
A BILL FOR AN ACT

RELATING TO HA`IKU VALLEY.

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

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

10 The legislature further finds that ownership of the valley
11 is segmented among several entities. The valley's segmented
12 ownership and limited stewardship have placed its cultural and
13 historic resources at high risk. Adequate management and
14 appropriate access to the valley have proven elusive.

15 The purpose of this Act is to establish the Ha'iku Valley
16 cultural preserve commission, which shall have policy and
17 management oversight of the Ha'iku Valley cultural preserve. The
18 establishment of the commission will provide a system that



1 recognizes the valley's unique challenges and preserves in
2 perpetuity its cultural and historic resources for the people of
3 Hawai'i.

4 SECTION 2. The Hawaii Revised Statutes is amended by
5 adding a new chapter to be appropriately designated and to read
6 as follows:

7 "CHAPTER

8 HA'IKU VALLEY CULTURAL PRESERVE

9 § -1 **Administration of chapter.** The Ha'iku valley
10 cultural preserve commission and the office of Hawaiian affairs
11 shall administer this chapter.

12 § -2 **Definitions.** As used in this chapter, unless the
13 context otherwise requires:

14 "Commission" means the Ha'iku valley cultural preserve
15 commission.

16 "Office" means the office of Hawaiian affairs.

17 "Valley cultural preserve" means the area designated as
18 Ha'iku valley.

19 § -3 **Reservation of uses.** (a) The Ha'iku valley
20 cultural preserve shall be used solely and exclusively for the
21 following purposes:



- 1 (1) Preservation and practice of all rights customarily
- 2 and traditionally exercised by native Hawaiians for
- 3 cultural, spiritual, and subsistence purposes;
- 4 (2) Preservation and protection of the area's cultural,
- 5 archaeological, historical, and environmental
- 6 resources;
- 7 (3) Rehabilitation, revegetation, habitat restoration, and
- 8 preservation;
- 9 (4) Education; and
- 10 (5) Other purposes as determined by the commission.
- 11 (b) The valley shall be reserved in perpetuity for the
- 12 uses enumerated in this section. Commercial uses shall be
- 13 strictly prohibited.

14 **§ -4 Powers and duties of the office.** The office and

15 other departments and agencies of the State shall be subject to

16 the oversight of the commission with regard to the control and

17 management of the valley cultural preserve. Subject to section

18 -6, the office shall:

- 19 (1) Implement controls and permitted uses for the valley
- 20 cultural preserve;
- 21 (2) Enforce this chapter;
- 22 (3) Provide administrative support to the commission; and



1 (4) Authorize those of its employees as it deems
2 reasonable and necessary to serve and execute warrants
3 and arrest offenders or issue citations in all matters
4 relating to enforcement of the laws and rules
5 applicable to the valley cultural preserve.

6 § -5 **Commission.** (a) There is established the Ha'iku
7 valley cultural preserve commission to be placed within the
8 office of Hawaiian affairs for administrative purposes as
9 provided in section 26-35. The commission shall consist of nine
10 members to be appointed in the manner and to serve for the terms
11 provided in section 26-34; provided that:

- 12 (1) One member shall be a member of the Ko'olau Foundation;
13 (2) Two members shall be appointed by the governor from a
14 list provided by the Ko'olaupoko Hawaiian Civic Club;
15 (3) One member shall be a representative of the office of
16 Hawaiian affairs;
17 (4) One member shall be an official of the city and county
18 of Honolulu appointed by the governor from a list of
19 nominees provided by the mayor of the city and county
20 of Honolulu;
21 (5) One member shall be a representative of the board of
22 land and natural resources;



1 (6) One member shall be appointed by the governor from a
2 list provided by native Hawaiian organizations; and

3 (7) Two members shall be appointed by the governor from a
4 list provided by the kupa'aina families living on the
5 kuleana lands in the valley cultural preserve.

6 (b) The chairperson shall be elected from among the
7 members of the commission and by the members of the commission.

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

12 (d) Any action taken by the commission shall be approved
13 by a simple majority of its members. Five members shall
14 constitute a quorum to do business.

15 (e) The commission, without regard to the requirements of
16 chapter 76, may hire employees necessary to perform its duties.

17 § -6 **Powers and duties of the commission.** The general
18 administration of the valley cultural preserve shall rest with
19 the commission. The commission:

20 (1) Shall establish criteria, policies, and controls for
21 permissible uses within the valley cultural preserve;



- 1 (2) Shall approve all contracts for services and rules
2 pertaining to the valley cultural preserve;
- 3 (3) Shall provide advice to the office, the governor, the
4 department of land and natural resources, and other
5 departments and agencies on any matter relating to the
6 valley cultural preserve;
- 7 (4) Shall provide advice to the office of planning and the
8 department of the attorney general on any matter
9 relating to the conveyance of the valley cultural
10 preserve to the office;
- 11 (5) May enter into curator or stewardship agreements with
12 appropriate Hawaiian cultural and spiritual community
13 organizations for the perpetuation of native Hawaiian
14 cultural, religious, and subsistence customs, beliefs,
15 and practices;
- 16 (6) Shall have those powers and duties concerning the
17 valley cultural preserve otherwise conferred upon the
18 city and county of Honolulu by chapter 205A;
- 19 (7) Shall adopt rules in accordance with chapter 91 that
20 are necessary to administer this chapter and shall
21 maintain a record of its proceedings and actions;

1 (8) May delegate to any executive director or employees of
2 the commission, by formal commission action, such
3 power and authority vested in the commission by this
4 chapter as the commission deems reasonable and proper
5 for the effective administration of this chapter; and
6 (9) May solicit and accept grants, donations, and
7 contributions for deposit into the Ha'iku valley
8 cultural preserve trust fund to support the purposes
9 of this chapter.

