
A BILL FOR AN ACT

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.



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

3 "~~{}~~§10-42~~{}~~ Training relating to native Hawaiian ~~[and~~
4 ~~Hawaiian]~~ traditional and customary rights, natural resources
5 and access rights, and the public trust. (a) All council,
6 board, and commission members identified in section 10-41(a)
7 shall complete the training course administered by the office of
8 Hawaiian affairs pursuant to this section within twelve months
9 of the date of the member's initial appointment~~[-]~~ or
10 reappointment. All newly appointed or reappointed members who
11 fail to complete the training course within the required time
12 period shall be:

- 13 (1) Prohibited from serving on a permitted interaction
14 group or voting on a matter before their respective
15 council, board, or commission until the mandatory
16 training course is completed; and
- 17 (2) Removed from their respective council, board, or
18 commission at the end of the regular legislative
19 session following the deadline to complete the
20 training course; provided that members shall not be
21 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.



Report Title:

Department of Land and Natural Resources; Office of Hawaiian Affairs; Council; Boards; Commissions; Members; Training

Description:

Prohibits newly appointed or reappointed council, board, and commission members from serving if the member has not completed, within the requisite time, the required training course related to native Hawaiian rights. Requires the Office of Hawaiian Affairs and Department of Land and Natural Resources to compile an annual report of members who have failed to complete their training course requirement. Requires the Office of Hawaiian Affairs to record the training courses and make the recordings available to those who were unable to attend the training course. Effective 4/1/2022. (CD1)

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