
A BILL FOR AN ACT

RELATING TO ISLAND BURIAL COUNCILS.

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

1 SECTION 1. The legislature finds that island burial
2 councils play a critical role in determining the treatment of
3 Native Hawaiian skeletal remains (iwi) and require full and
4 timely membership to effectively fulfill their responsibilities.

5 Under existing law, the governor appoints all council
6 members, with the advice and consent of the senate, from lists
7 submitted by the department of land and natural resources and
8 office of Hawaiian affairs. Chronic vacancies and long
9 appointment delays have, however, impaired the councils' ability
10 to reach quorum, resulting in stalled iwi preservation
11 decisions, community distrust, and complications in development
12 permitting.

13 The legislature believes that the office of Hawaiian
14 affairs has a constitutional mandate to serve Native Hawaiians
15 and steward cultural resources and is uniquely positioned to
16 ensure that appointments are culturally appropriate, reflect
17 genealogical connections, and maintain community trust.



1 Further, the office of Hawaiian affairs already has a system in
2 place to recruit and recommend appointments to the burial
3 councils.

4 The purpose of this Act is to transfer the appointment
5 authority for island burial council members from the governor
6 and senate to the board of trustees of the office of Hawaiian
7 affairs. This change will advance Native Hawaiian self-
8 determination, strengthen cultural integrity in iwi kupuna
9 protection, and address longstanding administrative delays that
10 hinder council function.

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

13 **"§6E-43.5 Island burial councils; creation; appointment;**
14 **composition; duties.** (a) There shall be established within the
15 department five island burial councils, one each for Hawai'i,
16 Maui/Lāna'i, Moloka'i, O'ahu, and Kaua'i/Ni'ihau, to implement
17 section 6E-43. Each council shall consist of nine members,
18 except the Moloka'i council, which shall consist of five members.
19 Each council shall consist of no more than three representatives
20 of development and large landowner interests; provided that the
21 Moloka'i council shall consist of no more than one representative



1 of development and large landowner interests. The remaining
2 council members shall represent the geographic regions
3 identified in paragraphs (1) through (5). [~~At all times, at~~
4 ~~least two of the regional representatives of each council shall~~
5 ~~have been appointed from a list of nominees submitted to the~~
6 ~~governor by the office of Hawaiian affairs, as provided under~~
7 ~~subsection (b).~~] Each council shall include at least one
8 representative for each geographic region identified as follows:

- 9 (1) The Hawai'i council shall include the following
10 geographic regions: Kohala, Kona, Ka'ū, Puna, Hilo,
11 and Hāmākua;
- 12 (2) The Maui/Lāna'i council shall include the following
13 geographic regions: Honua'ula, Lahaina, Wailuku,
14 Makawao, Hāna, and Lāna'i;
- 15 (3) The Moloka'i council shall include the following
16 geographic regions: West Moloka'i, Central Moloka'i,
17 East Moloka'i, and Kalawao;
- 18 (4) The O'ahu council shall include the following
19 geographic regions: Wai'ānae, 'Ewa, Kona, Ko'olaupoko,
20 Ko'olauloa, and Waialua; and



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

4 Regional representatives shall be selected from the Hawaiian
5 community on the basis of the representatives' understanding of
6 the culture, history, burial beliefs, customs, and practices of
7 native Hawaiians in the region they each represent.

8 (b) Appointment of members to the councils shall be made
9 by the ~~[governor, in accordance with section 26-34 and~~
10 ~~subsection (a), from lists for each council submitted by the~~
11 ~~department and the]~~ board of trustees of the office of Hawaiian
12 affairs. ~~[Lists to fill vacancies on the councils shall be~~
13 ~~submitted as follows:~~

14 ~~(1) For vacancies attributable to the expiration of terms,~~
15 ~~the list shall be submitted on the first business day~~
16 ~~of December before the expiration of the terms, except~~
17 ~~as provided in subsection (c); and~~

18 ~~(2) For a vacancy that occurs during a council~~
19 ~~representative's term, the list shall be submitted~~
20 ~~within thirty business days after the vacancy occurs,~~
21 ~~except as provided in subsection (c).]~~



1 Section 26-34 shall not apply to the councils established
2 pursuant to this section. The appointment process shall include
3 public notice of vacancies, at least one public hearing, and
4 transparent selection standards.

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

12 ~~-(d)] (c) [Notwithstanding section 26-34(b) or any other~~
13 ~~law to the contrary, any] The terms of council members shall be
14 four years. Each term shall commence on July 1 and expire on
15 June 30. No person shall be appointed consecutively to more
16 than two terms as a council member; provided that membership
17 shall not exceed eight consecutive years. Any council member
18 whose term has expired may continue in office as a holdover
19 member until the [member's reappointment to] member is
20 reappointed for a second term [is confirmed] or a successor is
21 [nominated and] appointed[; provided that a holdover member~~



1 ~~shall not hold office beyond the end of the fourth regular~~
2 ~~session of the legislature following the expiration of the~~
3 ~~member's term of office].~~ A vacancy occurring in the membership
4 of a council during a term shall be filled for the unexpired
5 term thereof. The board of trustees of the office of Hawaiian
6 affairs may remove or suspend for cause any council member after
7 due notice and public hearing.

8 [-(e)] (d) The department, in consultation with the
9 councils, office of Hawaiian affairs, representatives of
10 development and large landowner interests, and appropriate
11 Hawaiian organizations, such as Hui Malama I Na Kupuna O Hawai'i
12 Nei, shall adopt rules pursuant to chapter 91 necessary to carry
13 out the purposes of this section. The council members shall
14 serve without compensation, but shall be reimbursed for
15 necessary expenses incurred during the performance of their
16 duties. The councils shall be a part of the department for
17 administrative purposes. The department of land and natural
18 resources and state historic preservation division shall
19 coordinate with the office of Hawaiian affairs on orientation
20 and operational support.



1 ~~[(f)]~~ (e) The councils shall hold meetings and acquire
2 information as they deem necessary and shall communicate their
3 findings and recommendations to the department. Notwithstanding
4 section 92-3, whenever the location and description of burial
5 sites are under consideration, the councils may hold closed
6 meetings. A majority of all members to which each council is
7 entitled shall constitute a quorum to do business. Concurrence
8 of a majority of the members present at a meeting shall be
9 necessary to make any action of a council valid.

10 ~~[(g)]~~ (f) Department records relating to the location and
11 description of historic sites, including burial sites, if deemed
12 sensitive by a council or the Hawai'i historic places review
13 board, shall be confidential.

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

- 15 (1) Determine the preservation or relocation of previously
16 identified native Hawaiian burial sites;
- 17 (2) Assist the department in the inventory and
18 identification of native Hawaiian burial sites;
- 19 (3) Make recommendations regarding appropriate management,
20 treatment, and protection of native Hawaiian burial



1 sites, and on any other matters relating to native
2 Hawaiian burial sites;

3 (4) Elect a chairperson for a four-year term who shall
4 serve for no more than two consecutive terms; and

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

8 SECTION 3. Notwithstanding any law to the contrary, the
9 members of the island burial councils serving on the day of the
10 effective date of this Act shall continue to serve until the
11 member is reappointed or replaced by the board of trustees of
12 the office of Hawaiian affairs; provided that a member shall not
13 hold office beyond the end of the fourth regular session of the
14 legislature following the effective date of this Act.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect on July 1, 3000.



Report Title:

Island Burial Councils; OHA; Appointment Authority

Description:

Transfers the appointment authority for Island Burial Council members from the Governor and Senate to the Board of Trustees of the Office of Hawaiian Affairs. Effective 7/1/3000. (HD1)

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