
A BILL FOR AN ACT

RELATING TO HAIKU VALLEY.

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

1 SECTION 1. The legislature finds that Haiku valley on Oahu
2 is of significant cultural and historical importance to the
3 native people of Hawaii. Haiku valley is renowned for its
4 archaeological and other cultural and historic sites, including
5 loi, sacred sites, and burial sites, and for the presence of
6 native and endangered flora and fauna. Preserving the valley's
7 cultural and historic resources and educating the public about
8 these resources are of paramount importance.

9 The legislature further finds that ownership of Haiku
10 valley is divided among several entities. The valley's
11 fragmented ownership and limited stewardship have placed its
12 cultural and historic resources at high risk. Ensuring adequate
13 management of, and appropriate access to, the valley has proven
14 elusive.

15 The purpose of this Act is to establish the Haiku valley
16 cultural preserve commission to have policy and management
17 oversight over the Haiku valley cultural preserve to protect and



1 preserve the cultural, historic, spiritual, and environmental
 2 resources of Haiku valley. This Act achieves this goal by
 3 effectuating the transfer of state lands from the department of
 4 Hawaiian home lands to the office of Hawaiian affairs and
 5 establishing the commission to provide a system that recognizes
 6 Haiku valley's unique challenges and preserves in perpetuity its
 7 cultural and historic resources for the people of Hawaii.

8 SECTION 2. The Hawaii Revised Statutes is amended by
 9 adding a new chapter to be appropriately designated and to read
 10 as follows:

11 **"CHAPTER**

12 **HAIKU VALLEY CULTURAL PRESERVE**

13 § -1 **Administration of chapter.** The Haiku valley
 14 cultural preserve commission and the office of Hawaiian affairs
 15 shall administer this chapter.

16 § -2 **Definitions.** As used in this chapter, unless the
 17 context otherwise requires:

18 "Commission" means the Haiku valley cultural preserve
 19 commission.



1 "Haiku valley cultural preserve" means parcels 1-C, 6, 7,
2 8, and 9 encompassed within tax map key 4-6-15:014 known as
3 Haiku valley on the island of Oahu.

4 "Office" means the office of Hawaiian affairs.

5 **§ -3 Cultural preserve established; reservation of uses.**

6 (a) There is established the Haiku valley cultural preserve,
7 which shall operate solely and exclusively for the following
8 purposes:

9 (1) Preservation and practice of all rights customarily
10 and traditionally exercised by Native Hawaiians for
11 cultural, spiritual, and subsistence purposes;

12 (2) Preservation and protection of cultural,
13 archaeological, historical, and environmental
14 resources of the valley;

15 (3) Rehabilitation, revegetation, habitat restoration, and
16 preservation;

17 (4) Education; and

18 (5) Other purposes as determined by the commission.

19 (b) Haiku valley shall be reserved in perpetuity for the
20 uses enumerated in this section. Commercial uses shall be
21 strictly prohibited.



1 **§ -4 Haiku valley cultural preserve commission;**
 2 **established.** (a) There is established the Haiku valley
 3 cultural preserve commission to be placed within the office of
 4 Hawaiian affairs for administrative purposes. The commission
 5 shall consist of the following seven members who shall be
 6 appointed by the governor and serve on the commission in
 7 accordance with section 26-34:

- 8 (1) A representative of the office of Hawaiian affairs;
- 9 (2) A representative of the department of land and natural
 10 resources;
- 11 (3) A representative of the Honolulu board of water
 12 supply;
- 13 (4) One member of the Ko'olau Foundation, to be appointed
 14 by the governor from a list of nominees provided by
 15 the Ko'olau Foundation;
- 16 (5) One member of the Ko'olaupoko Hawaiian Civic Club, to
 17 be appointed by the governor from a list of nominees
 18 provided by the Ko'olaupoko Hawaiian Civic Club; and
- 19 (6) Two members who shall be Native Hawaiian cultural
 20 practitioners, to be appointed by the governor from a



1 list of Native Hawaiian cultural practitioners
2 nominated by Native Hawaiian organizations.

3 (b) The members of the commission shall elect a person
4 from among themselves.

5 (c) Any action taken by the commission shall be approved
6 by a simple majority of the members. Four members shall
7 constitute a quorum to conduct business.

8 (d) Members of the commission shall serve without pay but
9 shall be reimbursed for their actual and necessary expenses,
10 including travel expenses, incurred in carrying out their
11 duties.

12 § -5 Responsibilities and duties of the commission. The
13 general administration of the Haiku valley cultural preserve
14 shall rest with the commission. In discharging its duties and
15 responsibilities, the commission:

16 (1) Shall establish criteria, policies, and controls for
17 permissible uses within the Haiku valley cultural
18 preserve;

19 (2) Shall approve all contracts for services and adopt
20 rules pertaining to the Haiku valley cultural
21 preserve;



1 (3) Shall provide advice to the governor, the office, and
2 other departments and agencies on any matter relating
3 to the Haiku valley cultural preserve;

4 (4) Shall provide advice to the department of Hawaiian
5 home lands and the department of the attorney general
6 on any matter relating to the conveyance of Haiku
7 valley to the office;

8 (5) May enter into curator or stewardship agreements with
9 appropriate Hawaiian cultural and spiritual community
10 organizations for the perpetuation of Native Hawaiian
11 cultural, religious, and subsistence customs, beliefs,
12 and practices for the purposes stated in
13 section -3;

14 (6) Shall adopt rules in accordance with chapter 91 that
15 are necessary for the purposes of this chapter and
16 maintain a record of its proceedings and actions;

17 (7) May accept grants, donations, and contributions for
18 deposit into the Haiku valley cultural preserve
19 special fund established pursuant to section -10
20 for the purposes of this chapter; and



1 (8) Shall carry out those responsibilities and duties
 2 concerning the Haiku valley cultural preserve
 3 otherwise conferred upon the island burial councils
 4 and the office with regard to proper treatment of
 5 burial sites and human skeletal remains found in the
 6 valley preserve; provided that nothing in this section
 7 shall circumvent historical preservation requirements
 8 under chapter 6E.

9 § -6 **Powers and duties.** The office and other
 10 departments and agencies of the State shall be subject to the
 11 oversight of the commission with regard to the control and
 12 management of the Haiku valley cultural preserve. Subject to
 13 section -5, the office shall:

- 14 (1) Establish and implement controls and permitted uses
 15 for the Haiku valley cultural preserve;
- 16 (2) Enforce this chapter; and
- 17 (3) Authorize state conservation and resources enforcement
 18 officers or other law enforcement entities as it deems
 19 reasonable and necessary to serve and execute warrants
 20 and arrest offenders or issue citations in all matters



1 relating to the enforcement of laws and rules
2 applicable to the Haiku valley cultural preserve.

3 § -7 **Penalty.** Any person who violates any of the laws
4 or rules applicable to the Haiku valley cultural preserve shall
5 be guilty of a petty misdemeanor and shall be fined no more than
6 \$1,000, imprisoned no more than thirty days, or both, for each
7 offense. Each day of each violation shall be deemed a separate
8 offense.

9 § -8 **General administrative penalties.** (a) Except as
10 otherwise provided by law, the commission may set, charge, and
11 collect administrative fines, or bring legal action to recover
12 administrative costs of the commission, payment for damages, or
13 for the cost to correct damages resulting from a violation of
14 this chapter or any rule adopted pursuant to this chapter. The
15 administrative fines shall be set as follows:

- 16 (1) For a first violation, a fine of no more than \$10,000;
- 17 (2) For a second violation within five years of a previous
18 violation, a fine of no more than \$15,000; and
- 19 (3) For a third or subsequent violation within five years
20 of the last violation, a fine of no more than \$25,000.



1 (b) In addition, an administrative fine of up to \$5,000
2 may be levied for each specimen of natural resource or any
3 historic property taken, killed, injured, broken, or damaged in
4 violation of any rule adopted pursuant to this chapter.

5 For purposes of this subsection:

6 "Historic property" means any building, structure, object,
7 district, landscape, area, or site, including heiau and
8 underwater sites, that is over fifty years old.

9 "Natural resource" means any archaeological artifacts; any
10 minerals; any aquatic life or wildlife or parts thereof,
11 including their eggs; and any land plants or parts thereof,
12 including seeds.

13 (c) Any criminal penalty for any violation of this chapter
14 or any rule adopted pursuant to this chapter shall not preclude
15 the commission from bringing a civil legal action to recover
16 additional administrative fines and costs. Any civil legal
17 action against a person to recover administrative fines and
18 costs for any violation of this chapter or any rule adopted
19 pursuant to this chapter shall not preclude the State from
20 pursuing any criminal action against that person.



1 (d) In any judicial proceeding to recover an
2 administrative penalty imposed, the commission need only show
3 that:

- 4 (1) Notice was given;
- 5 (2) A hearing was held, or the time granted for requesting
- 6 a hearing has run without such a request;
- 7 (3) An administrative penalty was imposed;
- 8 (4) The administrative penalty remains unpaid; and
- 9 (5) The penalty has not been appealed or all appeals have
- 10 been exhausted.

11 **§ -9 Transfer.** (a) Upon its conveyance to the office,
12 the resources of the Haiku valley cultural preserve shall be
13 held in trust by the office as part of the public land trust;
14 provided that the office shall transfer management and control
15 of the Haiku valley cultural preserve to the sovereign Native
16 Hawaiian entity upon its recognition by the United States and
17 the State.

18 (b) All terms, conditions, agreements, and laws affecting
19 Haiku valley shall remain in effect unless expressly terminated.

20 **§ -10 Haiku valley cultural preserve special fund.** (a)
21 There is created in the state treasury the Haiku valley cultural



1 preserve special fund to be administered by the office, and into
2 which shall be deposited:

3 (1) Any moneys received from the federal government for
4 purposes consistent with this chapter;

5 (2) Any moneys appropriated by the legislature to the
6 special fund;

7 (3) Any moneys received from grants and donations or the
8 proceeds from contributions; and

9 (4) The interest or return on investments earned from
10 moneys in the special fund;

11 All moneys in the special fund shall be used to fulfill the
12 purposes of this chapter, including for the operation of the
13 commission.

14 (b) Moneys deposited into or appropriated to the special
15 fund shall remain available until they are obligated or until
16 the special fund is terminated.

17 (c) If the special fund is terminated, all funds shall be
18 transferred to the general fund; provided that all unexpended or
19 unencumbered balances shall be disbursed in accordance with any
20 requirements set by funding sources and for purposes consistent
21 with this chapter.



1 § -11 **Severability.** If any provision of this chapter or
2 the application thereof to any person or circumstance is held
3 invalid, the invalidity shall not affect other provisions or
4 applications of this chapter that can be given effect without
5 the invalid provision or application, and to this end the
6 provisions of this chapter are severable."

7 SECTION 3. The department of Hawaiian home lands may
8 negotiate an agreement for license or other terms of use of
9 Haiku valley with the office of Hawaiian affairs; provided that
10 the agreement shall include terms regarding liability, monetary
11 resources, and removal of hazardous wastes.

12 SECTION 4. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2023-2024 and
15 the same sum or so much thereof as may be necessary for fiscal
16 year 2024-2025 to be deposited into the Haiku valley cultural
17 preserve special fund.

18 SECTION 5. There is appropriated out of the Haiku valley
19 cultural preserve special fund the sum of \$ or so much
20 thereof as may be necessary for fiscal year 2023-2024 and the
21 same sum or so much thereof as may be necessary for fiscal year



1 2024-2025 for the purposes of this Act, including the
2 acquisition of Haiku valley by the office of Hawaiian affairs.

3 SECTION 6. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 7. If any provision of this Act, or the
7 application thereof to any person or circumstance, is held
8 invalid, the invalidity does not affect other provisions or
9 applications of the Act that can be given effect without the
10 invalid provision or application, and to this end the provisions
11 of this Act are severable.

12 SECTION 8. This Act shall take effect on June 30, 3000.

13



Report Title:

Haiku Valley; Office of Hawaiian Affairs; Haiku Valley Cultural Preserve Commission; Special Fund; Appropriation

Description:

Establishes the Haiku valley cultural preserve commission with OHA to provide policy and management oversight of the Haiku valley cultural preserve. Establishes the Haiku valley cultural preserve special fund. Authorizes the department of Hawaiian home lands to negotiate an agreement for license or other terms of use of Haiku valley with the office of Hawaiian affairs. Appropriates funds. Effective 6/30/3000. (HD1)

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