



OHA-1

Elevating Hawaiian Expertise in Land Use and Resource Management

This bill will ensure more consideration of Native Hawaiian rights, knowledge, values, and practices in state decision making for lands critical to Native Hawaiian culture and well-being by:

- **Strengthening enforcement of the Native Hawaiian Law and Public Trust training course mandate; and**
- **Requiring four (4) members of the Board of Land and Natural Resources (BLNR) and the Land Use Commission (LUC) to be selected from a list of names submitted by the Office of Hawaiian Affairs (OHA).**

NATIVE HAWAIIAN EXPERTISE IN DECISION MAKING – TRAINING OF BOARDS & COMMISSIONS

Hawai‘i’s constitution, statutes, and case law require the state and its agencies to protect Native Hawaiian traditional and customary rights, and to consider and uphold Native Hawaiian interests in their decision making. Five years ago, to better ensure that the state’s legal responsibilities are fulfilled, the Legislature passed Act 169, mandating members of certain state boards and commissions to complete a training course on Native Hawaiian Law and the Public Trust.

Since then, feedback from training course attendees has been overwhelmingly positive; however, **a growing number of new board and commission members are failing to attend the training course as required.** As of late 2019, most applicable board and commissions were not in full compliance with Act 169. **As a result, land use and resource management decision making may continue to be less than fully informed on Native Hawaiian rights and interests associated with the ‘āina.**

NATIVE HAWAIIAN EXPERTISE IN DECISION MAKING – REPRESENTATION ON THE BLNR AND LUC

Certain critical decision making bodies, such as the LUC and BLNR, are required to have **one** member with experience or expertise in Hawaiian practices or resource management approaches. Such membership requirements seek to ensure some consideration of Native Hawaiian rights, knowledge, values, and practices in decision making that may significantly affect lands and resources critical to Native Hawaiian culture and well-being.

This single individual membership requirement, however, has not resulted in decisions that consistently recognize or incorporate Native Hawaiian knowledge, values, rights, and practices. Such decisions have led to substantial conflict, distrust, and even legal action against the state, and may further foreclose critical opportunities to enhance our islands’ resiliency and self-sufficiency through culturally-informed land use and resource management approaches.



Moreover, the appointment processes for these seats do not ensure any consultation with or input from the Native Hawaiian community. For example, despite the significant advocacy by OHA and the Native Hawaiian community to establish the BLNR cultural expert seat, OHA and the community were not consulted or even given an opportunity to encourage applicants to apply, when the BLNR seat became available and before the seat was filled.

HOW WILL OHA-1 REINFORCE NATIVE HAWAIIAN EXPERTISE IN LAND AND RESOURCE MANAGEMENT DECISIONS?

To better ensure that state land use and resource management decisions consider and uphold the state's obligations to Native Hawaiians and the public trust, as well as ensure that Native Hawaiian knowledge, values, and practices inform such decisions, OHA-1 proposes to:

- Require an annual submission to the legislature that reports on state board and commission members who have failed to fulfill their training course requirement;
- Prohibit state board and commission members who failed to meet the one-year training deadline requirement from serving on a permitted interaction group or voting on any matter before their respective boards or commissions, until they attend a training course;
- Remove untrained board and commission members from their respective boards or commissions at the end of the legislative session following their one-year deadline, unless they complete the training course or are reconfirmed by the Senate;
- Allow the individual votes of untrained board and commission members to be challenged and subject to being reversed following a contested case proceeding; and
- Require at least four members of both the BLNR and LUC be chosen from lists of names submitted by OHA.

This bill will ensure an appropriate and consistent level of consideration of Native Hawaiian rights, knowledge, values, and practices in state decision making for lands and resources that are the foundation of Native Hawaiian culture, identity, and well-being.