
A BILL FOR AN ACT

RELATING TO BURIAL SITES.

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

1 SECTION 1. Section 6E-43, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
3 "(b) All burial sites are significant and shall be
4 preserved in place until compliance with this section is met,
5 except as provided in section 6E-43.6. The appropriate island
6 burial council shall determine whether preservation in place or
7 relocation of previously identified native Hawaiian burial sites
8 is warranted, following criteria which shall include recognition
9 that burial sites of high preservation value, such as areas with
10 a concentration of skeletal remains, or prehistoric or historic
11 burials associated with important individuals and events, or
12 areas that are within a context of historic properties, or have
13 known lineal descendants, shall receive greater consideration
14 for preservation in place. The criteria shall be developed by
15 the department in consultation with the councils, office of
16 Hawaiian affairs, representatives of development and large
17 property owner interests, and appropriate Hawaiian

1 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei, Alu
2 Like, Inc., the Association of Hawaiian Civic Clubs, the Council
3 for Native Hawaiian Advancement, the Kanaka Council, and
4 representatives of the Hawaiian benevolent societies and the
5 Hawaiian royal orders, through rules adopted pursuant to
6 chapter 91. A council's determination shall be rendered within
7 forty-five days of referral by the department unless otherwise
8 extended by agreement between the landowner and the department."

9 SECTION 2. Section 6E-43.5, Hawaii Revised Statutes, is
10 amended by amending subsections (b) and (c) to read as follows:

11 "(b) Appointment of members to the councils shall be made
12 by the governor, in accordance with section 26-34, from a list
13 provided by the department, provided that a minimum of twenty
14 per cent of the regional representatives shall be appointed from
15 a list of at least nine candidates provided by the office of
16 Hawaiian affairs. The department shall develop the list in
17 consultation with appropriate Hawaiian organizations, such as
18 Hui Malama I Na Kupuna O Hawai'i Nei[~~-~~], Alu Like, Inc., the
19 Association of Hawaiian Civic Clubs, the Council for Native
20 Hawaiian Advancement, the Kanaka Council, and representatives of
21 the Hawaiian benevolent societies and the Hawaiian royal orders.

22 The membership of each council shall include at least one

1 representative from each geographic region of the island as well
2 as representatives of development and large property owner
3 interests. Regional representatives shall be selected from the
4 Hawaiian community on the basis of their understanding of the
5 culture, history, burial beliefs, customs, and practices of
6 native Hawaiians. The councils shall have a minimum of nine and
7 a maximum of fifteen members, and have a ratio of not more than
8 three to one and no less than two to one in favor of regional
9 representatives.

10 (c) The department, in consultation with the councils,
11 office of Hawaiian affairs, representatives of development and
12 large property owner interests, and appropriate Hawaiian
13 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei, Alu
14 Like, Inc., the Association of Hawaiian Civic Clubs, the Council
15 for Native Hawaiian Advancement, the Kanaka Council, and
16 representatives of the Hawaiian benevolent societies and the
17 Hawaiian royal orders, shall adopt rules pursuant to chapter 91
18 necessary to carry out the purposes of this section. The
19 council members shall serve without compensation, but shall be
20 reimbursed for necessary expenses, including travel expenses,
21 incurred during the performance of their duties. The councils
22 shall be a part of the department for administrative purposes."

1 SECTION 3. Section 6E-43.6, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) After notification of the discovery of multiple
4 skeletons, the following shall be done within two working days,
5 if on Oahu, and three working days, if in other council
6 jurisdictions:

7 (1) A representative of the medical examiner or coroner's
8 office and a qualified archaeologist shall examine the
9 remains to determine jurisdiction. If the remains are
10 the responsibility of the medical examiner or coroner,
11 the department's involvement shall end. If the
12 remains are historic or prehistoric burials, then the
13 remainder of this section shall apply;

14 (2) The department shall gather sufficient information,
15 including oral tradition, to document the nature of
16 the burial context and determine appropriate treatment
17 of the remains. Members of the appropriate council
18 shall be allowed to oversee the on-site examination
19 and, if warranted, removal; and

20 (3) If removal of the remains is warranted, based on
21 criteria developed by the department, in consultation
22 with the councils, office of Hawaiian affairs,

1 representatives of development and large property
2 owner interests, and appropriate Hawaiian
3 organizations, such as Hui Malama I Na Kupuna O Hawai'i
4 Nei, Alu Like, Inc., the Association of Hawaiian Civic
5 Clubs, the Council for Native Hawaiian Advancement,
6 the Kanaka Council, and representatives of the
7 Hawaiian benevolent societies and the Hawaiian royal
8 orders, through rules adopted pursuant to chapter 91,
9 the removal of the remains shall be overseen by a
10 qualified archaeologist and a mitigation plan shall be
11 prepared by the department or with the concurrence of
12 the department."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Burial Sites

Description:

Includes additional native Hawaiian organizations for the DLNR to consult with to determine whether a burial site should be preserved in place or relocated and to develop a list of candidates for the burial councils. (SD1)