

TESTIMONY
SB 2739

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS**

**Wednesday, February 3, 2010
3:00 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 2739
RELATING TO THE LICENSING OF ARCHAEOLOGISTS**

Senate Bill 2739 relates to establishing licensing requirements for archaeologists practicing archaeology in the state of Hawaii. The Department of Land and Natural Resources (Department) strongly supports this Administration measure.

Archaeologists are the first line of defense for our historic resources, as they are often contracted to go into the field and determine if native Hawaiian settlements, burials, plantation remains, World War II remains, or reminders of other, less known periods in our history exist in areas slated for development. The public in general, Native Hawaiians in particular and the State rely on archaeological reports to ensure that the protection of unique, important or rare sites, while ensuring documentation for those sites that may not have enough significance to require preservation. This is an important responsibility and archaeologists in Hawaii should maintain the highest professional standards.

At present, the Department permits archaeologists meeting minimum requirements to practice archaeology in the state of Hawaii. However, the Department does not have oversight over archaeological practices. There are no formal ethical standards to which archaeologists must conform.

The Department does not believe that it should create these ethical standards, nor should the department have oversight of archaeological practices. These practice standards should be developed by the archaeological community, which should hold itself accountable to the public.

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
KAIKOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Thus, the Department has submitted a bill to license archaeologists under the authority of the Department of Commerce and Consumer Affairs, similar to other professionals who serve the public. The Department believes that licensing of archaeologists will ensure that the highest professional standards are maintained and serve as a way to buffer contract archaeologists who may be pressured to move a development project forward.

The Department also believes that ethical guidelines, and a formal complaint mechanism can alleviate the frustration in the Hawaiian community who could then take their complaints about specific archaeological practices to a review commission where practices would be measured against defined standards.

Overall, the Department believes the State would benefit by licensing archaeologists.



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

LAWRENCE M. REIFURTH
DIRECTOR
RONALD BOYER
DEPUTY DIRECTOR

**PRESENTATION OF THE
PROFESSIONAL AND VOCATIONAL LICENSING DIVISION**

TO THE SENATE COMMITTEE ON WATER, LAND,
AGRICULTURE, AND HAWAIIAN AFFAIRS

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION of 2010

Wednesday, February 3, 2010
3:00 p.m.

**TESTIMONY ON SENATE BILL NO. 2739, RELATING TO THE LICENSING OF
ARCHAEOLOGISTS.**

TO THE HONORABLE CLAYTON HEE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Celia Suzuki, Acting Licensing Administrator of the Professional and Vocational Licensing Division, Department of Commerce and Consumer Affairs ("Department"). The Department appreciates the opportunity to testify on Senate Bill No. 2739, Relating to the Licensing of Archaeologists.

Senate Bill No. 2739 creates a new chapter to regulate the licensure of archaeologists. Section 26H-6, Hawaii Revised Statutes, requires that new regulatory measures being considered for enactment be referred to the Auditor for a sunrise analysis. Referral shall be by concurrent resolution that identifies a specific legislative

bill to be analyzed. The statute further requires that the analysis shall set forth the probable effects of regulation, assess whether its enactment is consistent with the legislative policies of the Hawaii Regulatory Licensing Reform Act, and assess alternative forms of regulation. Senate Concurrent Resolution No. 68 has been introduced which does request the Auditor to perform a sunrise analysis of the regulation of the profession of archaeology.

The Department strongly supports a sunrise study on this measure, as mandated by law, before regulating the licensure of archaeologists. Thank you for the opportunity to provide testimony on Senate Bill No. 2739.

HISTORIC HAWAII FOUNDATION

VIA EMAIL: WTLtestimony@capitol.hawaii.gov

To: Sen. Clayton Hee, Chair
Sen. Jill N. Tokuda, Vice Chair
Committee on Water, Land, Agriculture and Hawaiian Affairs

Sen. Rosalyn H. Baker, Chair
Sen. David Y. Ige, Vice Chair
Committee on Commerce and Consumer Protection

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

Committee Date: Wednesday, February 3, 2010
2:45 p.m.
Conference Room 229

Subject: SB2739, Relating to the Licensing of Archaeologists

On behalf of Historic Hawai'i Foundation (HHF), I am writing with comments on SB 2531 and SB2739, both of which requires licensing for archaeologists in the State and creates the board of archaeologists. While there are differences between the bills, we offer these general comments on the underlying intent.

SB2531 and SB2739 would establish a framework for the licensing of professional archaeologists. Best practices in historic preservation require that both professional work and regulatory compliance relating to the historic preservation review process (primarily from ground-disturbing activities) be conducted by those who have met professional qualifications in education, training and experience in the appropriate discipline, including the practice of archaeology. Standards for most professional disciplines also include a code of conduct or ethics, requirements for continuing education, a method of professional oversight, and due process for investigating alleged violations. Standards and procedures for increased professionalism would help to ensure that the historic and cultural sites of Hawai'i are treated appropriately and that the larger public interest is protected.

It is unclear if a professional license administered by a new board of archaeologists is the best mechanism for accomplishing these goals. The increased scrutiny and accountability may be necessary to achieve these ends, but it may also be possible to achieve the same goals without establishing, funding, staffing and managing a new state bureaucracy. This is an area in which HHF believes that a more comprehensive review of the state's overall historic preservation program, including the management and regulatory structure and qualifications of staff, management, consultants and professionals, is necessary. Rather than address these issues ad hoc, we would like to see a thoughtful and deliberate approach that includes recommendations for planning, regulations, incentives, education, integration with federal and county processes, and use of best practices in the preservation industry.

Therefore, HHF recommends that SB2531 and SB2739 be deferred, and that the legislature direct the department of land and natural resources to convene a review of best practices and models for good preservation systems that can be implemented comprehensively, with recommendations to be submitted to the legislature next year.

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 and economic viability of the state.

TESTIMONY
SB 2739
(END)