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## A BILL FOR AN ACT

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

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

1           SECTION 1. The purpose of this Act is to transfer the  
2 functions and responsibilities for the preservation and  
3 protection of native Hawaiian burial sites, as well as the  
4 island burial councils, from the historic preservation division  
5 of the department of land and natural resources to the office of  
6 Hawaiian affairs. Oversight of historic cemeteries and burial  
7 sites of other cultural groups shall remain in the historic  
8 preservation division.

9           SECTION 2. Section 6D-8, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           " [H] §6D-8 [H] Burial discovery. Anyone traversing a cave  
12 who discovers a burial site shall immediately cease their  
13 activity and leave the cave. The discovery shall be reported as  
14 soon as possible to the department [H] and the office of Hawaiian  
15 affairs. The department shall follow the procedures described  
16 in section 6E-43.6."

17           SECTION 3. Section 6E-3, Hawaii Revised Statutes, is  
18 amended to read as follows:



1           "§6E-3 Historic preservation program. There is  
2 established within the department a division to administer a  
3 comprehensive historic preservation program, which shall include  
4 but not be limited to the following:

5           (1) Development of an on-going program of historical,  
6 architectural, and archaeological research and  
7 development, including surveys, excavations,  
8 scientific recording, interpretation, and publications  
9 on the State's historical and cultural resources;

10          (2) Acquisition of historic or cultural properties, real  
11 or personal, in fee or in any lesser interest, by  
12 gift, purchase, condemnation, devise, bequest, land  
13 exchange, or other means; preservation, restoration,  
14 administration, or transference of the property; and  
15 the charging of reasonable admissions to that  
16 property;

17          (3) Development of a statewide survey and inventory to  
18 identify and document historic properties, aviation  
19 artifacts, and burial sites, including all those owned  
20 by the State and the counties;



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- 1           (4)   Preparation of information for the Hawaii register of  
2           historic places and listing on the national register  
3           of historic places;
- 4           (5)   Preparation, review, and revisions of a state historic  
5           preservation plan, including budget requirements and  
6           land use recommendations;
- 7           (6)   Application for and receipt of gifts, grants,  
8           technical assistance, and other funding from public  
9           and private sources for the purposes of this chapter;
- 10          (7)   Provision of technical and financial assistance to the  
11          counties and public and private agencies involved in  
12          historic preservation activities;
- 13          (8)   Coordination of activities of the counties in  
14          accordance with the state plan for historic  
15          preservation;
- 16          (9)   Stimulation of public interest in historic  
17          preservation, including the development and  
18          implementation of interpretive programs for historic  
19          properties listed on or eligible for the Hawaii  
20          register of historic places;
- 21          (10)  Coordination of the evaluation and management of  
22          burial sites as provided in section 6E-43; provided



1           that any burial site of native Hawaiian origin shall  
2           be evaluated and managed by the office of Hawaiian  
3           affairs;

4           (11) Acquisition of burial sites in fee or in any lesser  
5           interest, by gift, purchase, condemnation, devise,  
6           bequest, land exchange, or other means, to be held in  
7           trust;

8           (12) Submittal of an annual report to the governor and  
9           legislature detailing the accomplishments of the year,  
10          recommendations for changes in the state plan or  
11          future programs relating to historic preservation, and  
12          an accounting of all income, expenditures, and the  
13          fund balance of the Hawaii historic preservation  
14          special fund;

15          (13) Regulation of archaeological activities throughout the  
16          State;

17          (14) Employment of sufficient professional and technical  
18          staff for the purposes of this chapter which may be in  
19          accordance with chapter 76;

20          (15) The charging of fees to at least partially defray the  
21          costs of administering [~~sections 6E-3(13),~~] paragraph  
22          (13) and sections 6E-8 [7] and 6E-42 [of this chapter];



1           (16) Adoption of rules in accordance with chapter 91,  
2                    necessary to carry out the purposes of this chapter;  
3                    and

4           (17) Development and adoption, in consultation with the  
5                    office of Hawaiian affairs native Hawaiian historic  
6                    preservation council, of rules governing permits for  
7                    access by native Hawaiians and Hawaiians to cultural,  
8                    historic, and pre-contact sites and monuments."

