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# A BILL FOR AN ACT

RELATING TO BURIAL COUNCIL COMPOSITION.

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

1           **SECTION 1.** The Legislature finds that iwi kūpuna (ancestral  
2 remains) hold profound spiritual and cultural significance for  
3 the Native Hawaiian people. The practice of mālama iwi kūpuna  
4 (caring for ancestral remains) is an essential part of Native  
5 Hawaiian traditions, typically a kuleana (responsibility)  
6 reserved for ‘ohana (family). Native Hawaiian burial beliefs,  
7 customs, and practices ensure that the remains of ancestors are  
8 treated with the utmost respect, and that their spiritual  
9 connection to the land and their descendants is honored.

10           The Legislature further finds that island burial councils  
11 play a critical role in preserving iwi kūpuna and upholding  
12 Native Hawaiian burial practices. While the membership of each  
13 council currently includes representatives from specified  
14 geographic regions, as well as representatives of development  
15 and large property owner interests, the primary criteria for  
16 regional representatives is an understanding of Hawaiian  
17 culture, history, burial beliefs, customs, and practices of

1 Native Hawaiians. In contrast, no such criteria exist for  
2 landowner and developer representatives.

3 The Legislature further finds that in order to fully align  
4 island burial council compositions with Hawaiian values related  
5 to mālama iwi kūpuna, representatives of development and large  
6 property owner interests are not necessary. The inclusion of  
7 such representatives may detract from the council's focus on the  
8 care and protection of iwi kūpuna, which is a deeply spiritual  
9 and cultural responsibility.

10 The purpose of this Act is to align island burial council  
11 composition with values related to mālama iwi kūpuna by ensuring  
12 that the councils are composed primarily of individuals with a  
13 deep understanding of Native Hawaiian cultural practices by  
14 removing the requirement for representatives of development and  
15 large property owner interests and decreasing the overall  
16 composition of the island burial councils.

17 SECTION 2. Section 6E-43.5, Hawai'i Revised Statutes, is  
18 amended to read as follows:

19 **§6E-43.5** Island burial councils; creation; appointment;  
20 composition; duties.

21 (a) There shall be established within the department five  
22 island burial councils, one each for Hawai'i, Maui/Lāna'i,

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

16 (1) The Hawai'i council shall include the following  
17 geographic regions: Kohala, Kona, Ka'ū, Puna, Hilo, and  
18 Hāmākua;

19 (2) The Maui/Lāna'i council shall include the following  
20 geographic regions: Honua'ula, Lahaina, Wailuku,  
21 Makawao, Hāna, and Lāna'i;

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

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

7 (5) The Kaua'i/Ni'ihau council shall include the  
8 following geographic regions: Waimea/Nā Pali, Kōloa,  
9 Līhu'e, Kawaihau, Hanalei, and Ni'ihau.

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

15 (b) Appointment of members to the councils shall be made by  
16 the governor, in accordance with section 26-34, and  
17 subsection (a), from lists submitted by the department and  
18 the Office of Hawaiian Affairs. Lists to fill vacancies on  
19 the councils shall be submitted as follows:

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

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1           day of December before the expiration of the terms,  
2           except 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 up  
8           to fifteen days after the Office of Hawaiian Affairs submits  
9           its list for the same vacancy; provided that the failure of  
10          the 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  
13          of the department's right to submit a list.

14          (d) Notwithstanding section 26-34(b) or any other law to the  
15          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  
19          shall not hold office beyond the end of the fourth regular  
20          session of the legislature following the expiration of the  
21          member's term of office.

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1 (e) The department, in consultation with the councils,  
2 Office of Hawaiian Affairs, [~~representatives of development~~  
3 ~~and large property owner interests~~], and appropriate Hawaiian  
4 organizations, such as Hui Mālama I Nā Kūpuna O Hawai'i Nei,  
5 shall adopt rules pursuant to chapter 91 necessary to carry  
6 out the purposes of this section. The council members shall  
7 serve without compensation but shall be reimbursed for  
8 necessary expenses incurred during the performance of their  
9 duties. The councils shall be a part of the department for  
10 administrative purposes. The councils shall hold meetings and  
11 acquire information as they deem necessary and shall  
12 communicate their findings and recommendations to the  
13 department. Notwithstanding section 92-3, whenever the  
14 location and description of burial sites are under  
15 consideration, the councils may hold closed meetings. A  
16 majority of all members to which each council is entitled  
17 shall constitute a quorum to do business. Concurrence of a  
18 majority of the members present at a meeting shall be  
19 necessary to make any action of a council valid.

20 (f) Department records relating to the location and  
21 description of historic sites, including burial sites, if

1 deemed sensitive by a council or the Hawai'i historic places  
2 review board, shall be confidential.

3 (g) The councils shall:

4 (1) Determine the preservation or relocation of  
5 previously identified native Hawaiian burial sites;

6 (2) Assist the department in the inventory and  
7 identification of native Hawaiian burial sites;

8 (3) Make recommendations regarding appropriate  
9 management, treatment, and protection of native Hawaiian  
10 burial sites, and on any other matters relating to native  
11 Hawaiian burial sites;

12 (4) Elect a chairperson for a four-year term who shall  
13 serve for no more than two consecutive terms; and

14 (5) Maintain a list of appropriate Hawaiian  
15 organizations, agencies, and offices to notify regarding  
16 the discovery of remains.

17 SECTION 3. Statutory material to be  
18 repealed is bracketed and stricken. New statutory material  
19 is underscored.

20 SECTION 4. This Act shall take effect upon  
21 its approval.

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INTRODUCED BY: \_\_\_\_\_

By Request

