
A BILL FOR AN ACT

RELATING TO HAIKU VALLEY.

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

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

9 The legislature further finds that ownership of the valley
10 is divided among several entities. The valley's fragmented
11 ownership and limited stewardship have placed its cultural and
12 historic resources at high risk. Ensuring adequate management
13 of, and appropriate access to, the valley has proven elusive.
14 This Act will address these problems by establishing a
15 commission to provide a system that recognizes the valley's
16 unique challenges and preserves in perpetuity its cultural and
17 historic resources for the people of Hawaii.



1 The purpose of this Act is to establish the Haiku valley
2 cultural preserve commission that will have policy and
3 management oversight of the Haiku valley cultural preserve.

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 HAIKU VALLEY CULTURAL PRESERVE

9 § -1 Administration of chapter. The Haiku valley
10 cultural preserve commission and the department of land and
11 natural resources shall administer this chapter.

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

14 "Board" means the board of land and natural resources.

15 "Commission" means the Haiku valley cultural preserve
16 commission.

17 "Department" means the department of land and natural
18 resources.

19 "Haiku valley cultural preserve" means parcels 1-C, 6, 7,
20 8, and 9 encompassed within tax map key 4-6-15:014 known as
21 Haiku valley on the island of Oahu.



1 **§ -3 Cultural preserve established; reservation of uses.**

2 (a) There is established the Haiku valley cultural preserve
3 which shall operate solely and exclusively for the following
4 purposes:

5 (1) Preservation and practice of all rights customarily
6 and traditionally exercised by native Hawaiians for
7 cultural, spiritual, and subsistence purposes;

8 (2) Preservation and protection of the area's cultural,
9 archaeological, historical, and environmental
10 resources;

11 (3) Rehabilitation, re-vegetation, habitat restoration,
12 and preservation;

13 (4) Education; and

14 (5) Other purposes as determined by the commission.

15 (b) Haiku valley shall be reserved in perpetuity for the
16 uses enumerated in this section. Commercial uses shall be
17 strictly prohibited.

18 **§ -4 Powers and duties.** The department and other
19 departments and agencies of the State shall be subject to the
20 oversight of the commission with regard to the control and
21 management of the Haiku valley cultural preserve. Subject to
22 section -7, the department shall:



- 1 (1) Implement controls and permitted uses for the valley
2 cultural preserve;
- 3 (2) Enforce this chapter; and
- 4 (3) Authorize its employees as it deems reasonable and
5 necessary to serve and execute warrants and arrest
6 offenders or issue citations in all matters relating
7 to enforcement of the laws and rules applicable to the
8 Haiku valley cultural preserve.

9 **§ -5 Board of land and natural resources.** The board
10 shall approve all actions taken by the department pursuant to
11 this chapter. The board shall adopt rules in accordance with
12 chapter 91 to address decisions taken by the commission.

13 **§ -6 Commission.** (a) There is established the Haiku
14 valley cultural preserve commission to be placed within the
15 department of land and natural resources for administrative
16 purposes as provided in section 26-35. The commission's
17 jurisdiction shall extend over all public lands within the Haiku
18 valley cultural preserve. The commission shall consist of seven
19 members to be appointed in the manner and to serve for the terms
20 provided in section 26-34; provided that the commission shall
21 consist of:



- 1 (1) The executive director of the Koolau Foundation, or
- 2 the executive director's designee;
- 3 (2) Two members appointed by the governor from a list
- 4 provided by the Koolaupoko Hawaiian Civic Club;
- 5 (3) The administrator of the office of Hawaiian affairs,
- 6 or the administrator's designee;
- 7 (4) An official of the city and county of Honolulu
- 8 appointed by the governor from a list of nominees
- 9 provided by the mayor of the city and county of
- 10 Honolulu;
- 11 (5) A representative of the board of land and natural
- 12 resources; and
- 13 (6) One member appointed by the governor from a list of
- 14 nominees provided by native Hawaiian organizations
- 15 designated by the chair of the board of land and
- 16 natural resources .
- 17 (b) The chairperson shall be elected by the commission
- 18 from among the members of the commission.
- 19 (c) The members of the commission shall serve without pay
- 20 but shall be reimbursed for their actual and necessary expenses,
- 21 including travel expenses, incurred in discharging their duties.



