
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 land owner
16 interests; provided that the Moloka'i council shall consist of no
17 more than one representative of development and large property



1 owner interests. The remaining council members shall represent
2 the geographic regions identified in paragraphs (1) through (5).
3 At all times, at least two of the regional representatives of
4 each 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 from each geographic region identified
8 as follows:

- 9 (1) The Hawai'i council shall include the following
10 geographic regions: Kohala, Kona, Ka'ū, 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'anae, '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.

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 Each list submitted by the department and by the
10 office of Hawaiian affairs for any council shall
11 include enough names to permit the governor to fill
12 the last vacant seat on the council with one of at
13 least two listed individuals qualified to fill the
14 vacancy; and
- 15 (2) For a vacancy that occurs during a council
16 representative's term, the list shall be submitted
17 within thirty business days after the vacancy occurs,
18 except as provided in subsection (c). Each list shall
19 include at least two individuals qualified to fill
20 each vacancy.
- 21 (c) The department may submit any list to fill a vacancy
22 up to fifteen days after the office of Hawaiian affairs submits



1 its list for the same vacancy; provided that the failure of the
2 department to submit any list by any relevant deadline or
3 fifteen days after the office of Hawaiian affairs submits its
4 list, whichever occurs later, shall be construed as a waiver of
5 the department's right to submit a list.

6 [~~(e)~~] (d) The department, in consultation with the
7 councils, office of Hawaiian affairs, representatives of
8 development and large [~~property~~] land owner interests, and
9 appropriate Hawaiian organizations, such as Hui Malama I Na
10 Kupuna O Hawai'i Nei, shall adopt rules pursuant to chapter 91
11 necessary to carry out the purposes of this section. The
12 council members shall serve without compensation, but shall be
13 reimbursed for necessary expenses incurred during the
14 performance of their duties. The councils shall be a part of
15 the department for administrative purposes.

16 [~~(d)~~] (e) The councils shall hold meetings and acquire
17 information as they deem necessary and shall communicate their
18 findings and recommendations to the department. Notwithstanding
19 section 92-3, whenever the location and description of burial
20 sites are under consideration, the councils may hold closed
21 meetings. A majority of all members to which each council is
22 entitled shall constitute a quorum to do business. Concurrence



1 of a majority of the members present at a meeting shall be
2 necessary to make any action of a council valid.

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

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

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

21 SECTION 3. Notwithstanding the amendments made by this Act
22 to section 6E-43.5, Hawaii Revised Statutes, each current



1 sitting council member is authorized to serve the remainder of
2 the member's term.

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

5 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. (SB407 HD1)

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

