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# 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 historic importance to the native  
3 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 the valley  
10 is divided among several entities. The valley's fragmented  
11 ownership and limited stewardship have placed its cultural and  
12 historic resources at high risk. Ensuring adequate management  
13 of, and appropriate access to, the valley has proven elusive.

14           This Act addresses these problems by establishing a  
15 commission to provide a system that recognizes the valley's  
16 unique challenges and preserves in perpetuity its cultural and  
17 historic resources for the people of Hawaii.



1 The purpose of this Act is to establish the Haiku valley  
2 cultural preserve commission to have policy and management  
3 oversight over the Haiku valley cultural preserve.

4 SECTION 2. The Hawaii Revised Statutes is amended by  
5 adding a new chapter to be appropriately designated and to read  
6 as follows:

7 **"CHAPTER**

8 **HAIKU VALLEY CULTURAL PRESERVE**

9 **§ -1 Administration of chapter.** The Haiku valley  
10 cultural preserve commission and the department of land and  
11 natural resources shall administer this chapter.

12 **§ -2 Definitions.** As used in this chapter, unless the  
13 context otherwise requires:

14 "Board" means the board of land and natural resources.

15 "Commission" means the Haiku valley cultural preserve  
16 commission.

17 "Department" means the department of land and natural  
18 resources.

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



1           **§ -3 Cultural preserve established; reservation of uses.**

2       (a) There is established the Haiku valley cultural preserve  
3 which shall operate solely and exclusively for the following  
4 purposes:

5           (1) Preservation and practice of all rights customarily  
6                 and traditionally exercised by native Hawaiians for  
7                 cultural, spiritual, and subsistence purposes;

8           (2) Preservation and protection of the area's cultural,  
9                 archaeological, historical, and environmental  
10                resources;

11          (3) Rehabilitation, re-vegetation, habitat restoration,  
12                 and preservation;

13          (4) Education;

14          (5) Farming activities pursuant to subsection (c); and

15          (6) Other purposes as determined by the commission.

16       (b) Haiku valley shall be reserved in perpetuity for the  
17 uses enumerated in this section. Commercial uses shall be  
18 strictly prohibited.

19       (c) The commission shall adopt rules pursuant to chapter  
20 91 to permit farming activities in the Haiku valley cultural  
21 preserve that are consistent with the purposes of this chapter

1 and that take into consideration the health and safety of the  
2 general public.

3       **§ -4 Powers and duties.** The department and other  
4 departments and agencies of the State shall be subject to the  
5 oversight of the commission with regard to the control and  
6 management of the Haiku valley cultural preserve. Subject to  
7 section -7, the department shall:

8       (1) Implement controls and permitted uses for the valley  
9 cultural preserve;

10       (2) Enforce this chapter; and

11       (3) Authorize its employees as it deems reasonable and  
12 necessary to serve and execute warrants and arrest  
13 offenders or issue citations in all matters relating  
14 to enforcement of the laws and rules applicable to the  
15 Haiku valley cultural preserve.

16       **§ -5 Board of land and natural resources.** The board  
17 shall approve all actions taken by the department pursuant to  
18 this chapter. The board shall adopt rules in accordance with  
19 chapter 91 to address decisions taken by the commission.

20       **§ -6 Commission.** (a) There is established the Haiku  
21 valley cultural preserve commission to be placed within the  
22 department of land and natural resources for administrative



1 purposes as provided in section 26-35. The commission shall  
2 consist of seven members to be appointed in the manner and to  
3 serve for the terms provided in section 26-34; provided that the  
4 commission shall consist of:

5 (1) The executive director of the Koolau Foundation or the  
6 executive director's designee;

7 (2) Two members appointed by the governor from a list of  
8 nominees provided by the Koolaupoko Hawaiian Civic  
9 Club;

10 (3) The administrator of the office of Hawaiian affairs,  
11 or the administrator's designee;

12 (4) An official of the city and county of Honolulu  
13 appointed by the governor from a list of nominees  
14 provided by the mayor of the city and county of  
15 Honolulu;

16 (5) A representative of the board of land and natural  
17 resources; and

18 (6) One member appointed by the governor from a list  
19 provided by native Hawaiian organizations.

