

**CWRM Priority Tracked Bills
2025 Legislative Session
as of Jan. 27, 2025**

Bill No.	Report Title	Measure Title	Description	Last Action	Introducer(s)	Current Referral	Companion
HB1142	DLNR; CWRM; State Water Code; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.	H 1/23/2025: Referred to WAL, JHA, FIN, referral sheet 3	NAKAMURA (Introduced by request of another party)	WAL, JHA, FIN	SB1461
HB1495	DLNR; Commission on Water Resource Management; Keauhou Aquifer System Monitoring Program; Keauhou Aquifer System; Reports; Appropriations	RELATING TO THE KEAUHOU AQUIFER SYSTEM.	Appropriates funds to the Department of Land and Natural Resources to install two monitoring wells in the Keauhou Aquifer System. Establishes the Keauhou Aquifer System Monitoring Program. Requires reports to the Legislature.	H 1/27/2025: Referred to EEP, WAL, FIN, referral sheet 4	KAHALOA, KAPELA, LOWEN, POEPOE, TARNAS	EEP, WAL, FIN	SB1602
HB306	State Water Code; Commission on Water Resource Management; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty of \$50 and a maximum penalty of \$60,000 per violation of the State Water Code and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.	H 1/24/2025: Bill scheduled to be heard by WAL on Tuesday, 01-28-25 9:00AM in House conference room 411 VIA VIDEOCONFERENCE.	POEPOE, GRANDINETTI, IWAMOTO, KAHALOA, LEE, M., LOWEN, MARTEN, PERRUSO, TARNAS, TODD	WAL, JHA, FIN	
HB315	CWRM; State Water Code; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty of \$50 per violation of the State Water Code and makes each day that a violation exists or continues a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.	H 1/21/2025: Referred to WAL, JHA, FIN, referral sheet 1	HASHEM	WAL, JHA, FIN	SB811
HB405	Maui County Council Package; Water; CWRM; Emergency Orders; Water Shortages; Fines	RELATING TO WATER.	Defines the public trust responsibilities of the Commission on Water Resource Management. Allows the Commission to retain independent legal counsel. Amends the scope of the Commission to include declaration of emergencies. Repeals the position of Deputy to the Chairperson of the Commission on Water Resource Management and establishes the position of Executive Director. Amends the composition of the Commission. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses.	H 1/21/2025: Referred to WAL, JHA, FIN, referral sheet 1	NAKAMURA (Introduced by request of another party)	WAL, JHA, FIN	SB272
HB509	State Water Code; Commission on Water Resource Management; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.	H 1/21/2025: Referred to WAL, JHA, FIN, referral sheet 2	ICHIYAMA, HASHEM, TARNAS	WAL, JHA, FIN	
HB510	Commission on Water Resource Management; Water Shortage and Emergency; Declaration; Notice	RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY.	Amends the conditions, manner, and areas in which the Commission on Water Resource Management can declare and provide notice of water shortages and emergencies.	H 1/21/2025: Referred to WAL, JHA, referral sheet 2	ICHIYAMA, HASHEM, TARNAS	WAL, JHA	SB145
HB915	Water; CWRM; Residential and Mixed-use Developments; Board of Agriculture; DOH; Counties; Irrigation Projects	RELATING TO WATER USE.	Authorizes the Commission on Water Resource Management, as a condition for issuing permits, to require the use of dual line water supply systems in new residential and mixed-use developments located in designated water management areas. Authorizes those residential and mixed-use developments to be included in irrigation projects, as defined in chapter 167, HRS. Authorizes the Board of Agriculture to investigate and survey the availability of nonpotable water. Requires the Department of Health, Board of Agriculture, and the counties to update their rules, ordinances, to allow dual line water supply systems in residential and mixed-use developments.	H 1/27/2025: Re-referred to WAL, AGR, JHA, referral sheet 4	HASHEM	WAL, AGR, JHA	SB1210
HB919	CWRM; Hawaiian Homes Commission; Membership	RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.	Adds the Chairperson of the Hawaiian Homes Commission or the Chairperson's designee to the Commission on Water Resource Management. Clarifies that only the five, non-ex-officio members appointed by the Governor are required to have substantial experience in water resource management.	H 1/23/2025: Referred to WAL, JHA, referral sheet 3	HOLT, GARCIA, HUSSEY, KAHALOA, KAPELA, KEOHOKAPU-LEE LOY, KILA, LAMOSAO, MARTEN, REYES ODA, SOUZA, TODD	WAL, JHA	

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SB1210	Water; CWRM; Residential and Mixed-use Developments; Board of Agriculture; DOH; Counties; Irrigation Projects	RELATING TO WATER USE.	Authorizes the Commission on Water Resource Management, as a condition for issuing permits, to require the use of dual line water supply systems in new residential and mixed-use developments located in designated water management areas. Authorizes those residential and mixed-use developments to be included in irrigation projects, as defined in chapter 167, HRS. Authorizes the Board of Agriculture to investigate and survey the availability of nonpotable water. Requires the Department of Health, Board of Agriculture, and the counties to update their rules, ordinances, to allow dual line water supply systems in residential and mixed-use developments.	S 1/27/2025: Referred to HHS/WTL, WAM.	HASHIMOTO	HHS/WTL, WAM	HB915
SB1239	Potable Water; Nonpotable Water; Golf Courses; Irrigation; Water Conservation	RELATING TO WATER CONSERVATION.	Prohibits the use of potable water to irrigate golf courses subject to certain exceptions. Defines potable water.	S 1/27/2025: Referred to WTL/HHS, JDC/WAM.	AWA, DECORTE	WTL/HHS, JDC/WAM	
SB145	Commission on Water Resource Management; Water Shortage and Emergency; Declaration; Notice	RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY.	Amends the conditions, manner, and areas in which the Commission on Water Resource Management can declare and provide notice of water shortages and emergencies.	S 1/17/2025: Referred to WTL, JDC.	KEOHOKALOPE, CHANG, DECOITE, DECORTE, FUKUNAGA, HASHIMOTO, Inouye, San Buenaventura	WTL, JDC	HB510
SB1461	DLNR; CWRM; State Water Code; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.	S 1/23/2025: Introduced and passed First Reading.	KOUCHI (Introduced by request of another party)		HB1142
SB150	Red Hill WAI Policy Coordinator; Red Hill Remediation Special Fund	RELATING TO RED HILL.	Establishes a WAI Policy Coordinator for coordination of Red Hill WAI initiatives. Creates the Red Hill Remediation Special Fund.	S 1/27/2025: Re-Referred to WTL/AEN, WAM.	KEOHOKALOPE, CHANG, DECORTE, FUKUNAGA, HASHIMOTO, Kim, San Buenaventura, Wakai	WTL/AEN, WAM	HB505
SB1602	DLNR; Commission on Water Resource Management; Keauhou Aquifer System Monitoring Program; Keauhou Aquifer System; Reports; Appropriations	RELATING TO THE KEAUHOU AQUIFER SYSTEM.	Appropriates funds to the Department of Land and Natural Resources to install two monitoring wells in the Keauhou Aquifer System. Establishes the Keauhou Aquifer System Monitoring Program. Requires reports to the Legislature.	S 1/27/2025: Passed First Reading.	KANUHA		HB1495
SB204	State Water Code; Commission on Water Resource Management; Penalties	RELATING TO STATE WATER CODE PENALTIES.	Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties. Makes the setting, charging, and collecting of administrative fines by the Commission on Water Resource Management mandatory, rather than discretionary.	S 1/17/2025: Referred to WTL, JDC/WAM.	KEOHOKALOPE, CHANG, DECOITE, FUKUNAGA, HASHIMOTO, RHOADS	WTL, JDC/WAM	
SB205	Department of Hawaiian Home Lands; HHC; CWRM; Membership	RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.	Adds the Chairperson of the Hawaiian Homes Commission, or the chairperson's designee, to the Commission on Water Resource Management.	S 1/17/2025: Referred to WTL/HWN, WAM.	KEOHOKALOPE, CHANG, DECOITE, RICHARDS, Kanuha, San Buenaventura	WTL/HWN, WAM	
SB209	Water Use; Commission on Water Resource Management; Recreational or Ornamental Purposes; Prohibition	RELATING TO WATER.	Prohibits the use of 1,000,000 or more gallons of water per year for recreational or ornamental purposes.	S 1/17/2025: Referred to WTL, JDC.	FEVELLA	WTL, JDC	
SB272	Maui County Council Package; Water; CWRM; Emergency Orders; Water Shortages; Fines	RELATING TO WATER.	Defines the public trust responsibilities of the Commission on Water Resource Management. Allows the Commission to retain independent legal counsel. Amends the scope of the Commission to include declaration of emergencies. Repeals the position of Deputy to the Chairperson of the Commission on Water Resource Management and establishes the position of Executive Director. Amends the composition of the Commission. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses.	S 1/21/2025: Referred to WTL/PSM, JDC/WAM.	KOUCHI (Introduced by request of another party)	WTL/PSM, JDC/WAM	HB405

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SB3	DLNR; CWRM; OHA; Responsibilities; Commission Membership; Executive Director; Independent Legal Counsel; Emergency Order; Water Emergencies; Water Shortage Declarations; Red Hill Bulk Fuel Storage Facility; Fines	RELATING TO WATER.	Authorizes the Commission of Water Resource Management to retain independent legal counsel. Repeals the position of First Deputy to the Chairperson of the CWRM and establishes the position of Executive Director of the CWRM. Authorizes entities to challenge an emergency order of the CWRM under certain conditions. Establishes fines for certain water use offenses. Amends the CWRM's authority to declare water emergencies and issue orders to address them and declare water shortages and related notice requirements. Adds the management of groundwater near the Red Hill Bulk Fuel Storage Facility to the powers and duties of the CWRM. Transfers all rights, powers, functions, and duties of DLNR relating to water resource management to CWRM. Effective 7/1/2026, amends the composition of the CWRM, amends the designation of the Chairperson of the CWRM, limits CWRM's placement within the Department of Land and Natural Resources for administrative purposes only, and adds one member to the nominating committee for CWRM, to be appointed and by the Chief Executive Officer of the Office of Hawaiian Affairs.	S 1/16/2025: Referred to WTL/PSM, JDC/WAM.	INOUE, CHANG, FUKUNAGA, HASHIMOTO, MCKELVEY, Fevella	WTL/PSM, JDC/WAM	
SB386	DLNR; Maui County; Water Systems; Eminent Domain	RELATING TO WATER SYSTEMS.	Requires the Department of Land and Natural Resources to acquire all West Maui water systems by eminent domain and hold the water systems in trust for the County of Maui to manage.	S 1/21/2025: Referred to WTL, WAM/JDC.	MCKELVEY, CHANG, DECORTE, FEVELLA, SAN BUENAVENTURA	WTL, WAM/JDC	
SB438	Waste or Disposal Facilities; Landfills; Solid Waste; Hazardous Waste; Aquifers; Agricultural Districts; Prohibition; DOH; CWRM	RELATING TO WASTE DISPOSAL FACILITIES.	Prohibits the construction, modification, or expansion of any waste or disposal facility for hazardous waste or solid waste on land that is near or above a significant aquifer as determined by the Department of Health, in consultation with the Commission on Water Resource Management; Prohibits waste or disposal facility on class A and B agricultural land.	S 1/21/2025: Referred to HHS/WTL, WAM.	DELA CRUZ, KIDANI, MORIWAKI, Kim	HHS/WTL, WAM	
SB543	DLNR; CWRM; Red Hill WAI; Policy Lead and Coordination; Red Hill Remediation Special Fund; Public Trust Purpose; Responsibilities; Commission Membership; Executive Director; Independent Legal Counsel; Emergency Order; Water Emergencies; Water Shortage Declarations; Fines; Reports; Appropriations	RELATING TO WATER.	Part I: Establishes a WAI Policy Coordinator and other positions within the Commission on Water Resource Management for coordination of Red Hill WAI initiatives. Creates the Red Hill Remediation Special Fund. Requires reports to the Legislature, Governor, and Mayor and City Council of the City and County of Honolulu. Appropriates funds. Part II: Allows the Commission of Water Resource Management to retain independent legal counsel. Repeals the position of Deputy to the Chairperson of the Commission and establishes the position of Executive Director of the Commission. Amends the composition of the Commission and administratively attaches it to DLNR. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses. Amends the Commission's authority to declare water emergencies and issue orders to address them and declare water shortages and related notice requirements. Specifies that the nominating committee of the Commission shall include one person appointed by the Chief Executive Officer of the Office of Hawaiian Affairs.	S 1/21/2025: Referred to WTL/EIG, WAM/JDC.	GABBARD, AQUINO, CHANG, KIDANI, Richards	WTL/EIG, WAM/JDC	
SB848	Potable Water; Desalination; Planning Task Force	RELATING TO DESALINATION.	Establishes a Desalination Planning Task Force to examine the feasibility of, and develop a plan and timeline for, the use desalination as a source of potable water in the State.	S 1/23/2025: Referred to WTL, WAM.	GABBARD, HASHIMOTO, KIDANI, MCKELVEY, MORIWAKI, RHOADS, SAN BUENAVENTURA, Elefante	WTL, WAM	HB780
SB867	Affordable Housing; Watershed Management; Water Resources; Working Group; Reports	RELATING TO AFFORDABLE HOUSING.	Establishes a working group within the Office of the Governor for administrative purposes to ascertain the State's available water resources and water system source capacity and to streamline well permit approval processes to further plan for the development of affordable housing. Requires the working group to inventory all available water resources statewide and identify sources of aquifer replenishment in relation to affordable housing development. Requires an interim and final report to the Legislature.	S 1/23/2025: Referred to HOU/WTL, WAM.	KANUHA, CHANG, DECOITE, GABBARD, HASHIMOTO, KIDANI, RHOADS, RICHARDS	HOU/WTL, WAM	

A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that, in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and the commission on water resource
5 management to carry out that mission, the legislature further
6 finds that the state water code's penalties and fines must be
7 amended and increased to serve as an effective deterrent to
8 violators.