1 (d) Any action taken by the commission shall be approved
2 by a simple majority of its members. Four members shall
3 constitute a quorum to do business.

4 **§ -7 Responsibilities and duties of the commission.** The
5 general administration of the public lands located within the
6 Haiku valley cultural preserve shall rest with the commission.
7 Any existing uses on private lands at the time of the effective
8 date of this Act located within the Haiku valley cultural
9 preserve shall continue under the commission. In discharging
10 its duties and responsibilities, the commission:

- 11 (1) Shall establish criteria, policies, and controls for
12 permissible uses within the Haiku valley cultural
13 preserve;
- 14 (2) Shall approve all contracts for services and adopt
15 rules pertaining to the Haiku valley cultural
16 preserve;
- 17 (3) Shall provide advice to the governor, the department,
18 and other departments and agencies on any matter
19 relating to the Haiku valley cultural preserve;
- 20 (4) Shall provide advice to the office of planning and the
21 department of the attorney general on any matter



1 relating to the conveyance of Haiku valley to the
2 department;

3 (5) May enter into curator or stewardship agreements with
4 appropriate Hawaiian cultural and spiritual community
5 organizations for the perpetuation of native Hawaiian
6 cultural, religious, and subsistence customs, beliefs,
7 and practices for the purposes stated in section
8 -3;

9 (6) Shall carry out those powers and duties concerning the
10 Haiku valley cultural preserve otherwise conferred
11 upon the city and county of Honolulu by chapter 205A;

12 (7) Shall adopt rules in accordance with chapter 91 that
13 are necessary for the purposes of this chapter and
14 shall maintain a record of its proceedings and
15 actions;

16 (8) May delegate to the executive director or employees of
17 the commission, by formal commission action, such
18 power and authority vested in the commission by this
19 chapter as the commission deems reasonable and proper
20 for the effective administration of this chapter;

21 (9) May solicit and accept grants, donations, and
22 contributions for deposit into the Haiku valley



1 cultural preserve trust fund to support the purposes
2 of this chapter; and

3 (10) Shall do all things necessary to carry out its
4 purposes and exercise the powers granted in this
5 section, including hiring staff and managing funds.

6 **§ -8 Farming.** Section -3 notwithstanding, the
7 commission shall adopt rules pursuant to chapter 91 to permit
8 farming activities in the Haiku valley cultural preserve that
9 are consistent with the purpose of this chapter and that take
10 into consideration the health and safety of the general public.

11 **§ -9 Penalty.** Any person who violates any of the laws
12 or rules applicable to the Haiku valley cultural preserve shall
13 be guilty of a petty misdemeanor and shall be fined not more
14 than \$1,000 imprisoned not more than thirty days, or both, for
15 each offense. Each day of each violation shall be deemed a
16 separate offense.

17 **§ -10 General administrative penalties.** (a) Except as
18 otherwise provided by law, the commission is authorized to set,
19 charge, and collect administrative fines, or bring legal action
20 to recover administrative costs of the commission or the
21 department, or payment for damages, or for the cost to correct
22 damages resulting from a violation of this chapter or any rule



1 adopted hereunder. The administrative fines shall be as
2 follows:

- 3 (1) For a first violation, a fine of not more than
4 \$10,000;
- 5 (2) For a second violation within five years of a previous
6 violation, by a fine of not more than \$15,000; and
- 7 (3) For a third or subsequent violation within five years
8 of the last violation, by a fine of not more than
9 \$25,000.

10 (b) In addition, an administrative fine of up to \$5,000
11 may be levied for each specimen of natural resource or any
12 historic property taken, killed, injured, broken, or damaged in
13 violation of any rule adopted under this chapter. For purposes
14 of this subsection:

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

18 "Natural resource" means any archaeological artifacts,
19 minerals, any aquatic life or wildlife or parts thereof,
20 including their eggs, and any land plants or parts thereof,
21 including seeds.



