



GOV. MSG. NO. 803

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

April 26, 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 SB1816 SD1 HD1, without my approval, and with the statement of objections relating to the measure.

SB1816 SD1 HD1

A BILL FOR AN ACT RELATING TO HISTORIC
PRESERVATION.

Sincerely,

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

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 26, 2007

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1816

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. 1816, entitled "A Bill for an Act Relating to Historic Preservation."

The purpose of this bill is to require consultation with the Kahuna Nui of the Mo'okini Heiau before any alteration, improvement, or organized profit-making venture involving the Kohala Historic Sites State Monument can occur.

This bill is objectionable because it grants the exclusive right of consultation to only a single entity. This bill does not require consultation with other Kohala community groups such as the Kohala Hawaiian Civic Club, or other land owners and interested parties within the monument, including Kamehameha Schools and the Luhiau family, who has ancestral ties to the Kukuipahu Heiau. Neither does this bill provide for consultation with the Office of Hawaiian Affairs. The Kahuna Nui of the Mo'okini Heiau should not be given absolute consultation authority over the entire monument.

Generally, it is unnecessary to mandate consultation through legislation for historic sites. Currently, the Department of Land and Natural Resources consults with the Kahuna Nui of the Mo'okini Heiau for any alterations or improvements to this specific heiau. Additionally, the Department consults with interested community members and groups prior to alterations or

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improvements to the monument and any other State-managed historic sites.

Furthermore, the specific mandates in this bill are not clearly defined and may result in allegations of violations of the law. It is unclear what authority that the Kahuna Nui shall have with the consultations, there is no defined process for determining succeeding Kahuna Nui, or a contingency plan if a Kahuna Nui is not named or is not accessible for consultation, there is no process for dispute resolution, there is no clear definition of the properties involved under the purview of this bill, and there is no definition of "organized profit-making venture involving the monument."

Finally, this bill may be construed as special interest legislation for the Kahuna Nui of the Mo'okini Heiau on the island of Hawaii. This legislation could set precedent causing Kahuna Nui or other parties to seek legislation specific to other historic or culturally important properties. Consultation between the State and community interests should take place under existing laws and rules rather than be legislatively mandated on a case-by-case or an interest-by-interest basis.

The Department of Land and Natural Resources, the Office of Hawaiian Affairs, the Kohala Hawaiian Civic Club, and Kamehameha Schools expressed concerns with this bill and recommended the bill be amended to include other organizations in the consultation process, limit the consultation with the Kahuna Nui of Mo'okini Heiau, and better define the vague language of this bill. Unfortunately, none of the proposed amendments were adopted in this bill.

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For the foregoing reasons, I am returning Senate Bill
No. 1816 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii

VETO

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

S.B. NO. 1816
S.D. 1
H.D. 1

A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION.

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

1 SECTION 1. Section 6E-38.5, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "~~{~~§6E-38.5~~}~~ **Kohala Historic Sites State Monument.** (a)
4 There shall be a Kohala Historical Sites State Monument as an
5 historical site on the island of Hawaii ~~[which]~~ that shall
6 include a cluster of historical sites, including ~~[, but not~~
7 ~~limited to,]~~ the Mo'okini Heiau, the Kamehameha birthsite, the
8 Kukuipahu Heiau, and, upon acquisition by the State, the
9 Mahukona historical sites. The monument shall be administered
10 by the department of land and natural resources and shall
11 consist of lands essential to the unimpaired preservation of the
12 visual, cultural, and historical aspects of the Mo'okini Luakini,
13 Kamehameha birthsite, Kukuipahu Heiau, and Mahukona historical
14 sites. The monument shall be for educational and cultural
15 purposes and there shall be public access for enjoyment of the
16 sites ~~[which]~~ that are included within the monument.



1 The real property to be included within the monument shall
2 include:

3 (1) Mo'okini Luakini, Kamehameha birthsite, and Kukuipahu
4 Heiau owned by the State;

5 (2) Historical sites at Mahukona; and [~~sufficient~~]

6 (3) Sufficient additional land surrounding all of the
7 monument sites to preserve and protect them with
8 adequate buffers and provide public access, including
9 but not limited to those lands running along the coast
10 between Huinamaka and Kalaelimukoko and those lands
11 mauka of the Mo'okini Heiau encompassing the area
12 formerly used for the housing of the Mo'okini priests
13 and family gravesites, to be acquired by the State
14 through gifts or land exchanges and to be designated
15 by the board of land and natural resources as part of
16 the monument upon acquisition.

17 (b) Prior to any alterations or improvements, not
18 including routine maintenance to the monument, including the
19 Mo'okini Heiau, the department of land and natural resources
20 shall consult with the kahuna nui of the Mo'okini Heiau regarding
21 the proposed alterations or improvements.



1 (c) Prior to any additional organized profit-making
2 venture involving the monument, including the Mo'okini Heiau, the
3 entity proposing the venture shall consult with the kahuna nui
4 of the Mo'okini Heiau regarding the proposed venture."

5 SECTION 2. This Act shall not apply to any act taken by
6 the department of land and natural resources prior to its
7 effective date.

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.



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2 venture involving the monument, including the Mo'okini Heiau, the
3 entity proposing the venture shall consult with the kahuna nui
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9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

GOVERNOR OF THE STATE OF HAWAII

Approved this day: _____