9 The purpose of this Act is to ensure that all violators of
10 the state water code are held accountable for their violations
11 by:

- 12 (1) Adding a minimum penalty and amending the maximum
13 penalty per violation of the state water code and
14 clarifying what constitutes a separate offense; and
15 (2) Requiring the commission on water resource management
16 to consider certain factors when imposing penalties
17 and to set, charge, and collect administrative fines.

H.B. NO. 1142

1 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§174C-15 Penalties and common law remedies.** (a) The
4 commission may enforce its rules and orders adopted pursuant to
5 this chapter by suit for injunction or for damages or both.

6 (b) Any person who [~~violates any~~]:

7 (1) Violates any provision of this chapter [~~, or any~~];

8 (2) Violates any rule adopted pursuant to this chapter [~~or~~
9 may];

10 (3) Violates any order of the commission;

11 (4) Fails to obtain a permit when a permit is required
12 under this chapter;

13 (5) Fails to comply with permit conditions; or

14 (6) Fails to comply with standardized water audit
15 requirements pursuant to Act 169, Session Laws of
16 Hawaii 2016,

17 shall be subject to a fine imposed by the commission. [~~Such~~]

18 The fine shall be no less than \$ 50 and shall not exceed

19 [~~\$5,000. For a continuing offense, each day during which the~~

20 ~~offense is committed is a separate violation.] \$25,000 per~~

21 violation. Each day that a violation exists or continues to

22 exist shall constitute a separate offense. Penalties for

H.B. NO. 1142

1 continuing violations shall be assessed from the earliest known
2 date of the violation. The earliest known date of a violation
3 shall be determined by the commission by a preponderance of the
4 evidence; provided that, if the earliest known date cannot be
5 determined by a preponderance of the evidence, penalties for
6 continuing violations shall be assessed from the earliest date
7 the commission is made aware of the violation.

8 (c) When imposing a penalty, the commission shall
9 consider the following factors, including but not limited to:

- 10 (1) The nature, circumstances, extent, gravity, and
11 history of the violation and of any prior violations;
- 12 (2) The economic benefit to the violator, or anticipated
13 by the violator, resulting from the violation;
- 14 (3) The opportunity, difficulty, and history of corrective
15 action;
- 16 (4) Good faith efforts to comply;
- 17 (5) Degree of culpability; and
- 18 (6) Such other matters as justice may require.

19 ~~(e)~~ (d) No provision of this chapter shall bar the right
20 of any injured person to seek other legal or equitable relief
21 against a violator of this chapter.

H.B. NO. 1142

1 [~~(d)~~] (e) Except as otherwise provided by law, the
2 commission or its authorized representative by proper delegation
3 may set, charge, and collect administrative fines [~~or~~]; may
4 bring legal action to recover administrative fees and costs as
5 documented by receipts or affidavit, including [~~attorneys'~~]
6 attorney's fees and costs; [~~or~~] and may bring legal action to
7 recover administrative fines, fees, and costs, including
8 [~~attorneys'~~] attorney's fees and costs, or payment for damages
9 resulting from a violation of this chapter or any rule adopted
10 pursuant to this chapter.

11 (f) The maximum fine per violation pursuant to subsection
12 (b) shall increase to:

13 (1) \$30,000 beginning January 1, 2030;

14 (2) \$40,000 beginning January 1, 2035;

15 (3) \$55,000 beginning January 1, 2040; and

16 (4) \$75,000 beginning January 1, 2045."

17 SECTION 3. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.

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1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

7

8

INTRODUCED BY: 

9

BY REQUEST

JAN 21 2025

H.B. NO. 1142

Report Title:

DLNR; CWRM; State Water Code; Penalties

Description:

Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.

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HB. NO. 1142

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO STATE WATER CODE PENALTIES.

PURPOSE: To ensure that all violators of the State Water Code are held accountable for their violations by adding a minimum penalty and amending the maximum penalty per violation of the State Water Code and clarifying what constitutes a separate offense; and by requiring the Commission on Water Resource Management (Commission) to consider certain factors when imposing penalties and to set, charge, and collect administrative fines.

MEANS: Amend section 174C-15, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The maximum penalty of the State Water Code has been increased only once from \$1,000 to \$5,000 by Act 142 in 2004 since its adoption thirty-eight years ago. The current maximum penalty does not have a sufficient deterrent effect as it has become the cost of doing business for some violators.

To encourage compliance and deter potential violators, this bill proposes to amend section 174C-15, HRS, to require a minimum penalty of \$50 and a maximum penalty of \$25,000 effective upon approval.

The Commission as the primary guardian of the water resource public trust intends to create parity with its co-trustee the Department of Health. The maximum penalty of water quality violations is \$60,000, which was increased by Act 233 in 2023 to match the federal maximum penalty, which increases yearly due to inflation. Violations of the State Water Code and the Commission's rules and orders regarding water quantity are as detrimental to the resource as violations of Department of

HB. NO. 1142

Health's statutes and rules regarding water quality.

To create parity with maximum penalty of the Department of Health, an incremental increase of the maximum fine is proposed in subsection (f) effective every five years.

This bill also requires the Commission to consider exacerbating and mitigating factors when assessing the amount of the fine. Thus, this bill makes the setting, charging, and collecting of administrative fines by the Commission mandatory, rather than discretionary.

Impact on the public: The bill supports protection of the public trust resource by increasing deterrence of any violation of the state water code.

Impact on the department and other agencies: This bill supports the Commission in its affirmative duty "to protect, control and regulate the use of Hawaii's water resources" as articulated in article XI, section 7, of the Constitution of the State of Hawaii. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversions, and 376 perennial streams, approximately 100 of which have a measurable interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of Oahu, Molokai, and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits. This bill will protect water quantity and encourage compliance with the State Water Code.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 404.

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OTHER AFFECTED

AGENCIES:

County water boards or departments.

EFFECTIVE DATE:

Upon approval.

A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and commission on water resource management to
5 carry out that mission, the legislature further finds that the
6 water code's penalties and fines must be amended and increased
7 to serve as an effective deterrence to violators.

8 The legislature further finds that increasing potential
9 fines for water code violations will also:

- 10 (1) Help to preserve water resources by ensuring the
11 sustainable management and conservation of limited
12 water resources for future generations, particularly
13 in areas facing over-extraction or misuse;
- 14 (2) Protect the ecosystems by safeguarding wetlands,
15 rivers, and aquifers that depend on healthy water
16 systems to maintain biodiversity and environmental
17 balance;



- 1 (3) Promote public health and safety by preventing
2 contamination of drinking water supplies and reducing
3 health risks associated with waterborne diseases and
4 pollutants;
- 5 (4) Promote climate change resilience by regulating water
6 usage and protecting vulnerable water sources to
7 address challenges posed by prolonged droughts,
8 erratic rainfall, and rising sea levels;
- 9 (5) Promote economic stability by helping to avoid
10 economic losses in agriculture, tourism, and other
11 industries that rely heavily on consistent and clean
12 water supplies;
- 13 (6) Promote enforcement of equity and justice to ensure
14 fair access to water resources for all, including
15 marginalized communities that may be
16 disproportionately affected by water scarcity or poor
17 water management;
- 18 (7) Increase accountability for violations to deter
19 illegal activities such as unauthorized diversions,
20 pollution, or overuse of water resources by imposing
21 stricter penalties and fines; and



1 (8) Increase compliance with federal and state mandates to
2 meet legal obligations under federal or state
3 environmental protection laws, ensuring alignment with
4 broader water management and conservation goals.

5 The purpose of this Act is to ensure that all violators of
6 the state water code are held accountable for their violations
7 by creating a minimum penalty of \$50 and a maximum penalty of
8 \$60,000 for every violation.

9 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§174C-15 Penalties and common law remedies.** (a) The
12 commission may enforce its rules and orders adopted pursuant to
13 this chapter by suit for injunction or for damages or both.

14 (b) Any person who violates any provision of this chapter,
15 ~~[or]~~ violates any rule adopted pursuant to this chapter, ~~[may]~~
16 violates any order of the commission, fails to obtain a permit
17 when a permit is required under this chapter, or fails to comply
18 with permit conditions, shall be subject to a fine imposed by
19 the commission. ~~[Such fine]~~ The fine shall be not less than \$50
20 and shall not exceed \$5,000. For a continuing offense, each
21 ~~day during which the offense is committed is a separate~~



1 ~~violation.]~~ \$60,000 per violation. Each day that a violation
 2 exists or continues to exist shall constitute a separate
 3 offense. Penalties for continuing violations shall be assessed
 4 from the earliest known date of the violation. The earliest
 5 known date of a violation shall be determined by the commission
 6 by a preponderance of the evidence; provided that if the
 7 earliest known date cannot be determined by a preponderance of
 8 the evidence, penalties for continuing violations shall be
 9 assessed from the earliest date the commission is made aware of
 10 the violation.

11 (c) The commission shall determine the penalty amount for
 12 each violation upon review of the circumstances of the
 13 violation, taking into account the nature, extent, and gravity
 14 of the violation and considering the history of such violations,
 15 degree of culpability, and other matters as justice may require.

16 [~~e~~] (d) No provision of this chapter shall bar the right
 17 of any injured person to seek other legal or equitable relief
 18 against a violator of this chapter.

19 [~~d~~] (e) Except as otherwise provided by law, the
 20 commission or its authorized representative by proper delegation
 21 [~~may~~] shall set, charge, and collect administrative fines [~~or~~];



1 may bring legal action to recover administrative fees and costs
2 as documented by receipts or affidavit, including [~~attorneys'~~
3 attorney's fees and costs; [~~or~~] and may bring legal action to
4 recover administrative fines, fees, and costs, including
5 [~~attorneys'~~] attorney's fees and costs, or payment for damages
6 resulting from a violation of this chapter or any rule adopted
7 pursuant to this chapter."

8 SECTION 3. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 4. This Act shall take effect on July 1, 2025.

11

INTRODUCED BY:



JAN 16 2025



H.B. NO. 302

Report Title:

State Water Code; Commission on Water Resource Management;
Penalties

Description:

Adds a minimum penalty of \$50 and a maximum penalty of \$60,000 per violation of the State Water Code and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.

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1 SECTION 1. The legislature finds that in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and commission on water resource management to
5 carry out that mission, the legislature further finds that the
6 water code's penalties and fines must be amended and increased
7 to serve as an effective deterrence to violators.

8 The purpose of this Act is to ensure that all violators of
9 the state water code are held accountable for their violations
10 by creating a minimum penalty of \$50 for every violation.

11 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§174C-15 Penalties and common law remedies.** (a) The
14 commission may enforce its rules and orders adopted pursuant to
15 this chapter by suit for injunction or for damages or both.

16 (b) Any person who violates any provision of this chapter,
17 [~~or~~] violates any rule adopted pursuant to this chapter, [~~may~~]



1 violates any order of the commission, fails to obtain a permit
2 when a permit is required under this chapter, or fails to comply
3 with permit conditions, shall be subject to a fine imposed by
4 the commission. [~~Such~~] The fine shall be not less than \$50 and
5 shall not exceed \$5,000[. ~~For a continuing offense, each day~~
6 ~~during which the offense is committed is a separate violation.~~
7 per violation. Each day that a violation exists or continues to
8 exist shall constitute a separate offense. Penalties for
9 continuing violations shall be assessed from the earliest known
10 date of the violation. The earliest known date of a violation
11 shall be determined by the commission by a preponderance of the
12 evidence; provided that if the earliest known date cannot be
13 determined by a preponderance of the evidence, penalties for
14 continuing violations shall be assessed from the earliest date
15 the commission is made aware of the violation.

16 (c) The commission shall determine the penalty amount for
17 each violation upon review of the circumstances of the
18 violation, taking into account the nature, extent, and gravity
19 of the violation and considering the history of the violations,
20 degree of culpability, and other matters as justice may require.



1 [~~e~~] (d) No provision of this chapter shall bar the right
2 of any injured person to seek other legal or equitable relief
3 against a violator of this chapter.

4 [~~d~~] (e) Except as otherwise provided by law, the
5 commission or its authorized representative by proper delegation
6 [~~may~~] shall set, charge, and collect administrative fines; [~~or~~]
7 may bring legal action to recover administrative fees and costs
8 as documented by receipts or affidavit, including attorneys'
9 fees and costs; [~~or~~] and may bring legal action to recover
10 administrative fines, fees, and costs, including attorneys' fees
11 and costs, or payment for damages resulting from a violation of
12 this chapter or any rule adopted pursuant to this chapter."

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

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

16

INTRODUCED BY:

JAN 16 2025



H.B. NO. 315

Report Title:

CWRM; State Water Code; Penalties

Description:

Adds a minimum penalty of \$50 per violation of the State Water Code and makes each day that a violation exists or continues a separate offense. Requires the Commission on Water Resource Management to determine the amount of the penalty based on the circumstances of the violation.

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

2025-0421 HB SMA.docx



A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that effective and
2 efficient water resource management requires continuous and
3 experienced leadership, especially given the climate crisis and
4 the urgent necessity to properly steward water resources to meet
5 the affordable housing needs of local residents.

