



GOV. MSG. NO. 1302

EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,  
President and Members of the Senate  
Thirty First State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Thirty First State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB1409 SD2 HD1 CD1, without my approval and with the statement of objections relating to the measure.

SB1409 SD2 HD1 CD1

RELATING TO TRAINING IN NATIVE  
HAWAIIAN RIGHTS.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1409

Honorable Members  
Thirty-First Legislature  
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, Senate Bill No. 1409, entitled "A Bill for an Act Relating to Training in Native Hawaiian Rights."

The purpose of this bill is to prohibit newly appointed or reappointed members of certain State councils, boards, and commissions from serving if the member has not completed the Native Hawaiian rights training course required by section 10-42, Hawaii Revised Statutes (HRS). This bill further requires the Office of Hawaiian Affairs to record the training course and make the recording available to those who were unable to attend.

This bill is objectionable because it imposes punitive measures on volunteer members of several boards. The vast majority of board members impacted by this bill have already completed a Native Hawaiian rights training course offered by the University of Hawaii. A review of records of forty-three board and commission members across the five boards and commissions within the Department of Land and Natural Resources (not including new or retired members or vacancies, and including two who took the class before section 10-42, HRS, became law) revealed that only two individuals had not yet completed the training. In-person course offerings have been limited to once or twice a year, which may impact quorum requirements. Any gaps in training can be covered by more in-person course offerings and online course offerings, where the members can take the class on their own schedule, including workdays and weekends, rather than only on set days.

Additionally, my Administration supports providing board members with the flexibility to choose from more than one provider of Native Hawaiian rights training.

STATEMENT OF OBJECTIONS  
SENATE BILL NO. 1409  
Page 2

For the foregoing reasons, I am returning Senate Bill No. 1409 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "David Y. Ige", with a stylized flourish at the end.

DAVID Y. IGE  
Governor of Hawai'i

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# A BILL FOR AN ACT

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RELATING TO TRAINING IN NATIVE HAWAIIAN RIGHTS.

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

1           SECTION 1. In Act 169, Session Laws of Hawaii 2015  
2   (Act 169), the legislature found that pursuant to Hawaii's  
3   constitution, statutes, and case law, the State recognizes a  
4   mandate to protect native Hawaiian traditional and customary  
5   rights. Accordingly, Act 169 required the office of Hawaiian  
6   affairs to establish, design, and administer a training course  
7   on native Hawaiian rights, the sources of these rights, and how  
8   the infringement of these rights affects native Hawaiians. In  
9   addition, Act 169 required new members of certain State  
10   councils, boards, and commissions to complete the training  
11   course within one year of their appointment.

12           Unfortunately, despite the regular provision of notice to  
13   board and commission administrators, a significant number of  
14   board and commission members subject to the mandatory training  
15   course continue to fail to comply with their training course  
16   completion responsibility. As a result, critical land use and  
17   resource management decision-making may continue to be less than



1 fully informed on native Hawaiian concepts, practices, and  
2 rights.

3       These issues, in turn, have led and continue to lead to  
4 substantial conflict, distrust in government decisions and  
5 processes, and even legal action against the State, and may  
6 further foreclose critical opportunities to ensure our islands'  
7 resiliency and self-sufficiency through culturally-informed land  
8 use and resource management.

9       Accordingly, the legislature intends to ensure a deeper  
10 understanding among board and commission members of the State's  
11 legal responsibilities to native Hawaiians, Hawaii's political  
12 history, the public land trust, native Hawaiian traditional and  
13 customary rights, Hawaii's water laws and the public trust  
14 doctrine, and laws relating to native Hawaiian burials. The  
15 legislature further intends to ensure greater recognition and  
16 incorporation of native Hawaiian knowledge, values, and rights  
17 in land use and resource management decision-making.