20 (b) The chairperson shall be elected by the commission  
21 from among the members of the commission.



1 (c) The members of the commission shall serve without pay  
2 but shall be reimbursed for their actual and necessary expenses,  
3 including travel expenses, incurred in the discharge of their  
4 duties.

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

8 (e) The commission, without regard to the requirements of  
9 chapter 76, may hire employees necessary to perform its duties.

10 **§ -7 Responsibilities and duties of the commission.** The  
11 general administration of the valley cultural preserve shall  
12 rest with the commission. In discharging its duties and  
13 responsibilities, the commission:

14 (1) Shall establish criteria, policies, and controls for  
15 permissible uses within the valley cultural preserve;

16 (2) Shall approve all contracts for services and adopt  
17 rules pertaining to the valley cultural preserve;

18 (3) Shall provide advice to the governor, the department,  
19 and other departments and agencies on any matter  
20 relating to the valley cultural preserve;

21 (4) Shall provide advice to the office of planning and the  
22 department of the attorney general on any matter



- 1 relating to the conveyance of Haiku valley to the
- 2 department;
- 3 (5) May enter into curator or stewardship agreements with
- 4 appropriate Hawaiian cultural and spiritual community
- 5 organizations for the perpetuation of native Hawaiian
- 6 cultural, religious, and subsistence customs, beliefs,
- 7 and practices for the purposes stated in section
- 8 -3;
- 9 (6) Shall have those powers and carry out those duties
- 10 otherwise conferred upon the board and the land use
- 11 commission with regard to dispositions and approvals
- 12 pertaining to the valley cultural preserve;
- 13 (7) Shall carry out those powers and duties concerning the
- 14 valley cultural preserve otherwise conferred upon the
- 15 city and county of Honolulu by chapter 205A;
- 16 (8) Shall carry out those powers and duties concerning the
- 17 valley cultural preserve otherwise conferred upon the
- 18 island burial councils and the department with regard
- 19 to proper treatment of burial sites and human skeletal
- 20 remains found in the valley preserve;
- 21 (9) Shall adopt rules in accordance with chapter 91 that
- 22 are necessary for the purposes of this chapter and

1 shall maintain a record of its proceedings and  
 2 actions;

3 (10) May delegate to the executive director or employees of  
 4 the commission, by formal commission action, such  
 5 power and authority vested in the commission by this  
 6 chapter as the commission deems reasonable and proper  
 7 for the effective administration of this chapter; and

8 (11) May solicit and accept grants, donations, and  
 9 contributions for deposit into the Haiku valley  
 10 cultural preserve trust fund to support the purposes  
 11 of this chapter.

12 **§ -8 Penalty.** Any person who violates any of the laws  
 13 or rules applicable to the Haiku valley cultural preserve shall  
 14 be guilty of a petty misdemeanor and shall be fined not more  
 15 than \$1,000, imprisoned not more than thirty days, or both, for  
 16 each offense. Each day of each violation shall be deemed a  
 17 separate offense.

18 **§ -9 General administrative penalties.** (a) Except as  
 19 otherwise provided by law, the commission is authorized to set,  
 20 charge, and collect administrative fines, or bring legal action  
 21 to recover administrative costs of the commission or the  
 22 department, or payment for damages, or for the cost to correct





1 damages resulting from a violation of this chapter or any rule  
2 adopted hereunder. The administrative fines shall be as  
3 follows:

- 4 (1) For a first violation, a fine of not more than  
5 \$10,000;
- 6 (2) For a second violation within five years of a previous  
7 violation, by a fine of not more than \$15,000; and
- 8 (3) For a third or subsequent violation within five years  
9 of the last violation, by a fine of not more than  
10 \$25,000.

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

15 For purposes of this subsection:

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

19 "Natural resource" means any archaeological artifacts,  
20 minerals, any aquatic life or wildlife or parts thereof,  
21 including their eggs, and any land plants or parts thereof,  
22 including seeds.