9           SECTION 4. Section 6E-7, Hawaii Revised Statutes, is  
10           amended by amending subsections (b), (c), and (d) to read as  
11           follows:

12           "(b) The department may dispose of the historic property  
13           subject to chapter 171 and subject further to those  
14           reservations, restrictions, covenants, or conditions [~~whieh~~  
15           that relate to the preservation of the historic property, such  
16           as rights of access, public visitation, operation, maintenance,  
17           restoration, and repair. The department shall determine the  
18           conditions for any research affecting the historic property and  
19           may issue permits for the research[-]; provided that any burial  
20           site of native Hawaiian origin shall be evaluated and managed by  
21           the office of Hawaiian affairs.



1 (c) The State shall hold known burial sites located on  
2 lands or under waters owned or controlled by the State in trust  
3 for preservation or proper disposition by the office of Hawaiian  
4 affairs and the lineal or cultural descendants.

5 (d) The State shall not transfer any historic property or  
6 aviation artifact under its jurisdiction without the concurrence  
7 of the department, and shall not transfer any burial site under  
8 its jurisdiction without consulting the office of Hawaiian  
9 affairs and the appropriate island burial council."

10 SECTION 5. Section 6E-8, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) Before any agency or officer of the State or its  
13 political subdivisions commences any project which may affect  
14 historic property, aviation artifact, or a burial site, the  
15 agency or officer shall advise the department and allow the  
16 department an opportunity for review of the effect of the  
17 proposed project on historic properties, aviation artifacts, or  
18 burial sites, consistent with section 6E-43, especially those  
19 listed on the Hawaii register of historic places[-]; provided  
20 that where the project may affect or impact a prehistoric or  
21 historic burial site that may be associated with the native  
22 Hawaiian people, the effect of the proposed project shall be



1 reviewed by the office of Hawaiian affairs. The proposed  
2 project shall not be commenced, or in the event it has already  
3 begun, continued, until the department or the office of Hawaiian  
4 affairs, as appropriate, shall have given its written  
5 concurrence.

6 The department [~~is to~~] or the office of Hawaiian affairs  
7 shall provide written concurrence or non-concurrence within  
8 ninety days after the filing of a request [~~with the department~~].  
9 The agency or officer seeking to proceed with the project, or  
10 any person, may appeal the department's or the office of  
11 Hawaiian affairs' concurrence or non-concurrence to the Hawaii  
12 historic places review board. An agency, officer, or other  
13 person who is dissatisfied with the decision of the review board  
14 may apply to the governor, who may request the Hawaii advisory  
15 council on historic preservation to report or who may take  
16 action as the governor deems best in overruling or sustaining  
17 the department[~~-~~] or the office of Hawaiian affair."

18 SECTION 6. Section 6E-11, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By amending subsection (b) to read as follows:

21 "(b) It shall be a civil and administrative violation for  
22 any person to knowingly take, appropriate, excavate, injure,



1 destroy, or alter any burial site, or the contents thereof,  
2 located on private lands or lands owned or controlled by the  
3 State or any of its political subdivisions, except as permitted  
4 by the department, to knowingly fail to re-inter human remains  
5 discovered on the lands in a reasonable period of time as  
6 determined by the department, or to knowingly violate the  
7 conditions set forth in an approved mitigation plan that  
8 includes monitoring and preservation plans[-]; provided that, if  
9 the burial site, or the contents thereof, is of native Hawaiian  
10 origin the permits, approvals, and conditions shall be sought  
11 from the office of Hawaiian affairs."

12 2. By amending subsection (e) to read as follows:

13 "(e) It shall be a civil and administrative violation for  
14 any person to knowingly glue together any human skeletal  
15 remains, label any human skeletal remains with any type of  
16 marking pen, or conduct any tests that destroy human skeletal  
17 remains, as defined in section 6E-2, except as permitted by the  
18 department[-] or the office of Hawaiian affairs, as  
19 appropriate."

20 SECTION 7. Section 6E-12, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:

22 "(b) It shall be unlawful for any person to:





1 (1) Offer for sale or exchange any exhumed prehistoric or  
2 historic human skeletal remains or associated burial  
3 goods; or

4 (2) Remove those goods or remains, except those remains  
5 fabricated into artifacts prehistorically, from the  
6 jurisdiction of the State;

7 without obtaining a permit from the department [ ] or from the  
8 office of Hawaiian affairs if the human skeletal remains or  
9 associated burial goods is of native Hawaiian origin."

