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# A BILL FOR AN ACT

RELATING TO HAIKU VALLEY.

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

1           SECTION 1. The legislature finds that Haiku valley on Oahu  
2 is of significant cultural and historical importance to the  
3 native people of Hawaii. Haiku valley is renowned for its  
4 archaeological and other cultural and historic sites, including  
5 loi, sacred sites, and burial sites, and for the presence of  
6 native and endangered flora and fauna. Preserving the valley's  
7 cultural and historic resources and educating the public about  
8 these resources are of paramount importance.

9           The legislature further finds that ownership of Haiku  
10 valley is divided among several entities. The valley's  
11 fragmented ownership and limited stewardship have placed its  
12 cultural and historic resources at high risk. Ensuring adequate  
13 management of, and appropriate access to, the valley has proven  
14 elusive.

15           The purpose of this Act is to establish the Haiku valley  
16 cultural preserve commission to have policy and management  
17 oversight over the Haiku valley cultural preserve to protect and



1 preserve the cultural, historic, spiritual, and environmental  
2 resources of Haiku valley. This Act achieves this goal by  
3 effectuating the transfer of state lands from the department of  
4 Hawaiian homelands to the office of Hawaiian affairs and  
5 establishing the commission to provide a system that recognizes  
6 Haiku valley's unique challenges and preserves in perpetuity its  
7 cultural and historic resources for the people of Hawaii.

8 SECTION 2. The Hawaii Revised Statutes is amended by  
9 adding a new chapter to be appropriately designated and to read  
10 as follows:

11 "CHAPTER

12 HAIKU VALLEY CULTURAL PRESERVE

13 § -1 Administration of chapter. The Haiku valley  
14 cultural preserve commission and the office of Hawaiian affairs  
15 shall administer this chapter.

16 § -2 Definitions. As used in this chapter, unless the  
17 context otherwise requires:

18 "Commission" means the Haiku valley cultural preserve  
19 commission.



1 "Haiku valley cultural preserve" means parcels 1-C, 6, 7,  
2 8, and 9 encompassed within tax map key 4-6-15:014 known as  
3 Haiku valley on the island of Oahu.

4 "Office" means the office of Hawaiian affairs.

5 **§ -3 Cultural preserve established; reservation of uses.**

6 (a) There is established the Haiku valley cultural preserve,  
7 which shall operate solely and exclusively for the following  
8 purposes:

- 9 (1) Preservation and practice of all rights customarily  
10 and traditionally exercised by Native Hawaiians for  
11 cultural, spiritual, and subsistence purposes;  
12 (2) Preservation and protection of cultural,  
13 archaeological, historical, and environmental  
14 resources of the valley;  
15 (3) Rehabilitation, revegetation, habitat restoration, and  
16 preservation;  
17 (4) Education; and  
18 (5) Other purposes as determined by the commission.

19 (b) Haiku valley shall be reserved in perpetuity for the  
20 uses enumerated in this section. Commercial uses shall be  
21 strictly prohibited.



1           §   -4 Haiku valley cultural preserve commission;  
2 **established.** (a) There is established the Haiku valley  
3 cultural preserve commission to be placed within the office of  
4 Hawaiian affairs for administrative purposes. The commission  
5 shall consist of the following seven members who shall be  
6 appointed by the governor and serve on the commission in  
7 accordance with section 26-34:  
8           (1) A representative of the office of Hawaiian affairs;  
9           (2) A representative of the department of land and natural  
10           resources;  
11           (3) A representative of the Honolulu board of water  
12           supply;  
13           (4) One member of the Ko'olau Foundation, to be appointed  
14           by the governor from a list provided by the Ko'olau  
15           Foundation;  
16           (5) One member of the Ko'olaupoko Hawaiian Civic Club, to  
17           be appointed by the governor from a list provided by  
18           the Ko'olaupoko Hawaiian Civic Club; and  
19           (6) Two members who shall be Native Hawaiian cultural  
20           practitioners, to be appointed by the governor from a



1 list of Native Hawaiian cultural practitioners  
2 provided by Native Hawaiian organizations.

3 (b) The chairperson of the commission shall be elected by  
4 the members of the commission from among its members.

5 (c) Any action taken by the commission shall be approved  
6 by a simple majority of the members. Four members shall  
7 constitute a quorum to conduct business.

