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# 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 and Hawaiian traditional and  
5 customary rights. Accordingly, Act 169 required the office of  
6 Hawaiian affairs to establish, design, and administer a training  
7 course on native Hawaiian and Hawaiian rights, the sources of  
8 these rights, and how the infringement of these rights affects  
9 the native Hawaiian and Hawaiian people. In addition, Act 169  
10 required new members of certain State councils, boards, and  
11 commissions to complete the training course within one year of  
12 their appointment.

13           Unfortunately, despite the regular provision of notice to  
14 board and commission administrators, a significant number of  
15 board and commission members subject to the mandatory training  
16 course continue to fail to comply with their training course  
17 completion responsibility. As a result, critical land use and



1 resource management decision-making may continue to be less than  
2 fully informed on native Hawaiian and Hawaiian concepts,  
3 practices, and rights.

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

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



1 The purpose of this Act is to:

2 (1) Prohibit newly appointed or reappointed council,  
3 board, and commission members who fail to meet their  
4 training course completion requirement from serving on  
5 a permitted interaction group or voting on matters  
6 before their respective councils, boards, or  
7 commissions;

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

16 (3) Require the office of Hawaiian affairs and department  
17 of land and natural resources to compile an annual  
18 report of council, board, and commission members who  
19 have failed to complete their training course  
20 requirement, and to submit the report to the governor



1 and legislature no later than twenty days prior to the  
 2 convening of each regular legislative session; and  
 3 (4) Require the office of Hawaiian affairs to record the  
 4 training courses and make the recordings available to  
 5 those who were unable able to attend the training  
 6 course.

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

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

19 (1) Prohibited from serving on a permitted interaction  
 20 group or voting on a matter before their respective



1           council, board, or commission until the mandatory  
2           training course is completed; and  
3        (2) Removed from their respective council, board, or  
4           commission at the end of the regular legislative  
5           session following the deadline to complete the  
6           training course; provided that members shall not be  
7           removed if they complete the mandatory training course  
8           or obtain the advice and consent of the senate to  
9           continue serving on their respective council, board,  
10          or commission by the end of the regular legislative  
11          session following their deadline to complete the  
12          training course.

13        (b) Individual votes taken by council, board, and  
14          commission members who failed to complete the mandatory training  
15          course within the required time period may be challenged and  
16          subject to being nullified and voided following a contested case  
17          proceeding.

18        (c) The office of Hawaiian affairs and department of land  
19          and natural resources shall prepare an annual report of all  
20          council, board, and commission members who failed to meet the  
21          training requirement in this section as of September 21 of each



1 year, which shall be made available for public inspection at the  
2 office of Hawaiian affairs and department of land and natural  
3 resources, and submitted to the governor and legislature no  
4 later than twenty days prior to the convening of each regular  
5 session of the legislature.

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

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

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

20 ~~[(e)]~~ (e) The office of Hawaiian affairs, at its own  
21 expense, shall develop the methods and prepare any materials



1 necessary to implement the training course, administer the  
2 training course, and notify each council, board, and commission  
3 identified in section 10-41(a) that [~~attendance in~~] completion  
4 of a training course is mandatory.

5 [~~(d)~~] (f) The office of Hawaiian affairs shall offer the  
6 training course at least twice per year. The office of Hawaiian  
7 affairs shall record the training courses and make the  
8 recordings available to those who were unable to attend the  
9 training course.

10 [~~(e)~~] (g) The governor shall provide to the office of  
11 Hawaiian affairs the names of persons required to take the  
12 training course pursuant to this part within thirty calendar  
13 days of their initial appointment or reappointment by the  
14 governor."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 3021.



**Report Title:**

DLNR; OHA; 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 and Hawaiian rights. Require OHA and DLNR to compile an annual report of members who have failed to complete their training course requirement. Require OHA to record the training courses and make the recordings available to those who were unable able to attend the training course. Effective 7/1/3021. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

