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# A BILL FOR AN ACT

RELATING TO BURIAL COUNCILS.

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

1 SECTION 1. The legislature finds that delays in nominating  
2 and appointing, or reappointing, members to island burial  
3 councils may affect the ability of councils to function  
4 effectively. If a member's term expires and the member's  
5 reappointment is delayed or a successor is not timely appointed,  
6 the burial council may lack the quorum necessary to conduct  
7 business.

8 Accordingly, the purpose of this Act is to allow a burial  
9 council member whose term has expired to continue in office as a  
10 holdover member until the member's reappointment to a second  
11 term is confirmed or a successor is nominated and appointed.

12 SECTION 2. Section 6E-43.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "**§6E-43.5 Island burial councils; creation; appointment;**  
15 **composition; duties.** (a) There [~~are~~] shall be established  
16 within the department five island burial councils, one each for  
17 Hawai'i, Maui/Lāna'i, Moloka'i, O'ahu, and Kaua'i/Ni'ihau, to



1 implement section 6E-43. Each council shall consist of nine  
2 members, except the Moloka'i council, which shall consist of five  
3 members. Each council shall consist of no more than three  
4 representatives of development and large landowner interests;  
5 provided that the Moloka'i council shall consist of no more than  
6 one representative of development and large landowner interests.  
7 The remaining council members shall represent the geographic  
8 regions identified in paragraphs (1) through (5). At all times,  
9 at least two of the regional representatives of each council  
10 shall have been appointed from a list of nominees submitted to  
11 the governor by the office of Hawaiian affairs, as provided  
12 under subsection (b). Each council shall include at least one  
13 representative for each geographic region identified as follows:

14 (1) The Hawai'i council shall include the following  
15 geographic regions: Kohala, Kona, Ka'ū, Puna, Hilo,  
16 and Hāmākua;

17 (2) The Maui/Lāna'i council shall include the following  
18 geographic regions: Honua'ula, Lahaina, Wailuku,  
19 Makawao, Hāna, and Lāna'i;



1 (3) The Moloka'i council shall include the following  
2 geographic regions: West Moloka'i, Central Moloka'i,  
3 East Moloka'i, and Kalawao;

4 (4) The O'ahu council shall include the following  
5 geographic regions: Wai'ānae, 'Ewa, Kona, Ko'olaupoko,  
6 Ko'olauloa, and Waialua; and

7 (5) The Kaua'i/Ni'ihau council shall include the following  
8 geographic regions: Waimea/Na Pali, Kōloa, Līhu'e,  
9 Kawaihau, Hanalei, and Ni'ihau.

10 Regional representatives shall be selected from the Hawaiian  
11 community on the basis of the representatives' understanding of  
12 the culture, history, burial beliefs, customs, and practices of  
13 native Hawaiians in the region they each represent.

14 (b) Appointment of members to the councils shall be made  
15 by the governor, in accordance with section 26-34 and  
16 subsection (a), from lists for each council submitted by the  
17 department and the office of Hawaiian affairs. Lists to fill  
18 vacancies on the councils shall be submitted as follows:

19 (1) For vacancies attributable to the expiration of terms,  
20 the list shall be submitted on the first business day



1 of December [~~prior to~~] before the expiration of the  
2 terms, except as provided in subsection (c); and

3 (2) For a vacancy that occurs during a council  
4 representative's term, the list shall be submitted  
5 within thirty business days after the vacancy occurs,  
6 except as provided in subsection (c).

7 (c) The department may submit any list to fill a vacancy  
8 up to fifteen days after the office of Hawaiian affairs submits  
9 its list for the same vacancy; provided that the failure of the  
10 department to submit any list by any relevant deadline or  
11 fifteen days after the office of Hawaiian affairs submits its  
12 list, whichever occurs later, shall be construed as a waiver of  
13 the department's right to submit a list.

14 (d) Notwithstanding section 26-34(b) or any other law to  
15 the contrary, any council member whose term has expired may  
16 continue in office as a holdover member until the member's  
17 reappointment to a second term is confirmed or a successor is  
18 nominated and appointed; provided that a holdover member shall  
19 not hold office beyond the end of the fourth regular session of  
20 the legislature following the expiration of the member's term of  
21 office.



1           ~~(d)~~ (e) The department, in consultation with the  
2 councils, office of Hawaiian affairs, representatives of  
3 development and large landowner interests, and appropriate  
4 Hawaiian organizations, such as Hui Malama I Na Kupuna O Hawai'i  
5 Nei, shall adopt rules pursuant to chapter 91 necessary to carry  
6 out the purposes of this section. The council members shall  
7 serve without compensation, but shall be reimbursed for  
8 necessary expenses incurred during the performance of their  
9 duties. The councils shall be a part of the department for  
10 administrative purposes.

11           ~~(e)~~ (f) The councils shall hold meetings and acquire  
12 information as they deem necessary and shall communicate their  
13 findings and recommendations to the department. Notwithstanding  
14 section 92-3, whenever the location and description of burial  
15 sites are under consideration, the councils may hold closed  
16 meetings. A majority of all members to which each council is  
17 entitled shall constitute a quorum to do business. Concurrence  
18 of a majority of the members present at a meeting shall be  
19 necessary to make any action of a council valid.

20           ~~(f)~~ (g) Department records relating to the location and  
21 description of historic sites, including burial sites, if deemed



1 sensitive by a council or the Hawai'i historic places review  
2 board, shall be confidential.

3 [~~g~~] (h) The councils shall:

4 (1) Determine the preservation or relocation of previously  
5 identified native Hawaiian burial sites;

6 (2) Assist the department in the inventory and  
7 identification of native Hawaiian burial sites;

8 (3) Make recommendations regarding appropriate management,  
9 treatment, and protection of native Hawaiian burial  
10 sites, and on any other matters relating to native  
11 Hawaiian burial sites;

12 (4) Elect a chairperson for a four-year term who shall  
13 serve for [~~not~~] no more than two consecutive terms;  
14 and

15 (5) Maintain a list of appropriate Hawaiian organizations,  
16 agencies, and offices to notify regarding the  
17 discovery of remains."

18 SECTION 3. This Act does not affect rights and duties that  
19 matured, penalties that were incurred, and proceedings that were  
20 begun before its effective date.



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.



**Report Title:**

Island Burial Councils; Appointments; Holdover Members

**Description:**

Allows any burial council member whose term has expired to continue in office as a holdover member until the member's reappointment to a second term is confirmed or a successor is nominated and appointed. Prohibits holdover members from holding office beyond the end of the fourth regular session of the legislature following the expiration of the member's term of office. (SD2)

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

