
SENATE CONCURRENT RESOLUTION

REQUESTING THE OFFICE OF HAWAIIAN AFFAIRS TO ESTABLISH THE
BURIAL SITES WORKING GROUP TO EXAMINE THE BURIAL SITES
PROGRAM UNDER THE DEPARTMENT OF LAND AND NATURAL RESOURCES'
STATE HISTORIC PRESERVATION DIVISION.

1 WHEREAS, the Hawaii State Constitution recognizes the value
2 of conserving and developing the historic and cultural property
3 within the State; and

4
5 WHEREAS, according to section 6E-1, Hawaii Revised
6 Statutes, the historic and cultural heritage of the State is
7 among its most important assets and that the rapid social and
8 economic developments of contemporary society threaten to
9 destroy the remaining vestiges of this heritage; and

10
11 WHEREAS, section 6E-1, Hawaii Revised Statutes, provides
12 that it is in the public's interest to engage in a comprehensive
13 program of historic preservation at all levels of government to
14 promote the use and conservation of affected properties for the
15 education, inspiration, pleasure, and enrichment of its
16 citizens; and

17
18 WHEREAS, section 6E-1, Hawaii Revised Statutes, sets forth
19 that the State must provide leadership in preserving, restoring,
20 and maintaining historic and cultural property to ensure the
21 administration of historic and cultural property in the spirit
22 of stewardship and trusteeship for future generations, and to
23 conduct activities, plans, and programs in a manner consistent
24 with the preservation and enhancement of historic and cultural
25 property; and

26
27 WHEREAS, native Hawaiian traditional prehistoric and
28 unmarked burials are especially vulnerable and often not
29 afforded adequate protection of law, although these statutory



1 and regulatory measures assure the dignity and freedom from
2 unnecessary disturbance; and
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4 WHEREAS, the Island Burial Councils were created by Act
5 306, Session Laws of Hawaii 1990 (Act 306), to augment current
6 procedures relating to the proper care and protection of burial
7 sites found in the State, avoid future disputes arising from the
8 discovery of human skeletal remains, and provide additional
9 protection for native Hawaiian burial sites of high preservation
10 value; and
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12 WHEREAS, the Department of Land and Natural Resources'
13 State Historic Preservation Division serves to protect and
14 preserve historic properties significant to Hawaii's history
15 through several program areas; and
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17 WHEREAS, previous audits of the State Historic Preservation
18 Division have reported serious internal strife and a significant
19 backlog of project reviews, resulting in the undermining of the
20 preservation and protection of unmarked burial sites throughout
21 the islands; and
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23 WHEREAS, on January 19, 2021, the chairpersons of the
24 burial councils for the islands of Oahu, Maui/Lanai, and Hawaii
25 coordinated a joint protest to raise awareness of their
26 collective duties and responsibilities to protect Hawaiian
27 burial sites and care for iwi kūpuna (ancestral bones) and moepu
28 (funerary possessions); and
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30 WHEREAS, the chairpersons of the Island Burial Councils
31 asserted that systemic and chronic mismanagement by the
32 Department of Land and Natural Resources' State Historic
33 Preservation Division has effectively undermined the ability of
34 the Island Burial Councils to exercise their legally established
35 authorities, rights, and responsibilities, thereby resulting in
36 the inability to provide protection and cultural care to
37 unmarked Hawaiian burial sites in accordance with the program
38 enacted by Act 306; and
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40 WHEREAS, the chairpersons of the Island Burial Councils
41 cited examples of the State Historic Preservation Division's



1 mismanagement of the Island Burial Councils and Burial Sites
2 program, including the failure to:

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- 4 (1) Adequately staff the Island Burial Councils and manage
- 5 the terms of council members;
- 6
- 7 (2) Provide training to State historic preservation staff
- 8 and burial council members regarding the burial law
- 9 and administrative rules, Sunshine Law, and Code of
- 10 Ethics;
- 11
- 12 (3) Require the Department of the Attorney General to
- 13 ensure independent legal representation of the island
- 14 burial councils;
- 15
- 16 (4) Implement administrative rules to develop the burial
- 17 sites inventory;
- 18
- 19 (5) Provide proper administrative support to the Island
- 20 Burial Councils, including timely actions, decisions,
- 21 and recommendations regarding the preparation of
- 22 agenda items, and providing the councils proper
- 23 guidance on the processes involving burial matters;
- 24
- 25 (6) Comply with legal requirements applicable to the
- 26 inadvertent discovery of human remains; and
- 27
- 28 (7) Undertake enforcement actions of documented statutory
- 29 and regulatory violations involving burial sites;
- 30

31 now, therefore,

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33 BE IT RESOLVED by the Senate of the Thirty-first
34 Legislature of the State of Hawaii, Regular Session of 2021, the
35 House of Representatives concurring, that the Office of Hawaiian
36 Affairs is requested to form the burial sites working group to
37 study and analyze the allegations of mismanagement by the
38 Department of Land and Natural Resources' State Historic
39 Preservation Division; and

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41 BE IT FURTHER RESOLVED that the burial sites working group
42 determine a recommended course of action to address and resolve



1 the allegations of mismanagement by the Department of Land and
2 Natural Resources' State Historic Preservation Division; and
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4 BE IT FURTHER RESOLVED that the Department of Land and
5 Natural Resources' State Historic Preservation Division is
6 requested to cooperate with the burial sites working group; and
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8 BE IT FURTHER RESOLVED that the burial sites working group
9 is requested to include:

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- 11 (1) A representative from the Office of Hawaiian Affairs,
12 who will serve as the chairperson of the Burial Sites
13 Working Group;
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 - 15 (2) The chairpersons of each Island Burial Council;
 - 16
 - 17 (3) Administrator of the Department of Land and Natural
18 Resources' State Historic Preservation Division;
 - 19
 - 20 (4) The History and Culture Branch Chief of the Department
21 of Land and Natural Resources' State Historic
22 Preservation Division;
 - 23
 - 24 (5) The Department of Land and Natural Resources' State
25 Historic Preservation Division Burials Specialist;
 - 26
 - 27 (6) Two representatives of large landowners and developers
28 to be appointed by the Governor;
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 - 30 (7) A representative of the Hawaiian community familiar
31 with and experienced with the burial sites program to
32 be appointed by the Office of Hawaiian Affairs;
 - 33
 - 34 (8) A representative from the William S. Richardson School
35 of Law; and
 - 36
 - 37 (9) A representative of Huliauapa'a/Kali'uokapa'akai
38 Collective to be selected by that organization; and
39

40 BE IT FURTHER RESOLVED that the burial sites working group
41 is requested to submit a report detailing the formal findings
42 and recommendations for corrective action, including proposed



1 legislation, to the Legislature no later than twenty days prior
2 to the convening of the Regular Session of 2022; and

3
4 BE IT FURTHER RESOLVED that certified copies of this
5 Concurrent Resolution be transmitted to the Governor,
6 Chairperson of the Board of Land and Natural Resources,
7 Chairperson of the Board of Trustees of the Office of Hawaiian
8 Affairs, Chairperson of each Island Burial Council, Dean of the
9 University of Hawaii William S. Richardson School of Law, and
10 President of the Board of Directors of the
11 Huliauapa'a/Kali'uokapa'akai Collective.

