



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2026**

ON THE FOLLOWING MEASURE:

H.B. NO. 2231, RELATING TO ISLAND BURIAL COUNCILS.

BEFORE THE:

HOUSE COMMITTEE ON WATER & LAND

DATE: Thursday, February 19, 2026 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 411

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Alyssa-Marie Y.H. Kau, Deputy Attorney General

Chair Hashem and Members of the Committee:

The Department of the Attorney General (Department) provides the following comments on this bill.

This bill transfers the appointment authority for Island Burial Council members from the Governor and Senate to the Board of Trustees (BOT) of the Office of Hawaiian Affairs (OHA).

This bill would also provide the OHA BOT with the authority to "adopt rules pursuant to chapter 91" (page 5, lines 4-6). Chapter 91, HRS, establishes procedures for rulemaking by state agencies. Section 91-1, HRS, defines agency as "each state or county board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches." Section 10-4(1), HRS, permits OHA to "adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law," but does not provide OHA with the power to promulgate rules. If this Committee's intent is for OHA to provide guidance for the appointment of Island Burial Council members and the evaluation of applicants' qualifications, the Department recommends that the Committee authorize OHA's BOT to establish internal procedures, standards, and qualifications through its bylaws, consistent with section 10-4, HRS, rather than rulemaking through chapter 91, HRS.

Thank you for the opportunity to testify.



TESTIMONY PROVIDING COMMENTS ON HOUSE BILL 2231
RELATING TO ISLAND BURIAL COUNCILS

House Committee on Water and Land
Hawai'i State Capitol

February 19, 2026

9:00 AM

Room 411

Aloha e Chair Hashem, Vice Chair Morikawa, and Members of the Committee on Water and Land:

The Office of Hawaiian Affairs (OHA) submits testimony providing **COMMENTS** on HB2231, which transfers the appointment authority for Island Burial Council (IBC) members from the Governor and Senate to the Board of Trustees of OHA.

OHA is the constitutionally established body responsible for protecting and promoting the rights of Native Hawaiians. Haw. Const. Art. XII § 5. In fulfilling this mission, OHA has been deeply involved with protection of iwi kūpuna for decades. Further, under HRS Chapter 6E, OHA is tasked with specific kuleana, including nominating geographic (moku) candidates to serve on the IBCs. See HRS §6E-43.5. Given OHA's longstanding commitment to and expertise in protecting iwi kūpuna within the existing regulatory framework, OHA stands ready and able to assume any appointment duties which the legislature may choose to transfer.

OHA respectfully notes our role in the existing IBC appointment process is limited to recruiting and nominating qualified Native Hawaiian cultural practitioners and experts with knowledge of burial traditions and the cultural practices of their respective moku. OHA's institutional expertise and statutory responsibilities are closely aligned with these moku representative seat, including our capacity and ability to recruit widely in the Native Hawaiian community through our existing communication channels, and OHA fully supports assuming appointment duties for these moku seats. With respect to appointment of large landowner seats, OHA takes no position.

Mahalo for the opportunity to testify.

HB-2231

Submitted on: 2/13/2026 11:18:52 PM

Testimony for WAL on 2/19/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Johnnie-Mae L. Perry	Individual	Support	Written Testimony Only

Comments:

I, Johnnie-Mae L. Perry, Support

2231 HB RELATING TO ISLAND BURIAL COUNCILS.

HB-2231

Submitted on: 2/17/2026 10:58:24 AM

Testimony for WAL on 2/19/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Comments	Written Testimony Only

Comments:

Mahalo for the opportunity to provide testimony on this measure.

I submit comments only since I have concerns with the provisions of this bill and with deep respect for the sacred kuleana we share to protect iwi kūpuna and to ensure that the Island Burial Councils continue to function with integrity, cultural grounding, and the full confidence of our communities.

The Island Burial Councils were established to elevate the voices of lineal descendants and island communities in decisions affecting ancestral burials. Their effectiveness depends not only on statutory authority, but on the trust and credibility they hold in the eyes of the public.

Because burial councils make decisions that affect land use, development, property rights, and cultural access, their actions are often subject to legal scrutiny. If the appointment process is perceived as lacking structural balance or neutrality, there is a risk that council decisions could be more frequently challenged in court, that the protection of iwi kūpuna could be delayed by litigation, and that the authority of the councils could be undermined.

Transferring appointment authority may unintentionally increase the legal exposure and institutional liability of the Office of Hawaiian Affairs, as the appointing authority could be drawn into disputes over council composition or decisions. This could divert time and resources away from OHA’s core mission on behalf of Native Hawaiian beneficiaries.

The protection of Native Hawaiian burial sites is a constitutional obligation of the State of Hawai‘i. There is an important legal distinction between the State’s public trust responsibility to protect burials for the benefit of all the people of Hawai‘i and the fiduciary responsibility of the Office of Hawaiian Affairs to Native Hawaiian beneficiaries. **If appointment authority is transferred entirely to OHA, opponents may argue — regardless of intent — that burial protection is being reframed as a Native Hawaiian-only function rather than a statewide constitutional responsibility. Such arguments could expose burial protection actions to additional legal challenge. This concern is offered not to diminish OHA’s vital role, but to ensure that both the State and OHA are protected and that the legal foundation for burial protection remains strong.**

If this responsibility is transferred, **it is also important to ensure that adequate funding, staffing, and clear procedures are provided so that this kuleana does not become an unfunded mandate.**

The selection process should continue to reflect direct input from island communities and should prioritize lineal descendant representation. Clear qualifications, an open nomination process, and a transparent timeline are essential to maintaining public trust.

