
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,] 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 Moloka'i council, which shall
14 consist of five members. Each council shall consist of no more
15 than three representatives of development and large landowner
16 interests; provided that the Moloka'i council shall consist of no
17 more than one representative of development and large landowner



1 interests. The remaining council members shall represent the
2 geographic regions identified in paragraphs (1) through (5). At
3 all times, at least two of the regional representatives of each
4 council shall have been appointed from a list of nominees
5 submitted to the governor by the office of Hawaiian affairs, as
6 provided under subsection (b). Each council shall include at
7 least one representative for each geographic region identified
8 as follows:

- 9 (1) The Hawai'i council shall include the following
10 geographic regions: Kohala, Kona, Ka'u, Puna, Hilo,
11 and Hāmākua;
- 12 (2) The Maui/Lāna'i council shall include the following
13 geographic regions: Honua'ula, Lahaina, Wailuku,
14 Makawao, Hāna, and Lāna'i;
- 15 (3) The Moloka'i council shall include the following
16 geographic regions: West Moloka'i, Central Moloka'i,
17 East Moloka'i, and Kalawao;
- 18 (4) The O'ahu council shall include the following
19 geographic regions: Wai'ānae, 'Ewa, Kona, Ko'olaupoko,
20 Ko'olauloa, and Waialua; and



1 (5) The Kaua'i/Ni'ihau council shall include the following
2 geographic regions: Waimea/Na Pali, Kōloa, Līhu'e,
3 Kawaihau, Hanalei, and Ni'ihau.

4 Regional representatives shall be selected from the Hawaiian
5 community on the basis of the representatives' understanding of
6 the culture, history, burial beliefs, customs, and practices of
7 native Hawaiians in the region they each represent.

8 (b) Appointment of members to the councils shall be made
9 by the governor, in accordance with section 26-34 [7] and
10 subsection (a), from [a list provided] lists for each council
11 submitted by the department [7 provided that a minimum of twenty
12 per cent of the regional representatives shall be appointed from
13 a list of at least nine candidates provided by the office of
14 Hawaiian affairs. The department shall develop the list in
15 consultation with appropriate Hawaiian organizations, such as
16 Hui Malama I Na Kupuna O Hawai'i Nei. The membership of each
17 council shall include at least one representative from each
18 geographic region of the island as well as representatives of
19 development and large property owner interests. Regional
20 representatives shall be selected from the Hawaiian community on
21 the basis of their understanding of the culture, history, burial
22 beliefs, customs, and practices of native Hawaiians. The



1 ~~councils shall have a minimum of nine and a maximum of fifteen~~
2 ~~members, and have a ratio of not more than three to one and no~~
3 ~~less than two to one in favor of regional representatives.] and~~
4 the office of Hawaiian affairs. Lists to fill vacancies on the
5 councils shall be submitted as follows:

6 (1) For vacancies attributable to the expiration of terms,
7 the list shall be submitted on the first business day
8 of December prior to the expiration of the terms,
9 except as provided in subsection (c); and

10 (2) For a vacancy that occurs during a council
11 representative's term, the list shall be submitted
12 within thirty business days after the vacancy occurs,
13 except as provided in subsection (c).

14 (c) The department may submit any list to fill a vacancy
15 up to fifteen days after the office of Hawaiian affairs submits
16 its list for the same vacancy; provided that the failure of the
17 department to submit any list by any relevant deadline or
18 fifteen days after the office of Hawaiian affairs submits its
19 list, whichever occurs later, shall be construed as a waiver of
20 the department's right to submit a list.

21 ~~[-e-]~~ (d) The department, in consultation with the
22 councils, office of Hawaiian affairs, representatives of



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

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

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

22 [~~(f)~~] (g) The councils shall:



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

14 SECTION 3. Notwithstanding the amendments made by this Act
15 to section 6E-43.5, Hawaii Revised Statutes, each current
16 sitting council member may serve the remainder of the member's
17 term, and the decisions and other actions of each holdover
18 member's council shall not be subject to challenge on the basis
19 that the requirement in section 6E-43.5(a), Hawaii Revised
20 Statutes, that each council include a member who represents each
21 geographic region of the council, has not been met.



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

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



Report Title:

OHA Package; Island Burial Councils; Composition

Description:

Clarifies statutory provisions relating to composition and quorum of island burial councils. (CD1)

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