8 (d) Members of the commission shall serve without pay but  
9 shall be reimbursed for their actual and necessary expenses,  
10 including travel expenses, incurred in carrying out their  
11 duties.

12 **§ -5 Responsibilities and duties of the commission.** The  
13 general administration of the Haiku valley cultural preserve  
14 shall rest with the commission. In discharging its duties and  
15 responsibilities, the commission:

16 (1) Shall establish criteria, policies, and controls for  
17 permissible uses within the Haiku valley cultural  
18 preserve;

19 (2) Shall approve all contracts for services and adopt  
20 rules pertaining to the Haiku valley cultural  
21 preserve;



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- 1           (3) Shall provide advice to the governor, the office, and  
2           other departments and agencies on any matter relating  
3           to the Haiku valley cultural preserve;
- 4           (4) Shall provide advice to the department of Hawaiian  
5           home lands and the department of the attorney general  
6           on any matter relating to the conveyance of Haiku  
7           valley to the office;
- 8           (5) May enter into curator or stewardship agreements with  
9           appropriate Hawaiian cultural and spiritual community  
10          organizations for the perpetuation of Native Hawaiian  
11          cultural, religious, and subsistence customs, beliefs,  
12          and practices for the purposes stated in  
13          section     -3;
- 14          (6) Shall adopt rules in accordance with chapter 91 that  
15          are necessary for the purposes of this chapter and  
16          maintain a record of its proceedings and actions;
- 17          (7) May accept grants, donations, and contributions for  
18          deposit into the Haiku valley cultural preserve  
19          special fund established pursuant to section     -10  
20          for the purposes of this chapter; and



1 (8) Shall carry out those responsibilities and duties  
2 concerning the Haiku valley cultural preserve  
3 otherwise conferred upon the island burial councils  
4 and the office with regard to proper treatment of  
5 burial sites and human skeletal remains found in the  
6 valley preserve; provided that nothing in this section  
7 shall circumvent historical preservation requirements  
8 under chapter 6E.

9 § -6 Powers and duties. The office and other departments  
10 and agencies of the State shall be subject to the oversight of  
11 the commission with regard to the control and management of the  
12 Haiku valley cultural preserve. Subject to section -5, the  
13 office shall:

- 14 (1) Establish and implement controls and permitted uses  
15 for the Haiku valley cultural preserve;
- 16 (2) Enforce this chapter; and
- 17 (3) Authorize state conservation enforcement or other law  
18 enforcement entities as it deems reasonable and  
19 necessary to serve and execute warrants and arrest  
20 offenders or issue citations in all matters relating



1 to the enforcement of laws and rules applicable to the  
2 Haiku valley cultural preserve.

3 § -7 **Penalty.** Any person who violates any of the laws or  
4 rules applicable to the Haiku valley cultural preserve shall be  
5 guilty of a petty misdemeanor and shall be fined no more than  
6 \$1,000, imprisoned no more than thirty days, or both, for each  
7 offense. Each day of each violation shall be deemed a separate  
8 offense.

9 § -8 **General administrative penalties.** (a) Except as  
10 otherwise provided by law, the commission shall be authorized to  
11 set, charge, and collect administrative fines, or bring legal  
12 action to recover administrative costs of the commission,  
13 payment for damages, or for the cost to correct damages  
14 resulting from a violation of this chapter or any rule adopted  
15 pursuant to this chapter. The administrative fines shall be set  
16 as follows:

- 17 (1) For a first violation, a fine of no more than \$10,000;
- 18 (2) For a second violation within five years of a previous  
19 violation, a fine of no more than \$15,000; and
- 20 (3) For a third or subsequent violation within five years  
21 of the last violation, a fine of no more than \$25,000.



1           (b) In addition, an administrative fine of up to \$5,000  
2 may be levied for each specimen of natural resource or any  
3 historic property taken, killed, injured, broken, or damaged in  
4 violation of any rule adopted under this chapter.

5           For purposes of this subsection:

6           "Historic property" means any building, structure, object,  
7 district, landscape, area, or site, including heiau and  
8 underwater sites, that is over fifty years old.

9           "Natural resource" means any archaeological artifacts,  
10 minerals, any aquatic life or wildlife or parts thereof,  
11 including their eggs, and any land plants or parts thereof,  
12 including seeds.

