

Section 8-8.4. Planning Commissions. Each planning commission shall consist of nine members appointed by the mayor with the approval of the council. The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of the department of public works and environmental management and the director of the department of water supply shall be non-voting ex-officio members of each commission.

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho'olawe and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

2. The Moloka'i planning commission shall be concerned with the area encompassing the island of Moloka'i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.

3. The Lana'i planning commission shall be concerned with the area encompassing the island of Lana'i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.

2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred eighty (180) days after the final public hearing.

3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.

4. Act as the authority in all matters relating to the Coastal Zone Management law.

5. Adopt rules pursuant to land use ordinances or law.

6. Have such other powers and duties as may be provided by law.

(Amended 2002, 1992, 1988)

project is developed after July 11, 2005. [L 1962, c 32, pt of §2; am L 1965, c 239, §37; Supp, §103A-2; HRS §171-2; am L 1981, c 116, §1; am L 1984, c 19, §1; am L 1987, c 337, §7(1); am L 1989, c 27, §2; am L 1990, c 86, §12; am L 1997, c 350, §14; am L 1998, c 102, §2 and c 176, §6; am L 2003, c 47, §1, c 73, §2, and c 93, §2; am L 2005, c 196, §26(b); am L 2006, c 180, §16; am L 2012, c 56, §1 and c 282, §2; am L 2013, c 38, §2; am L 2015, c 240, §4]

§171-3 Department of land and natural resources.

Cross References

Interagency climate adaptation committee, see §225P-3.

§171-4 Board of land and natural resources; terms and qualifications of members of the board; organization; expenses.

(a) The board of land and natural resources shall be composed of seven members, one from each land district and three at large, to be nominated and, by and with the advice and consent of the senate, appointed by the governor as provided in section 26-34. The term and removal of a member of the board and the filling of a vacancy on the board shall also be as provided in section 26-34. There shall be not more than three members on the board from the same political party.

(b) At least one member of the board shall have a background in conservation and natural resources, as evidenced by:

- (1) A college degree in a relevant field, including forestry, wildlife conservation, geology, environmental science, or marine biology; or
- (2) Work history sufficient to demonstrate an appropriate level of knowledge in the subject of land and natural resources, including parks and recreation, public lands management, natural area reserves, aquatic resources, boating and recreation, forestry and wildlife, water resources management, or conservation and resources.

(c) At least one member of the board, other than the member appointed pursuant to subsection (b), shall have demonstrated expertise in native Hawaiian traditional and customary practices, as evidenced by:

- (1) A college degree in a relevant field, such as Hawaiian studies, native Hawaiian law, native Hawaiian traditional and customary practices, or related subject area;
- (2) Work history that demonstrates an appropriate level of knowledge in native Hawaiian traditional and customary practices; or
- (3) Substantial experience as a native Hawaiian traditional and customary practitioner.

(d) Each member shall disclose and file with the board a list of all transactions with the department of land and natural resources in which the member has a direct interest. The member shall also disclose all transactions with the department involving any corporation, association, partnership, or joint venture in which the member is an officer, partner, or employee. Any member having any interest, direct or indirect, in any matter before the board shall disqualify oneself from voting on or participating in the discussion of the matter.

(e) The governor shall select a chairperson of the board from among its members. The chairperson shall call and preside at meetings and may appoint a member of the board as secretary. The members of the board shall choose one of their number to act as chairperson during the absence or disability of the chairperson.

(f) The members of the board shall serve without pay but shall be enti-

tled to re
in the dis
§103A-4;
§2; am L

The 2014
L 2014, c 10

§17
lished the
of land an
advise the
out the pu
(b)
ernor and
aha moku
mittee sha
The comm
members.

