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# A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1           SECTION 1. Section 201, Hawaiian Homes Commission Act,  
2 1920, as amended, is amended by adding a new definition to be  
3 appropriately inserted and to read as follows:

4           "Beneficiary consultation" means a direct, timely, and  
5 interactive process of receiving input from native Hawaiian  
6 beneficiaries regarding proposed actions by the commission. The  
7 process may include communication through in-person listening  
8 sessions, mail, email, or posting on the department's website  
9 and social accounts, including specific notification to all  
10 registered homestead associations."

11           SECTION 2. Section 202, Hawaiian Homes Commission Act,  
12 1920, as amended, is amended to read as follows:

13           "§202. Department officers, staff, commission, members,  
14 compensation[-]; director; legal counsel; reporting. (a) There  
15 shall be a department of Hawaiian home lands which shall be  
16 headed by an executive board to be known as the Hawaiian homes  
17 commission. The members of the commission shall be nominated



1 and appointed in accordance with section 26-34, Hawaii Revised  
2 Statutes. The commission shall be composed of nine members, as  
3 follows: three shall be residents of the city and county of  
4 Honolulu; two shall be residents of the county of Hawaii one of  
5 whom shall be a resident of east Hawaii and the other a resident  
6 of west Hawaii; two shall be residents of the county of Maui one  
7 of whom shall be a resident from the island of Molokai; one  
8 shall be a resident of the county of Kauai; and the ninth member  
9 shall be the chairman of the Hawaiian homes commission. All  
10 members shall have been residents of the State at least three  
11 years prior to their appointment and at least [~~four~~] five of the  
12 members shall be [~~descendants of not less than one fourth part~~  
13 ~~of the blood of the races inhabiting the Hawaiian Islands~~  
14 ~~previous to 1778.~~] beneficiaries of the trust. The members of  
15 the commission shall serve without pay, but shall receive actual  
16 expenses incurred by them in the discharge of their duties as  
17 [~~such~~] members. The governor shall appoint the [~~chairman~~]  
18 chairperson of the commission from among the commission members  
19 [~~thereof~~].

20 [~~The commission may delegate to the chairman such~~] A  
21 director of Hawaiian home lands shall exercise the duties,



1 powers, and authority or so much thereof, delegated to the  
2 director by the commission, and as may be lawful or proper for  
3 the [~~performance of the functions vested in the commission.~~]  
4 administration of the department. The [~~chairman of the~~  
5 ~~commission~~] director shall serve in a full-time capacity. [He  
6 ~~shall, in such capacity, perform such duties, and exercise such~~  
7 ~~powers and authority, or so much thereof, as may be delegated to~~  
8 ~~him by the commission as herein provided above.~~] The governor  
9 shall appoint a director who is not a member of the commission.

10 (b) The provisions of section 76-16, Hawaii Revised  
11 Statutes, shall apply to the positions of [~~first~~] deputy  
12 director and private secretary to the [~~chairman of the~~  
13 ~~commission.~~] director. The department may hire temporary staff  
14 on a contractual basis not subject to chapters 76 and 78, Hawaii  
15 Revised Statutes, when the services to be performed will assist  
16 in carrying out the purposes of the Act. These positions may be  
17 funded through appropriations for capital improvement program  
18 projects and by the administration account, operating fund, or  
19 native Hawaiian rehabilitation fund. No contract shall be for a  
20 period longer than two years, but individuals hired under  
21 contract may be employed for a maximum of six years; provided



1 that the six-year limitation shall not apply if the department,  
2 with the approval of the governor, determines that [~~such~~] these  
3 contract individuals are needed to provide critical services for  
4 the efficient functioning of the department. All other  
5 positions in the department shall be subject to chapter 76,  
6 Hawaii Revised Statutes.

7 All vacant and new civil service positions covered by  
8 chapter 76, Hawaii Revised Statutes, shall be filled in  
9 accordance with section 76-22.5, Hawaii Revised Statutes;  
10 provided that the provisions of these sections shall be  
11 applicable first to qualified persons of Hawaiian extraction.

12 (c) The commission may appoint or retain by contract an  
13 attorney who is independent of the attorney general, to serve as  
14 counsel and provide legal services to the commission and  
15 beneficiaries of the trust.

16 (d) The department shall distribute by email or its  
17 website a quarterly report to the beneficiaries, registered  
18 homestead associations, and the Legislature that identifies each  
19 land disposition and lease cancellation including the land  
20 instrument used, the amount of land, under which section of the  
21 Act the disposition or cancellation is authorized, and whether



1 the disposition or cancellation was made on behalf of a  
2 beneficiary or non-beneficiary. The quarterly report shall also  
3 identify all trust fund receipts and expenditures.

4 (e) The department shall notify the beneficiaries and  
5 registered homestead associations through beneficiary  
6 consultation of scheduled informational and consultation session  
7 and provide the beneficiaries and registered homestead  
8 associations with thirty days to comment.

9 (f) The State may establish an inter-agency consisting of  
10 all the heads of the state departments to address the purposes  
11 of this chapter. The inter-agency, if established, shall meet  
12 at least three times a year."

13 SECTION 3. Section 213.6, Hawaiian Homes Commission Act,  
14 1920, as amended, is amended to read as follows:

15 "§213.6. Hawaiian home lands trust fund. There is  
16 established a trust fund to be known as the Hawaiian home lands  
17 trust fund, into which shall be deposited all appropriations by  
18 the state legislature specified to be deposited therein. Moneys  
19 of the Hawaiian home lands trust fund shall be expended by the  
20 department, as provided by law, upon approval by the commission  
21 and shall be used for capital improvements and other purposes



1 undertaken in furtherance of the Act. The department shall have  
2 a fiduciary responsibility toward the trust fund and shall  
3 provide annual reports therefor to the legislature and to the  
4 beneficiaries of the trust. The annual reports shall include a  
5 full accounting of all Act 14, Session Laws of Hawaii Special  
6 Session 1995, funding receipts and expenditures.