10 § -7 **Farming.** Notwithstanding section -3, the
11 commission shall adopt rules pursuant to chapter 91 to permit
12 farming activities in the valley cultural preserve that are
13 consistent with the purposes of this chapter and that take into
14 consideration the health and safety of the general public.

15 § -8 **Penalty.** Any person who violates any of the laws
16 or rules applicable to the valley cultural preserve shall be
17 guilty of a petty misdemeanor and shall be fined not more than
18 \$1,000, imprisoned not more than thirty days, or both, for each
19 offense. Each day of each violation shall be deemed a separate
20 offense.

21 § -9 **General administrative penalties.** (a) Except as
22 otherwise provided by law, the commission is authorized to set,



1 charge, and collect administrative fines, or bring legal action
2 to recover administrative costs of the commission or the
3 department of land and natural resources, or collect payment for
4 damages or for the cost of correcting damages resulting from a
5 violation of this chapter or any rule adopted hereunder. The
6 administrative fines shall be as follows:

7 (1) For a first violation, a fine of not more than
8 \$10,000;

9 (2) For a second violation within five years of a previous
10 violation, a fine of not more than \$15,000; and

11 (3) For a third or subsequent violation within five years
12 of the last violation, a fine of not more than
13 \$25,000.

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

18 (c) The remedies or penalties provided by this chapter are
19 cumulative and to each other and to the remedies and penalties
20 provided by any other law.



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; and

8 (4) The administrative penalty remains unpaid.

9 (e) For purposes of this section:

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

14 "Historic property" means any building, structure, object,
15 district, landscape, area, or site, including a heiau and an
16 underwater site, that is over fifty years old.

17 § -10 **Transfer.** Upon its conveyance to the office, all
18 terms, conditions, agreements, and laws affecting the valley
19 shall remain in effect unless expressly terminated.

20 § -11 **Ha'iku valley cultural preserve trust fund.** (a)

21 There is created in the state treasury a trust fund to be
22 designated as the Ha'iku valley cultural preserve trust fund to



1 be administered by the office with the prior approval of the
2 commission. Subject to this chapter:

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

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

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

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

11 shall be deposited in the trust fund and shall be used to
12 fulfill the purposes of this chapter.

13 (b) The commission may use moneys in the trust fund to
14 carry out the purposes of this chapter, including hiring
15 employees, specialists, and consultants necessary to complete
16 projects related to the purposes of this chapter.

17 (c) Moneys deposited into or appropriated to the trust
18 fund shall remain available until they are obligated or until
19 the trust fund is terminated.

20 (d) If the trust fund is terminated, all funds shall be
21 transferred to the general fund; provided that all unexpended or
22 unencumbered balances shall be disbursed in accordance with any



1 requirements set by funding sources and for purposes consistent
2 with this chapter.

3 (e) The commission shall submit an annual report on the
4 status of the Ha`iku valley cultural preserve trust fund to the
5 legislature no later than twenty days prior to the convening of
6 each regular session of the legislature. The annual report
7 shall include the total number of and amount of grants,
8 donations, and contributions received and balances remaining on
9 June 30 of each year.

10 § -12 **Severability.** If any provision of this chapter or
11 the application thereof to any person or circumstance is held
12 invalid, the invalidity shall not affect other provisions or
13 applications of this chapter that can be given effect without
14 the invalid provision or application, and to this end the
15 provisions of this chapter are severable."

16 SECTION 3. The office of planning and the department of
17 the attorney general, after consulting with the Ha`iku valley
18 cultural preserve commission, are authorized to initiate the
19 conveyance of all of the Ha`iku valley cultural preserve in fee
20 simple to the office of Hawaiian affairs; provided that before
21 the Ha`iku valley cultural preserve commission is conveyed to the



1 office, agreements shall be executed with respect to liability,
2 monetary resources, and removal of hazardous wastes.

3 SECTION 4. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2008-2009 for
6 the purposes of this Act, including but not limited to the
7 acquisition of the valley cultural preserve by the office of
8 Hawaiian affairs.

9 The sum appropriated shall be expended by the office of
10 Hawaiian affairs for the purposes of this Act.

11 SECTION 5. This Act shall take effect on July 1, 2020.



Report Title:

Ha'iku Valley

Description:

Establishes the Ha'iku Valley cultural preserve commission to exercise policy and management oversight of the Ha'iku Valley cultural preserve. (HB2704 HD2)