6 On December 28, 1994, the review commission on the state
7 water code submitted its final report to the legislature
8 pursuant to Act 45, Session Laws of Hawaii 1987. The review
9 commission determined that amendments to the state water code
10 were necessary to enable the commission on water resource
11 management to more effectively carry out its mandate pursuant to
12 article XI, section 7, of the Hawaii State Constitution to "set
13 overall water conservation, quality and use policies; define
14 beneficial and reasonable uses; protect ground and surface water
15 resources, watersheds and natural stream environments; establish
16 criteria for water use priorities while assuring appurtenant
17 rights and existing correlative and riparian uses and establish



1 procedures for regulating all uses of Hawaii's water resources."
2 Therefore, further clarification of the commission on water
3 resource management's purpose, including its leadership
4 structure and composition of the commission's board, will
5 provide greater accountability and protection of the State's
6 waters.

7 The purpose of this Act is to:

- 8 (1) Define the public trust responsibilities of the
9 commission on water resource management and require
10 the commission, in acting upon water use permit
11 applications, to prioritize applications for public
12 trust purposes;
- 13 (2) Allow the commission to retain independent legal
14 counsel;
- 15 (3) Amend the scope of the commission on water resource
16 management to include declarations of emergencies;
- 17 (4) Repeal the position of deputy to the chairperson of
18 the commission on water resource management and
19 establish the position of executive director of the
20 commission on water resource management;



- 1 (5) Amend the composition of the commission on water
- 2 resource management;
- 3 (6) Authorize entities to challenge an emergency order of
- 4 the commission on water resource management under
- 5 certain conditions; and
- 6 (7) Establish fines for certain water use offenses.

7 SECTION 2. Chapter 174C, Hawaii Revised Statutes, is
 8 amended by adding a new section to part IV to be appropriately
 9 designated and to read as follows:

10 "§174C- Public trust purpose. The commission shall act
 11 upon water use permit applications, filed in accordance with
 12 sections 174C-51, 174C-52, and 174C-53, for both existing and
 13 new public trust purposes before acting upon water use permit
 14 applications for other existing or new uses, or both, filed in
 15 accordance with sections 174C-51, 174C-52, and 174C-53.
 16 Proceedings for applications for public trust purposes shall be
 17 held first and separate from proceedings for all other
 18 applications filed in accordance with sections 174C-51, 174C-52,
 19 and 174C-53."

20 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
 21 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) No department of the State other than the attorney
3 general may employ or retain any attorney, by contract or
4 otherwise, for the purpose of representing the State or the
5 department in any litigation, rendering legal counsel to the
6 department, or drafting legal documents for the department;
7 provided that the foregoing provision shall not apply to the
8 employment or retention of attorneys:

9 (1) By the public utilities commission, the labor and
10 industrial relations appeals board, and the Hawaii
11 labor relations board;

12 (2) By any court or judicial or legislative office of the
13 State; provided that if the attorney general is
14 requested to provide representation to a court or
15 judicial office by the chief justice or the chief
16 justice's designee, or to a legislative office by the
17 speaker of the house of representatives and the
18 president of the senate jointly, and the attorney
19 general declines to provide such representation on the
20 grounds of conflict of interest, the attorney general
21 shall retain an attorney for the court, judicial, or



- 1 legislative office, subject to approval by the court,
2 judicial, or legislative office;
- 3 (3) By the legislative reference bureau;
- 4 (4) By any compilation commission that may be constituted
5 from time to time;
- 6 (5) By the real estate commission for any action involving
7 the real estate recovery fund;
- 8 (6) By the contractors license board for any action
9 involving the contractors recovery fund;
- 10 (7) By the office of Hawaiian affairs;
- 11 (8) By the department of commerce and consumer affairs for
12 the enforcement of violations of chapters 480 and
13 485A;
- 14 (9) As grand jury counsel;
- 15 (10) By the Hawaii health systems corporation, or its
16 regional system boards, or any of their facilities;
- 17 (11) By the auditor;
- 18 (12) By the office of ombudsman;
- 19 (13) By the insurance division;
- 20 (14) By the University of Hawaii;
- 21 (15) By the Kahoolawe island reserve commission;



- 1 (16) By the division of consumer advocacy;
- 2 (17) By the office of elections;
- 3 (18) By the campaign spending commission;
- 4 (19) By the Hawaii tourism authority, as provided in
- 5 section 201B-2.5;
- 6 (20) By the division of financial institutions;
- 7 (21) By the office of information practices;
- 8 (22) By the school facilities authority;
- 9 (23) By the Mauna Kea stewardship and oversight authority;
- 10 [~~or~~]
- 11 (24) By the commission on water resource management; or
- 12 [~~(24)~~] (25) By a department, if the attorney general, for
- 13 reasons deemed by the attorney general to be good and
- 14 sufficient, declines to employ or retain an attorney
- 15 for a department; provided that the governor waives
- 16 the provision of this section."
- 17 2. By amending subsection (c) to read:
- 18 "(c) Every attorney employed by any department on a
- 19 full-time basis, except an attorney employed by the public
- 20 utilities commission, the labor and industrial relations appeals
- 21 board, the Hawaii labor relations board, the office of Hawaiian



1 affairs, the Hawaii health systems corporation or its regional
2 system boards, the department of commerce and consumer affairs
3 in prosecution of consumer complaints, insurance division, the
4 division of consumer advocacy, the University of Hawaii, the
5 Hawaii tourism authority as provided in section 201B-2.5, the
6 Mauna Kea stewardship and oversight authority, the commission on
7 water resource management, the office of information practices,
8 or as grand jury counsel, shall be a deputy attorney general."

9 SECTION 4. Section 84-18, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) Subject to the restrictions imposed in subsections
12 (a) through (d), the following individuals shall not represent
13 any person or business for a fee or other consideration
14 regarding any legislative action or administrative action, as
15 defined in section 97-1, for twelve months after termination
16 from their respective positions:

- 17 (1) The governor;
18 (2) The lieutenant governor;
19 (3) The administrative director of the State;
20 (4) The attorney general;
21 (5) The comptroller;



- 1 (6) The chairperson of the board of agriculture;
- 2 (7) The director of corrections and rehabilitation;
- 3 (8) The director of finance;
- 4 (9) The director of business, economic development, and
- 5 tourism;
- 6 (10) The director of commerce and consumer affairs;
- 7 (11) The adjutant general;
- 8 (12) The superintendent of education;
- 9 (13) The chairperson of the Hawaiian homes commission;
- 10 (14) The director of health;
- 11 (15) The director of human resources development;
- 12 (16) The director of human services;
- 13 (17) The director of labor and industrial relations;
- 14 (18) The chairperson of the board of land and natural
- 15 resources;
- 16 (19) The director of law enforcement;
- 17 (20) The director of taxation;
- 18 (21) The director of transportation;
- 19 (22) The president of the University of Hawaii;
- 20 (23) The executive administrator of the board of regents of
- 21 the University of Hawaii;



- 1 (24) The administrator of the office of Hawaiian affairs;
- 2 (25) The chief information officer;
- 3 (26) The executive director of the agribusiness development
- 4 corporation;
- 5 (27) The executive director of the campaign spending
- 6 commission;
- 7 (28) The executive director of the Hawaii community
- 8 development authority;
- 9 (29) The executive director of the Hawaii housing finance
- 10 and development corporation;
- 11 (30) The president and chief executive officer of the
- 12 Hawaii tourism authority;
- 13 (31) The executive officer of the public utilities
- 14 commission;
- 15 (32) The state auditor;
- 16 (33) The director of the legislative reference bureau;
- 17 (34) The ombudsman;
- 18 (35) The permanent employees of the legislature, other than
- 19 persons employed in clerical, secretarial, or similar
- 20 positions;
- 21 (36) The administrative director of the courts;



1 (37) The executive director of the state ethics commission;

2 (38) The executive officer of the state land use
3 commission;

4 (39) The executive director of the natural energy
5 laboratory of Hawaii authority;

6 (40) The executive director of the Hawaii public housing
7 authority; and

8 (41) The [~~first deputy to the chairperson~~] executive
9 director of the commission on water resource
10 management;

11 provided that this subsection shall not apply to any person who
12 has held one of the positions listed above only on an interim or
13 acting basis and for a period of less than one hundred
14 eighty-one days."

15 SECTION 5. Section 174C-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§174C-5 General powers and duties. The general
18 administration of the state water code shall rest with the
19 commission on water resource management. In addition to its
20 other powers and duties, the commission:



- 1 (1) Shall carry out topographic surveys, research, and
2 investigations into all aspects of water use and water
3 quality;
- 4 (2) Shall designate water management areas for regulation
5 under this chapter where the commission, after the
6 research and investigations mentioned in paragraph
7 (1), shall consult with the appropriate county council
8 and county water agency, and after public hearing and
9 published notice, finds that the water resources of
10 the areas are being threatened by existing or proposed
11 withdrawals of water;
- 12 (3) Shall establish an instream use protection program
13 designed to protect, enhance, and reestablish, where
14 practicable, beneficial instream uses of water in the
15 State;
- 16 (4) May contract and cooperate with the various agencies
17 of the federal government and with state and local
18 administrative and governmental agencies or private
19 persons;
- 20 (5) May enter, after obtaining the consent of the property
21 owner, at all reasonable times upon any property other



1 than dwelling places for the purposes of conducting
2 investigations and studies or enforcing any of the
3 provisions of this code, being liable, however, for
4 actual damage done. If consent cannot be obtained,
5 reasonable notice shall be given prior to entry;

6 (6) Shall cooperate with federal agencies, other state
7 agencies, county or other local governmental
8 organizations, and all other public and private
9 agencies created for the purpose of utilizing and
10 conserving the waters of the State, and assist these
11 organizations and agencies in coordinating the use of
12 their facilities and participate in the exchange of
13 ideas, knowledge, and data with these organizations
14 and agencies. For this purpose the commission shall
15 maintain an advisory staff of experts;

16 (7) Shall prepare, publish, and issue printed pamphlets
17 and bulletins as the commission deems necessary for
18 the dissemination of information to the public
19 concerning its activities;

20 (8) May appoint and remove agents, including hearings
21 officers and consultants, necessary to carry out the



1 purposes of this chapter, who may be engaged by the
2 commission without regard to the requirements of
3 chapter 76 and section 78-1;

4 (9) May hire employees in accordance with chapter 76;

5 (10) May appoint and dismiss attorneys as may be necessary,
6 who shall be exempt from chapter 76;

7 ~~[(10)]~~ (11) May acquire, lease, and dispose of real and
8 personal property as may be necessary in the
9 performance of its functions, including the
10 acquisition of real property for the purpose of
11 conserving and protecting water and water related
12 resources as provided in section 174C-14;

13 ~~[(11)]~~ (12) Shall identify, by continuing study, those areas
14 of the State where salt water intrusion is a threat to
15 fresh water resources and report its findings to the
16 appropriate county mayor and council and the public;

17 ~~[(12)]~~ (13) Shall provide coordination, cooperation, or
18 approval necessary to the effectuation of any plan or
19 project of the federal government in connection with
20 or concerning the waters of the State. The commission
21 shall approve or disapprove any federal plans or



1 projects on behalf of the State. No other agency or
2 department of the State shall assume the duties
3 delegated to the commission under this paragraph;
4 except that the department of health shall continue to
5 exercise the powers vested in it with respect to water
6 quality, and except that the department of business,
7 economic development, and tourism shall continue to
8 carry out its duties and responsibilities under
9 chapter 205A;

10 ~~[(13)]~~ (14) Shall plan and coordinate programs for the
11 development, conservation, protection, control, and
12 regulation of water resources, based upon the best
13 available information, and in cooperation with federal
14 agencies, other state agencies, county or other local
15 governmental organizations, and other public and
16 private agencies created for the utilization and
17 conservation of water;

18 ~~[(14)]~~ (15) Shall catalog and maintain an inventory of all
19 water uses and water resources; ~~[and~~

20 ~~(15)]~~ (16) Shall determine appurtenant water rights,
21 including but not limited to the quantification of the



1 amount of water and the specification of the water
2 course or the means of access and delivery entitled to
3 by that right, which determination shall be valid for
4 purposes of this chapter[-]; and

5 (17) May declare an emergency if the commission determines,
6 in consultation with the governor, the appropriate
7 county, and the department of health, that there is an
8 absence of sufficient quantity and quality of water in
9 any area, whether within or outside of a water
10 management area, that immediately threatens the public
11 health, safety, and welfare. The commission may issue
12 orders reciting the existence of the emergency and
13 requiring those actions as the commission deems
14 necessary to address the emergency be taken, including
15 but not limited to apportioning, rotating, limiting,
16 or prohibiting the use of the water resources of the
17 area; provided that an emergency order shall expire no
18 later than one year after issuance by the commission;
19 provided further that the order may be extended by a
20 separate or supplementary order."



1 SECTION 6. Section 174C-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§174C-6 [~~Deputy to the chairperson~~] Executive director of
4 the commission on water resource management. (a) There shall
5 be [~~a first deputy to the chairperson~~] an executive director of
6 the commission on water resource management [~~("deputy for water
7 resource management") who shall be in addition to any other
8 first deputy to the chairperson as the chairperson of the board
9 of land and natural resources. The deputy]~~, who shall have
10 experience in the area of water resources and shall be appointed
11 by [~~the chairperson with the approval of a majority of]~~, and
12 serve at the pleasure of, the commission.

13 (b) The duties of the [~~deputy for water resource
14 management~~] executive director shall be to administer and
15 implement, under the direction of the commission, the state
16 water code [~~and all~~], the rules, and other directives
17 [~~promulgated in accordance therewith~~] adopted by the commission.
18 Nothing in this [~~provision~~] section shall be construed as
19 limiting the authority of the commission as to matters regarding
20 water resources.



1 (c) The position of [~~deputy for water resource management~~
2 ~~is not~~] executive director shall not be subject to chapter 76.

3 (d) The salary of the [~~deputy for water resource~~
4 ~~management~~] executive director shall be [as provided in section
5 26-53 for first deputies or first assistants to the head of any
6 department.] set by the board, and the executive director shall
7 be included in any benefit program generally applicable to the
8 officers and employees of the State.