18       The purpose of this Act is to:

19       (1) Prohibit newly appointed or reappointed council,  
20               board, and commission members who fail to meet their  
21               training course completion requirement from serving on



1 a permitted interaction group or voting on matters  
2 before their respective councils, boards, or  
3 commissions;

4 (2) Require newly appointed or reappointed council, board,  
5 and commission members who fail to meet their training  
6 course completion requirement to be removed from their  
7 respective council, board, or commission, unless they  
8 complete the training requirement or are reconfirmed  
9 by the Senate before the completion of the regular  
10 legislative session that follows the deadline to  
11 complete their training requirement;

12 (3) Require the office of Hawaiian affairs and department  
13 of land and natural resources to compile an annual  
14 report of council, board, and commission members who  
15 have failed to complete their training course  
16 requirement, and to submit the report to the governor  
17 and legislature no later than twenty days prior to the  
18 convening of each regular legislative session; and

19 (4) Require the office of Hawaiian affairs to record the  
20 training courses and make the recordings available to  
21 those who were unable to attend the training course.



SECTION 2. Section 10-42, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~10-42~~]~~ Training relating to native Hawaiian [~~and Hawaiian~~] traditional and customary rights, natural resources and access rights, and the public trust. (a) All council, board, and commission members identified in section 10-41(a) shall complete the training course administered by the office of Hawaiian affairs pursuant to this section within twelve months of the date of the member's initial appointment~~[=]~~ or reappointment. All newly appointed or reappointed members who fail to complete the training course within the required time period shall be:

- (1) Prohibited from serving on a permitted interaction group or voting on a matter before their respective council, board, or commission until the mandatory training course is completed; and
- (2) Removed from their respective council, board, or commission at the end of the regular legislative session following the deadline to complete the training course; provided that members shall not be removed if they complete the mandatory training course



1 or obtain the advice and consent of the senate to  
2 continue serving on their respective council, board,  
3 or commission by the end of the regular legislative  
4 session following their deadline to complete the  
5 training course.

6 (b) The office of Hawaiian affairs and department of land  
7 and natural resources shall prepare an annual report of all  
8 council, board, and commission members who failed to meet the  
9 training requirement in this section as of September 21 of each  
10 year, which shall be made available for public inspection at the  
11 office of Hawaiian affairs and department of land and natural  
12 resources, and submitted to the governor and legislature no  
13 later than twenty days prior to the convening of each regular  
14 session of the legislature.

15 ~~[(b)]~~ (c) The office of Hawaiian affairs, at its own  
16 expense, shall establish, design, and administer a training  
17 course relating to native Hawaiian ~~[and Hawaiian]~~ traditional  
18 and customary rights, native Hawaiian ~~[and Hawaiian]~~ natural  
19 resource protection and access rights, and the public trust,  
20 including the State's trust responsibility. The training course  
21 shall include:





1 (1) Historical information, explanations, and discussions  
2 of key state laws, state constitutional provisions,  
3 and court rulings that reaffirm and provide for the  
4 protection of native Hawaiian [~~and Hawaiian~~] rights;  
5 and

6 (2) A discussion of the importance of public trust  
7 resources and various programs to native Hawaiian [~~and~~  
8 Hawaiian] rights.

9 [~~(e)~~] (d) The office of Hawaiian affairs, at its own  
10 expense, shall develop the methods and prepare any materials  
11 necessary to implement the training course, administer the  
12 training course, and notify each council, board, and commission  
13 identified in section 10-41(a) that [~~attendance in~~] completion  
14 of a training course is mandatory.

15 [~~(d)~~] (e) The office of Hawaiian affairs shall offer the  
16 training course at least twice per year. The office of Hawaiian  
17 affairs shall record the training courses and make the  
18 recordings available to council, board, and commission members  
19 identified in section 10-41(a) who have not yet satisfied the  
20 training requirement in this section and who were unable to



1 attend the training course. Viewing a recording of a training  
2 course shall satisfy the training requirement.

3 [~~(e)~~] (f) The governor shall provide to the office of  
4 Hawaiian affairs the names of persons required to take the  
5 training course pursuant to this part within thirty calendar  
6 days of their initial appointment or reappointment by the  
7 governor."

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 on April 1, 2022.

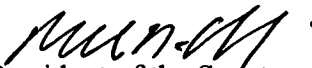
APPROVED this                      day of                      , 2021


GOVERNOR OF THE STATE OF HAWAII

**THE SENATE OF THE STATE OF HAWAI‘I**

Date: April 27, 2021  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate  
of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.

  
President of the Senate

  
Clerk of the Senate

SB No. 1409, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives