

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO TRAINING.

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

1           SECTION 1. The legislature finds that pursuant to Hawaii's  
2 constitution, statutes, and case law, the State recognizes a  
3 mandate to protect native Hawaiian and Hawaiian traditional and  
4 customary rights.

5           Certain state councils, boards, and commissions administer  
6 public trust resources and programs that directly impact native  
7 Hawaiian and Hawaiian traditional and customary rights, natural  
8 resource protection and access rights, and the public trust. As  
9 entities of the State, these councils, boards, and commissions  
10 have a duty to protect and preserve these rights, and a  
11 fiduciary duty to administer the public trust in the interest of  
12 the beneficiaries, including native Hawaiians and Hawaiians.

13 The legislature finds that newly appointed members of these  
14 state councils, boards, and commissions represent a broad range  
15 of expertise and experience and therefore may not possess, upon  
16 their appointment, knowledge of native Hawaiian and Hawaiian  
17 rights and the public trust that would enable them to execute  
18 their roles and be fully informed of their responsibilities.



1 Chapter 10, Hawaii Revised Statutes, indicates that the  
2 office of Hawaiian affairs is the principal public agency  
3 responsible for ensuring that other state agencies protect  
4 native Hawaiian and Hawaiian rights. Section 10-1(b), Hawaii  
5 Revised Statutes, specifies that "It shall be the duty and  
6 responsibility of all state departments and instrumentalities of  
7 state government providing services and programs which affect  
8 native Hawaiians and Hawaiians to actively work toward the goals  
9 of this chapter and to cooperate with and assist wherever  
10 possible the office of Hawaiian affairs."

11 Section 10-3, Hawaii Revised Statutes, states that the  
12 purposes of the office of Hawaiian affairs include:

13 (3) Serving as the principal public agency in this State  
14 responsible for the performance, development, and  
15 coordination of programs and activities relating to  
16 native Hawaiians and Hawaiians; except that the  
17 Hawaiian Homes Commission Act, 1920, as amended, shall  
18 be administered by the Hawaiian homes commission;

19 (4) Assessing the policies and practices of other agencies  
20 impacting on native Hawaiians and Hawaiians, and  
21 conducting advocacy efforts for native Hawaiians and  
22 Hawaiians....



1           Therefore, the legislature finds that to prepare these  
2 state appointees to fulfill their roles and responsibilities,  
3 fully informed of their duties and obligations, these state  
4 appointees should be provided with training.

5           The legislature further finds that the office of Hawaiian  
6 affairs is the appropriate agency to train and educate the  
7 members of appropriate councils, boards, and commissions about  
8 native Hawaiian and Hawaiian traditional and customary rights,  
9 natural resource protection and access rights, and the public  
10 trust.

11           The purpose of this Act is:

- 12           (1) To require members of appropriate state councils,  
13                 boards, and commissions to undergo training conducted  
14                 by the office of Hawaiian affairs on native Hawaiian  
15                 and Hawaiian rights, the source of these rights, and  
16                 how infringement of these rights impacts the native  
17                 Hawaiian and Hawaiian people; and
- 18           (2) To allow other state or county officers,  
19                 representatives, or employees to request to enroll in  
20                 the training course on a voluntary basis.



1 SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4 "PART . REQUIRED TRAINING RELATING TO NATIVE HAWAIIAN AND  
5 HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS, NATIVE HAWAIIAN AND  
6 HAWAIIAN NATURAL RESOURCE PROTECTION AND ACCESS RIGHTS, AND THE  
7 STATE'S OBLIGATIONS UNDER THE PUBLIC TRUST

8 §10-A Applicability of training mandate. The training  
9 mandate in this part shall apply to members of the land use  
10 commission, board of land and natural resources, commission on  
11 water resource management, environmental council, board of  
12 directors of the agribusiness development corporation, board of  
13 agriculture, legacy land conservation commission, natural area  
14 reserves system commission, Hawaii historic places review board,  
15 board of health, and board of directors of the public land  
16 development corporation. The training mandate shall not apply  
17 to any other officer, representative, or employee of the State.  
18 Members of other state councils, boards, and commissions, and  
19 any officer, representative, or employee of the State or  
20 counties not subject to the training mandate may request to  
21 enroll in the training course on a voluntary basis.



1           §10-B Mandatory training relating to native Hawaiian and  
2 Hawaiian traditional and customary rights, natural resource  
3 protection and access rights, and the public trust, including  
4 the State's trust responsibility. (a) All council, board, and  
5 commission members enumerated in section 10-A shall complete a  
6 training course relating to native Hawaiian and Hawaiian rights  
7 administered by the office of Hawaiian affairs within six months  
8 of their official appointment date, as provided in this part.

9           (b) The office of Hawaiian affairs shall establish,  
10 design, and administer, at its own expense, a training course  
11 relating to native Hawaiian and Hawaiian traditional and  
12 customary rights, native Hawaiian and Hawaiian natural resource  
13 protection and access rights, and the public trust, including  
14 the State's trust responsibility. The training course shall  
15 include:

- 16           (1) Historical information, explanations, and discussions  
17               of key state laws, state constitutional provisions,  
18               and court rulings that reaffirm and provide for the  
19               protection of native Hawaiian and Hawaiian rights; and  
20           (2) A discussion of the importance of public trust  
21               resources and various programs to native Hawaiian and  
22               Hawaiian rights.



1 (c) The office of Hawaiian affairs shall, at its own  
2 expense:

3 (1) Develop the methods and prepare any materials  
4 necessary to implement the training course;

5 (2) Administer the training course; and

6 (3) Notify each council, board, and commission member  
7 enumerated in section 10-A that attendance in the  
8 training course is mandatory.

9 (d) The training course shall be conducted at least twice  
10 per calendar year.

11 (e) The office of Hawaiian affairs may repeat the training  
12 course as necessary to accommodate all persons who are required  
13 to attend.

14 (f) Each council, board, and commission chairperson shall  
15 provide to the office of Hawaiian affairs, within thirty  
16 calendar days upon their official appointment dates, the names  
17 of those persons required to take the training course."

18 SECTION 3. In codifying the new sections added by section  
19 2 of this Act, the revisor of statutes shall substitute  
20 appropriate section numbers for the letters used in designating  
21 the new sections in this Act.



1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *Anna Mendoza R.*

**By Request**



# S.B. NO. 406

**Report Title:**

OHA Package; Mandatory Training

**Description:**

Requires OHA to establish, design, and administer a training course in native Hawaiian matters for specified members of boards, councils, and commissions. Requires those members to take the course within six months of their respective appointments.

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