9 (e) The commission shall develop and document annual goals
10 and performance measures for the executive director that allow
11 the commission to annually evaluate the executive director's
12 work to ensure compliance by the commission with statutory and
13 constitutional requirements and achievement of its statutory and
14 constitutional purposes.

15 (f) The commission shall evaluate and document the
16 evaluation of the executive director's performance annually, or
17 more frequently upon the request of at least four members of the
18 commission, based on annual goals, performance measures, and
19 other relevant criteria."

20 SECTION 7. Section 174C-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§174C-7 Commission on water resource management. (a)
2 There is established within the department a commission on water
3 resource management consisting of seven members which shall have
4 exclusive jurisdiction and final authority in all matters
5 relating to implementation and administration of the state water
6 code, except as otherwise specifically provided in this chapter.
7 The commission shall be attached to the department of land and
8 natural resources for administrative purposes only.

9 (b) Five members shall be appointed by the governor
10 subject to confirmation by the senate in the manner prescribed
11 in subsection ~~[(d)-]~~ (e). Each member shall have substantial
12 experience in the area of water resource management; provided
13 that at least one member shall have substantial experience or
14 expertise in traditional Hawaiian water resource management
15 techniques and in traditional Hawaiian riparian usage such as
16 those preserved by section 174C-101. Each of the members shall
17 be eligible to serve as the chairperson of the commission upon
18 election by a majority of the commission members.

19 (c) The chairperson of the board of land and natural
20 resources ~~[shall be the chairperson of the commission. The]~~ and
21 the director of health or the director's designee shall serve as



1 ~~[an]~~ ex officio~~[+]~~, ~~[+]~~ voting ~~[member-]~~ members, but shall be
2 ineligible to serve as chairperson of the commission.

3 ~~[-e+]~~ (d) The members of the commission shall serve
4 without compensation but shall be reimbursed for expenses,
5 including travel expenses, necessary for the performance of
6 their duties.

7 ~~[-d+]~~ (e) In appointing a member to the commission, the
8 governor shall select from a list submitted by a nominating
9 committee. The nominating committee shall be composed of ~~[four]~~
10 five individuals chosen as follows: two persons appointed by
11 the governor; one person appointed by the president of the
12 senate; ~~[and]~~ one person appointed by the speaker of the
13 house~~[-]~~; and one person appointed by the chief executive
14 officer of the office of Hawaiian affairs. The committee shall
15 solicit applications and send to the governor the names of at
16 least three individuals for each open position.

17 ~~[-e+]~~ (f) Except as otherwise provided in this chapter,
18 the commission shall be subject to sections 26-34, 26-35, and
19 26-36."

20 SECTION 8. Section 174C-9, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[~~H~~]~~§~~174C-9[~~H~~] Proceedings before the commission
2 concerning water resources. (a) All proceedings before the
3 commission concerning the enforcement or application of any
4 provision of this chapter or any rule adopted pursuant thereto,
5 or the issuance, modification, or revocation of any permit or
6 license under this code by the commission, shall be conducted in
7 accordance with chapter 91. Hearings regarding particular water
8 resources shall be conducted on the island where those water
9 resources are located.

10 (b) Any party to whom an emergency order is directed may
11 challenge that order but shall immediately comply with the order
12 pending disposition of the party's challenge. The commission
13 shall give precedence to a hearing on the challenge over all
14 other pending matters."

15 SECTION 9. Section 174C-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§174C-15 Penalties and common law remedies. (a) The
18 commission may enforce its rules and orders adopted pursuant to
19 this chapter by suit for injunction or for damages or both.

20 (b) Any person who [~~violates any~~]:

21 (1) Violates any provision of this chapter[~~, or any~~];



1 continuing violations shall be assessed from the earliest date
2 the commission is made aware of the violation.

3 (c) When imposing a penalty, the commission shall consider
4 the following factors, which shall include but not be limited
5 to:

6 (1) The nature, circumstances, extent, gravity, and
7 history of the violation and of any prior violations;

8 (2) The economic benefit to the violator, or anticipated
9 by the violator, resulting from the violation;

10 (3) The opportunity, difficulty, and history of corrective
11 action;

12 (4) Good faith efforts to comply;

13 (5) Degree of culpability; and

14 (6) Other matters as justice may require.

15 ~~[-(e)]~~ (d) No provision of this chapter shall bar the right
16 of any injured person to seek other legal or equitable relief
17 against a violator of this chapter.

18 ~~[-(d)]~~ (e) Except as otherwise provided by law, the
19 commission or its authorized representative by proper delegation
20 ~~[may]~~ shall set, charge, and collect administrative fines ~~[or]~~;
21 may bring legal action to recover administrative fees and costs



1 as documented by receipts or affidavit, including [~~attorneys~~]
2 attorney's fees and costs; [~~or~~]; and may bring legal action to
3 recover administrative fines, fees, and costs, including
4 [~~attorneys~~] attorney's fees and costs, or payment for damages
5 resulting from a violation of this chapter or any rule adopted
6 pursuant to this chapter."

7 SECTION 10. Section 174C-62, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a) through (c) to read:

10 "(a) The commission shall formulate a statewide plan for
11 implementation during periods of water shortage. As a part of
12 the plan, the commission shall adopt a reasonable system of
13 permit classification according to source of water supply,
14 method of extraction or diversion, use of water, or a
15 combination thereof.

16 (b) The commission, by rule, may declare that a water
17 shortage exists within all or part of an area, whether within or
18 outside of a water management area, when insufficient water is
19 available to meet the requirements of the permit system or when
20 conditions [~~are such as to~~] require a temporary reduction in
21 total water use within the area to protect water resources from



1 serious harm. The commission shall publish a set of criteria
2 for determining when a water shortage exists[-], including but
3 not limited to impacts and effects of the climate crisis.

4 (c) In accordance with the plan adopted under subsection
5 (a), the commission may impose [~~sueh~~] restrictions on one or
6 more classes of permits and outside of management areas on well
7 and stream diversion owners and operators as may be necessary to
8 protect the water resources of the area from serious harm and to
9 restore them to their previous water quantity or chloride level
10 condition."

11 2. By amending subsections (e) and (f) to read:

12 "(e) When a water shortage is declared, the commission
13 shall cause a notice [~~thereof~~] of the water shortage to be
14 published in a prominent place in a newspaper of general
15 circulation throughout the area[-] and on the commission's
16 website. The notice shall be published each day for the first
17 week of the shortage and once a week [~~thereafter~~] for four
18 months, followed by monthly publications until the declaration
19 is rescinded. Publication of [~~sueh~~] the notice shall serve as
20 notice to all water users in the area of the condition of water
21 shortage.



1 (f) The commission shall cause each permittee in the area
 2 to be notified by regular and electronic mail of any change in
 3 the conditions of the permittee's permit, any suspension
 4 [~~thereof,~~] of the permittee's permit, or of any other
 5 restriction on the use of water for the duration of the water
 6 shortage."

7 SECTION 11. This Act does not affect rights and duties
 8 that matured, penalties that were incurred, and proceedings that
 9 were begun before its effective date.

10 SECTION 12. If any provision of this Act, or the
 11 application thereof to any person or circumstance, is held
 12 invalid, the invalidity does not affect other provisions or
 13 applications of the Act that can be given effect without the
 14 invalid provision or application, and to this end the provisions
 15 of this Act are severable.

16 SECTION 13. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 14. This Act shall take effect on July 1, 2025.

19

INTRODUCED BY: *Nedie K. Parker*
 By Request
 JAN 16 2025



H.B. NO. 405

Report Title:

Maui County Council Package; Water; CWRM; Emergency Orders;
Water Shortages; Fines

Description:

Defines the public trust responsibilities of the Commission on Water Resource Management. Allows the Commission to retain independent legal counsel. Amends the scope of the Commission to include declaration of emergencies. Repeals the position of Deputy to the Chairperson of the Commission on Water Resource Management and establishes the position of Executive Director. Amends the composition of the Commission. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses.

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



A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and commission on water resource management to
5 carry out that mission, the legislature further finds that the
6 state water code's penalties and fines must be amended and
7 increased to serve as an effective deterrent.

8 The purpose of this Act is to ensure that all violators of
9 the state water code are held accountable for their violations
10 by:

- 11 (1) Adding a minimum penalty and amending the maximum
12 penalty per violation of the state water code and
13 clarifying what constitutes a separate offense; and
14 (2) Requiring the commission on water resource management
15 to consider certain factors when imposing penalties.

16 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
17 amended to read as follows:



1 "**§174C-15 Penalties and common law remedies.** (a) The
2 commission may enforce its rules and orders adopted pursuant to
3 this chapter by suit for injunction or for damages or both.

4 (b) Any person who [~~violates~~]:

5 (1) Violates any provision of this chapter[~~or~~];

6 (2) Violates any rule adopted pursuant to this chapter[~~or~~
7 may];

8 (3) Violates any order of the commission;

9 (4) Fails to obtain a permit when a permit is required
10 under this chapter;

11 (5) Fails to comply with permit conditions; or

12 (6) Fails to comply with standardized water audit
13 requirements pursuant to Act 169, Session Laws of
14 Hawaii 2016,

15 may be subject to a fine imposed by the commission. [~~Such~~] The

16 fine shall be no less than \$50 and shall not exceed [~~\$5,000.~~

17 ~~For a continuing offense, each day during which the offense is~~

18 ~~committed is a separate violation.]~~ \$25,000 per violation. Each

19 day that a violation exists or continues to exist shall

20 constitute a separate offense. Penalties for continuing

21 violations shall be assessed from the earliest known date of the



1 violation. The earliest known date of a violation shall be
2 determined by the commission by a preponderance of the evidence;
3 provided that if the earliest known date cannot be determined by
4 a preponderance of the evidence, penalties for continuing
5 violations shall be assessed from the earliest date the
6 commission is made aware of the violation.

7 (c) When imposing a penalty, the commission shall consider
8 the following factors, including but not limited to:

- 9 (1) The nature, circumstances, extent, gravity, and
10 history of the violation and of any prior violations;
11 (2) The economic benefit to the violator, or anticipated
12 by the violator, resulting from the violation;
13 (3) The opportunity, difficulty, and history of corrective
14 action;
15 (4) Good faith efforts to comply;
16 (5) Degree of culpability; and
17 (6) Such other matters as justice may require.

18 The commission shall adopt further guidelines for penalties to
19 be imposed at a duly-noticed public meeting.



H.B. NO. 509

1 ~~[(e)]~~ (d) No provision of this chapter shall bar the right
 2 of any injured person to seek other legal or equitable relief
 3 against a violator of this chapter.

4 ~~[(d)]~~ (e) Except as otherwise provided by law, the
 5 commission or its authorized representative by proper delegation
 6 may set, charge, and collect administrative fines ~~[or]~~ ; may
 7 bring legal action to recover administrative fees and costs as
 8 documented by receipts or affidavit, including ~~[attorneys']~~
 9 attorney's fees and costs; ~~[or]~~ and may bring legal action to
 10 recover administrative fines, fees, and costs, including
 11 ~~[attorneys']~~ attorney's fees and costs, or payment for damages
 12 resulting from a violation of this chapter or any rule adopted
 13 pursuant to this chapter."

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect on July 1, 2025.

17

INTRODUCED BY:

Linda Delchinger

JAN 17 2025



H.B. NO. 509

Report Title:

State Water Code; Commission on Water Resource Management;
Penalties

Description:

Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.

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



A BILL FOR AN ACT

RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY.

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

1 SECTION 1. The legislature finds that the commission on
2 water resource management must formulate water shortage plans
3 and adopt a reasonable system of permit classification through
4 rulemaking to properly plan for future water shortages and
5 provide stakeholders an opportunity to participate in the
6 process. With such plans and permit classifications, future
7 restrictions on water use would be applied uniformly and
8 individual users would know in advance their relative priority
9 during periods of water shortage.

10 The legislature further finds that the commission on water
11 resource management should have the ability to adopt water
12 shortage plans, permit classifications, and criteria outside of
13 water management areas and should apply these plans to well and
14 stream diversion works owners and operators. As recent droughts
15 have revealed, water shortages and emergencies can occur
16 quickly. In 2024, all islands experienced drought conditions,
17 and many areas suffered from severe to extreme drought.



1 Therefore, it is necessary to ensure effective and transparent
2 planning for water shortages within and outside of designated
3 water management areas.

4 Accordingly, the purpose of this Act is to amend the
5 conditions, manner, and areas in which the commission on water
6 resource management can declare and provide notice of water
7 shortages and emergencies.

8 SECTION 2. Section 174C-62, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[~~+~~]**§174C-62**[~~+~~] **Declaration of water shortage.** (a) The
11 commission shall, by rule, formulate a plan for implementation
12 during periods of water shortage. As a part of the plan, the
13 commission shall, by rule, adopt a reasonable system of permit
14 classification according to source of water supply, method of
15 extraction or diversion, use of water, or a combination thereof.

16 (b) The commission[~~, by rule,~~] may declare that a water
17 shortage exists within all or part of an area, whether within or
18 outside of a water management area, when insufficient water is
19 available to meet the requirements of the permit system or when
20 conditions are such as to require a temporary reduction in total
21 water use within the area to protect water resources from



1 serious harm. The commission shall publish, by rule, a set of
2 criteria for determining when a water shortage exists~~[.]~~,
3 including but not limited to impacts and effects of the climate
4 crisis.

5 (c) In accordance with the plan adopted under subsection
6 (a), the commission may impose such restrictions on one or more
7 classes of permits and outside of management areas on well and
8 stream diversion works owners and operators as may be necessary
9 to protect the water resources of the area from serious harm and
10 to restore them to their previous water quantity or chloride
11 level condition.