10 SECTION 8. Section 6E-41, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) Any person removing or redesignating any cemetery  
13 shall comply with the following requirements:

14 (1) Publish a notice in a newspaper of general circulation  
15 in the State, requesting persons having information  
16 concerning the cemetery or persons buried in it to  
17 report that information to the department;

18 (2) Photograph the cemetery generally, and take separate  
19 photographs of all headstones located in the cemetery;

20 (3) Turn over to the department all photographs and any  
21 other relevant historical records;

22 (4) Move all headstones to the place of reinterment; and



1           (5) Obtain the written concurrence of the department prior  
2           to any removal or redesignation if the cemetery has  
3           existed for more than fifty years[-]; provided that if  
4           the cemetery is of native Hawaiian origin, written  
5           concurrence of the office of Hawaiian affairs shall be  
6           required."

7           SECTION 9. Section 6E-42, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9           "(a) Before any agency or officer of the State or its  
10 political subdivisions approves any project involving a permit,  
11 license, certificate, land use change, subdivision, or other  
12 entitlement for use[~~,- which~~] that may affect historic property,  
13 aviation artifacts, or a burial site, the agency or office shall  
14 advise the department, or the office of Hawaiian affairs if it  
15 is a burial site of native Hawaiian origin, and prior to any  
16 approval allow the department or the office of Hawaiian affairs  
17 an opportunity for review and comment on the effect of the  
18 proposed project on historic properties, aviation artifacts, or  
19 burial sites, consistent with section 6E-43, including those  
20 listed in the Hawaii register of historic places."

21           SECTION 10. Section 6E-43, Hawaii Revised Statutes, is  
22 amended by amending subsections (a) to (d) to read as follows:



1           "(a) At any site, other than a known, maintained, actively  
2 used cemetery where human skeletal remains are discovered or are  
3 known to be buried and appear to be over fifty years old, the  
4 remains and their associated burial goods shall not be moved  
5 without the department's approval[-]; provided that, if the  
6 burial site is of native Hawaiian origin approval shall be  
7 required of the office of Hawaiian affairs.

8           (b) All burial sites are significant and shall be  
9 preserved in place until compliance with this section is met,  
10 except as provided in section 6E-43.6. The appropriate island  
11 burial council shall determine whether preservation in place or  
12 relocation of previously identified native Hawaiian burial sites  
13 is warranted, following criteria [~~which~~] that shall include  
14 recognition that burial sites of high preservation value, such  
15 as areas with a concentration of skeletal remains, or  
16 prehistoric or historic burials associated with important  
17 individuals and events, or areas that are within a context of  
18 historic properties, or have known lineal descendants, shall  
19 receive greater consideration for preservation in place. The  
20 criteria shall be developed by the [~~department~~] office of  
21 Hawaiian affairs in consultation with the councils, [~~office of~~  
22 ~~Hawaiian affairs,~~] representatives of development and large



1 property owner interests, and appropriate Hawaiian  
2 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei,  
3 through rules adopted pursuant to chapter 91. A council's  
4 determination shall be rendered within forty-five days of  
5 referral [~~by the department~~] unless otherwise extended by  
6 agreement between the landowner and the [~~department-~~] office of  
7 Hawaiian affairs.

8 (c) Council determinations may be administratively  
9 appealed to a panel composed of three council chairpersons and  
10 three members from the board of [~~land and natural resources~~]  
11 trustees of the office of Hawaiian affairs as a contested case  
12 pursuant to chapter 91. In addition to the six members, the  
13 chairperson of the board of [~~land and natural resources~~]  
14 trustees of the office of Hawaiian affairs shall preside over  
15 the contested case and vote only in the event of a tie.

16 (d) Within ninety days following the final determination,  
17 a preservation or mitigation plan shall be approved by the  
18 [~~department~~] office of Hawaiian affairs in consultation with any  
19 lineal descendants, the respective council, other appropriate  
20 Hawaiian organizations, and any affected property owner."

21 SECTION 11. Section 6E-43.5, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§6E-43.5 Island burial councils; creation; appointment;  
2 composition; duties. (a) The [department] office of Hawaiian  
3 affairs shall establish island burial councils for Hawaii,  
4 Maui/Lanai, Molokai, Oahu, and Kauai/Niihau, to implement  
5 section 6E-43.

6           (b) Appointment of members to the councils shall be made  
7 by the governor, in accordance with section 26-34, from a list  
8 provided by the [department, ~~provided that a minimum of twenty~~  
9 ~~per cent of the regional representatives shall be appointed from~~  
10 ~~a list of at least nine candidates provided by the]~~ office of  
11 Hawaiian affairs. The [department] office of Hawaiian affairs  
12 shall develop the list in consultation with appropriate Hawaiian  
13 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei.  
14 The membership of each council shall include at least one  
15 representative from each geographic region of the island as well  
16 as representatives of development and large property owner  
17 interests. Regional representatives shall be selected from the  
18 Hawaiian community on the basis of their understanding of the  
19 culture, history, burial beliefs, customs, and practices of  
20 native Hawaiians. The councils shall have a minimum of nine and  
21 a maximum of fifteen members, and have a ratio of not more than



1 three to one and no less than two to one in favor of regional  
2 representatives.

