



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 407, S.D. 1, H.D. 1, RELATING TO ISLAND BURIAL COUNCILS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

LATE

DATE: Wednesday, March 27, 2013

TIME: 4:45 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General takes no position on passage of this bill, and testifies only to recommend that section 3 of this bill be amended, in order that all of the bill's provisions may be implemented, if the Committee approves its passage and reports it to the House for passage at Third Reading.

This bill replaces section 6E-43.5, Hawaii Revised Statutes' (HRS), current reliance on the administrative rules of the Department of Land and Natural Resources, with statutory provisions that establish island burial councils for Hawaii, Maui/Lanai, Molokai, Oahu, and Kauai/Niihau. It also restructures the composition of the councils and the process for appointing the members of each council. Without dissolving the current island burial councils, the bill amends section 6E-43.5, HRS, to fix the number of members of the councils at five for Molokai, and nine for each of the other islands, and to require that there be at least one representative from each of the specifically named geographic regions of each council's island area. In addition, section 3 of this bill expressly permits current members of the island burial councils to hold over until their terms expire, notwithstanding the changes this bill makes to the composition of the councils and how council members are to be appointed by the Governor, seemingly to minimize any disruption in the councils' performance of their duties.

We understand that some of the geographic regions of the island burial councils of Hawaii, Maui/Lanai, and Oahu are not presently represented and that the Governor will not be able to appoint members to represent those regions until the terms of at least one of the holdover members of each of those island burial councils expire. Accordingly, the Department

recommends that section 3 of the bill be revised to include the additional wording set out in bold below, to assure that the work of the councils may continue without disruption or adverse effect:

Notwithstanding the amendments made by this Act to section 6E-43.5, Hawaii Revised Statutes, each current sitting council member is authorized to serve the remainder of the member's term, **and the decisions and other actions of each holdover member's council shall not be subject to challenge on the basis that the requirement in subsection (a) of section 6E-43.5 that each council include a member who represents each geographic region of the council, has not been met.**

We urge the Committee to make the recommended revision, and apologize for not earlier appreciating that the current composition of the councils could be problematic to this bill's full and effective implementation.