

JAN 27 2021

A BILL FOR AN ACT

RELATING TO TRAINING IN NATIVE HAWAIIAN RIGHTS.

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

1 SECTION 1. In Act 169, Session Laws of Hawaii 2015, (Act
2 169) the legislature found that pursuant to Hawaii's
3 constitution, statutes, and case law, the State recognizes a
4 mandate to protect native Hawaiian traditional and customary
5 rights. Accordingly, Act 169 required the office of Hawaiian
6 affairs to establish, design, and administer a training course
7 on Hawaiian rights, the sources of these rights, and how the
8 infringement of these rights affects the Hawaiian people. In
9 addition, Act 169 required new members of certain state
10 councils, boards, and commissions to complete the training
11 course within one year of their appointment.

12 Unfortunately, despite the regular provision of notice to
13 board and commission administrators, a significant number of
14 board and commission members subject to the mandatory training
15 course continue to fail to comply with their training course
16 completion responsibility. As a result, critical land use and
17 resource management decision-making may continue to be less than



1 fully informed on native Hawaiian concepts, practices, and
2 rights.

3 These issues, in turn, have led and continue to lead to
4 substantial conflict, distrust in government decisions and
5 processes, and even legal action against the State, and may
6 further foreclose critical opportunities to ensure our islands'
7 resiliency and self-sufficiency through culturally-informed land
8 use and resource management.

9 Accordingly, the legislature intends to ensure a deeper
10 understanding among board and commission members of the State's
11 legal responsibilities to native Hawaiians, Hawaii's political
12 history, the public land trust, native Hawaiian traditional and
13 customary rights, Hawaii's water laws and the public trust
14 doctrine, and laws relating to native Hawaiian burials. The
15 legislature further intends to ensure greater recognition and
16 incorporation of native Hawaiian knowledge, values, and rights
17 in land use and resource management decision-making.

18 The purpose of this Act is to:

- 19 (1) Prohibit council, board, and commission members who
20 fail to meet their training course completion
21 requirement from serving on a permitted interaction



1 group or voting on matters before their respective
2 councils, boards, or commissions;

3 (2) Require council, board, and commission members who
4 fail to meet their training course completion
5 requirement to be removed from their respective
6 council, board, or commission, unless they complete
7 the training requirement or are reconfirmed by the
8 Senate prior to the completion of the regular
9 legislative session that follows the deadline to
10 complete their training requirement; and

11 (3) Require the office of Hawaiian affairs and the
12 department of land and natural resources to compile an
13 annual report of council, board, and commission
14 members who have failed to complete their training
15 course requirement, and to submit the report to the
16 governor and legislature no later than twenty days
17 prior to the convening of the regular legislative
18 session.

19 SECTION 2. Section 10-42, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "[f]§10-42[+] Training relating to native Hawaiian and
2 Hawaiian traditional and customary rights, natural resources and
3 access rights, and the public trust. (a) All council, board,
4 and commission members identified in section 10-41(a) shall
5 complete the training course administered by the office of
6 Hawaiian affairs pursuant to this section within twelve months
7 of the date of the member's initial appointment. Members who
8 fail to complete the training course within the required period
9 shall be:

- 10 (1) Prohibited from serving on a permitted interaction
11 group or voting on a matter before their respective
12 council, board, or commission until the mandatory
13 training course is completed; and
- 14 (2) Removed from their respective council, board, or
15 commission at the end of the regular legislative
16 session following their deadline to complete the
17 training course; provided that members shall not be
18 removed if they complete the mandatory training course
19 or obtain the advice and consent of the senate to
20 continue serving on their respective council, board,
21 or commission by the end of the regular legislative



1 session following their deadline to complete the
2 training course.

3 (b) Individual votes taken by council, board, and
4 commission members who failed to complete the mandatory training
5 course may be challenged and subject to being nullified and
6 voided following a contested case proceeding.

7 (c) The office of Hawaiian affairs and department of land
8 and natural resources shall prepare an annual report of all
9 council, board, and commission members who have failed to meet
10 the training requirement in this section as of September 21 of
11 each year, which shall be made available for public inspection
12 at the office of Hawaiian affairs and department of land and
13 natural resources, and submitted to the governor and legislature
14 no later than twenty days prior to the convening of each regular
15 session of the legislature.

16 [~~(b)~~] (d) The office of Hawaiian affairs, at its own
17 expense, shall establish, design, and administer a training
18 course relating to native Hawaiian and Hawaiian traditional and
19 customary rights, native Hawaiian and Hawaiian natural resource
20 protection and access rights, and the public trust, including



1 the State's trust responsibility. The training course shall
2 include:

3 (1) Historical information, explanations, and discussions
4 of key state laws, state constitutional provisions,
5 and court rulings that reaffirm and provide for the
6 protection of native Hawaiian and Hawaiian rights; and

7 (2) A discussion of the importance of public trust
8 resources and various programs to native Hawaiian and
9 Hawaiian rights.

10 [~~e~~] (e) The office of Hawaiian affairs, at its own
11 expense, shall develop the methods and prepare any materials
12 necessary to implement the training course, administer the
13 training course, and notify each council, board, and commission
14 identified in section 10-41(a) that attendance in a training
15 course is mandatory.

16 [~~d~~] (f) The office of Hawaiian affairs shall offer the
17 training course at least twice per year.

18 [~~e~~] (g) The governor shall provide to the office of
19 Hawaiian affairs the names of persons required to take the
20 training course pursuant to this part within thirty calendar
21 days of their initial appointment by the governor."



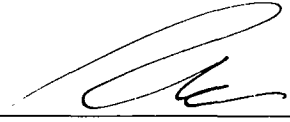
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1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4

INTRODUCED BY:





S.B. NO. 1409

Report Title:

Department of Land and Natural Resources; Office of Hawaiian Affairs; Council; Boards; Commissions; Members; Training

Description:

Prohibits council, board, and commission members from serving if the member has not completed, within the requisite time, the required training course related to native Hawaiian and Hawaiian traditional and customary rights, native Hawaiian and Hawaiian natural resource protection and access rights, and the public trust, including the State's trust responsibility.

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

