
A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

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

PART I

SECTION 1. The legislature finds that section 6E-8, Hawaii Revised Statutes, plays an important role in the protection and management of the State's historic properties and burial sites. Section 6E-8(b), Hawaii Revised Statutes, requires the department of Hawaiian home lands, prior to any proposed project relating to lands under its jurisdiction, to consult with the department of land and natural resources regarding the effect of the project upon historic property or a burial site.

The purpose of this part is to allow the department of Hawaiian home lands to review the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

SECTION 2. Section 6E-8, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) [The] Notwithstanding subsection (a), the department of Hawaiian home lands~~[, prior to]~~ may review the effect of any



1 proposed project relating to lands under its jurisdiction[~~7~~
2 ~~shall consult with the department regarding the effect of the~~
3 ~~project~~] upon historic property or a burial site[~~-~~], subject to
4 this chapter and to any administrative rules adopted under this
5 chapter; provided that the department of Hawaiian home lands
6 shall:

7 (1) Designate the review to a Hawaiian home lands
8 preservation officer who has professional competence
9 and experience in the field of historic preservation
10 and who has received a written delegation of authority
11 to perform the review from the state historic
12 preservation officer;

13 (2) Ensure that copies of all reports, maps, and
14 documents, including those reflecting the Hawaiian
15 home lands preservation officer's comments,
16 recommendations, and decisions, are provided to the
17 department to be incorporated into the historic
18 preservation digital document management system and
19 library;

20 (3) Notify the department that the department of Hawaiian
21 home lands will be reviewing the effect when



1 initiating review and provide the department with a
2 copy of the written concurrence or nonconcurrence at
3 the end of the review; and

4 (4) Consult with the appropriate island burial council on
5 any projects impacting a burial site or if a burial
6 site is advertently discovered pursuant to section 6E-
7 43 or 6E-43.6, or both, as appropriate.

8 The department shall retain authority for review under this
9 section for projects affecting properties listed or nominated
10 for inclusion in the Hawaii register of historic places or the
11 national register of historic places."

12 PART II

13 SECTION 3. The purpose of this part is to transfer the
14 administrative placement of the island burial councils to the
15 office of Hawaiian affairs.

16 SECTION 4. Section 6E-43.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§6E-43.5 Island burial councils; creation; appointment;**
19 **composition; duties.** (a) There shall be established within the
20 ~~[department]~~ office of Hawaiian affairs five island burial
21 councils, one each for Hawai'i, Maui/Lāna'i, Moloka'i, O'ahu,



1 and Kaua`i/Ni`ihau, to implement section 6E-43. Each council
2 shall consist of nine members, except the Moloka`i council,
3 which shall consist of five members. Each council shall consist
4 of no more than three representatives of development and large
5 landowner interests; provided that the Moloka`i council shall
6 consist of no more than one representative of development and
7 large landowner interests. The remaining council members shall
8 represent the geographic regions identified in paragraphs (1)
9 through (5). At all times, at least two of the regional
10 representatives of each council shall have been appointed from a
11 list of nominees submitted to the governor by the office of
12 Hawaiian affairs, as provided under subsection (b). Each
13 council shall include at least one representative for each
14 geographic region identified as follows:

- 15 (1) The Hawai`i council shall include the following
16 geographic regions: Kohala, Kona, Ka`ū, Puna, Hilo,
17 and Hāmākua;
- 18 (2) The Maui/Lāna`i council shall include the following
19 geographic regions: Honua`ula, Lahaina, Wailuku,
20 Makawao, Hāna, and Lāna`i;



(3) The Moloka`i council shall include the following geographic regions: West Moloka`i, Central Moloka`i, East Moloka`i, and Kalawao;

(4) The O`ahu council shall include the following geographic regions: Wai`ānae, `Ewa, Kona, Ko`olaupoko, Ko`olauloa, and Waialua; and

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

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

(b) Appointment of members to the councils shall be made by the governor, in accordance with section 26-34 and subsection

(a), from ~~[lists]~~ a list for each council submitted by ~~[the department and]~~ the office of Hawaiian affairs. Lists to fill vacancies on the councils shall be submitted as follows:

(1) For vacancies attributable to the expiration of terms, the list shall be submitted on the first business day



1 of December before the expiration of the terms, except
2 as provided in subsection (c); and