12 ~~[(d) A declaration of water shortage and any measures~~
13 ~~adopted pursuant thereto may be rescinded by rule by the~~
14 ~~commission.~~

15 ~~(e)]~~ (d) When a water shortage is declared, the commission
16 shall cause a notice ~~[thereof]~~ of the water shortage to be
17 published in a prominent place in a newspaper of general
18 circulation throughout the area~~[.]~~ and on the commission's
19 website. The notice shall be published each day for the first
20 week of the shortage and once a week ~~[thereafter]~~ for four
21 months, followed by monthly publications until the declaration



1 is rescinded. The notice shall remain on the commission's
2 website until the declaration is rescinded. Publication of
3 [~~such~~] the notice shall serve as notice to all water users in
4 the area of the condition of water shortage.

5 [~~(f)~~] (e) The commission shall cause each permittee in the
6 area to be notified by regular mail and, if the permittee's
7 electronic mail address is known, by electronic mail of any
8 change in the conditions of the permittee's permit, any
9 suspension [~~thereof,~~] of the permittee's permit, or of any other
10 restriction on the use of water for the duration of the water
11 shortage.

12 [~~(g)~~] (f) If an emergency condition arises due to a water
13 shortage within any area, whether within or outside of a water
14 management area, and if the commission finds that the
15 restrictions imposed under subsection (c) are not sufficient to
16 protect the public health, safety, or welfare, or the health of
17 animals, fish, or aquatic life, or a public water supply, or
18 recreational, municipal, agricultural, or other reasonable uses,
19 the commission may issue orders reciting the existence of such
20 emergency and requiring that such actions as the commission
21 deems necessary to meet the emergency be taken, including but



H.B. NO. 510

1 not limited to apportioning, rotating, limiting, or prohibiting
2 the use of the water resources of the area. Any party to whom
3 an emergency order is directed may challenge such an order but
4 shall immediately comply with the order, pending disposition of
5 the party's challenge. The commission shall give precedence to
6 a hearing on such challenge over all other pending matters."

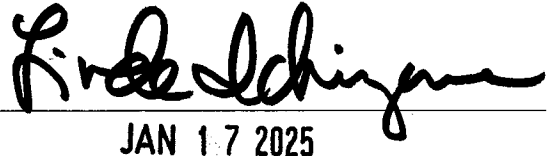
7 SECTION 3. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

16

INTRODUCED BY:


JAN 17 2025



H.B. NO. 510

Report Title:

Commission on Water Resource Management; Water Shortage and
Emergency; Declaration; Notice

Description:

Amends the conditions, manner, and areas in which the Commission
on Water Resource Management can declare and provide notice of
water shortages and emergencies.

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



A BILL FOR AN ACT

RELATING TO WATER USE.

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

1 SECTION 1. Section 167-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~**§167-5** **Powers.** In addition to any other powers
4 granted to the board of agriculture for the purpose of carrying
5 out all of its functions and duties, the board shall have the
6 following powers for the purposes of this chapter:

7 (1) To acquire by eminent domain, water and water sources
8 either above or underground, watershed, reservoir
9 sites, rights-of-way over lands and property for
10 paths, trails, roads, and landing sites, ditches,
11 tunnels, flumes, reservoirs, and pipelines necessary
12 or proper for the construction and maintenance of
13 water facilities for conveying, distributing, and
14 transmitting water for irrigation and domestic use and
15 for ~~such~~ other purposes as may properly fall within
16 the scope of its activities in creating, managing,
17 controlling, operating, and maintaining irrigation



1 water facilities, any of which purposes shall be held
2 to be for a public use and purpose;

3 (2) To make and execute contracts and other instruments
4 necessary or convenient to the exercise of the powers
5 of the board, including, without prejudice to the
6 generality of the foregoing, contracts and other
7 instruments for the purchase or sale of water and for
8 the purchase or lease of water facilities for
9 irrigation of the area, including but not limited to
10 the production of agricultural products and the land
11 on which the facilities are situated, and for securing
12 to the owners and occupiers of land already using
13 water in a project a priority right to so much water
14 from those of their sources and facilities [~~which~~]
15 that are taken over for the project as is required for
16 the purposes or needs of the land, whether
17 agricultural or nonagricultural in nature, as [~~such~~]
18 those purposes or needs exist at the inception of the
19 project or are then contemplated in the immediate
20 future;



- 1 (3) To [~~make and from time to time~~] adopt, amend, and
2 repeal bylaws and rules, not inconsistent with this
3 chapter, which upon compliance with chapter 91 shall
4 have the force and effect of law, to carry into effect
5 the powers and purposes of the board;
- 6 (4) To make surveys for the purposes of determining the
7 engineering and economic feasibility of each project;
- 8 (5) To conduct or have prepared comprehensive studies of
9 the crops, livestock, and poultry [~~which~~] that may be
10 profitably grown or produced within each project and
11 the probable market for [~~such~~] those crops, livestock,
12 and poultry;
- 13 (6) To conduct feasibility studies of the economic
14 potential of the area;
- 15 (7) To determine the probable costs and value of providing
16 water for irrigation in any proposed project;
- 17 (8) To investigate and make surveys of water resources,
18 including the availability of nonpotable water and the
19 possibility and feasibility of inducing rain by
20 artificial or other means; and



1 (9) To define and redefine the boundaries of projects and
2 to consolidate or separate projects, existing or
3 proposed pursuant to this chapter[7]; provided that in
4 the event the redefinition of the boundaries or the
5 consolidation or separation previously effected
6 increased the total amount required to be derived from
7 acreage assessments upon lands within the existing
8 project or projects by more than five per cent or will
9 require an increase in the tolls charged for water
10 supplied to the lands or will reduce the amount of
11 water normally available for distribution to the
12 lands, then the redefinition, consolidation, or
13 separation may be accomplished only after notice has
14 been published and a public hearing held as required
15 for the formation of a project upon the initiative of
16 the board. At the hearing, right to protest and the
17 procedure relative to protest shall be the same as
18 specified in section 167-17 concerning the formation
19 of projects, and the proposed redefinition of
20 boundaries, consolidation, or separation of projects
21 shall not be accomplished if protests, such as would



1 be sufficient to prevent the action if it were the
2 formation of a project, are filed by owners and
3 lessees of land within the existing projects or
4 projects affected thereby.

5 The board is empowered, upon petition of land occupiers as
6 provided by section 167-13, or upon petition of the Hawaiian
7 homes commission or upon its own initiative, to prepare detailed
8 plans for the acquisition or construction of facilities for
9 irrigation or for economic development [~~which~~] that in its
10 opinion are economically feasible, to prepare estimates of the
11 probable cost of each, and to prepare estimates of the water
12 tolls and acreage assessments required for the cost of operation
13 and the amortization of the investment of each project, so that
14 the project shall be self-supporting."

15 SECTION 2. Section 167-12, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[~~+~~]**\$167-12**[~~+~~] **Lands included within irrigation projects.**

18 (a) Except as otherwise expressly permitted in the chapter,
19 lands to be included within an irrigation project shall be only
20 those used or to be used in farming. The number of acres of
21 agricultural and pasture land of each land occupier within the



1 project shall be determined by the board of agriculture and
2 shall not be increased or decreased, nor shall any [~~such~~] land
3 included within a project thereafter be withdrawn, after final
4 determination to construct the project, except in the manner and
5 with the limitations specified in this chapter by redefining the
6 boundaries of a project. The project shall include only such
7 lands as can be adequately irrigated by the quantity of water
8 and facilities to be provided under normal conditions of supply.
9 No land [~~which~~] that at the time of formation of the project is
10 irrigated, or is devoted to the cultivation for commercial
11 purposes of sugar, pineapples, coffee, bananas, citrus, papayas,
12 or macadamia nuts, or other horticultural crops, whether or not
13 the land so devoted is irrigated, or is being devoted to an
14 industrial or townsite or other use of greater economic value
15 than agriculture shall be included in the project if the owner
16 of the land (or the land occupier thereof if other than the
17 owner, in the event that the land occupier is legally chargeable
18 with the acreage assessments) shall object in writing to the
19 inclusion. The foregoing provisions of this [~~paragraph~~]
20 subsection shall be applicable to all irrigation projects.



1 (b) Notwithstanding the limitation expressed in [the
2 ~~foregoing paragraph, lands]~~ subsection (a):

- 3 (1) Lands of the State used by the University of Hawaii
4 for experimental farms may be included in irrigation
5 projects[~~7~~]; provided the board of regents undertakes
6 the payment of water tolls and acreage assessments and
7 for the purposes of the inclusion the University of
8 Hawaii shall be deemed a land occupier within the
9 meaning of this chapter[~~7~~]; provided further
10 that lands within the farms shall be assessed
11 accordingly as the same are of the character of
12 agricultural or pasture lands, as defined in this
13 chapter, although they are used for experimental
14 purposes[~~7~~]; provided further that the
15 assessments shall not[~~7~~ ~~however~~ ~~7~~] become a lien upon
16 the lands[~~7~~]; and
- 17 (2) Residential and mixed-use developments described in
18 section 174C-51.5 may also be included in irrigation
19 projects; provided that the water shall be sourced
20 from county-supplied R-1 water."



1 SECTION 3. Section 174C-51.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending its title and subsection (a) to read:

4 "[+]§174C-51.5[+] Dual line water supply systems;
5 installation in [~~new industrial and commercial~~] certain
6 developments located in designated water management areas. (a)

7 The commission, as a condition for issuing permits pursuant to
8 this part, may require the use of dual line water supply systems
9 in new industrial and commercial developments and new
10 residential and mixed-use developments located in designated
11 water management areas. The commission shall not require the
12 use of dual line water supply systems if:

13 (1) There is a threat to existing water quality or to
14 public health and safety, as determined by the
15 department of health;

16 (2) A source of nonpotable water will not be reasonably
17 available in the near future as determined by the
18 commission; or

19 (3) There is a serious threat to permitted ground or
20 surface water uses within a designated water
21 management area as determined by the commission."



1 2. By amending subsection (c) to read:

2 "(c) For the purposes of this section[~~, the term~~]:

3 ~~["Developments" means one or more commercial or industrial~~
4 ~~subdivisions approved after May 30, 2000. It shall not apply to~~
5 ~~any modification, addition to, or replacement of, any commercial~~
6 ~~or industrial subdivision in existence prior to May 30, 2000.]~~

7 "Dual line water supply system" means a supply system that
8 distributes potable and nonpotable water through parallel but
9 separate distribution lines.

10 "Industrial and commercial development" means one or more
11 commercial or industrial subdivisions approved after May 30,
12 2000. It shall not apply to any modification, addition to, or
13 replacement of, any commercial or industrial subdivision in
14 existence prior to May 30, 2000.

15 "Residential and mixed-use development" means one or more
16 residential or mixed-use subdivisions approved after June 30,
17 2025. "Mixed use-development" includes mixed-use developments
18 as defined under section 201H-12(a); provided that the term
19 "commercial use" as used in that definition shall include
20 commercial agricultural use."



1 SECTION 4. (a) This Act shall preempt any state or county
2 rule, ordinance, policy, procedure, guideline, or other material
3 that precludes or restricts the installation or use of a dual
4 line water supply system in a residential or mixed-use
5 development, as authorized by this Act.

6 (b) The department of health, board of agriculture, and
7 each county shall:

8 (1) Review their respective rules, ordinances, policies,
9 procedures, guidelines, and other materials, including
10 the department of health reuse guidelines and each
11 county's zoning and building code; and

12 (2) Amend any provisions that conflict with this Act or
13 otherwise preclude or restrict the installation of a
14 dual line water supply system in a residential or
15 mixed-use development, as authorized by this Act.

16 (c) Notwithstanding any department of health rule, policy,
17 procedure, guideline, or material to the contrary, including the
18 department of health reuse guidelines, volume II, the irrigation
19 of a single-family residential home shall be permitted without
20 the designation of a recycled water manager.



H.B. NO. 915

1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7

INTRODUCED BY: Mark J. Hill
JAN 21 2025



H.B. NO. 915

Report Title:

Water; CWRM; Residential and Mixed-use Developments; Board of Agriculture; DOH; Counties; Irrigation Projects

Description:

Authorizes the Commission on Water Resource Management, as a condition for issuing permits, to require the use of dual line water supply systems in new residential and mixed-use developments located in designated water management areas. Authorizes those residential and mixed-use developments to be included in irrigation projects, as defined in chapter 167, HRS. Authorizes the Board of Agriculture to investigate and survey the availability of nonpotable water. Requires the Department of Health, Board of Agriculture, and the counties to update their rules, ordinances, to allow dual line water supply systems in residential and mixed-use developments.

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



A BILL FOR AN ACT

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

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

1 SECTION 1. The legislature finds that section 174C-101(a),
2 Hawaii Revised Statutes, requires decisions of the commission on
3 water resource management to incorporate and protect adequate
4 reserves of water for current and foreseeable development and
5 use of Hawaiian home lands.

6 The purpose of this Act is to add the chairperson of the
7 Hawaiian homes commission, or the chairperson's designee, to the
8 commission on water resource management in a similar ex officio
9 membership as the director of health or the director's designee.

10 SECTION 2. Section 174C-7, Hawaii Revised Statutes, is
11 amended by amending subsections (a) and (b) to read as follows:

12 "(a) There [~~is~~] shall be established within the department
13 a commission on water resource management consisting of [~~seven~~]
14 eight members which shall have exclusive jurisdiction and final
15 authority in all matters relating to implementation and
16 administration of the state water code, except as otherwise
17 specifically provided in this chapter.