(c)
shall be re
while parti
son of the

The a
be exempt
executive a
of the aha

(d)
following:

- (1) l
- (2) l
- (3) f
- (4) S
- (5) P
- (6) F
- (7) E
- (e) T

to the legisla
no later than
sion. The an
committee a
the prior ye

PUBLIC NOTICE

NOMINATIONS FOR COMMISSION MEMBER TO THE
STATE COMMISSION ON WATER RESOURCE MANAGEMENT

The Nominating Committee for the State Commission on Water Resource Management ("Commission") is accepting applications for one vacant Commissioner's position on the Commission. The new term for the Commissioner will begin July 1, 2016 and run for four (4) years, expiring on June 30, 2020. The Nominating Committee will review the applications and send to the Governor the names of at least three (3) individuals deemed qualified according to Hawaii Revised Statutes § 174C-7(b). The appointment by the Governor is subject to confirmation of the Senate.

The Commission has exclusive jurisdiction and final authority over matters relating to the implementation and administration of the State Water Code (Hawaii Revised Statutes Chapter 174C). The Governor appoints five (5) of the seven (7) members to the Commission under the process indicated in § 174C-7. The two remaining commissioners are ex-officio voting members – the Chairperson of the Board of Land and Natural Resources and the Director of the Department of Health – also appointed by the Governor.

State law (§ 174C-7) requires that each member selected by the Nominating Committee have

"substantial experience or expertise in the area of water resource management".

This position additionally requires,

"substantial experience or expertise in traditional Hawaii water resource management techniques and in traditional Hawaiian riparian usage such as those preserved by section 174C-101."


Commission members serve a four-year term without pay, although expenses are reimbursed.

Applications and resumes should be postmarked no later than Friday, February 26, 2016 and may be sent to:

Nominating Committee
Commission on Water Resource Management
1151 Punchbowl Street, Room 227
Honolulu, Hawaii 96813

To apply online, visit <http://boards.hawaii.gov/apply-for-a-board/>. The Commission's website, <http://dlnr.hawaii.gov/cwrm/aboutus/commission/>, has more information.

COMMISSION ON WATER RESOURCE MANAGEMENT



Jeffrey T. Pearson, P.E., Deputy Director

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON

WILLIAM D. BALFOUR, JR.
KAMANA BEAMER
MICHAEL G. BUCK
MILTON D. PAVAO
VIRGINIA PRESSLER, M.D.
JONATHAN STARR

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
P.O. BOX 621
HONOLULU, HAWAII 96809

AGENDA
FOR THE NOMINATING COMMITTEE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: April 4, 2016
TIME: 8:00 a.m.
PLACE: Kalanimoku Building
CWRM – Room 227
1151 Punchbowl Street
Honolulu, Hawaii 96813

The Committee will meet for the sole purpose of reviewing and evaluating applications for the Commission on Water Resource Management.

There is one position to fill. The person must have substantial experience in the area of water resource management and substantial experience or expertise in traditional Hawaiian water resource management techniques and in traditional Hawaiian riparian usage such as those preserved by section 174C-1901.

Pursuant to Hawaii Revised Statutes § 92-4 and 92-5(a)(2), the Committee anticipates convening in executive meeting to discuss the applications of those individuals seeking nomination as a member on the Commission on Water Resource Management.

U N I V E R S I T Y O F H A W A I ' I A T M Ā N O A

William S. Richardson School of Law
Ka Huli Ao Center for Excellence in Native Hawaiian Law

May 16, 2016

Honorable Mike White
Chair, Maui County Council
200 South High St., 7th Floor
Wailuku, Hawai'i 96793



RE: Native Hawaiian Law Training Course for Boards, Commissions, Councils, and Lawmakers

Aloha e Council Chair White,

Ka Huli Ao Center for Excellence in Native Hawaiian Law is hosting a free training course for members of state and county boards, commissions, councils, and lawmakers. The training is focused on the trust obligations of the state and county governments, particularly in relation to Native Hawaiian cultural and natural resources. Specific subjects include:

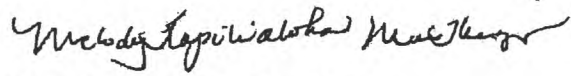
- **The public land trust**
- **Traditional and customary rights**
- **Water and the public trust doctrine**
- **Laws relating to iwi kūpuna**

This free training course will be offered on **Saturday, July 16, 2016**, at the William S. Richardson School of Law and is estimated to run from 8:30 a.m. to 3:30 p.m. The training course has been made possible with funding from the Office of Hawaiian Affairs. Lawmakers and members of all boards, commissions, and councils are welcome to attend the training and we believe that Maui County Council members and their staff will find the training session useful.

