

RE: S.C.R. No. 3
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii
Sir:

Your Committees on Hawaiian Affairs and Water and Land, to which was referred S.C.R. No. 3 entitled:
"SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF LAND AND NATURAL
RESOURCES TO ADOPT ADMINISTRATIVE RULES THAT BETTER PROTECT IWI KUPUNA AND NATIVE
HAWAIIAN CULTURAL AND HISTORIC RESOURCES,"

beg leave to report as follows:

The purpose and intent of this measure is to protect iwi kupuna and native Hawaiian cultural and historic resources.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs; Society for Hawaiian Archaeology; International Archaeological Research Institution, Inc.; Historic Hawai'i Foundation; one representative from the Hawaii Island Burial Council; and nineteen individuals. Your Committees received testimony in opposition to this measure from two individuals. Your Committees received comments on this measure from the Department of Land and Natural Resources and Honua Consulting.

Your Committees find that the State Historic Preservation Division of the Department of Land and Natural Resources is authorized to adopt rules to administer historic preservation, review laws, and regulate the treatment and protection of invaluable historic properties and resources throughout the State. Your Committees further find that the current historic preservation rules adopted by the Department of Land and Natural Resources have not been updated in more than fifteen years. Therefore, the current historic preservation rules, in some respects, provide incomplete, ineffective, or inadequate guidance on historic preservation processes and protection for historic resources and iwi kupuna. Requesting the Department of Land and Natural Resources to adopt administrative rules that strengthen historic resources protections will help ensure that there is a streamlined process for protecting iwi kapuna and historic resources in the State.

Your Committees note the concerns of the Department of Land and Natural Resources that the measure requests the Department of Land and Natural Resources to adopt policy that is inconsistent with the express language of the Hawaii Revised Statutes.

Your Committees have amended this measure by:

- (1) Incorporating the changes proposed by the Office of Hawaiian Affairs by clarifying that the current historic preservation rules require perpetual protection of unmarked burial sites through recordation of the metes and bounds with the Bureau of Conveyances, but they do not require the same for historic preservation sites such as heiau, which has caused the unintentional destruction of many historic properties;
- (2) Incorporating the changes proposed by the Historic Hawaii Foundation by specifying that the Department of Land and Natural Resources is also requested to review administrative rules governed by section 6E, Hawaii Revised Statutes, related to government projects, private property, burials and iwi kapuna, and archaeologists and archaeology;
- (3) Incorporating the changes proposed by the Historic Hawaii Foundation by specifying that the adoption of administrative rules should be conducted with the advice and technical assistance of a task force made up of professionals with subject matter expertise, stakeholders with jurisdiction over projects that may affect historic properties, and organizations and individuals with concern for the effect of projects on historic and cultural resources;
- (4) Amending the title accordingly; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Hawaiian Affairs and Water and Land that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 3, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 3, S.D. 1.

Respectfully submitted on behalf of the members of the Committees on
Hawaiian Affairs and Water and Land,

KAIALI'I KAHELE, Chair

MAILE S.L. SHIMABUKURO, Chair