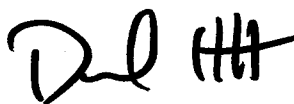
1 (b) Five members shall be appointed by the governor
 2 subject to confirmation by the senate in the manner prescribed
 3 in subsection (d). Each ~~[member]~~ of these five members shall
 4 have substantial experience in the area of water resource
 5 management; provided that at least one member shall have
 6 substantial experience or expertise in traditional Hawaiian
 7 water resource management techniques and in traditional Hawaiian
 8 riparian usage such as those preserved by section 174C-101. The
 9 chairperson of the board of land and natural resources shall be
 10 the chairperson of the commission. The director of health and
 11 chairperson of the Hawaiian homes commission, or ~~[the director's~~
 12 ~~designee]~~ their respective designees, shall serve as ~~[an]~~ ex
 13 officio~~[+]~~, ~~[+]~~ voting ~~[member.]~~ members."

14 SECTION 3. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

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

17

INTRODUCED BY:



JAN 21 2025



H.B. NO. 919

Report Title:

CWRM; Hawaiian Homes Commission; Membership

Description:

Adds the Chairperson of the Hawaiian Homes Commission or the Chairperson's designee to the Commission on Water Resource Management. Clarifies that only the five, non-ex-officio members appointed by the Governor are required to have substantial experience in water resource management.

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

2025-0926 HB HMSO



JAN 23 2025

A BILL FOR AN ACT

RELATING TO WATER USE.

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

1 SECTION 1. Section 167-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~**§167-5** **Powers.** In addition to any other powers
4 granted to the board of agriculture for the purpose of carrying
5 out all of its functions and duties, the board shall have the
6 following powers for the purposes of this chapter:

7 (1) To acquire by eminent domain, water and water sources
8 either above or underground, watershed, reservoir
9 sites, rights-of-way over lands and property for
10 paths, trails, roads, and landing sites, ditches,
11 tunnels, flumes, reservoirs, and pipelines necessary
12 or proper for the construction and maintenance of
13 water facilities for conveying, distributing, and
14 transmitting water for irrigation and domestic use and
15 for ~~such~~ other purposes as may properly fall within
16 the scope of its activities in creating, managing,
17 controlling, operating, and maintaining irrigation



1 water facilities, any of which purposes shall be held
2 to be for a public use and purpose;
3 (2) To make and execute contracts and other instruments
4 necessary or convenient to the exercise of the powers
5 of the board, including, without prejudice to the
6 generality of the foregoing, contracts and other
7 instruments for the purchase or sale of water and for
8 the purchase or lease of water facilities for
9 irrigation of the area, including but not limited to
10 the production of agricultural products and the land
11 on which the facilities are situated, and for securing
12 to the owners and occupiers of land already using
13 water in a project a priority right to so much water
14 from those of their sources and facilities [~~which~~
15 that are taken over for the project as is required for
16 the purposes or needs of the land, whether
17 agricultural or nonagricultural in nature, as [~~such~~
18 those purposes or needs exist at the inception of the
19 project or are then contemplated in the immediate
20 future;



- 1 (3) To [~~make and from time to time~~] adopt, amend, and
2 repeal bylaws and rules, not inconsistent with this
3 chapter, which upon compliance with chapter 91 shall
4 have the force and effect of law, to carry into effect
5 the powers and purposes of the board;
- 6 (4) To make surveys for the purposes of determining the
7 engineering and economic feasibility of each project;
- 8 (5) To conduct or have prepared comprehensive studies of
9 the crops, livestock, and poultry [~~which~~] that may be
10 profitably grown or produced within each project and
11 the probable market for [~~such~~] those crops, livestock,
12 and poultry;
- 13 (6) To conduct feasibility studies of the economic
14 potential of the area;
- 15 (7) To determine the probable costs and value of providing
16 water for irrigation in any proposed project;
- 17 (8) To investigate and make surveys of water resources,
18 including the availability of nonpotable water and the
19 possibility and feasibility of inducing rain by
20 artificial or other means; and



1 (9) To define and redefine the boundaries of projects and
2 to consolidate or separate projects, existing or
3 proposed pursuant to this chapter[7]; provided that in
4 the event the redefinition of the boundaries or the
5 consolidation or separation previously effected
6 increased the total amount required to be derived from
7 acreage assessments upon lands within the existing
8 project or projects by more than five per cent or will
9 require an increase in the tolls charged for water
10 supplied to the lands or will reduce the amount of
11 water normally available for distribution to the
12 lands, then the redefinition, consolidation, or
13 separation may be accomplished only after notice has
14 been published and a public hearing held as required
15 for the formation of a project upon the initiative of
16 the board. At the hearing, right to protest and the
17 procedure relative to protest shall be the same as
18 specified in section 167-17 concerning the formation
19 of projects, and the proposed redefinition of
20 boundaries, consolidation, or separation of projects
21 shall not be accomplished if protests, such as would



1 be sufficient to prevent the action if it were the
2 formation of a project, are filed by owners and
3 lessees of land within the existing projects or
4 projects affected thereby.

5 The board is empowered, upon petition of land occupiers as
6 provided by section 167-13, or upon petition of the Hawaiian
7 homes commission or upon its own initiative, to prepare detailed
8 plans for the acquisition or construction of facilities for
9 irrigation or for economic development [~~which~~] that in its
10 opinion are economically feasible, to prepare estimates of the
11 probable cost of each, and to prepare estimates of the water
12 tolls and acreage assessments required for the cost of operation
13 and the amortization of the investment of each project, so that
14 the project shall be self-supporting."

15 SECTION 2. Section 167-12, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~{}~~§167-12~~{}~~ **Lands included within irrigation projects.**

18 (a) Except as otherwise expressly permitted in the chapter,
19 lands to be included within an irrigation project shall be only
20 those used or to be used in farming. The number of acres of
21 agricultural and pasture land of each land occupier within the



1 project shall be determined by the board of agriculture and
2 shall not be increased or decreased, nor shall any [~~such~~] land
3 included within a project thereafter be withdrawn, after final
4 determination to construct the project, except in the manner and
5 with the limitations specified in this chapter by redefining the
6 boundaries of a project. The project shall include only such
7 lands as can be adequately irrigated by the quantity of water
8 and facilities to be provided under normal conditions of supply.
9 No land [~~which~~] that at the time of formation of the project is
10 irrigated, or is devoted to the cultivation for commercial
11 purposes of sugar, pineapples, coffee, bananas, citrus, papayas,
12 or macadamia nuts, or other horticultural crops, whether or not
13 the land so devoted is irrigated, or is being devoted to an
14 industrial or townsite or other use of greater economic value
15 than agriculture shall be included in the project if the owner
16 of the land (or the land occupier thereof if other than the
17 owner, in the event that the land occupier is legally chargeable
18 with the acreage assessments) shall object in writing to the
19 inclusion. The foregoing provisions of this [~~paragraph~~]
20 subsection shall be applicable to all irrigation projects.



1 (b) Notwithstanding the limitation expressed in [~~the~~
2 ~~foregoing paragraph, lands~~] subsection (a):

3 (1) Lands of the State used by the University of Hawaii
4 for experimental farms may be included in irrigation
5 projects[~~7~~]; provided the board of regents undertakes
6 the payment of water tolls and acreage assessments and
7 for the purposes of the inclusion the University of
8 Hawaii shall be deemed a land occupier within the
9 meaning of this chapter[~~.—Lands~~]; provided further
10 that lands within the farms shall be assessed
11 accordingly as the same are of the character of
12 agricultural or pasture lands, as defined in this
13 chapter, although they are used for experimental
14 purposes[~~.—The~~]; provided further that the
15 assessments shall not[~~7—however,7~~] become a lien upon
16 the lands[~~7~~]; and

17 (2) Residential and mixed-use developments described in
18 section 174C-51.5 may also be included in irrigation
19 projects; provided that the water shall be sourced
20 from county-supplied R-1 water."



1 SECTION 3. Section 174C-51.5, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending its title and subsection (a) to read:

4 "[~~§~~174C-51.5] **Dual line water supply systems;**
5 **installation in [~~new industrial and commercial~~] certain**
6 **developments located in designated water management areas.** (a)

7 The commission, as a condition for issuing permits pursuant to
8 this part, may require the use of dual line water supply systems
9 in new industrial and commercial developments and new
10 residential and mixed-use developments located in designated
11 water management areas. The commission shall not require the
12 use of dual line water supply systems if:

- 13 (1) There is a threat to existing water quality or to
14 public health and safety, as determined by the
15 department of health;
- 16 (2) A source of nonpotable water will not be reasonably
17 available in the near future as determined by the
18 commission; or
- 19 (3) There is a serious threat to permitted ground or
20 surface water uses within a designated water
21 management area as determined by the commission."



1 2. By amending subsection (c) to read:

2 "(c) For the purposes of this section~~[, the term]~~:

3 ~~["Developments" means one or more commercial or industrial~~
4 ~~subdivisions approved after May 30, 2000. It shall not apply to~~
5 ~~any modification, addition to, or replacement of, any commercial~~
6 ~~or industrial subdivision in existence prior to May 30, 2000.]~~

7 "Dual line water supply system" means a supply system that
8 distributes potable and nonpotable water through parallel but
9 separate distribution lines.

10 "Industrial and commercial development" means one or more
11 commercial or industrial subdivisions approved after May 30,
12 2000. It shall not apply to any modification, addition to, or
13 replacement of, any commercial or industrial subdivision in
14 existence prior to May 30, 2000.

15 "Residential and mixed-use development" means one or more
16 residential or mixed-use subdivisions approved after June 30,
17 2025. "Mixed use-development" includes mixed-use developments
18 as defined under section 201H-12(a); provided that the term
19 "commercial use" as used in that definition shall include
20 commercial agricultural use."



1 SECTION 4. (a) This Act shall preempt any state or county
2 rule, ordinance, policy, procedure, guideline, or other material
3 that precludes or restricts the installation or use of a dual
4 line water supply system in a residential or mixed-use
5 development, as authorized by this Act.

6 (b) The department of health, board of agriculture, and
7 each county shall:

8 (1) Review their respective rules, ordinances, policies,
9 procedures, guidelines, and other materials, including
10 the department of health reuse guidelines and each
11 county's zoning and building code; and

12 (2) Amend any provisions that conflict with this Act or
13 otherwise preclude or restrict the installation of a
14 dual line water supply system in a residential or
15 mixed-use development, as authorized by this Act.

16 (c) Notwithstanding any department of health rule, policy,
17 procedure, guideline, or material to the contrary, including the
18 department of health reuse guidelines, volume II, the irrigation
19 of a single-family residential home shall be permitted without
20 the designation of a recycled water manager.



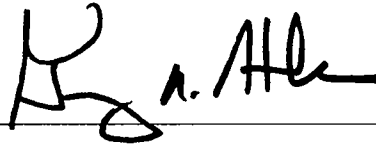
1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7

INTRODUCED BY:





S.B. NO. 1210

Report Title:

Water; CWRM; Residential and Mixed-use Developments; Board of Agriculture; DOH; Counties; Irrigation Projects

Description:

Authorizes the Commission on Water Resource Management, as a condition for issuing permits, to require the use of dual line water supply systems in new residential and mixed-use developments located in designated water management areas. Authorizes those residential and mixed-use developments to be included in irrigation projects, as defined in chapter 167, HRS. Authorizes the Board of Agriculture to investigate and survey the availability of nonpotable water. Requires the Department of Health, Board of Agriculture, and the counties to update their rules, ordinances, to allow dual line water supply systems in residential and mixed-use developments.

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



JAN 23 2025

A BILL FOR AN ACT

RELATING TO WATER CONSERVATION.

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

1 SECTION 1. The legislature finds that it is the policy of
2 the State to engage in comprehensive water resource planning to
3 address the problems of supply and conservation of water.
4 However, more needs to be done to ensure that only nonpotable
5 water is used for nonpotable purposes and that the maximum
6 amount of potable water is available for all potable purposes.
7 One source of nonpotable water is groundwater produced by wells
8 drawing water from below the ingestion control line aquifers
9 that also produce potable water. Another source of nonpotable
10 water is recycled water, including treated sewage effluent, but
11 the use of recycled water is limited by the infrastructure
12 available for the production and distribution of, and the cost
13 of acquiring, recycled water.

14 Accordingly, the purpose of this Act is to prohibit the use
15 of potable water to irrigate golf courses, except in certain
16 situations.



1 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§342D- Irrigation of golf courses; use of potable
5 water prohibited; exemption. (a) Potable water shall not be
6 used for golf course irrigation, maintenance, or operation,
7 except for human consumption.

8 (b) The department may exempt a golf course operator from
9 subsection (a) if:

- 10 (1) The department determines that there is a threat to
11 water quality or to public health and safety;
12 (2) The county in which the golf course is located
13 determines that a source of nonpotable water will not
14 be reasonably available in the near future; or
15 (3) The department determines that there is a serious
16 threat to pre-existing permitted ground or surface
17 water uses.

18 (c) Each county water service provider, in consultation
19 with the department, shall establish standards for the
20 distribution and use of nonpotable water and shall adopt rules
21 in accordance with chapter 91 regarding the use of nonpotable



1 water for golf course irrigation. The standards and rules shall
2 protect water quality and the health and safety of the public."

3 SECTION 3. Section 342D-1, Hawaii Revised Statutes, is
4 amended by adding two new definitions to be appropriately
5 inserted and to read as follows:

6 "Potable water" means:

7 (1) Surface water that has been treated and satisfies
8 standards set by administrative rules adopted by the
9 department; and

10 (2) Ground water extracted at an acceptable rate that
11 contains chlorides at a level, and that can be
12 disinfected to standards, set by administrative rules
13 adopted by the department.

14 "Surface water" has the same meaning defined in
15 section 174C-3."