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

7 ~~[(c) The department may submit any list to fill a vacancy~~
8 ~~up to fifteen days after the office of Hawaiian affairs submits~~
9 ~~its list for the same vacancy; provided that the failure of the~~
10 ~~department to submit any list by any relevant deadline or~~
11 ~~fifteen days after the office of Hawaiian affairs submits its~~
12 ~~list, whichever occurs later, shall be construed as a waiver of~~
13 ~~the department's right to submit a list.~~

14 ~~-(d)]~~ (c) Notwithstanding section 26-34(b) or any other law
15 to the contrary, any council member whose term has expired may
16 continue in office as a holdover member until the member's
17 reappointment to a second term is confirmed or a successor is
18 nominated and appointed; provided that a holdover member shall
19 not hold office beyond the end of the fourth regular session of
20 the legislature following the expiration of the member's term of
21 office.



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

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



1 [~~(g)~~ Department records] (f) Records held by the department
2 or office of Hawaiian affairs relating to the location and
3 description of historic sites, including burial sites, if deemed
4 sensitive by a council or the Hawai'i historic places review
5 board, shall be confidential.

6 [~~(h)~~] (g) The councils shall:

- 7 (1) Determine the preservation or relocation of previously
8 identified native Hawaiian burial sites;
- 9 (2) Assist the department in the inventory and
10 identification of native Hawaiian burial sites;
- 11 (3) Make recommendations regarding appropriate management,
12 treatment, and protection of native Hawaiian burial
13 sites, and on any other matters relating to native
14 Hawaiian burial sites;
- 15 (4) Elect a chairperson for a four-year term who shall
16 serve for no more than two consecutive terms; and
- 17 (5) Maintain a list of appropriate Hawaiian organizations,
18 agencies, and offices to notify regarding the
19 discovery of remains."

20 SECTION 5. All rights, powers, functions, and duties of
21 the department of land and natural resources relating to the



1 island burial councils established pursuant to section 6E-43.5,
2 Hawaii Revised Statutes, are transferred to the office of
3 Hawaiian affairs.

4 All employees who occupy civil service positions and whose
5 functions are transferred to the office of Hawaiian affairs by
6 this Act shall retain their civil service status, whether
7 permanent or temporary. Employees shall be transferred without
8 loss of salary, seniority (except as prescribed by applicable
9 collective bargaining agreements), retention points, prior
10 service credit, any vacation and sick leave credits previously
11 earned, and other rights, benefits, and privileges, in
12 accordance with state personnel laws and this Act; provided that
13 the employees possess the minimum qualifications and public
14 employment requirements for the class or position to which
15 transferred or appointed, as applicable; provided further that
16 subsequent changes in status may be made pursuant to applicable
17 civil service and compensation laws.

18 Any employee who, prior to this Act, is exempt from civil
19 service and is transferred as a consequence of this Act may
20 retain the employee's exempt status, but shall not be appointed
21 to a civil service position as a consequence of this Act. An



1 exempt employee who is transferred by this Act shall not suffer
2 any loss of prior service credit, vacation or sick leave credits
3 previously earned, or other employee benefits or privileges as a
4 consequence of this Act; provided that the employees possess
5 legal and public employment requirements for the position to
6 which transferred or appointed, as applicable; provided further
7 that subsequent changes in status may be made pursuant to
8 applicable employment and compensation laws. The administrator
9 of the office of Hawaiian affairs may prescribe the duties and
10 qualifications of these employees and fix their salaries without
11 regard to chapter 76, Hawaii Revised Statutes.

12 SECTION 6. All appropriations, records, equipment,
13 machines, files, supplies, contracts, books, papers, documents,
14 maps, and other personal property heretofore made, used,
15 acquired, or held by the department of land and natural
16 resources relating to the functions transferred to the office of
17 Hawaiian affairs shall be transferred with the functions to
18 which they relate.

19 PART III

20 SECTION 7. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 8. This Act shall take effect on July 1, 3000.



Report Title:

Historic Preservation; DHHL; Project Reviews; Island Burial Councils; Office of Hawaiian Affairs

Description:

Allows the Department of Hawaiian Home Lands to assume historic preservation review of the effect of any proposed project for lands under its jurisdiction except for projects affecting properties listed or nominated for inclusion in the Hawaii register of historic places or the national register of historic places. Transfers the administrative placement of the island burial councils to the Office of Hawaiian Affairs. Effective 7/1/3000. (HD1)

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