In the next couple weeks, we will contact Maui County Council members to inform them of this training opportunity and provide registration information. We are hopeful that you, as the Chair of the Maui County Council, will support this effort by encouraging council members and their staff to attend. Members and staff may register online at: <http://bit.ly/2016NHLawTraining>.

Should you have any questions or concerns, I am more than happy to discuss the training with you or your staff. Please feel free to contact me via email at mkmacken@hawaii.edu or by phone at 808-956-0828.

Me ka ha'aha'a,



Melody Kapilialoha MacKenzie
Professor and Director
Ka Huli Ao Center for Excellence in Native Hawaiian Law

Melody Kapilialoha MacKenzie
Ka Huli Ao Center for Excellence in Native Hawaiian Law
William S. Richardson School of Law, UH–Mānoa
2515 Dole Street, Honolulu, Hawai‘i 96822

PIA-10(11)
Relating to Membership Qualifications of the Planning Commissions

Maui County Council
Policy and Intergovernmental Affairs Committee
Committee Chair, Don Couch
Hearing on Wednesday, June 1, 2016, at 9 a.m.

Mahalo for this opportunity to submit testimony on **PIA-10(11)**, which would amend the Maui County Charter to restructure the Maui, Lāna‘i, and Moloka‘i planning commissions and require commission members to attend training on Native Hawaiian legal issues. I am a professor at the University of Hawai‘i at Mānoa’s William S. Richardson School of Law and the director of Ka Huli Ao Center for Excellence in Native Hawaiian Law. My testimony today focuses on the resolution’s training component.

Ka Huli Ao has partnered with the Office of Hawaiian Affairs to provide Native Hawaiian Law training courses with a focus on Native Hawaiian culture, the public land trust, water and the public trust, traditional and customary Native Hawaiian rights, and iwi kūpuna or ancestral remains. Since 2014, over 300 people have attended these daylong training courses. Most attendees have been members of state and county boards, councils, and commissions or staff members; although state legislators and county councilmembers – including several of you – also have attended. The response to the training has been overwhelmingly positive. For example, evaluations from the January 2016 training indicate that collectively, 94.4% of attendees believed that the training increased their understanding and knowledge of the government’s trust duties and legal responsibilities. When asked to identify the most important “take-aways” from the training, responses included:

- We as commissioners/board members have [a] responsibility to behave as trustees of public trust lands/waters.
- Laws and rules/reg[ulation]s exist but [there is the] need [for] increased education for public awareness and agency implementation.
- The course made me want to: 1) examine my agency’s mandates; 2) broaden my knowledge and consideration of Native Hawaiian laws; 3) be mindful of Hawaiian tradition[s]/customs when managing natural resources.

We believe that the training courses have significantly increased attendees’ understanding, and have given them the knowledge and tools to help make difficult decisions. Moreover, attendees from different agencies and departments have been able to interact and share concerns and possible solutions with each other, building common understanding and increasing cooperation among agencies and departments.

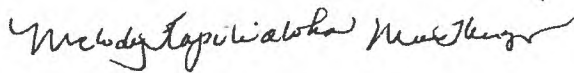
Act 169, which requires members of certain state boards, commissions, and/or councils to attend the training within twelve months of initial gubernatorial appointment, was signed into law

Testimony on PIA-10(11)

Page Two

by Governor Ige on June 30, 2015. These entities include the Land Use Commission, Environmental Council, Board of Land and Natural Resources, Hawai'i Historic Places Review Board, Legacy Land Conservation Commission, Natural Area Reserves System Commission, Commission on Water Resource Management, Board of Agriculture, Agribusiness Development Corporation, and the Board of Health.

