

JAN 26 2009

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## 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, and representatives of the  
4 Hawaiian Benevolent Societies and the Hawaiian Royal Orders,  
5 through rules adopted pursuant to chapter 91. A council's  
6 determination shall be rendered within forty-five days of  
7 referral by the department unless otherwise extended by  
8 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, and representatives of the Hawaiian  
21 Benevolent Societies and the Hawaiian Royal Orders. The  
22 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, and representatives of the  
16 Hawaiian Benevolent Societies and the Hawaiian Royal Orders,  
17 shall adopt rules pursuant to chapter 91 necessary to carry out  
18 the purposes of this section. The council members shall serve  
19 without compensation, but shall be reimbursed for necessary  
20 expenses, including travel expenses, incurred during the  
21 performance of their duties. The councils shall be a part of  
22 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

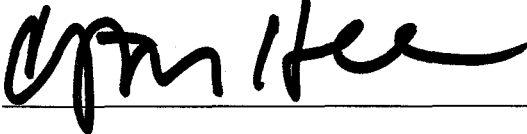
20 (3) If removal of the remains is warranted, based on  
21 criteria developed by the department, in consultation  
22 with the councils, office of Hawaiian affairs,



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 and representatives of the Hawaiian Benevolent  
 7 Societies and the Hawaiian Royal Orders, through rules  
 8 adopted pursuant to chapter 91, the removal of the  
 9 remains shall be overseen by a qualified archaeologist  
 10 and a mitigation plan shall be prepared by the  
 11 department or with the concurrence of the department."

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 Statutory material to be repealed is bracketed  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

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

15 INTRODUCED BY: 



**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.

