

ACT 169

H.B. NO. 207

A Bill for an Act Relating to Training.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that pursuant to Hawaii's constitution, statutes, and case law, the State recognizes a mandate to protect native Hawaiian and Hawaiian traditional and customary rights.

Certain state councils, boards, and commissions administer public trust resources and programs that directly impact native Hawaiian and Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust. As entities of the State, these councils, boards, and commissions have a duty to protect and preserve these rights and a fiduciary duty to administer the public trust in the interest of the beneficiaries, including native Hawaiians and Hawaiians. The legislature finds that newly appointed members of these state councils, boards, and commissions represent a broad range of expertise and experience and therefore may not possess, upon their appointment, knowledge of native Hawaiian and Hawaiian rights and the public trust that would enable them to execute their roles and be fully informed of their responsibilities.

Chapter 10, Hawaii Revised Statutes, indicates that the office of Hawaiian affairs is the principal public agency responsible for ensuring that other state agencies protect native Hawaiian and Hawaiian rights. Section 10-1(b), Hawaii Revised Statutes, specifies that "[i]t shall be the duty and responsibility of all state departments and instrumentalities of state government providing services and programs which affect native Hawaiians and Hawaiians to actively work toward the goals of this chapter and to cooperate with and assist wherever possible the office of Hawaiian affairs."

Section 10-3, Hawaii Revised Statutes, states:

“The purposes of the office of Hawaiian affairs include:

- (3) Serving as the principal public agency in this State responsible for the performance, development, and coordination of programs and activities relating to native Hawaiians and Hawaiians; except that the Hawaiian Homes Commission Act, 1920, as amended, shall be administered by the Hawaiian homes commission;
- (4) Assessing the policies and practices of other agencies impacting on native Hawaiians and Hawaiians, and conducting advocacy efforts for native Hawaiians and Hawaiians[.]”

Therefore, the legislature finds that to prepare these state appointees to fulfill their roles and responsibilities fully informed of their duties and obligations, these state appointees should be provided with training.

The legislature further finds that the office of Hawaiian affairs is the appropriate agency to train and educate the members of appropriate councils, boards, and commissions about native Hawaiian and Hawaiian traditional and customary rights, natural resource protection and access rights, and the public trust.

The purpose of this Act is to:

- (1) Require the office of Hawaiian affairs to establish, design, and administer a training course on native Hawaiian and Hawaiian rights, the source of these rights, and how infringement of these rights affects the native Hawaiian and Hawaiian people;
- (2) Require members of appropriate state councils, boards, and commissions to take the training course; and
- (3) Allow other state or county officers, representatives, or employees to request to enroll in the training course.

The legislature finds that since January 2013, the office of Hawaiian affairs has offered three such training courses, which have attracted attendees representing a broad spectrum of state and county government officials. An overwhelming majority of attendees that completed surveys expressed their satisfaction with the training courses' content, materials, and presentations. Furthermore, attendees agreed that the training course helped them to better understand native Hawaiian and Hawaiian traditional and customary rights, natural resource protection, access rights, and the public trust. Finally, the number of requests to attend the three courses already offered and the numerous inquiries regarding additional courses reflect a substantial demand for training.

SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . TRAINING; CERTAIN BOARDS, COMMISSIONS, AND COUNCILS; NATIVE HAWAIIAN AND HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS, NATURAL RESOURCE PROTECTION AND ACCESS RIGHTS, AND THE PUBLIC TRUST

§10-A Training; applicability. (a) The training required by this part shall apply to members of the land use commission, board of land and natural resources, commission on water resource management, environmental council, board of directors of the agribusiness development corporation, board of agriculture, legacy land conservation commission, natural area reserves system commission, Hawaii historic places review board, and board of health.

(b) Members of any state council, board, or commission, and any officer, representative, or employee of the State or counties not subject to the training required in subsection (a) may request to enroll in the training course administered by the office of Hawaiian affairs pursuant to section 10-B.

§10-B Training relating to native Hawaiian and Hawaiian traditional and customary rights, natural resources and access rights, and the public trust.

(a) All council, board, and commission members identified in section 10-A(a) shall complete the training course administered by the office of Hawaiian affairs pursuant to this section within twelve months of the date of the member's initial appointment.

(b) The office of Hawaiian affairs, at its own expense, shall establish, design, and administer a training course relating to native Hawaiian and Hawaiian traditional and customary rights, native Hawaiian and Hawaiian natural resource protection and access rights, and the public trust, including the State's trust responsibility. The training course shall include:

- (1) Historical information, explanations, and discussions of key state laws, state constitutional provisions, and court rulings that reaffirm and provide for the protection of native Hawaiian and Hawaiian rights; and
- (2) A discussion of the importance of public trust resources and various programs to native Hawaiian and Hawaiian rights.

(c) The office of Hawaiian affairs, at its own expense, shall develop the methods and prepare any materials necessary to implement the training course, administer the training course, and notify each council, board, and commission identified in section 10-A(a) that attendance in a training course is mandatory.

(d) The office of Hawaiian affairs shall offer the training course at least twice per year.

(e) The governor shall provide to the office of Hawaiian affairs the names of persons required to take the training course pursuant to this part within thirty calendar days of their initial appointment by the governor."

SECTION 3. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 4. This Act shall take effect on July 1, 2015.

(Approved June 30, 2015.)