



SOCIETY FOR AMERICAN ARCHAEOLOGY

July 18, 2001

The Honorable Darrell Steinberg
California State Assembly
State Capitol
Sacramento, CA 95814

Dear Assembly Member Steinberg:

As President of the Society for American Archaeology (SAA), I am writing you to express our continuing opposition to AB 978, the proposed California Native American Graves Protection and Repatriation Act. Although the bill has been amended in ways that address some of the issues that were the basis for our initial letter of opposition, the amended version contains several inequitable provisions that are likely to place it in frequent conflict with NAGPRA, will pose serious problems of implementation and enforcement, and will create unnecessary conflict between Native Americans, museums, agencies, scientists, and the interested public. Most notably:

The bill creates an extremely unbalanced review commission – with authority to determine state cultural affiliation, order repatriation, and levy fines – comprising 7 voting members from the Native American community and just 3 members from the museum, agency, and academic communities. This disparity in the representation of these communities, which approach the problem of cultural affiliation and repatriation from very different perspectives, will work against the kind of cooperation and compromise that national experience has shown is essential to the repatriation process and which NAGPRA sought to establish. The NAGPRA Review Committee, which comprises 3 members nominated by the Native American community, 3 by the scientific and museum communities, and 1 from a list submitted by the other members, provides a better model that has worked admirably from its inception.

The bill authorizes repatriation to state-recognized tribes that are not federally-recognized, which is in direct conflict with NAGPRA. As we noted in our initial letter of opposition, SAA is not opposed to this in principle, provided an appropriate means is found for defining "state recognition." Unfortunately, the amended version of AB 978 does not address this problem, which is sure to create confusion and controversy within and between all of the communities who have a stake in the repatriation process.

The bill establishes unrealistic deadlines that will create an unnecessarily adversarial relationship between the Native American community and museums, agencies, and academic institutions. AB 978 requires museums to contest written repatriation claims within 30 days, which is generally insufficient to evaluate such claims properly, particularly claims that do not contain specific information regarding their basis (e.g., sacred tribal knowledge). Museums, agencies, and academic institutions will then routinely be forced to contest claims, and become an adversary of tribes, simply to remain in compliance with NAGPRA, which requires careful evaluation of available evidence. SAA believes that deadlines are an essential component of the repatriation process. AB 978's unrealistic deadlines, however, will create adversarial relationships that did not previously exist between the Native American, museum, agency, and academic communities, and in this way work against the spirit of cooperation and compromise NAGPRA was intended to establish.

SAA remains opposed to AB 978 and strongly urges amending it to establish a more evenly balanced review commission with appropriate, discrete authority, provide an appropriate means for identifying those "state recognized tribes" with standing in the repatriation process, and extend claim deadlines to permit tribes, museums, agencies, and academic institutions to work collaboratively on repatriation claims.

Sincerely,

/s/

Robert L Kelly, Ph.D.
President