7 The commission may deposit moneys from the trust fund into  
8 depositories other than the state treasury and may manage,  
9 invest, and reinvest moneys in the trust fund. The commission  
10 may hold, purchase, sell, assign, transfer, or dispose of any  
11 securities and investments in which any of the moneys have been  
12 invested, as well as the proceeds of the investments. Moneys  
13 from the trust fund that are deposited into depositories other  
14 than the state treasury shall be exempt from the requirements of  
15 chapters 36 and 38. Any interest or other earnings arising out  
16 of investments from the trust fund shall be credited to and  
17 deposited into the trust fund."

18 SECTION 4. Section 222, Hawaiian Homes Commission Act,  
19 1920, as amended, is amended by amending subsection (a) to read  
20 as follows:



1           "(a) The department may make [~~such~~] expenditures and shall  
2 adopt rules in accordance with chapter 91, Hawaii Revised  
3 Statutes, as are necessary for the efficient execution of the  
4 functions vested in the department by this Act. All  
5 expenditures of the department and all moneys necessary for  
6 loans made by the department, in accordance with [~~the provisions~~  
7 ~~of~~] this Act, shall be allowed and paid upon the presentation of  
8 itemized vouchers approved by the [~~chairman~~] chairperson of the  
9 commission or the [~~chairman's~~] chairperson's designated  
10 representative. The department shall make an annual report to  
11 the legislature of the State upon the first day of each regular  
12 session and [~~such~~] any special reports as the legislature may  
13 from time to time require. The [~~chairman~~] chairperson and  
14 members of the commission shall give bond as required by law.  
15 The sureties upon the bond and the conditions thereof shall be  
16 approved annually by the governor."

17           SECTION 5. Section 26-17, Hawaii Revised Statutes, is  
18 amended to read as follows:

19           "**§26-17 Department of Hawaiian home lands.** The department  
20 of Hawaiian home lands shall be headed by an executive board to  
21 be known as the Hawaiian homes commission.



1           The commission shall be composed of nine members. The  
2 appointment, tenure, and removal of the members and the filling  
3 of vacancies on the commission shall be in accordance with  
4 section 26-34 and section 202(a) of the Hawaiian Homes  
5 Commission Act of 1920, as amended. The governor shall appoint  
6 the chairperson of the commission from among the members  
7 thereof.

8           ~~[The commission may delegate to the chairperson such]~~ The  
9 director of Hawaiian home lands shall exercise the duties,  
10 powers, and authority, or so much thereof, delegated to the  
11 director by the commission, and as may be lawful or proper[-]  
12 for the [performance of the functions vested in the commission.]  
13 administration of the department.

14           The ~~[chairperson of the board]~~ director shall serve in a  
15 full-time capacity ~~[and shall perform such duties, and exercise~~  
16 ~~such powers and authority, or so much thereof as may be~~  
17 ~~delegated to the chairperson by the board]~~ .

18           The department shall administer the Hawaiian Homes  
19 Commission Act of 1920 as set forth in the Constitution of the  
20 State and by law.





1           The functions and authority heretofore exercised by the  
2 Hawaiian homes commission as heretofore constituted are  
3 transferred to the department of Hawaiian home lands established  
4 by this chapter."

5           SECTION 6. Any sitting Hawaiian homes commission member  
6 whose term of office has not expired on the effective date of  
7 this Act and who does not qualify to be a member of the Hawaiian  
8 homes commission under the amendments made by this Act may  
9 continue to serve on the commission until that member's term  
10 expires.

11           SECTION 7. The incumbent who occupies the position of  
12 chairperson of the Hawaiian homes commission on the effective  
13 date of this Act shall continue to serve in that capacity with  
14 all the powers and duties appertaining thereto prior to the  
15 effective date of this Act until a director of Hawaiian home  
16 lands is nominated and qualified pursuant to section 26-34,  
17 Hawaii Revised Statutes. Beginning on the day the director of  
18 Hawaiian home lands is so qualified, the chairperson shall no  
19 longer receive a salary and the director shall receive the  
20 salary formerly assigned to the chairperson.



1 SECTION 8. The provisions of the amendments made by this  
 2 Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
 3 declared to be severable, and if any section, sentence, clause,  
 4 or phrase, or the application thereof to any person or  
 5 circumstances is held ineffective because there is a requirement  
 6 of having the consent of the United States to take effect, then  
 7 that portion only shall take effect upon the granting of consent  
 8 by the United States and effectiveness of the remainder of these  
 9 amendments or the application thereof shall not be affected.

10 SECTION 9. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 10. This Act shall take effect upon its approval.  
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INTRODUCED BY: \_\_\_\_\_

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 Kurt Ferrell  
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# S.B. NO. 2393

**Report Title:**

Hawaiian Homes Commission Act; Beneficiaries; Beneficiary Consultation; Director; Department of Hawaiian Home Lands; Inter-agency Council; Legal Counsel; Financial Report

**Description:**

Requires that majority of the member of the Hawaiian homes commission be beneficiaries. Creates a separate director of the department of Hawaiian homes lands position. Allows the State to establish an inter-agency council to address the purposes of the Hawaiian Homes Commission Act. Requires the department to conduct quarterly reports to beneficiaries. Allows the Hawaiian homes commission to retain separate counsel from the attorney general's office to provide service to the commission or beneficiaries. Requires an annual report to the Legislature and beneficiaries that includes a full accounting of the Act 14 Special Session Laws of Hawaii 1995 moneys.

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

