

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO ISLAND BURIAL COUNCILS.

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

1           SECTION 1. The legislature finds that the statute  
2 providing for the establishment of the island burial councils  
3 needs to be clarified and simplified to ensure that the island  
4 burial councils can fulfill their critical responsibilities.

5           SECTION 2. Section 6E-43.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "**§6E-43.5 Island burial councils; creation; appointment;**  
8 **composition; duties.** (a) [~~The department shall establish~~  
9 There are established within the department five island burial  
10 councils, one each for [Hawaii, Maui/Lanai, Molokai, Oahu, and  
11 Kauai/Niihau,7] Hawai'i, Maui/Lāna'i, Moloka'i, O'ahu, and  
12 Kaua'i/Ni'ihau, to implement section 6E-43. Each council shall  
13 consist of nine members, except the Kaua'i/Ni'ihau council, which  
14 shall consist of eleven members. Each council shall consist of  
15 no more than three representatives of development and large  
16 property owner interests and at least one representative from  
17 each geographic region identified as follows:



- 1        (1) The Hawai'i council shall consist of the following  
2        geographic regions: Kohala, Kona, Ka'u, Puna, Hilo,  
3        and Hāmākua;
- 4        (2) The Maui/Lāna'i council shall consist of the following  
5        geographic regions: Lahaina, Wailuku, Makawao, Hāna,  
6        and Lāna'i;
- 7        (3) The Moloka'i council shall consist of the following  
8        geographic regions: West Moloka'i, Central Moloka'i,  
9        East Moloka'i, and Kalawao;
- 10       (4) The O'ahu council shall consist of the following  
11       geographic regions: Wai'anae, 'Ewa, Kona, Ko'olaupoko,  
12       Ko'olauloa, and Waialua; and
- 13       (5) The Kaua'i/Ni'ihau council shall consist of the  
14       following geographic regions: Waimea, Kōloa, Lihu'e,  
15       Kawaihau, Hanalei, Na Pali, and Ni'ihau.
- 16       Regional representatives shall be selected from the Hawaiian  
17       community on the basis of their understanding of the culture,  
18       history, burial beliefs, customs, and practices of native  
19       Hawaiians.
- 20       (b) Appointment of members to the councils shall be made  
21 by the governor, in accordance with section 26-34, from a list



1 provided by the department, provided that a minimum of twenty  
2 per cent of the regional representatives shall be appointed from  
3 a list of at least nine candidates provided by the office of  
4 Hawaiian affairs. The department shall develop the list in  
5 consultation with appropriate Hawaiian organizations, such as  
6 Hui Malama I Na Kupuna O Hawai'i Nei. [~~The membership of each  
7 council shall include at least one representative from each  
8 geographic region of the island as well as representatives of  
9 development and large property owner interests. Regional  
10 representatives shall be selected from the Hawaiian community on  
11 the basis of their understanding of the culture, history, burial  
12 beliefs, customs, and practices of native Hawaiians. The  
13 councils shall have a minimum of nine and a maximum of fifteen  
14 members, and have a ratio of not more than three to one and no  
15 less than two to one in favor of regional representatives.]~~

16 (c) The department, in consultation with the councils,  
17 office of Hawaiian affairs, representatives of development and  
18 large property owner interests, and appropriate Hawaiian  
19 organizations, such as Hui Malama I Na Kupuna O Hawai'i Nei,  
20 shall adopt rules pursuant to chapter 91 necessary to carry out  
21 the purposes of this section. The council members shall serve  
22 without compensation, but shall be reimbursed for necessary



1 expenses incurred during the performance of their duties. The  
2 councils shall be a part of the department for administrative  
3 purposes.

4 (d) The councils shall hold meetings and acquire  
5 information as they deem necessary and shall communicate their  
6 findings and recommendations to the department. Notwithstanding  
7 section 92-3, whenever the location and description of burial  
8 sites are under consideration, the councils may hold closed  
9 meetings. A majority of all members to which each council is  
10 entitled shall constitute a quorum to do business. Concurrence  
11 of a majority of the members present at a meeting shall be  
12 necessary to make any action of a council valid.

13 (e) Department records relating to the location and  
14 description of historic sites, including burial sites, if deemed  
15 sensitive by a council or the [~~Hawaii~~] Hawai'i historic places  
16 review board, shall be confidential.

17 (f) The councils shall:

- 18 (1) Determine the preservation or relocation of previously  
19 identified native Hawaiian burial sites;
- 20 (2) Assist the department in the inventory and  
21 identification of native Hawaiian burial sites;



- 1           (3) Make recommendations regarding appropriate management,  
2           treatment, and protection of native Hawaiian burial  
3           sites, and on any other matters relating to native  
4           Hawaiian burial sites;
- 5           (4) Elect a chairperson for a four-year term who shall  
6           serve for not more than two consecutive terms; and
- 7           (5) Maintain a list of appropriate Hawaiian organizations,  
8           agencies, and offices to notify regarding the  
9           discovery of remains."

10           SECTION 3. Each current sitting council member shall serve  
11 the remainder of their term. However, once their term ends,  
12 their seat shall be filled in accordance with this Act. All  
13 future appointments to the burial councils shall be filled in  
14 accordance with this Act.

15           SECTION 4. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *Anna Inez K.*

**By Request**



**Report Title:**

OHA Package; Island Burial Councils; Composition

**Description:**

Clarifies statutory provisions relating to composition and quorum of island burial councils.

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

