
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 will address 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 that will have policy and
3 management oversight of 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 "Valley cultural preserve" means the area designated as
20 Haiku valley on the island of Oahu.

21 § -3 Cultural preserve established; reservation of uses.

22 (a) There is established the Haiku valley cultural preserve



1 which shall operate solely and exclusively for the following
2 purposes:

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

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

9 (3) Rehabilitation, re-vegetation, habitat restoration,
10 and preservation;

11 (4) Education; and

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

13 (b) The valley shall be reserved in perpetuity for the
14 uses enumerated in this section. Commercial uses shall be
15 strictly prohibited.

16 § -4 **Powers and duties.** The department and other
17 departments and agencies of the State shall be subject to the
18 oversight of the commission with regard to the control and
19 management of the valley cultural preserve. Subject to section
20 -6, the department shall:

21 (1) Implement controls and permitted uses for the valley
22 cultural preserve;



- 1 (2) Enforce this chapter;
- 2 (3) Provide administrative support to the commission; and
- 3 (4) Authorize its employees as it deems reasonable and
- 4 necessary to serve and execute warrants and arrest
- 5 offenders or issue citations in all matters relating
- 6 to enforcement of the laws and rules applicable to the
- 7 valley cultural preserve.

8 § -5 **Commission.** (a) There is established the Haiku
9 valley cultural preserve commission to be placed within the
10 department of land and natural resources for administrative
11 purposes as provided in section 26-35. The commission shall
12 consist of seven members to be appointed in the manner and to
13 serve for the terms provided in section 26-34; provided that:

- 14 (1) The executive director of the Koolau Foundation or the
- 15 executive director's designee;
- 16 (2) Two members shall be appointed by the governor from a
- 17 list provided by the Koolaupoko Hawaiian Civic Club;
- 18 (3) One member shall be a representative of the office of
- 19 Hawaiian affairs;
- 20 (4) One member shall be an official of the city and county
- 21 of Honolulu appointed by the governor from a list of



1 nominees provided by the mayor of the city and county
2 of Honolulu;

3 (5) One member shall be a representative of the board of
4 land and natural resources;

5 (6) One member shall be appointed by the governor from a
6 list provided by native Hawaiian organizations; and

7 (7) The administrator of the office of Hawaiian affairs or
8 the administrator's designee.

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

11 (c) The members of the commission shall serve without pay
12 but shall be reimbursed for their actual and necessary expenses,
13 including travel expenses, incurred in discharging their duties.

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

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

19 § -6 **Responsibilities and duties of the commission.** The
20 general administration of the valley cultural preserve shall
21 rest with the commission. In discharging its duties and
22 responsibilities, the commission:



- 1 (1) Shall establish criteria, policies, and controls for
2 permissible uses within the valley cultural preserve;
- 3 (2) Shall approve all contracts for services and adopt
4 rules pertaining to the valley cultural preserve;
- 5 (3) Shall provide advice to the governor, the department,
6 and other departments and agencies on any matter
7 relating to the valley cultural preserve;
- 8 (4) Shall provide advice to the office of planning and the
9 department of the attorney general on any matter
10 relating to the conveyance of Haiku valley to the
11 department;
- 12 (5) May enter into curator or stewardship agreements with
13 appropriate Hawaiian cultural and spiritual community
14 organizations for the perpetuation of native Hawaiian
15 cultural, religious, and subsistence customs, beliefs,
16 and practices for the purposes stated in section
17 -3;
- 18 (6) Shall carry out those powers and duties otherwise
19 conferred upon the board and the land use commission
20 with regard to dispositions and approvals pertaining
21 to the valley cultural preserve. All powers and
22 duties of the board and the land use commission



- 1 concerning dispositions and approvals pertaining to
2 the valley cultural preserve shall be transferred to
3 the commission;
- 4 (7) Shall carry out those powers and duties concerning the
5 valley cultural preserve otherwise conferred upon the
6 city and county of Honolulu by chapter 205A;
- 7 (8) Shall carry out those powers and duties concerning the
8 valley cultural preserve otherwise conferred upon the
9 island burial councils and the department with regard
10 to proper treatment of burial sites and human skeletal
11 remains found in the valley preserve;
- 12 (9) Shall adopt rules in accordance with chapter 91 that
13 are necessary for the purposes of this chapter and
14 shall maintain a record of its proceedings and
15 actions;
- 16 (10) May delegate to the executive director or employees of
17 the commission, by formal commission action, such
18 power and authority vested in the commission by this
19 chapter as the commission deems reasonable and proper
20 for the effective administration of this chapter;
- 21 (11) May solicit and accept grants, donations, and
22 contributions for deposit into the Haiku valley



1 cultural preserve trust fund to support the purposes
2 of this chapter; and

3 (12) Shall establish the boundaries of the Haiku valley
4 cultural preserve, excluding all private lands.

5 § -7 **Farming.** Notwithstanding section -3 to the
6 contrary, the commission shall adopt rules pursuant to chapter
7 91 to permit farming activities in the valley cultural preserve
8 that are consistent with the purpose of this chapter and that
9 take into consideration the health and safety of the general
10 public.

11 § -8 **Penalty.** Any person who violates any of the laws
12 or rules applicable to the valley cultural preserve shall be
13 guilty of a petty misdemeanor and shall be fined not more than
14 \$1,000 or imprisoned not more than thirty days, or both, for
15 each offense. Each day of each violation shall be deemed a
16 separate offense.

17 § -9 **General administrative penalties.** (a) Except as
18 otherwise provided by law, the commission is authorized to set,
19 charge, and collect administrative fines, or bring legal action
20 to recover administrative costs of the commission or the
21 department, or payment for damages, or for the cost to correct
22 damages resulting from a violation of this chapter or any rule



1 adopted hereunder. The administrative fines shall be as
2 follows:

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

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

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

18 "Natural resource" means any archaeological artifacts,
19 minerals, any aquatic life or wildlife or parts thereof,
20 including their eggs, and any land plants or parts thereof,
21 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 prevent the State from
8 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 that the
14 administrative penalty remains unpaid.

15 § -10 **Transfer.** Upon its conveyance to the department,
16 the resources and waters of the valley cultural preserve shall
17 be held in trust by the department as part of the public land
18 trust; provided that the department shall transfer management
19 and control of the valley cultural preserve to the sovereign
20 native Hawaiian entity upon its recognition by the United States
21 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) All 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, 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 in 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 of the legislature. The annual report
13 shall include the total number of and amount of grants,
14 donations, and contributions received and balances remaining on
15 June 30 of each year."

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



1 executed with respect to liability, monetary resources, and
2 removal of hazardous wastes.

3 SECTION 4. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so
5 much thereof as may be necessary for fiscal year 2012-2013 for
6 the purposes of this Act, including but not limited to the
7 acquisition of Haiku valley by the department of land and
8 natural resources.

9 The sum appropriated shall be expended by the department of
10 land and natural resources for the purposes of this Act.

11 SECTION 5. If any provision of this Act, or the
12 application thereof to any person or circumstance, is held
13 invalid, the invalidity does not affect other provisions or
14 applications of the Act that can be given effect without the
15 invalid provision or application, and to this end the provisions
16 of this Act are severable.

17 SECTION 6. This Act shall take effect upon its approval;
18 provided that section 4 shall take effect on July 1, 2012.

19



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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