16 SECTION 4. Section 174C-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§174C-5 General powers and duties.** The general
19 administration of the state water code shall rest with the
20 commission on water resource management. In addition to its
21 other powers and duties, the commission:



- 1 (1) Shall carry out topographic surveys, research, and
2 investigations into all aspects of water use and water
3 quality;
- 4 (2) Shall designate water management areas for regulation
5 under this chapter where the commission, after the
6 research and investigations mentioned in paragraph
7 (1), shall consult with the appropriate county council
8 and county water agency, and after public hearing and
9 published notice, finds that the water resources of
10 the areas are being threatened by existing or proposed
11 withdrawals of water;
- 12 (3) Shall establish an instream use protection program
13 designed to protect, enhance, and reestablish, where
14 practicable, beneficial instream uses of water in the
15 State;
- 16 (4) May contract and cooperate with the various agencies
17 of the federal government and with state and local
18 administrative and governmental agencies or private
19 persons;
- 20 (5) May enter, after obtaining the consent of the property
21 owner, at all reasonable times upon any property other



1 than dwelling places for the purposes of conducting
2 investigations and studies or enforcing any of the
3 provisions of this code, being liable, however, for
4 actual damage done. If consent cannot be obtained,
5 reasonable notice shall be given prior to entry;

6 (6) Shall cooperate with federal agencies, other state
7 agencies, county or other local governmental
8 organizations, and all other public and private
9 agencies created for the purpose of utilizing and
10 conserving the waters of the State, and assist these
11 organizations and agencies in coordinating the use of
12 their facilities and participate in the exchange of
13 ideas, knowledge, and data with these organizations
14 and agencies. For this purpose the commission shall
15 maintain an advisory staff of experts;

16 (7) Shall prepare, publish, and issue printed pamphlets
17 and bulletins as the commission deems necessary for
18 the dissemination of information to the public
19 concerning its activities;

20 (8) May appoint and remove agents, including hearings
21 officers and consultants, necessary to carry out the



1 purposes of this chapter, who may be engaged by the
2 commission without regard to the requirements of
3 chapter 76 and section 78-1;

4 (9) May hire employees in accordance with chapter 76;

5 (10) May acquire, lease, and dispose of real and personal
6 property as may be necessary in the performance of its
7 functions, including the acquisition of real property
8 for the purpose of conserving and protecting water and
9 water related resources as provided in
10 section 174C-14;

11 (11) Shall identify, by continuing study, those areas of
12 the State where salt water intrusion is a threat to
13 fresh water resources and report its findings to the
14 appropriate county mayor and council and the public;

15 (12) Shall provide coordination, cooperation, or approval
16 necessary to the effectuation of any plan or project
17 of the federal government in connection with or
18 concerning the waters of the State. The commission
19 shall approve or disapprove any federal plans or
20 projects on behalf of the State. No other agency or
21 department of the State shall assume the duties



1 delegated to the commission under this paragraph;
2 except that the department of health shall continue to
3 exercise the powers vested in it with respect to water
4 quality, and except that the department of business,
5 economic development, and tourism shall continue to
6 carry out its duties and responsibilities under
7 chapter 205A;

8 (13) Shall plan and coordinate programs for the
9 development, conservation, protection, control, and
10 regulation of water resources, including nonpotable
11 water, based upon the best available information, and
12 in cooperation with federal agencies, other state
13 agencies, county or other local governmental
14 organizations, and other public and private agencies
15 created for the utilization and conservation of water;

16 (14) Shall catalog and maintain an inventory of all water
17 uses and water resources; and

18 (15) Shall determine appurtenant water rights, including
19 but not limited to the quantification of the amount of
20 water and the specification of the water course or the
21 means of access and delivery entitled to by that



1 right, which determination shall be valid for purposes
2 of this chapter."

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect upon its approval.

5

INTRODUCED BY: 



S.B. NO. 1239

Report Title:

Potable Water; Nonpotable Water; Golf Courses; Irrigation; Water Conservation

Description:

Prohibits the use of potable water to irrigate golf courses subject to certain exceptions. Defines potable water.

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JAN 15 2025

A BILL FOR AN ACT

RELATING TO DECLARATION OF WATER SHORTAGE AND EMERGENCY.

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

1 SECTION 1. The legislature finds that the commission on
2 water resource management must formulate water shortage plans
3 and adopt a reasonable system of permit classification through
4 rulemaking to properly plan for future water shortages and
5 provide stakeholders an opportunity to participate in the
6 process. With such plans and permit classifications, future
7 restrictions on water use would be applied uniformly and
8 individual users would know in advance their relative priority
9 during periods of water shortage.

10 The legislature further finds that the commission on water
11 resource management should have the ability to adopt water
12 shortage plans, permit classifications, and criteria outside of
13 water management areas and should apply these plans to well and
14 stream diversion works owners and operators. As recent droughts
15 have revealed, water shortages and emergencies can occur
16 quickly. In 2024, all islands experienced drought conditions,
17 and many areas suffered from severe to extreme drought.



1 Therefore, it is necessary to ensure effective and transparent
2 planning for water shortages within and outside of designated
3 water management areas.

4 Accordingly, the purpose of this Act is to amend the
5 conditions, manner, and areas in which the commission on water
6 resource management can declare and provide notice of water
7 shortages and emergencies.

8 SECTION 2. Section 174C-62, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~{}~~§174C-62~~{}~~ **Declaration of water shortage.** (a) The
11 commission shall, by rule, formulate a plan for implementation
12 during periods of water shortage. As a part of the plan, the
13 commission shall, by rule, adopt a reasonable system of permit
14 classification according to source of water supply, method of
15 extraction or diversion, use of water, or a combination thereof.

16 (b) The commission~~[, by rule,]~~ may declare that a water
17 shortage exists within all or part of an area, whether within or
18 outside of a water management area, when insufficient water is
19 available to meet the requirements of the permit system or when
20 conditions are such as to require a temporary reduction in total
21 water use within the area to protect water resources from



1 serious harm. The commission shall publish, by rule, a set of
2 criteria for determining when a water shortage exists~~(-)~~,
3 including but not limited to impacts and effects of the climate
4 crisis.

5 (c) In accordance with the plan adopted under subsection
6 (a), the commission may impose such restrictions on one or more
7 classes of permits and outside of management areas on well and
8 stream diversion works owners and operators as may be necessary
9 to protect the water resources of the area from serious harm and
10 to restore them to their previous water quantity or chloride
11 level condition.

12 ~~[(d) A declaration of water shortage and any measures~~
13 ~~adopted pursuant thereto may be rescinded by rule by the~~
14 ~~commission.~~

15 ~~(e)]~~ (d) When a water shortage is declared, the commission
16 shall cause a notice ~~[thereof]~~ of the water shortage to be
17 published in a prominent place in a newspaper of general
18 circulation throughout the area~~(-)~~ and on the commission's
19 website. The notice shall be published each day for the first
20 week of the shortage and once a week ~~[thereafter]~~ for four
21 months, followed by monthly publications until the declaration



1 is rescinded. The notice shall remain on the commission's
2 website until the declaration is rescinded. Publication of
3 [~~such~~] the notice shall serve as notice to all water users in
4 the area of the condition of water shortage.

5 [~~(f)~~] (e) The commission shall cause each permittee in the
6 area to be notified by regular mail and, if the permittee's
7 electronic mail address is known, by electronic mail of any
8 change in the conditions of the permittee's permit, any
9 suspension [~~thereof,~~] of the permittee's permit, or of any other
10 restriction on the use of water for the duration of the water
11 shortage.

12 [~~(g)~~] (f) If an emergency condition arises due to a water
13 shortage within any area, whether within or outside of a water
14 management area, and if the commission finds that the
15 restrictions imposed under subsection (c) are not sufficient to
16 protect the public health, safety, or welfare, or the health of
17 animals, fish, or aquatic life, or a public water supply, or
18 recreational, municipal, agricultural, or other reasonable uses,
19 the commission may issue orders reciting the existence of such
20 emergency and requiring that such actions as the commission
21 deems necessary to meet the emergency be taken, including but



1 not limited to apportioning, rotating, limiting, or prohibiting
 2 the use of the water resources of the area. Any party to whom
 3 an emergency order is directed may challenge such an order but
 4 shall immediately comply with the order, pending disposition of
 5 the party's challenge. The commission shall give precedence to
 6 a hearing on such challenge over all other pending matters."

7 SECTION 3. If any provision of this Act, or the
 8 application thereof to any person or circumstance, is held
 9 invalid, the invalidity does not affect other provisions or
 10 applications of the Act that can be given effect without the
 11 invalid provision or application, and to this end the provisions
 12 of this Act are severable.

13 SECTION 4. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 5. This Act shall take effect upon its approval.

16

INTRODUCED BY:  _____



S.B. NO. 145

Report Title:

Commission on Water Resource Management; Water Shortage and
Emergency; Declaration; Notice

Description:

Amends the conditions, manner, and areas in which the Commission
on Water Resource Management can declare and provide notice of
water shortages and emergencies.

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

2025-0345 SB HMSO-1



JAN 23 2025

A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that, in 1987, the state
2 water code was adopted to protect the precious water resources
3 of the State. To better enable the department of land and
4 natural resources and the commission on water resource
5 management to carry out that mission, the legislature further
6 finds that the state water code's penalties and fines must be
7 amended and increased to serve as an effective deterrent to
8 violators.

9 The purpose of this Act is to ensure that all violators of
10 the state water code are held accountable for their violations
11 by:

- 12 (1) Adding a minimum penalty and amending the maximum
13 penalty per violation of the state water code and
14 clarifying what constitutes a separate offense; and
15 (2) Requiring the commission on water resource management
16 to consider certain factors when imposing penalties
17 and to set, charge, and collect administrative fines.

S.B. NO. 1461

1 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§174C-15 Penalties and common law remedies. (a) The
4 commission may enforce its rules and orders adopted pursuant to
5 this chapter by suit for injunction or for damages or both.

6 (b) Any person who [~~violates any~~]:

7 (1) Violates any provision of this chapter [~~, or any~~];

8 (2) Violates any rule adopted pursuant to this chapter [~~, or~~
9 ~~may~~];

10 (3) Violates any order of the commission;

11 (4) Fails to obtain a permit when a permit is required
12 under this chapter;

13 (5) Fails to comply with permit conditions; or

14 (6) Fails to comply with standardized water audit
15 requirements pursuant to Act 169, Session Laws of
16 Hawaii 2016,

17 shall be subject to a fine imposed by the commission. [~~Such~~

18 The fine shall be no less than \$ 50 and shall not exceed

19 [\$5,000. ~~For a continuing offense, each day during which the~~

20 offense is committed is a separate violation.] \$25,000 per

21 violation. Each day that a violation exists or continues to

22 exist shall constitute a separate offense. Penalties for

S.B. NO. 1461

1 continuing violations shall be assessed from the earliest known
2 date of the violation. The earliest known date of a violation
3 shall be determined by the commission by a preponderance of the
4 evidence; provided that, if the earliest known date cannot be
5 determined by a preponderance of the evidence, penalties for
6 continuing violations shall be assessed from the earliest date
7 the commission is made aware of the violation.

8 (c) When imposing a penalty, the commission shall
9 consider the following factors, including but not limited to:

- 10 (1) The nature, circumstances, extent, gravity, and
11 history of the violation and of any prior violations;
12 (2) The economic benefit to the violator, or anticipated
13 by the violator, resulting from the violation;
14 (3) The opportunity, difficulty, and history of corrective
15 action;
16 (4) Good faith efforts to comply;
17 (5) Degree of culpability; and
18 (6) Such other matters as justice may require.

19 ~~(e)~~ (d) No provision of this chapter shall bar the right
20 of any injured person to seek other legal or equitable relief
21 against a violator of this chapter.

S.B. NO. 1461

1 ~~[(d)]~~ (e) Except as otherwise provided by law, the
2 commission or its authorized representative by proper delegation
3 may set, charge, and collect administrative fines ~~[e]~~; may
4 bring legal action to recover administrative fees and costs as
5 documented by receipts or affidavit, including ~~[attorneys']~~
6 attorney's fees and costs; ~~[e]~~ and may bring legal action to
7 recover administrative fines, fees, and costs, including
8 ~~[attorneys']~~ attorney's fees and costs, or payment for damages
9 resulting from a violation of this chapter or any rule adopted
10 pursuant to this chapter.

11 (f) The maximum fine per violation pursuant to subsection

12 (b) shall increase to:

13 (1) \$30,000 beginning January 1, 2030;

14 (2) \$40,000 beginning January 1, 2035;

15 (3) \$55,000 beginning January 1, 2040; and

16 (4) \$75,000 beginning January 1, 2045."

17 SECTION 3. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the
21 invalid provision or application, and to this end the provisions
22 of this Act are severable.

S.B. NO. 1461

1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

7

8

INTRODUCED BY: *Am. D. M.*

9

BY REQUEST

S.B. NO. 1461

Report Title:

DLNR; CWRM; State Water Code; Penalties

Description:

Adds a minimum penalty and amends the maximum penalty per violation of the State Water Code, expands the types of potential violations of the State Water Code, and makes each day that a violation exists or continues to exist a separate offense. Requires the Commission on Water Resource Management to consider certain factors when imposing penalties.

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JUSTIFICATION SHEET

SB. NO. 1461

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO STATE WATER CODE PENALTIES.

PURPOSE: To ensure that all violators of the State Water Code are held accountable for their violations by adding a minimum penalty and amending the maximum penalty per violation of the State Water Code and clarifying what constitutes a separate offense; and by requiring the Commission on Water Resource Management (Commission) to consider certain factors when imposing penalties and to set, charge, and collect administrative fines.

MEANS: Amend section 174C-15, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The maximum penalty of the State Water Code has been increased only once from \$1,000 to \$5,000 by Act 142 in 2004 since its adoption thirty-eight years ago. The current maximum penalty does not have a sufficient deterrent effect as it has become the cost of doing business for some violators.