Should the Legislature choose to move forward with this proposal, I **respectfully recommend:**

Retaining a shared or consultative appointment structure that preserves balance;
Providing dedicated resources for any new responsibilities assigned;
Requiring an island-based nomination process;
Establishing clear conflict-of-interest safeguards; and
Affirming in the measure that burial protection remains a constitutional responsibility of the State of Hawai‘i.

On a separate note, the proposed legislation identifies delays in filling vacancies and the inability at times to secure a quorum. The legislature may wish to consider, if legally permissible, a lower threshold for determining quorum and allowing for the appointment of a certain number of “intermittent” members who would be called upon to serve in the absence of a permanent member.

In the end, this discussion is not only about who appoints, but about how we best protect iwi kūpuna in a way that is culturally grounded, legally durable, and trusted by our communities and the broader public

Mahalo for the opportunity to offer these thoughts.

Respectfully submitted,
Leimomi Khan

HB-2231

Submitted on: 2/17/2026 11:32:36 AM

Testimony for WAL on 2/19/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Keoni Shizuma	Individual	Support	Written Testimony Only

Comments:

Aloha,

I am testifying in support of HB2231.

As most bones found are of concern as they are Native Hawaiian remains, it makes sense for the Office of Hawaiian Affairs to oversee appointment to the burial councils. They have in the past provided helpful information on burial knowledge, and should be provided funds to provide training for members on the burial council.

Mahalo for your consideration,
Keoni Shizuma

HB-2231

Submitted on: 2/19/2026 8:01:36 AM

Testimony for WAL on 2/19/2026 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Shelby "Pikachu" Billionaire	Kingdom of The Hawaiian Islands & Ohana uNity Party	Support	Written Testimony Only

Comments:

****Testimony in STRONG Support of HB2231****

****Relating to Island Burial Councils****

**** Aloha Chair and Members of the Committee,**

Mahalo for the opportunity to testify in ****STRONG SUPPORT**** of ****HB2231****, a vital measure to strengthen protections for iwi kūpuna and advance Native Hawaiian self-determination. This bill transfers appointment authority for the five Island Burial Councils (IBCs)—Hawai‘i, Maui/Lāna‘i, Moloka‘i, O‘ahu, and Kaua‘i/Ni‘ihau—from the Governor (with Senate consent) to the ****Board of Trustees of the Office of Hawaiian Affairs (OHA)****. It amends HRS §6E-43.5 to: - Require OHA to handle appointments from culturally appropriate lists, with public notice, at least one public hearing, and transparent selection standards (rules under Chapter 91).

- Allow OHA to adopt procedures and qualifications for culturally fitting members who understand Native Hawaiian burial beliefs, customs, history, and practices. - Maintain council composition: 9 members per council (5 for Moloka‘i), with limits on development/large landowner reps and emphasis on regional Hawaiian representatives.

- Clarify terms (4 years, max 8 consecutive), holdover limits, vacancy filling for unexpired terms, and removal for cause after notice/hearing. - Preserve existing duties: determining preservation/relocation of burials, assisting inventories, recommending management/protection, electing chairs, and maintaining notification lists.

- Ensure continuity: Current members serve until reappointed or replaced by OHA; no one holds office beyond the fourth regular legislative session after effective date.

- Effective upon approval.

Why This Bill is Essential Island Burial Councils are the frontline guardians of iwi kūpuna under HRS Chapter 6E—making decisions on treatment plans, recognizing lineal/cultural descendants, and balancing preservation with development. Chronic issues plague them:

- ****Vacancies and Delays****: Governor/Senate appointments often lag due to political bottlenecks, leaving councils short-staffed.
- ****Quorum Challenges****: Inability to meet majority requirements stalls critical decisions on burials discovered during construction, leading to rushed or inadequate outcomes and community distrust.
- ****Cultural Misalignment****: State-led appointments sometimes lack deep genealogical or cultural ties, undermining trust in protecting ancestral remains. By shifting authority to OHA—the constitutionally mandated agency for Native Hawaiian betterment (Article XII)—HB2231 ensures appointments are pono, culturally grounded, and reflective of community needs. OHA already recruits and recommends candidates; this formalizes that role, reduces delays, fills vacancies faster, and builds confidence in the process. It advances self-determination without changing council duties or composition—only who appoints to make it more effective. I have testified in strong support of every OHA package bill this session (e.g., HB2102 on historic preservation, HB2104 companion on IBC operational fixes like quorum/per diem/vacancies, HB2584 on PLT funding). HB2231 complements those efforts by addressing the root administrative barrier to strong IBC function. It honors the legacy of the 1893 overthrow and our kuleana to mālama iwi kūpuna with dignity. Pass HB2231 without weakening amendments to empower OHA, restore trust, and protect our kūpuna.

Mahalo nui loa for your kuleana. Imua for justice and cultural integrity! \Respectfully submitted,

Pikachu Shelby “Pikachu” Billionaire HRM

Kingdom of The Hawaiian Islands H.I. Ohana Unity Party