
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., Association of Hawaiian Civic Clubs, Council for
3 Native Hawaiian Advancement, Kanaka Council, Kamakakuokalani
4 Center for Hawaiian Studies at the University of Hawaii,
5 historic preservation division, island burial councils, and
6 representatives of the Hawaiian benevolent societies and the
7 Hawaiian royal orders, through rules adopted pursuant to
8 chapter 91. A council's determination shall be rendered within
9 forty-five days of referral by the department unless otherwise
10 extended by agreement between the landowner and the department."

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

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



1 Studies at the University of Hawaii, historic preservation
2 division, island burial councils, and representatives of the
3 Hawaiian benevolent societies and the Hawaiian royal orders.

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

14 (c) The department, in consultation with the councils,
15 office of Hawaiian affairs, representatives of development and
16 large property owner interests, and appropriate Hawaiian
17 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei, Alu
18 Like, Inc., Association of Hawaiian Civic Clubs, Council for
19 Native Hawaiian Advancement, Kanaka Council, Kamakakuokalani
20 Center for Hawaiian Studies at the University of Hawaii,
21 historic preservation division, island burial councils, and
22 representatives of the Hawaiian benevolent societies and the



1 Hawaiian royal orders shall adopt rules pursuant to chapter 91
2 necessary to carry out the purposes of this section. The
3 council members shall serve without compensation, but shall be
4 reimbursed for necessary expenses, including travel expenses,
5 incurred during the performance of their duties. The councils
6 shall be a part of the department for administrative purposes."

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

9 "(c) After notification of the discovery of multiple
10 skeletons, the following shall be done within two working days,
11 if on Oahu, and three working days, if in other council
12 jurisdictions:

13 (1) A representative of the medical examiner or coroner's
14 office and a qualified archaeologist shall examine the
15 remains to determine jurisdiction. If the remains are
16 the responsibility of the medical examiner or coroner,
17 the department's involvement shall end. If the
18 remains are historic or prehistoric burials, then the
19 remainder of this section shall apply;

20 (2) The department shall gather sufficient information,
21 including oral tradition, to document the nature of
22 the burial context and determine appropriate treatment



1 of the remains. Members of the appropriate council
2 shall be allowed to oversee the on-site examination
3 and, if warranted, removal; and

4 (3) If removal of the remains is warranted, based on
5 criteria developed by the department, in consultation
6 with the councils, office of Hawaiian affairs,
7 representatives of development and large property
8 owner interests, and appropriate Hawaiian
9 organizations, such as Hui Malama I Na Kupuna O Hawai'i
10 Nei, Alu Like, Inc., Association of Hawaiian Civic
11 Clubs, Council for Native Hawaiian Advancement, Kanaka
12 Council, Kamakakuokalani Center for Hawaiian Studies
13 at the University of Hawaii, historic preservation
14 division, island burial councils, and representatives
15 of the Hawaiian benevolent societies and the Hawaiian
16 royal orders, through rules adopted pursuant to
17 chapter 91, the removal of the remains shall be
18 overseen by a qualified archaeologist and a mitigation
19 plan shall be prepared by the department or with the
20 concurrence of the department."

21 SECTION 4. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.



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



S.B. NO. 1083
S.D. 1
H.D. 1

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. (SB1083 HD1)

SB1083 HD1 HMS 2009-3400

