of burials impacted or potentially impacted by coastal erosion caused by sea level rise.

The Department appreciates the proposed appropriation of a blank amount of general fund to address program. The Department notes that required coordination and collaboration envisioned in this bill will place an additional responsibility of the Department, which is not currently in the Governor’s budget request. In addition, the Department recommends that the appropriation include adequate fiscal resources that the Department may incur in the coordination and collaboration required by this measure. The Department believes that at least \$250,000 is necessary to initially implement the provisions of this measure.

Mahalo for the opportunity to provide testimony on this measure.



SB2295

RELATING TO BURIAL SITES

Senate Committee on Hawaiian Affairs

Senate Committee Water and Land

February 8, 2024

1:15 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **SUPPORTS SB2295 and respectfully requests amendments**, which will require the State Historic Preservation Division (SHPD) to establish an inter-division program to address the location, movement, relocation and restoration of Hawaiian burials sites that are exposed or likely to be exposed by coastal erosion due to climate change. SHPD shall collaborate with the Office of Conservation and Coastal Lands, Island Burial Councils, and OHA in the development of this program to 1) identify iwi within low-lying areas affected by coastal erosion; 2) examine fiscal impacts of the movement and relocation of iwi affected by coastal erosion; 3) examine the role of climate change on burial sites; 4) take appropriate steps to move and relocate iwi from impacted burial sites to areas further in land; 5) provide guidance and technical assistance to communities, organizations, and other stakeholders; and, 6) develop policies and procedures to protect impacted iwi and burial sites that have not been relocated. The bill currently obligates OHA with the funding needed for iwi relocation work. **While OHA supports the proactive effort to care for iwi effected by coastal erosion and recognizes the importance of inter-agency dialog to address the matter, we believe the funding mechanism for iwi relocation work is prematurely being placed solely on OHA without regard for 1) existing rules and statutes that currently vests SHPD with the responsibility to implement the State’s historic preservation program; and, 2) language within the bill itself that calls for the inter-division program to examine fiscal impacts of the iwi relocation first and to subsequently provide recommendations to the legislature ahead of regular session 2023.**

1) Existing rules and statutes currently vest SHPD with the responsibility to implement the State’s historic preservation program.

HRS 6E-3 establishes SHPD as being a division of the Department of Land and Natural Resources to carry out the historic preservation program. Notably, this work includes the development of a state-wide inventory to identify and document historic properties, inclusive of burial sites. As SHPD currently receives National Park Service funds to carry out the historic preservation program, the cost burden for any actions executed under the historic preservation program should remain with SHPD unless statutes and respective rules

are amended. The bill as proposed does in fact recommend that the SHPD identify and adopt rules to carry out the relocation work.

Current administrative rules vest the jurisdiction of protecting inadvertently discovered human remains with SHPD. Notably, most iwi identified along coastlines are discovered inadvertently, without any kind of permit or archaeological inventory survey nexus. In these cases, SHPD must make decisions on relocation or preservation in place, and further develop a burial site component of a preservation plan. OHA would assume that this trend will continue after establishment of the inter-division program prescribed in this bill, and that the current rules as written should prevail uninhibited until appropriately changed via the HRS 91 process. Notably, the rulemaking process does allow for public comment opportunities that will indeed be important to the development of any rules related to historic preservation, especially those pertinent to burial sites.

It is further solely SHPD's job to administratively assist the Island Burial Council and ensure protocols are carried out per the rules for various situations dealing with the discovery of human remains. It is currently SHPD that is responsible for going out to identify iwi that are reported and contacting the Island Burial Council moku representative and OHA. Historically, SHPD has failed to notify OHA of inadvertent burial discoveries in a timely manner. Inserting OHA into a more meaningful role throughout the process and obligating OHA funds would require further thought and examination. Thus, charging OHA with the costs to move and relocate iwi at this time is premature and being dictated in a way that ignores existing rules and statutes that require SHPD to shoulder historic preservation program responsibilities.

2) Language within the bill calls for SHPD to examine fiscal impacts of iwi relocation and to provide recommendations to the legislature ahead of the 2023 session.

OHA supports the current inter-division effort to address this important issue and believes that the bill rightfully calls for the inter-division program to examine the fiscal impact of iwi relocation. As an examination has yet to occur, OHA believes it is premature to solely designate OHA as being responsible for iwi relocation costs as SHPD is currently charged with administering the historic preservation program. The bill proposes what seems to be a sincere collaborative effort, where all the participating inter-division agencies provide input on how best to address the impacts of coastal erosion on iwi, both financially and practically.

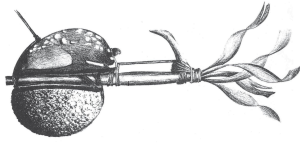
OHA would further assume that the forthcoming inter-division program report to the legislature would include the results of the fiscal impact analysis with recommendations made collaboratively with each of the participating inter-division agencies. As such, we believe the bill should remain silent where funding will come from for any iwi relocation

effort beyond those funds already provided to SHPD for implementation of the historic preservation program. Deciding the funding mechanisms beyond those already afforded to SHPD for the historic preservation program presumes an understanding of OHA's existing financial commitments and undermines the collaborative nature of the inter-division effort.

OHA respectfully offers for the committees' consideration the following language to replace that found on page 4, lines 8-10 of this bill, to read as follows:

"for iwi found, [~~the office of Hawaii affairs~~] the Department of Land and Natural Resources shall cover costs related to the movement and relocation of iwi impacted by coastal erosion over fifty years old until recommendations can be made by the inter-division program to appropriately allocate alternative funding sources, and the State Historic Preservation Division can alter respective rules to enable the sharing of historic preservation program responsibilities."