1 (c) Any criminal penalty for any violation of this chapter
2 or any rule adopted under this chapter shall not be deemed to
3 preclude the commission from bringing a civil legal action to
4 recover additional administrative fines and costs. Any civil
5 legal action against a person to recover administrative fines
6 and costs for any violation of this chapter or any rule adopted
7 under this chapter shall not be deemed the State from pursuing
8 any criminal action against that person.

9 (d) In any judicial proceeding to recover an
10 administrative penalty imposed, the commission need only show
11 that notice was given, that a hearing was held or the time
12 granted for requesting a hearing has run without such a request,
13 that an administrative penalty was imposed; and the
14 administrative penalty remains unpaid.

15 **§ -11 Administrative violation system.** With the mutual
16 consent of both the commission and the department, the
17 commission may use the civil natural resource violations system
18 of the department of land and natural resources; provided that
19 the commission shall act whenever the board is authorized to
20 act, to process violations of this chapter or any rules adopted
21 hereunder.



1 **§ -12 Transfer.** Upon its conveyance to the department,
 2 the resources and waters of the Haiku valley cultural preserve
 3 shall be held in trust by the department as part of the public
 4 land trust; provided that the department shall transfer
 5 management and control of the Haiku valley cultural preserve to
 6 the sovereign native Hawaiian entity upon its recognition by the
 7 United States and the State.

8 All terms, conditions, agreements, and laws affecting the
 9 valley shall remain in effect unless expressly terminated.

10 **§ -13 Haiku valley cultural preserve trust fund. (a)**

11 There is created in the state treasury the Haiku valley cultural
 12 preserve trust fund to be administered by the department with
 13 the prior approval of the commission. Subject to this chapter:

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

16 (2) Any moneys appropriated by the legislature to the
 17 trust fund;

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

20 (4) The interest or return on investments earned from
 21 moneys in the trust fund;



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

3 (b) The commission may use moneys in the trust fund to
4 carry out the purposes of this chapter, including hiring
5 employees, specialists, and consultants necessary to complete
6 projects related to the purposes of this chapter.

7 (c) Moneys deposited into or appropriated to the trust
8 fund shall remain available until they are obligated or until
9 the trust fund is terminated.

10 (d) If the trust fund is terminated, all funds shall be
11 transferred to the general fund; provided that all unexpended or
12 unencumbered balances shall be disbursed in accordance with any
13 requirements set by funding sources and for purposes consistent
14 with this chapter.

15 (e) The commission shall submit an annual report on the
16 status of the Haiku valley cultural preserve trust fund to the
17 legislature, no later than twenty days prior to the convening of
18 each regular session of the legislature. The annual report
19 shall include the total number of and amount of grants,
20 donations, and contributions received and balances remaining on
21 June 30 of each year."



1 SECTION 3. The office of planning and the department of
2 the attorney general, after consulting with the Haiku valley
3 cultural preserve commission, are authorized to initiate the
4 conveyance of all of Haiku valley in fee simple to the
5 department of land and natural resources; provided that before
6 the valley is conveyed to the department, agreements shall be
7 executed with respect to liability, monetary resources, and
8 removal of hazardous wastes.

9 SECTION 4. There is appropriated out of the native
10 Hawaiian rehabilitation fund, established under section 213(i)
11 of the Hawaiian Homes Commission Act, the sum of \$ or
12 so much thereof as may be necessary for fiscal year 2012-2013
13 for the purposes of this Act, including the acquisition of Haiku
14 valley by the department of land and natural resources.

15 The sum appropriated shall be expended by the department of
16 land and natural resources for the purposes of this Act.

17 SECTION 5. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.



1 SECTION 6. This Act shall take effect upon its approval;
2 except that section 4 shall take effect on July 1, 2012.



Report Title:

Haiku Valley

Description:

Establishes the Haiku Valley cultural preserve commission to provide policy and management oversight of the Haiku Valley cultural preserve. Initiates process of conveying Haiku valley in fee simple to the Department of Land and Natural Resources.
(HB2246 HD1)

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