13           (c) Any criminal penalty for any violation of this chapter  
14 or any rule adopted pursuant to this chapter shall not preclude  
15 the commission from bringing a civil legal action to recover  
16 additional administrative fines and costs. Any civil legal  
17 action against a person to recover administrative fines and  
18 costs for any violation of this chapter or any rule adopted  
19 pursuant to this chapter shall not preclude the State from  
20 pursuing any criminal action against that person.



1 (d) In any judicial proceeding to recover an  
2 administrative penalty imposed, the commission need only show  
3 that:

- 4 (1) Notice was given;  
5 (2) A hearing was held, or the time granted for requesting  
6 a hearing has run without such a request;  
7 (3) An administrative penalty was imposed;  
8 (4) The administrative penalty remains unpaid; and  
9 (5) The penalty has not been appealed or all appeals have  
10 been exhausted.

11 **§ -9 Transfer.** (a) Upon its conveyance to the office,  
12 the resources of the Haiku valley cultural preserve shall be  
13 held in trust by the office as part of the public land trust;  
14 provided that the office shall transfer management and control  
15 of the Haiku valley cultural preserve to the sovereign Native  
16 Hawaiian entity upon its recognition by the United States and  
17 the State.

18 (b) All terms, conditions, agreements, and laws affecting  
19 Haiku valley shall remain in effect unless expressly terminated.

20 **§ -10 Haiku valley cultural preserve special fund.** (a)  
21 There is created in the state treasury the Haiku valley cultural



1 preserve special fund to be administered by the office, and into  
2 which shall be deposited:

3 (1) Any moneys received from the federal government for  
4 purposes consistent with this chapter;

5 (2) Any moneys appropriated by the legislature to the  
6 special fund;

7 (3) Any moneys received from grants and donations or the  
8 proceeds from contributions; and

9 (4) The interest or return on investments earned from  
10 moneys in the special fund;

11 All moneys in the special fund shall be used to fulfill the  
12 purposes of this chapter, including for the operation of the  
13 commission.

14 (b) Moneys deposited into or appropriated to the special  
15 fund shall remain available until they are obligated or until  
16 the special fund is terminated.

17 (c) If the special fund is terminated, all funds shall be  
18 transferred to the general fund; provided that all unexpended or  
19 unencumbered balances shall be disbursed in accordance with any  
20 requirements set by funding sources and for purposes consistent  
21 with this chapter.



1           §   **-11 Severability.**  If any provision of this chapter or  
2 the application thereof to any person or circumstance is held  
3 invalid, the invalidity shall not affect other provisions or  
4 applications of this chapter that can be given effect without  
5 the invalid provision or application, and to this end the  
6 provisions of this chapter are severable."

7           SECTION 3.  The department of Hawaiian home lands and the  
8 department of the attorney general, after consulting with the  
9 Haiku valley cultural preserve commission, are authorized to  
10 initiate the conveyance of all of Haiku valley in fee simple to  
11 the office of Hawaiian affairs; provided that before the valley  
12 is conveyed to the office of Hawaiian affairs, agreements shall  
13 be executed with respect to liability, monetary resources, and  
14 removal of hazardous wastes.

15           SECTION 4.  There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$                    or so  
17 much thereof as may be necessary for fiscal year 2023-2024 and  
18 the same sum or so much thereof as may be necessary for fiscal  
19 year 2024-2025 to be deposited into the Haiku valley cultural  
20 preserve special fund.



1 SECTION 5. There is appropriated out of the Haiku valley  
2 cultural preserve special fund the sum of \$ or so much  
3 thereof as may be necessary for fiscal year 2023-2024 and the  
4 same sum or so much thereof as may be necessary for fiscal year  
5 2024-2025 for the purposes of this Act, including the  
6 acquisition of Haiku valley by the office of Hawaiian affairs.

7 SECTION 6. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10 SECTION 7. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16 SECTION 8. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: *Lisa Kitagawa*  
JAN 25 2023



# H.B. NO. 1313

**Report Title:**

Haiku Valley; Office of Hawaiian Affairs; Haiku Valley Cultural Preserve Commission; Special Fund; Appropriation

**Description:**

Establishes the Haiku valley cultural preserve commission with OHA to provide policy and management oversight of the Haiku valley cultural preserve. Establishes the Haiku valley cultural preserve special fund. Initiates the process of conveying Haiku valley in fee simple to the office of Hawaiian affairs. Appropriates funds.

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