

JAN 19 2018

A BILL FOR AN ACT

RELATING TO TRAINING.

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

1 SECTION 1. In Act 169, Session Laws of Hawaii 2015, the
2 legislature found that pursuant to Hawaii's constitution,
3 statutes, and case law, the State recognizes a mandate to
4 protect native Hawaiian and Hawaiian traditional and customary
5 rights. Accordingly, Act 169 amended chapter 10, Hawaii Revised
6 Statutes, to require the office of Hawaiian affairs to
7 establish, design, and administer a training course on native
8 Hawaiian and Hawaiian rights, the sources of these rights, and
9 how infringement of these rights affects the native Hawaiian and
10 Hawaiian people. Act 169 required members of certain state
11 councils, boards, and commissions to take the training course,
12 and allowed other state or county officers, representatives, or
13 employees to request to enroll in the training course.

14 The legislature finds that the training course required by
15 Act 169 has been implemented and has been well-attended and
16 well-received. Attendees report that the course gave them a
17 better understanding of the State's legal responsibilities to



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1 native Hawaiians; Hawaii's political history; the public land
2 trust; native Hawaiian traditional and customary rights;
3 Hawaii's water laws and the public trust doctrine; laws relating
4 to native Hawaiian burials; and attendees' kuleana as decision-
5 makers, lawmakers, and government staff. Policymakers, staff,
6 and community members continue to request similar trainings.
7 Special trainings have also been provided upon request to the
8 governor and the governor's cabinet and the board of regents of
9 the University of Hawaii.

10 In light of the successful implementation of the training
11 program and the importance of extending its benefits as widely
12 as possible to those whose kuleana requires an understanding of
13 native Hawaiian rights, the purpose of this Act is to require
14 certain additional government decision-makers at both the state
15 and county levels to attend the training established by Act 169.

16 In recognition of the State's policy for open governmental
17 processes, where the ultimate decision-making power has vested
18 in the people, the training course described by this Act is not
19 intended to constitute a meeting pursuant to chapter 92, Hawaii
20 Revised Statutes, provided that board and commission members who
21 attend the training course do not decide or deliberate toward a



1 decision upon any matter over which their respective boards have
2 supervision, control, jurisdiction, or advisory power. It is
3 the intent of this Act to convene participating government
4 officials for the purpose of training.

5 SECTION 2. Section 10-41, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§10-41[+] **Training; applicability.** (a) The training
8 required by this part shall apply to the following:

9 (1) The members of the land use commission, board of land
10 and natural resources, commission on water resource
11 management, environmental council, board of directors
12 of the agribusiness development corporation, board of
13 agriculture, legacy land conservation commission,
14 natural area reserves system commission, Hawaii
15 historic places review board, and board of health[-];

16 (2) The division heads of the department of land and
17 natural resources;

18 (3) The director, deputy director of administration,
19 deputy director of airports, deputy director of
20 harbors, and deputy director of highways of the
21 department of transportation;



- 1 (4) The director, deputy director for administration,
- 2 deputy director of health, deputy director for
- 3 environmental health administration, and environmental
- 4 management division chief of the department of health;
- 5 (5) The heads of the county planning departments; and
- 6 (6) The members of the county councils and the county
- 7 planning commissions."

8 SECTION 3. Section 10-42, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§10-42[+] Training relating to native Hawaiian and
11 Hawaiian traditional and customary rights, natural resources and
12 access rights, and the public trust. (a) All council, board,
13 and commission members identified in section [~~10-41(a)~~]
14 10-41(a)(1) shall complete the training course administered by
15 the office of Hawaiian affairs pursuant to this section within
16 twelve months of the date of the member's initial appointment.
17 All persons identified in section 10-41(a)(2) through (6) shall
18 complete the training course within twelve months of the date of
19 hire, initial appointment, or initial taking of elected office,
20 as applicable; provided that all non-appointed persons
21 identified in section 10-41(a)(2) through (5) who were already



1 serving in their positions on the effective date of this Act
2 shall complete the training course within twelve months of the
3 effective date of this Act.

4 (b) The office of Hawaiian affairs, at its own expense,
5 shall establish, design, and administer a training course
6 relating to native Hawaiian and Hawaiian traditional and
7 customary rights, native Hawaiian and Hawaiian natural resource
8 protection and access rights, and the public trust, including
9 the State's trust responsibility. The training course shall
10 include:

11 (1) Historical information, explanations, and discussions
12 of key state laws, state constitutional provisions,
13 and court rulings that reaffirm and provide for the
14 protection of native Hawaiian and Hawaiian rights; and

15 (2) A discussion of the importance of public trust
16 resources and various programs to native Hawaiian and
17 Hawaiian rights.

18 (c) The office of Hawaiian affairs, at its own expense,
19 shall develop the methods and prepare any materials necessary to
20 implement the training course, administer the training course,
21 and notify each [~~council, board, and commission~~] person



1 identified in section 10-41(a) that attendance in a training
2 course is mandatory.

3 (d) The office of Hawaiian affairs shall offer the
4 training course at least twice per year.

5 (e) The governor shall provide to the office of Hawaiian
6 affairs the names of persons required to take the training
7 course pursuant to ~~[this part]~~ section 10-41(a)(1) through (4)
8 within thirty calendar days of their initial appointment [by the
9 governor.] or hire; provided that the names of non-appointed
10 persons identified in section 10-41(a)(2) through (4) who were
11 already serving in their positions on the effective date of this
12 Act shall be provided within thirty days of the effective date
13 of this Act. The county mayors shall provide to the office of
14 Hawaiian affairs the names of persons within their respective
15 counties who are required to take the training course pursuant
16 to section 10-41(a)(5) through (6) within thirty calendar days
17 of their initial appointment, election, or hire; provided that
18 the names of non-appointed persons identified in section 10-
19 41(a)(5) who were already serving in their positions on the
20 effective date of this Act shall be provided within thirty days
21 of the effective date of this Act."



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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:


By Request



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Report Title:

OHA Package; Cultural Training; State and County Officials

Description:

Requires certain additional government decision-makers at both the state and county levels to complete the Office of Hawaiian Affairs' training courses on Native Hawaiian and Hawaiian rights established by Act 169, SLH 2015.

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