Ka Huli Ao has been honored to partner with OHA in this effort. We ask that this committee pass Resolution PIA-10(11) so that it can be heard by the full County Council. It is of utmost importance, particularly for members of county planning commissions, to be required to attend a training on areas of law that so significantly impact Hawai'i's natural and cultural resources and the Native Hawaiian community. Mahalo for the opportunity to express our strong **support** for this aspect of PIA-10(11).



Melody Kapilialoha MacKenzie
Professor and Director
Ka Huli Ao Center for Excellence in Native Hawaiian Law

A BILL FOR AN ACT

RELATING TO TRAINING.

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

1 SECTION 1. The legislature finds that pursuant to Hawaii's
2 constitution, statutes, and case law, the State recognizes a
3 mandate to protect native Hawaiian and Hawaiian traditional and
4 customary rights.

5 Certain state councils, boards, and commissions administer
6 public trust resources and programs that directly impact native
7 Hawaiian and Hawaiian traditional and customary rights, natural
8 resource protection and access rights, and the public trust. As
9 entities of the State, these councils, boards, and commissions
10 have a duty to protect and preserve these rights and a fiduciary
11 duty to administer the public trust in the interest of the
12 beneficiaries, including native Hawaiians and Hawaiians. The
13 legislature finds that newly appointed members of these state
14 councils, boards, and commissions represent a broad range of
15 expertise and experience and therefore may not possess, upon
16 their appointment, knowledge of native Hawaiian and Hawaiian
17 rights and the public trust that would enable them to execute
18 their roles and be fully informed of their responsibilities.



1 Chapter 10, Hawaii Revised Statutes, indicates that the
2 office of Hawaiian affairs is the principal public agency
3 responsible for ensuring that other state agencies protect
4 native Hawaiian and Hawaiian rights. Section 10-1(b), Hawaii
5 Revised Statutes, specifies that "[i]t shall be the duty and
6 responsibility of all state departments and instrumentalities of
7 state government providing services and programs which affect
8 native Hawaiians and Hawaiians to actively work toward the goals
9 of this chapter and to cooperate with and assist wherever
10 possible the office of Hawaiian affairs."

11 Section 10-3, Hawaii Revised Statutes, states:

12 "The purposes of the office of Hawaiian affairs include:

13 . . .

14 (3) Serving as the principal public agency in this
15 State responsible for the performance,
16 development, and coordination of programs and
17 activities relating to native Hawaiians and
18 Hawaiians; except that the Hawaiian Homes
19 Commission Act, 1920, as amended, shall be
20 administered by the Hawaiian homes commission;



1 (4) Assessing the policies and practices of other
2 agencies impacting on native Hawaiians and
3 Hawaiians, and conducting advocacy efforts for
4 native Hawaiians and Hawaiians[.]"

5 Therefore, the legislature finds that to prepare these
6 state appointees to fulfill their roles and responsibilities
7 fully informed of their duties and obligations, these state
8 appointees should be provided with training.

9 The legislature further finds that the office of Hawaiian
10 affairs is the appropriate agency to train and educate the
11 members of appropriate councils, boards, and commissions about
12 native Hawaiian and Hawaiian traditional and customary rights,
13 natural resource protection and access rights, and the public
14 trust.

15 The purpose of this Act is to:

16 (1) Require the office of Hawaiian affairs to establish,
17 design, and administer a training course on native
18 Hawaiian and Hawaiian rights, the source of these
19 rights, and how infringement of these rights affects
20 the native Hawaiian and Hawaiian people;



*OHHA §
gives the
grant*

- 1 (2) Require members of appropriate state councils, boards,
2 and commissions to take the training course; and
3 (3) Allow other state or county officers, representatives,
4 or employees to request to enroll in the training
5 course.