3 (c) The [~~department,~~] office of Hawaiian affairs, in  
4 consultation with the councils, [~~office of Hawaiian affairs,~~]  
5 representatives of development and large property owner  
6 interests, and appropriate Hawaiian organizations, such as Hui  
7 Malama I Na Kupuna O Hawai'i Nei, shall adopt rules pursuant to  
8 chapter 91 necessary to carry out the purposes of this section.  
9 The council members shall serve without compensation, but shall  
10 be reimbursed for necessary expenses incurred during the  
11 performance of their duties. The councils shall be a part of  
12 the [~~department~~] office of Hawaiian affairs for administrative  
13 purposes.

14 (d) The councils shall hold meetings and acquire  
15 information as they deem necessary and shall communicate their  
16 findings and recommendations to the [~~department,~~] office of  
17 Hawaiian affairs. Notwithstanding section 92-3, whenever the  
18 location and description of burial sites are under  
19 consideration, the councils may hold closed meetings.  
20 Concurrence of a majority of the members present at a meeting  
21 shall be necessary to make any action of a council valid.



1 (e) [~~Department records~~] Records relating to the location  
 2 and description of historic sites, including burial sites, if  
 3 deemed sensitive by a council or the Hawaii historic places  
 4 review board, shall be confidential.

5 (f) The councils shall:

6 (1) Determine the preservation or relocation of previously  
 7 identified native Hawaiian burial sites;

8 (2) Assist the department and the office of Hawaiian  
 9 affairs in the inventory and identification of native  
 10 Hawaiian burial sites;

11 (3) Make recommendations regarding appropriate management,  
 12 treatment, and protection of native Hawaiian burial  
 13 sites, and on any other matters relating to native  
 14 Hawaiian burial sites;

15 (4) Elect a chairperson for a four-year term who shall  
 16 serve for not more than two consecutive terms; and

17 (5) Maintain a list of appropriate Hawaiian organizations,  
 18 agencies, and offices to notify regarding the  
 19 discovery of remains."

20 SECTION 12. Section 6E-43.6, Hawaii Revised Statutes, is  
 21 amended as follows:

22 1. By amending subsection (c) to read:



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

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

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

19           (3) If removal of the remains is warranted, based on  
20 criteria developed by the department[, ] or office of  
21 Hawaiian affairs, as appropriate, in consultation with  
22 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  
 4           Hawai'i Nei, through rules adopted pursuant to chapter  
 5           91, the removal of the remains shall be overseen by a  
 6           qualified archaeologist and a mitigation plan shall be  
 7           prepared by [~~the department~~] or with the concurrence  
 8           of the department[~~-~~] or the office of Hawaiian  
 9           affairs, as appropriate."

10           2. By amending subsections (e) and (f) to read:

11           "(e) The mitigation plan developed by or with the  
 12           concurrence of the department or the office of Hawaiian affairs  
 13           pursuant to subsection (c) (3) shall be carried out in accordance  
 14           with the following:

15           (1) In discoveries related to development where land  
 16           alteration project activities exist, the landowner,  
 17           permittee, or developer shall be responsible for the  
 18           execution of the mitigation plan including relocation  
 19           of remains. Justifiable delays resulting from the  
 20           discovery of burials shall not count against any  
 21           contractor's completion date agreement;



1 (2) Project activities shall resume once necessary  
2 archaeological excavations provided in the mitigation  
3 plan have been completed;

4 (3) In nonproject contexts, the department or the office  
5 of Hawaiian affairs, as appropriate, shall be  
6 responsible for the execution of the mitigation plan  
7 and the relocation of remains; and

8 (4) The department or the office of Hawaiian affairs shall  
9 verify the successful execution of the mitigation  
10 plan.

