
HOUSE CONCURRENT RESOLUTION

REQUESTING THE ESTABLISHMENT OF A BURIAL SITES WORKING GROUP TO
REVIEW AND RECOMMEND IMPROVEMENTS TO THE BURIAL SITES
PROGRAM WITHIN THE STATE HISTORIC PRESERVATION DIVISION.

1 WHEREAS, the Legislature acknowledges the State's duty to
2 native Hawaiians is firmly established in the state constitution
3 in article XII; and
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5 WHEREAS, the Legislature and the State also recognize their
6 unique trust relationship with Native Hawaiians; and
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8 WHEREAS, the Department of Land and Natural Resources'
9 mission is to "[e]nhance, protect, conserve and manage Hawaii's
10 unique and limited natural, cultural and historic resources held
11 in public trust for current and future generations of the people
12 of Hawaii nei, and its visitors, in partnership with others from
13 the public and private sectors"; and
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15 WHEREAS, within the Department of Land and Natural
16 Resources is the State Historic Preservation Division, which
17 strives to preserve and protect Hawaii's historic identity; and
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19 WHEREAS, the Island Burial Councils within the State
20 Historic Preservation Division's History and Culture Branch have
21 the duty of protecting and managing traditional Native Hawaiian
22 burial sites over fifty years old that are most commonly found
23 unmarked according to ancient cultural protocols; and
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25 WHEREAS, Island Burial Council members are reviewed and
26 vetted by the Office of Hawaiian Affairs, who submits a list of
27 names and qualifications of potential council members to the
28 Governor, who nominates these individuals to sit on the
29 councils, subject to confirmation by the Senate; and



1 WHEREAS, council members take upon themselves the sworn
2 duties and obligations to care for iwi kūpuna (ancestral bones)
3 and moepū (funerary possessions); and
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5 WHEREAS, the Island Burial Councils are charged with, among
6 other things, overseeing and determining whether previously
7 identified Native Hawaiian burial sites will be preserved in
8 place or relocated; and
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10 WHEREAS, when there are inadvertent discoveries of iwi
11 kūpuna, these burial sites are under the jurisdiction of the
12 State Historic Preservation Division; and
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14 WHEREAS, the State Historic Preservation Division has been
15 the subject of numerous audits and was put on probation with the
16 National Parks Service, but has recently been moved from a
17 high-risk to a medium-risk recipient of federal funds; and
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19 WHEREAS, many within the Native Hawaiian community,
20 especially lineal descendants, have also expressed frustration
21 at the lack of action by the State Historic Preservation
22 Division; and
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24 WHEREAS, despite calls for assistance from Island Burial
25 Council members, the councils continue to be inadequately
26 staffed and under trained; and
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28 WHEREAS, members also claim that there has been a failure
29 to enforce burial site violations while not developing an
30 adequate inventory of Native Hawaiian burial sites; and
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32 WHEREAS, there is a significant divide between Native
33 Hawaiians and the State Historic Preservation Division, a branch
34 of government meant to provide guidance on significant cultural
35 and historical issues; and
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37 WHEREAS, section 10-1(b), Hawaii Revised Statutes, states
38 that "[i]t shall be the duty and responsibility of all state
39 departments and instrumentalities of state government providing
40 services and programs which affect native Hawaiians and
41 Hawaiians to actively work toward the goals of this chapter and
42 to cooperate with and assist wherever possible the office of
43 Hawaiian affairs"; and
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1 WHEREAS, section 10-3, Hawaii Revised Statutes, states that
2 the Office of Hawaiian Affairs shall work toward the betterment
3 of native Hawaiians and Hawaiians by "[a]ssessing the policies
4 and practices of other agencies impacting on native Hawaiians
5 and Hawaiians, and conducting advocacy efforts for native
6 Hawaiians and Hawaiians"; now, therefore,
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8 BE IT RESOLVED by the House of Representatives of the
9 Thirty-first Legislature of the State of Hawai'i, Regular Session
10 of 2021, the Senate concurring, that the Office of Hawaiian
11 Affairs is requested to convene and conduct the facilitation of
12 a working group to review and recommend improvements to the
13 workings of the Island Burial Councils, found within the State
14 Historic Preservation Division, and how to implement them; and
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16 BE IT FURTHER RESOLVED that the working group is requested
17 to determine ways to strengthen protections and improve
18 resources for Native Hawaiian burials; and
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20 BE IT FURTHER RESOLVED that the working group include the
21 following members:
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- 23 (1) The Chief of the History and Culture Branch of the
24 State Historic Preservation Division or the Chief's
25 designee;
- 26 (2) The Chief of the Division of Conservation and
27 Resources Enforcement of the State Historic
28 Preservation Division or the Chief's designee;
- 29 (3) The Chief Executive Officer of the Office of Hawaiian
30 Affairs or the Chief Executive Officer's designee;
- 31 (4) One individual from each Island Burial Council, to be
32 selected by a majority vote of its respective members;
- 33 (5) One staff member from the Department of the Attorney
34 General, to be selected by the Attorney General;
- 35 (6) The Dean of the William S. Richardson School of Law or
36 the Dean's designee;
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- 1 (7) One Native Hawaiian cultural practitioner, to be
- 2 selected by Huliauapa'a; and
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- 4 (8) One island burial lineal descendant, to be selected by
- 5 Huliauapa'a; and
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7 BE IT FURTHER RESOLVED that the working group is requested
 8 to examine ways to improve the implementation of the Island
 9 Burial Councils' duties and responsibilities and to better
 10 understand and determine their relationship to the State
 11 Historic Preservation Division and its management; and

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13 BE IT FURTHER RESOLVED that the working group is requested
 14 to review existing statutes and administrative rules pertaining
 15 to the Island Burial Councils and ways to develop their
 16 implementation; and

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18 BE IT FURTHER RESOLVED that the working group is requested
 19 to provide recommendations on the development of a statewide
 20 survey and inventory that documents historic properties where
 21 burial sites exist or may exist, including properties owned by
 22 the State or the counties; and

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24 BE IT FURTHER RESOLVED that the working group is requested
 25 to submit a report of its findings and recommendations to the
 26 Legislature no later than twenty days prior to the convening of
 27 the Regular Session of 2022; and

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29 BE IT FURTHER RESOLVED that certified copies of this
 30 Concurrent Resolution be transmitted the Governor; President of
 31 the Senate; Speaker of the House of Representatives; Attorney
 32 General; Chairperson of the Board of Land and Natural Resources;
 33 Chief Executive Officer of the Office of Hawaiian Affairs;
 34 Administrator of the State Historic Preservation Division of the
 35 Department of Land and Natural Resources; and the Chairperson of
 36 the Hawaii Island Burial Council, Kauai and Niihau Islands
 37 Burial Council, Maui and Lanai Islands Burial Council, Oahu
 38 Island Burial Council, and Molokai Island Burial Council.

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