6 The legislature finds that since January 2013, the office
7 of Hawaiian affairs has offered three such training courses,
8 which have attracted attendees representing a broad spectrum of
9 state and county government officials. An overwhelming majority
10 of attendees that completed surveys expressed their satisfaction
11 with the training courses' content, materials, and
12 presentations. Furthermore, attendees agreed that the training
13 course helped them to better understand native Hawaiian and
14 Hawaiian traditional and customary rights, natural resource
15 protection, access rights, and the public trust. Finally, the
16 number of requests to attend the three courses already offered
17 and the numerous inquiries regarding additional courses reflect
18 a substantial demand for training.

19 SECTION 2. Chapter 10, Hawaii Revised Statutes, is amended
20 by adding a new part to be appropriately designated and to read
21 as follows:



1 "PART . TRAINING; CERTAIN BOARDS, COMMISSIONS,
2 AND COUNCILS; NATIVE HAWAIIAN AND HAWAIIAN TRADITIONAL
3 AND CUSTOMARY RIGHTS, NATURAL RESOURCE PROTECTION AND
4 ACCESS RIGHTS, AND THE PUBLIC TRUST

5 §10-A Training; applicability. (a) The training required
6 by this part shall apply to members of the land use commission,
7 board of land and natural resources, commission on water
8 resource management, environmental council, board of directors
9 of the agribusiness development corporation, board of
10 agriculture, legacy land conservation commission, natural area
11 reserves system commission, Hawaii historic places review board,
12 and board of health.

13 (b) Members of any state council, board, or commission,
14 and any officer, representative, or employee of the State or
15 counties not subject to the training required in subsection (a)
16 may request to enroll in the training course administered by the
17 office of Hawaiian affairs pursuant to section 10-B.

18 §10-B Training relating to native Hawaiian and Hawaiian
19 traditional and customary rights, natural resources and access
20 rights, and the public trust. (a) All council, board, and
21 commission members identified in section 10-A(a) shall complete



1 the training course administered by the office of Hawaiian
2 affairs pursuant to this section within twelve months of the
3 date of the member's initial appointment.

4 (b) The office of Hawaiian affairs, at its own expense,
5 shall establish, design, and administer a training course
6 relating to native Hawaiian and Hawaiian traditional and
7 customary rights, native Hawaiian and Hawaiian natural resource
8 protection and access rights, and the public trust, including
9 the State's trust responsibility. The training course shall
10 include:

11 (1) Historical information, explanations, and discussions
12 of key state laws, state constitutional provisions,
13 and court rulings that reaffirm and provide for the
14 protection of native Hawaiian and Hawaiian rights; and

15 (2) A discussion of the importance of public trust
16 resources and various programs to native Hawaiian and
17 Hawaiian rights.

18 (c) The office of Hawaiian affairs, at its own expense,
19 shall develop the methods and prepare any materials necessary to
20 implement the training course, administer the training course,
21 and notify each council, board, and commission identified in



1 section 10-A(a) that attendance in a training course is
2 mandatory.

3 (d) The office of Hawaiian affairs shall offer the
4 training course at least twice per year.

5 (e) The governor shall provide to the office of Hawaiian
6 affairs the names of persons required to take the training
7 course pursuant to this part within thirty calendar days of
8 their initial appointment by the governor."

9 SECTION 3. In codifying the new sections added by section
10 2 of this Act, the revisor of statutes shall substitute
11 appropriate section numbers for the letters used in designating
12 the new sections in this Act.

13 SECTION 4. This Act shall take effect on July 1, 2015.



H.B. NO. 207
H.D. 2
S.D. 2
C.D. 1

Report Title:

Office of Hawaiian Affairs Package; Native Hawaiian and Hawaiian Rights; Training Course

Description:

Requires Office of Hawaiian Affairs to administer a training course on native Hawaiian and Hawaiian rights. Requires members of certain state councils, boards, and commissions to attend the training course. (HB207 CD1)

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

HB207 CD1 HMS 2015-3430