11 (f) In cases where remains are archaeologically removed,  
12 the department or the office of Hawaiian affairs, as  
13 appropriate, shall determine the place of relocation, after  
14 consultation with the appropriate council, affected property  
15 owners, representatives of the relevant ethnic group, and any  
16 identified lineal descendants, as appropriate. Relocation shall  
17 conform with requirements imposed by the department of health,  
18 and may be accompanied by traditional ceremonies, as determined  
19 by the lineal descendants, or, if no lineal descendants are  
20 identified, the appropriate council or representatives of the  
21 relevant ethnic group that the department or the office of  
22 Hawaiian affairs deems appropriate. Specific or special



1 reinterment requests from lineal or cultural descendants may be  
2 accommodated provided that the additional expenses incurred are  
3 paid by the affected descendants."

4 SECTION 13. Section 6E-72, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) A person commits the offense of taking,  
7 appropriation, excavation, injury, destruction, or alteration of  
8 a burial site if the person knowingly:

9 (1) Takes, appropriates, excavates, injures, destroys, or  
10 alters any burial site or the contents thereof,  
11 located on private land or land owned or controlled by  
12 the State or any of its political subdivisions, except  
13 as permitted by the department [7] or the office of  
14 Hawaiian affairs if the burial site is of native  
15 Hawaiian origin; or

16 (2) Takes, appropriates, excavates, injures, destroys, or  
17 alters any burial site or the contents thereof during  
18 the course of land development or land alteration  
19 activities to which section 6E-42 applies, without  
20 obtaining the required approval."

21 SECTION 14. Section 6K-6, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§6K-6 Responsibilities and duties of the commission. The  
2 general administration of the island reserve shall rest with the  
3 commission. In carrying out its duties and responsibilities,  
4 the commission:

- 5           (1) Shall establish criteria, policies, and controls for  
6           permissible uses within the island reserve;
- 7           (2) Shall approve all contracts for services and rules  
8           pertaining to the island reserve;
- 9           (3) Shall provide advice to the governor, the department,  
10           and other departments and agencies on any matter  
11           relating to the island reserve;
- 12           (4) Shall provide advice to the office of planning and the  
13           department of the attorney general on any matter  
14           relating to the federal conveyance of Kaho'olawe;
- 15           (5) May enter into curator or stewardship agreements with  
16           appropriate Hawaiian cultural and spiritual community  
17           organizations for the perpetuation of native Hawaiian  
18           cultural, religious, and subsistence customs, beliefs,  
19           and practices for the purposes stated in section 6K-3;
- 20           (6) Shall carry out those powers and duties otherwise  
21           conferred upon the board of land and natural resources  
22           and the land use commission with regard to



1           dispositions and approvals pertaining to the island  
2           reserve. All powers and duties of the board of land  
3           and natural resources and the land use commission  
4           concerning dispositions and approvals pertaining to  
5           the island reserve are transferred to the commission;  
6       (7) Shall carry out those powers and duties concerning the  
7           island reserve otherwise conferred upon the county of  
8           Maui by chapter 205A. The powers and duties of the  
9           county of Maui and its agencies concerning coastal  
10          zone dispositions and approvals pertaining to the  
11          island reserve are transferred to the commission;  
12       (8) Shall carry out those powers and duties concerning the  
13          island reserve otherwise conferred upon the island  
14          burial councils and the [~~department~~] office of  
15          Hawaiian affairs with regard to proper treatment of  
16          burial sites and human skeletal remains found in the  
17          island reserve;  
18       (9) Shall adopt rules in accordance with chapter 91 that  
19          are necessary for the purposes of this chapter and  
20          shall maintain a record of its proceedings and  
21          actions;



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- 1       (10) May delegate to the 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       (11) May solicit and accept grants, donations, and
- 7           contributions for deposit into the Kaho'olawe
- 8           rehabilitation trust fund to support the purposes of
- 9           this chapter."

10       SECTION 15. Section 10-5, Hawaii Revised Statutes, is  
 11 amended to read as follows:

12       "§10-5 Board of trustees; powers and duties. The board  
 13 shall have the power in accordance with law to:

- 14       (1) Manage, invest, and administer the proceeds from the
- 15           sale or other disposition of lands, natural resources,
- 16           minerals, and income derived from whatever sources for
- 17           native Hawaiians and Hawaiians, including all income
- 18           and proceeds from that pro rata portion of the trust
- 19           referred to in section 10-3;
- 20       (2) Exercise control over real and personal property set
- 21           aside to the office by the State of Hawaii, the United
- 22           States of America, or any private sources, and