Mahalo for the opportunity to provide support on this measure with suggested amendments.



SOCIETY FOR HAWAIIAN ARCHAEOLOGY

P.O. BOX 22458 HONOLULU, HAWAII 96823

TO: Senator Maile Shimabukuro, Chair
Senator Kurt Favella, Vice Chair
Committee on Hawaiian Affairs (HWN)

Senator Lorraine Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair
Committee on Water and Land (WTL)

FROM: Mara Mulrooney, Ph.D.
President, Society for Hawaiian Archaeology
membership@hawaiianarchaeology.org

HEARING: February 8, 2024, 1:15 PM, Conference Room 224 & Videoconference

SUBJECT: Testimony regarding SB 2295, Relating to Burial Sites

I am Mara Mulrooney, President of the Society for Hawaiian Archaeology (SHA). We have over 150 members including professional archaeologists and advocates of historic preservation. On behalf of SHA, **we support SB 2295.**

The intent of SB 2295 is to establish an inter-division program between the State Historic Preservation Division (SHPD), Land Division, Office of Conservation and Coastal Lands (OCCL), Island Burial Councils, and the Office of Hawaiian Affairs (OHA) that addresses the location, movement, and restoration of Hawaiian burial sites or 'iwi, exposed or likely to be exposed to coastal erosion.

An inter-division program would ensure better protection of vulnerable iwi kupuna that are threatened due to coastal erosion. Further, this program would provide crucial support to SHPD's History and Culture Branch, which does not currently have the capacity to address this situation, which is of primary concern in light of sea level rise and storm events that are accelerating coastal erosion at an unprecedented rate across the Hawaiian Islands. The establishment of this inter-division program would provide the necessary framework and action plan to address the situation now and in the future.

Should SB 2295 pass out of this committee, we request to be consulted as a stakeholder in future deliberations on an amended bill. Should you have any questions, please feel free to contact me at the above email.

Mahalo for the opportunity to provide testimony.

<https://hawaiianarchaeology.org/>

The Society for Hawaiian Archaeology is a registered tax-exempt organization established in 1980 to promote and stimulate interest and research in the archaeology of the Hawaiian Islands, encourage a more rational public appreciation of the aims and limitations of archaeological research, serve as a bond among those interested in Hawaiian archaeology, both professionals and non-professionals, and aid in directing their efforts into more scientific channels as well as encourage the publication of their results, advocate and assist in the conservation of archaeological data, discourage unethical commercialism in the archaeological field and work for its elimination.

SB-2295

Submitted on: 2/7/2024 9:57:23 AM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Keomailani Hanapi Hirata	Individual	Comments	In Person

Comments:

Aloha 'aina kakou,

My name is Keomailani Hanapi Hirata, I am a keiki o ka aina o Molokai.

I will be testifying, in person, to SB2295.

Mahalo

SB-2295

Submitted on: 2/4/2024 8:54:45 PM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Tamara Paltin	Individual	Support	Written Testimony Only

Comments:

support with the amendment that if this is a county property that county's planning department, or if it is under the parks department or if there is a county archaeologist that they also be consulted along with the corporation counsel

SB-2295

Submitted on: 2/4/2024 9:54:42 PM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
cindy freitas	Individual	Support	Written Testimony Only

Comments:

I'm in Support of SB 2295

SB-2295

Submitted on: 2/6/2024 5:32:12 AM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Hannah K Anae	Individual	Support	Written Testimony Only

Comments:

Yes, coastal erosion is a problem in our Ko‘olauloa District, and our iwi kupuna has been exposed. Supporting this bill should help expedite the process for iwi to be reinterred.

SB-2295

Submitted on: 2/7/2024 11:23:09 AM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Wainani Traub	Individual	Support	Written Testimony Only

Comments:

I support SB 2295.

The intent of SB 2295 is to establish an inter-division program between the State Historic Preservation Division (SHPD), Land Division, Office of Conservation and Coastal Lands (OCCL), Island Burial Councils, and the Office of Hawaiian Affairs (OHA) that addresses the location, movement, and restoration of Hawaiian burial sites or iwi, exposed or likely to be exposed to coastal erosion.

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LATE

SB-2295

Submitted on: 2/7/2024 3:48:16 PM

Testimony for WTL on 2/8/2024 1:15:00 PM

Submitted By	Organization	Testifier Position	Testify
Peter R. Mills	Individual	Support	Written Testimony Only

Comments:

TO: Senator Maile Shimabukuro, Chair

Senator Kurt Favella, Vice Chair

Committee on Hawaiian Affairs (HWN)

Senator Lorraine Inouye, Chair

Senator Brandon J.C. Elefante, Vice Chair

Committee on Water and Land (WTL)

FROM: [insert name and email address here]

HEARING: February 8, 2024, 1:15 PM, Conference Room 224 & Videoconference

SUBJECT: Testimony regarding SB 2295, Relating to Burial Sites

I am a past member of the Hawaii Historic Places Review Board, a professor of anthropology at the University of Hawaii at Hilo for the last 27 years, and director of our Heritage Management MA program. I support SB 2295.

The intent of SB 2295 is to establish an inter-division program between the State Historic Preservation Division (SHPD), Land Division, Office of Conservation and Coastal Lands (OCCL), Island Burial Councils, and the Office of Hawaiian Affairs (OHA) that addresses the location, movement, and restoration of Hawaiian burial sites or iwi, exposed or likely to be exposed to coastal erosion.

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

Mahalo for the opportunity to provide testimony.