1 (c) Any criminal penalty for any violation of this chapter  
 2 or any rule adopted under this chapter shall not be deemed to  
 3 preclude the commission from bringing a civil legal action to  
 4 recover additional administrative fines and costs. Any civil  
 5 legal action against a person to recover administrative fines  
 6 and costs for any violation of this chapter or any rule adopted  
 7 under this chapter shall not be deemed to preclude the State  
 8 from pursuing any criminal action against that person.

9 (d) In any judicial proceeding to recover an  
 10 administrative penalty imposed, the commission need only show  
 11 that notice was given, that a hearing was held, or the time  
 12 granted for requesting a hearing has run without such a request,  
 13 that an administrative penalty was imposed, and the  
 14 administrative penalty remains unpaid.

15 **§ -10 Transfer.** Upon its conveyance to the department,  
 16 the resources and waters of the Haiku valley cultural preserve  
 17 shall be held in trust by the department as part of the public  
 18 land trust; provided that the department shall transfer  
 19 management and control of the Haiku valley cultural preserve to  
 20 the sovereign native Hawaiian entity upon its recognition by the  
 21 United States and the State.



1 All terms, conditions, agreements, and laws affecting the  
2 valley shall remain in effect unless expressly terminated.

3 **§ -11 Haiku valley cultural preserve trust fund. (a)**

4 There is created in the state treasury the Haiku valley cultural  
5 preserve trust fund to be administered by the department with  
6 the prior approval of the commission. Subject to this chapter:

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

9 (2) Any moneys appropriated by the legislature to the  
10 trust fund;

11 (3) Any moneys received from grants and donations or the  
12 proceeds from contributions; and

13 (4) The interest or return on investments earned from  
14 moneys in the trust fund;

15 shall be deposited into the trust fund and shall be used to  
16 fulfill the purposes of this chapter.

17 (b) The commission may use moneys in the trust fund to  
18 carry out the purposes of this chapter, including hiring  
19 employees, specialists, and consultants necessary to complete  
20 projects related to the purposes of this chapter.



1 (c) Moneys deposited into or appropriated to the trust  
2 fund shall remain available until they are obligated or until  
3 the trust fund is terminated.

4 (d) If the trust fund is terminated, all funds shall be  
5 transferred to the general fund; provided that all unexpended or  
6 unencumbered balances shall be disbursed in accordance with any  
7 requirements set by funding sources and for purposes consistent  
8 with this chapter.

9 (e) The commission shall submit an annual report on the  
10 status of the Haiku valley cultural preserve trust fund to the  
11 legislature no later than twenty days prior to the convening of  
12 each regular session. The annual report shall include the total  
13 number of and amount of grants, donations, and contributions  
14 received and balances remaining on June 30 of each year."

15 SECTION 3. The office of planning and the department of  
16 the attorney general, after consulting with the Haiku valley  
17 cultural preserve commission, are authorized to initiate the  
18 conveyance of all of Haiku valley in fee simple to the  
19 department of land and natural resources; provided that before  
20 the valley is conveyed to the department of land and natural  
21 resources, agreements shall be executed with respect to  
22 liability, monetary resources, and removal of hazardous wastes.



1 SECTION 4. The office of Hawaiian affairs shall provide  
2 the necessary funding for the purposes of this Act, including  
3 the acquisition of Haiku valley by the department of land and  
4 natural resources.

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

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

14 SECTION 7. All rights, powers, functions, and duties of  
15 the Board of Land and Natural resources and the Land Use  
16 Commission with regard to the dispositions and approvals  
17 pertaining to the Haiku valley cultural preserve are transferred  
18 to the Haiku valley cultural preserve commission, established  
19 pursuant to this Act.

20 SECTION 8. All appropriations, records, equipment,  
21 machines, files, supplies, contracts, books, papers, documents,  
22 maps, and other personal property heretofore made, used,



1 acquired, or held by the board of land and natural resources or  
2 land use commission relating to the functions transferred to the  
3 Haiku valley cultural preserve commission shall be transferred  
4 with the functions to which they relate.

5 SECTION 9. This Act shall take effect upon its approval.



**Report Title:**

Haiku Valley

**Description:**

Establishes the Haiku Valley cultural preserve commission to provide policy and management oversight of the Haiku Valley cultural preserve. Initiates process of conveying Haiku valley in fee simple to the Department of Land and Natural Resources. (SD1)

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