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- 1 transferred to the office for native Hawaiians and  
2 Hawaiians;
- 3 (3) Collect, receive, deposit, withdraw, and invest money  
4 and property on behalf of the office;
- 5 (4) Formulate policy relating to the affairs of native  
6 Hawaiians and Hawaiians, provided that such policy  
7 shall not diminish or limit the benefits of native  
8 Hawaiians under article XII, section 4, of the state  
9 ~~[Constitution,]~~ constitution;
- 10 (5) Otherwise act as a trustee as provided by law;
- 11 (6) Delegate to the administrator, its officers and  
12 employees such powers and duties as may be proper for  
13 the performance of the powers and duties vested in the  
14 board;
- 15 (7) Provide grants to individuals, and public or private  
16 organizations to better the conditions of native  
17 Hawaiians and Hawaiians consistent with the standards  
18 set forth in section 10-17;
- 19 (8) Make available technical and financial assistance and  
20 advisory services to any agency or private  
21 organization for native Hawaiian and Hawaiian  
22 programs, and for other functions pertinent to the



1           purposes of the office of Hawaiian affairs. Financial  
 2           assistance may be rendered through contractual  
 3           arrangements as may be agreed upon by the board and  
 4           any such agency or organization; [and]

5           (9) Provide for the preservation and protection of native  
 6           Hawaiian burial sites; and

7           ~~(9)~~ (10) Adopt and use a common seal by which all  
 8           official acts shall be authenticated."

9           SECTION 16. All rights, powers, functions, and duties of  
 10          the department of land and natural resources and the historic  
 11          preservation division relating to native Hawaiian burials are  
 12          transferred to the office of Hawaiian affairs.

13          All officers and employees whose functions are transferred  
 14          by this Act shall be transferred with their functions and shall  
 15          continue to perform their regular duties upon their transfer,  
 16          subject to the state personnel laws and this Act.

17          No officer or employee of the State having tenure shall  
 18          suffer any loss of salary, seniority, prior service credit,  
 19          vacation, sick leave, or other employee benefit or privilege as  
 20          a consequence of this Act, and such officer or employee may be  
 21          transferred or appointed to a civil service position without the  
 22          necessity of examination; provided that the officer or employee





1 possesses the minimum qualifications for the position to which  
2 transferred or appointed; and provided that subsequent changes  
3 in status may be made pursuant to applicable civil service and  
4 compensation laws.

5 An officer or employee of the State who does not have  
6 tenure and who may be transferred or appointed to a civil  
7 service position as a consequence of this Act shall become a  
8 civil service employee without the loss of salary, seniority,  
9 prior service credit, vacation, sick leave, or other employee  
10 benefits or privileges and without the necessity of examination;  
11 provided that such officer or employee possesses the minimum  
12 qualifications for the position to which transferred or  
13 appointed.

14 If an office or position held by an officer or employee  
15 having tenure is abolished, the officer or employee shall not  
16 thereby be separated from public employment, but shall remain in  
17 the employment of the State with the same pay and classification  
18 and shall be transferred to some other office or position for  
19 which the officer or employee is eligible under the personnel  
20 laws of the State as determined by the head of the department or  
21 the governor.



1           SECTION 17. All appropriations, records, equipment,  
2 machines, files, supplies, contracts, books, papers, documents,  
3 maps, and other personal property heretofore made, used,  
4 acquired, or held by the department of land and natural  
5 resources and the historic preservation division relating to the  
6 functions transferred to the office of Hawaiian affairs shall be  
7 transferred with the functions to which they relate.

8           SECTION 18. All rules, policies, procedures, guidelines,  
9 and other material adopted or developed by the department of  
10 land and natural resources and the historic preservation  
11 division to implement provisions of the Hawaii Revised Statutes  
12 which are reenacted or made applicable to the office of Hawaiian  
13 affairs by this Act, shall remain in full force and effect until  
14 amended or repealed by the office of Hawaiian affairs pursuant  
15 to chapter 91, Hawaii Revised Statutes. In the interim, every  
16 reference to the department of land and natural resources or the  
17 historic preservation division in those rules, policies,  
18 procedures, guidelines, and other material is amended to refer  
19 to the office of Hawaiian affairs.

20           SECTION 19. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# H.B. NO. 711

1 SECTION 20. This Act shall take effect on July 1, 2011.

2

INTRODUCED BY: Mele Carrall  
Ray Stantons  
Cindy Evans  
Crew

JAN 21 2011



**Report Title:**

Office of Hawaiian Affairs; Burial Sites

**Description:**

Transfers the functions and duties of the historic preservation division of DLNR relating to Hawaiian burial sites to the office of Hawaiian affairs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

