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# 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 addresses 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 to have policy and management  
3 oversight over 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 of  
4 nominees provided by the Koolaupoko Hawaiian Civic  
5 Club;
- 6 (3) The administrator of the office of Hawaiian affairs,  
7 or the administrator's designee;
- 8 (4) An official of the city and county of Honolulu  
9 appointed by the governor from a list of nominees  
10 provided by the mayor of the city and county of  
11 Honolulu;
- 12 (5) A representative of the board of land and natural  
13 resources; and
- 14 (6) One member appointed by the governor from a list of  
15 nominees provided by native Hawaiian organizations  
16 designated by the chairperson of the board of land and  
17 natural resources.
- 18 (b) The chairperson shall be elected by the commission  
19 from among the members of the commission.
- 20 (c) The members of the commission shall serve without pay  
21 but shall be reimbursed for their actual and necessary expenses,



1 including travel expenses, incurred in the discharge of their  
2 duties.

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

6 § -7 Responsibilities and duties of the commission. The  
7 general administration of the public lands located within the  
8 Haiku valley cultural preserve shall rest with the commission.  
9 Any existing uses on private lands located within the Haiku  
10 valley cultural preserve on the effective date of Act ,  
11 Session Laws Hawaii, 2012, shall continue under the commission.  
12 In discharging its duties and responsibilities, the commission:

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



- 1 (4) Shall advise the office of planning and the department  
2 of the attorney general on any matter relating to the  
3 conveyance of Haiku valley to the department;
- 4 (5) May enter into curator or stewardship agreements with  
5 appropriate Hawaiian cultural and spiritual community  
6 organizations for the perpetuation of native Hawaiian  
7 cultural, religious, and subsistence customs, beliefs,  
8 and practices for the purposes stated in section  
9 -3;
- 10 (6) Shall carry out those powers and duties concerning the  
11 Haiku valley cultural preserve otherwise conferred  
12 upon the city and county of Honolulu by chapter 205A;
- 13 (7) Shall adopt rules in accordance with chapter 91 that  
14 are necessary for the purposes of this chapter and  
15 shall maintain a record of its proceedings and  
16 actions;
- 17 (8) May delegate to the executive director or employees of  
18 the commission, by formal commission action, such  
19 power and authority vested in the commission by this  
20 chapter as the commission deems reasonable and proper  
21 for the effective administration of this chapter;



1 (9) May solicit and accept grants, donations, and  
2 contributions for deposit into the Haiku valley  
3 cultural preserve trust fund to support the purposes  
4 of this chapter; and

5 (10) Shall do all things necessary to carry out its  
6 purposes and exercise the powers granted in this  
7 chapter, including hiring an executive director and  
8 staff and managing funds.

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

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

20 § -10 **General administrative penalties.** (a) Except as  
21 otherwise provided by law, the commission is authorized to set,  
22 charge, and collect administrative fines, or bring legal action





1 to recover administrative costs of the commission or the  
2 department, or payment for damages, or for the cost to correct  
3 damages resulting from a violation of this chapter or any rule  
4 adopted hereunder. The administrative fines shall be as  
5 follows:

6 (1) For a first violation, a fine of not more than  
7 \$10,000;

8 (2) For a second violation within five years of a previous  
9 violation, by a fine of not more than \$15,000; and

10 (3) For a third or subsequent violation within five years  
11 of the last violation, by a fine of not more than  
12 \$25,000.

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

17 For purposes of this subsection:

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

21 "Natural resource" means any archaeological artifacts,  
22 minerals, any aquatic life or wildlife or parts thereof,



1 including their eggs, and any land plants or parts thereof,  
2 including seeds.

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

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

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



1 act, to process violations of this chapter or any rules adopted  
2 hereunder.

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

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

12       **§ -13 Haiku valley cultural preserve trust fund.** (a)  
13 There is created in the state treasury the Haiku valley cultural  
14 preserve trust fund to be administered by the department with  
15 the prior approval of the commission. Subject to this chapter:

- 16       (1) All moneys received from the federal government for  
17             purposes consistent with this chapter;
- 18       (2) Any moneys appropriated by the legislature to the  
19             trust fund;
- 20       (3) Any moneys received from grants and donations or the  
21             proceeds from contributions; and



1 (4) The interest or return on investments earned from  
2 moneys in the trust fund;  
3 shall be deposited into the trust fund and shall be used to  
4 fulfill the purposes of this chapter.

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

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

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

17 (e) The commission shall submit an annual report on the  
18 status of the Haiku valley cultural preserve trust fund to the  
19 legislature no later than twenty days prior to the convening of  
20 each regular session. The annual report shall include the total  
21 number of and amount of grants, donations, and contributions  
22 received and balances remaining on 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 of land and natural  
 7 resources, agreements shall be executed with respect to  
 8 liability, monetary resources, and 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. This Act does not affect rights and duties that  
 18 matured, penalties that were incurred, and proceedings that were  
 19 begun before its effective date.

20 SECTION 6. If any provision of this Act, or the  
 21 application thereof to any person or circumstance, is held  
 22 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 7. This Act shall take effect on July 1, 2030.



**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. Effective July 1, 2030. (HB2246 HD2)

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