To encourage compliance and deter potential violators, this bill proposes to amend section 174C-15, HRS, to require a minimum penalty of \$50 and a maximum penalty of \$25,000 effective upon approval.

The Commission as the primary guardian of the water resource public trust intends to create parity with its co-trustee the Department of Health. The maximum penalty of water quality violations is \$60,000, which was increased by Act 233 in 2023 to match the federal maximum penalty, which increases yearly due to inflation. Violations of the State Water Code and the Commission's rules and orders regarding water quantity are as detrimental to the resource as violations of Department of

SB. NO. 1461

Health's statutes and rules regarding water quality.

To create parity with maximum penalty of the Department of Health, an incremental increase of the maximum fine is proposed in subsection (f) effective every five years.

This bill also requires the Commission to consider exacerbating and mitigating factors when assessing the amount of the fine. Thus, this bill makes the setting, charging, and collecting of administrative fines by the Commission mandatory, rather than discretionary.

Impact on the public: The bill supports protection of the public trust resource by increasing deterrence of any violation of the state water code.

Impact on the department and other agencies: This bill supports the Commission in its affirmative duty "to protect, control and regulate the use of Hawaii's water resources" as articulated in article XI, section 7, of the Constitution of the State of Hawaii. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversions, and 376 perennial streams, approximately 100 of which have a measurable interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of Oahu, Molokai, and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits. This bill will protect water quantity and encourage compliance with the State Water Code.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: LNR 404.

SB. NO. 1461

OTHER AFFECTED
AGENCIES:

County water boards or departments.

EFFECTIVE DATE:

Upon approval.

JAN 15 2025

A BILL FOR AN ACT

RELATING TO RED HILL.

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

1 SECTION 1. The legislature finds that the United States
2 Navy's Red Hill Bulk Fuel Storage Facility consists of twenty
3 steel-lined underground storage tanks that were built from 1940
4 to 1943. Each tank can store 12.5 million gallons of fuel; in
5 total, the Red Hill Bulk Fuel Storage Facility can store up to
6 two hundred fifty million gallons. The tanks are located only
7 about one hundred feet above the United States Environmental
8 Protection Agency's designated sole-source groundwater aquifer
9 that provides drinking water to approximately four hundred
10 thousand residents of the island of Oahu. Over the past eighty
11 years, numerous spills have occurred at Red Hill. Specifically,
12 on November 20, 2021, about ninety-three thousand individuals
13 served by the Navy's potable water system for Joint Base Pearl
14 Harbor-Hickam were directly affected when the Navy's Red Hill
15 shaft was contaminated by the release of up to nineteen thousand
16 gallons of fuel, including JP-5 jet fuel, older fuels stored at
17 the Red Hill Bulk Fuel Storage Facility, and any additives used.



1 Over six thousand individuals sought medical attention, and one
2 thousand were forced to leave their homes due to the
3 contamination. Much of the fuel released from the Red Hill Bulk
4 Fuel Storage Facility remains in the environment, trapped within
5 the complex geological formations beneath and near the tanks.

6 The legislature further finds that on May 9, 2023,
7 officials from the State and city and county of Honolulu signed
8 a unified statement on Red Hill, recognizing the stewardship
9 responsibility to ensure that there is clean water on Oahu for
10 future generations. The Red Hill Water Alliance Initiative
11 (WAI), a working group, met regularly in 2023 after the signing
12 of the unified statement. The Red Hill WAI posed questions,
13 conducted research, listened to subject-matter experts, and
14 formulated recommended policies.

15 The legislature also finds that the Red Hill WAI's approach
16 of total stewardship responsibility required a stance of
17 extending beyond statutory roles, specific responsibilities,
18 tenure in those roles, and even personal lifetimes. Its inquiry
19 included the pursuit of critical questions for which there may
20 currently be no answers. Thus, the pursuit of those answers is
21 part of the ongoing work.



1 The legislature notes that besides its regulatory functions
2 under federal and state environmental laws, the State also has
3 unique public trust responsibilities set forth in the Hawaii
4 State Constitution, which establishes an affirmative duty of the
5 State to preserve and protect public trust resources, including
6 water resources.

7 The legislature additionally finds that the focus of the
8 Red Hill WAI's inquiry is the remediation needs after the
9 defueling of the tanks and removal of residual fuel and
10 contaminants from the Red Hill Bulk Fuel Storage Facility. In
11 particular, the Red Hill WAI is concerned with the unknowns
12 posed by fuel contaminants already in the ground, as well as the
13 residuals of the fuel plume in the aquifer as a result of the
14 spill that occurred on November 20, 2021. In fact, there may be
15 as many as 1,940,000 gallons of fuel constituents in the ground
16 that have leaked or spilled over eight decades. Pursuant to a
17 proactive approach, the Red Hill WAI seeks to describe the
18 remediation it believes necessary for the future well-being of
19 the aquifer in which there is a negligible risk to current and
20 future water sources, including the Halawa Shaft, Halawa wells,



1 and Aiea wells; the water distribution system; and the
2 ecosystem, including springs, streams, and nearshore waters.

3 After much diligent work, the Red Hill WAI issued a public
4 report in November 2023 that set forth its findings and
5 recommendations. Some of the recommendations can only be
6 addressed by the federal government, while other recommendations
7 can be undertaken by the State and city and county of Honolulu.
8 Moreover, the legislature finds that there must be no delay in
9 adopting the recommendations of the Red Hill WAI, especially
10 those that can be implemented at the state and county levels.

11 SECTION 2. The Hawaii Revised Statutes is amended by
12 adding a new chapter to be appropriately designated and to read
13 as follows:

14 **"CHAPTER**

15 **RED HILL WATER ALLIANCE INITIATIVE**

16 § -1 **Definitions.** As used in this chapter, unless a
17 different meaning is plainly required by the context:

18 "Board" means the board of land and natural resources.

19 "Chairperson" means the chairperson of the board of land
20 and natural resources.



1 "Department" means the department of land and natural
2 resources.

3 "Red Hill Water Alliance Initiative" means the group of
4 individuals composed of the governor, speaker of the house of
5 representatives, president of the senate, chairperson of the
6 board of land and natural resources and commission on water
7 resource management, president of the University of Hawaii,
8 mayor of the city and county of Honolulu, chairperson of the
9 Honolulu city council, and manager and chief engineer of the
10 Honolulu board of water supply that issued a public report in
11 November 2023 concerning the remediation of Red Hill following
12 the defueling of the Red Hill Bulk Fuel Storage Facility.

13 "Special fund" means the Red Hill remediation special fund.

14 "WAI" means the Red Hill Water Alliance Initiative.

15 § -2 **Policy lead and coordination.** (a) The department
16 shall serve as the State's policy lead on WAI initiatives
17 through the position of the WAI policy coordinator, to be placed
18 in the office of the chairperson. The WAI policy coordinator
19 shall work with respective state and county agencies and other
20 groups.

21 (b) The WAI policy coordinator shall:



- 1 (1) Facilitate implementation and monitoring and interface
- 2 with federal entities on WAI initiatives outlined in
- 3 the WAI's November 2023 report;
- 4 (2) Periodically and regularly review:
- 5 (A) The health status of the ecosystem; and
- 6 (B) The state of science and opportunities for
- 7 remediation and rehabilitation;
- 8 (3) Develop and maintain a public-facing test results
- 9 dashboard describing the significance of results from
- 10 the State and city and county of Honolulu, as part of
- 11 a broader public education program; and
- 12 (4) Coordinate the implementation of a thirty-six-month
- 13 public information and education program to describe,
- 14 inform, and educate the general public and
- 15 institutions on the post-defueling remediation phases
- 16 for Red Hill to restore public trust, secure public
- 17 support, and address health and environmental
- 18 concerns.

19 § -3 **Red Hill remediation special fund.** (a) There is
20 established in the state treasury the Red Hill remediation



1 special fund, into which shall be deposited the following
2 moneys:

- 3 (1) Appropriations by the legislature to the special fund;
- 4 (2) Gifts, donations, and grants from public agencies,
5 including the United States government, and private
6 persons; and
- 7 (3) All interest earned on or accrued to moneys deposited
8 in the special fund.

9 (b) The special fund shall be administered by the WAI
10 policy coordinator.

11 (c) The moneys in the special fund shall be used to
12 address contamination resulting from the Red Hill Bulk Fuel
13 Storage Facility, including monitoring, applied research, public
14 outreach and education, and evaluation; provided that the cost
15 of remediation of the aquifer shall be borne by the federal
16 government.

17 **§ -4 Cooperation by state and county agencies.** All
18 state and county agencies shall provide all information and data
19 requested by the WAI policy coordinator within thirty calendar
20 days; provided that the WAI policy coordinator may, in the
21 coordinator's discretion, set a longer deadline.



1 § **-5 Report.** The WAI policy coordinator shall submit a
2 report of the coordinator's activities and expenditures to the
3 legislature, governor, and mayor and city council of the city
4 and county of Honolulu no later than December 1 of each year,
5 beginning in 2025."

6 SECTION 3. This Act shall take effect on July 1, 2025.

7

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'JBL', is written over a horizontal line that serves as a signature line.

S.B. NO. 150

Report Title:

Red Hill WAI Policy Coordinator; Red Hill Remediation Special Fund

Description:

Establishes a WAI Policy Coordinator for coordination of Red Hill WAI initiatives. Creates the Red Hill Remediation Special Fund.

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



JAN 15 2025

A BILL FOR AN ACT

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

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

1 SECTION 1. The legislature finds that section 174C-101(a),
2 Hawaii Revised Statutes, requires decisions of the commission
3 water resource management to incorporate and protect adequate
4 reserves of water for current and foreseeable development and
5 use of Hawaiian home lands. .

6 Accordingly, the purpose of this Act is to add the
7 chairperson of the Hawaiian homes commission, or the
8 chairperson's designee, to the commission on water resource
9 management in a similar ex officio membership as the director of
10 health, or the director's designee.

11 SECTION 2. Section 174C-7, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) There is established within the department a
14 commission on water resource management consisting of [~~seven~~]
15 eight members which shall have exclusive jurisdiction and final
16 authority in all matters relating to implementation and



1 administration of the state water code, except as otherwise
2 specifically provided in this chapter.

3 (b) Five members shall be appointed by the governor
4 subject to confirmation by the senate in the manner prescribed
5 in subsection (d) [~~Each~~]; provided that each member shall have
6 substantial experience in the area of water resource management;
7 provided further that at least one member shall have substantial
8 experience or expertise in traditional Hawaiian water resource
9 management techniques and in traditional Hawaiian riparian usage
10 [~~such as~~] including those preserved by section 174C-101. The
11 chairperson of the board of land and natural resources shall be
12 the chairperson of the commission. The director of health [~~or~~
13 ~~the director's designee~~] and the chairperson of the Hawaiian
14 homes commission, or their respective designees, shall serve as
15 [~~an~~] ex officio[+], [+]voting [~~member-~~] members."

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

17

INTRODUCED BY:


_____

S.B. NO. 205

Report Title:

Department of Hawaiian Home Lands; HHC; CWRM; Membership

Description:

Adds the Chairperson of the Hawaiian Homes Commission, or the chairperson's designee, to the Commission on Water Resource Management.

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



JAN 15 2025

A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that municipal water
2 agencies have asked residents to conserve water due to severe
3 drought conditions, climate change, and the Oahu-based public
4 health crisis and environmental disaster caused by fuel released
5 from the Red Hill Bulk Fuel Storage Facility.

6 However, despite these calls for conservation, the
7 legislature finds that relevant agencies need additional means
8 to restrict certain nonessential uses of water, including water
9 for purely recreational or ornamental purposes. These
10 restrictions are required to ensure that water, the State's most
11 precious and finite resource, remains available to support human
12 health and safety and to ensure the maintenance of the State's
13 economic future.

14 The purpose of this Act is to prohibit a person, which is
15 defined for purposes of chapter 174C, Hawaii Revised Statutes,
16 to include firms, associations, organizations, partnerships,
17 business trusts, corporations, companies, and government



1 agencies, from using one million gallons or more of potable
2 water for recreational or ornamental purposes.

3 SECTION 2. Chapter 174C, Hawaii Revised Statutes, is
4 amended by adding a new section to part IV to be appropriately
5 designated and to read as follows:

6 "§174C- Recreational or ornamental uses; restrictions
7 on use. (a) No person shall use, and no person issued a permit
8 pursuant to this chapter shall permit a person to use, one
9 million or more gallons of potable water per year for
10 recreational or ornamental uses.

11 (b) This section shall not apply to recreational or
12 ornamental uses of water that solely use recycled water.

13 (c) As used in this section:

14 "Recreational or ornamental use" means water that is used
15 solely for recreational or ornamental purposes, including but
16 not limited to:

17 (1) The filling or refilling of swimming pools, wading
18 pools, wave pools, or spas;

19 (2) Decorative ponds or lakes, fountains, or artificial
20 lakes; and



1 (3) Any other use of water determined by the commission to
2 be a recreational or ornamental use.

3 "Recycled water" means treated wastewater that by design is
4 intended or used for a beneficial purpose."

5 SECTION 3. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun before its effective date.

8 SECTION 4. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

INTRODUCED BY: *Kurt Furell*



S.B. NO. 209

Report Title:

Water Use; Commission on Water Resource Management; Recreational or Ornamental Purposes; Prohibition

Description:

Prohibits the use of 1,000,000 or more gallons of water per year for recreational or ornamental purposes.

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



JAN 15 2025

A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that effective and
2 efficient water resource management requires continuous and
3 experienced leadership, especially given the climate crisis and
4 the urgent necessity to properly steward water resources to meet
5 the affordable housing needs of local residents.

6 On December 28, 1994, the review commission on the state
7 water code submitted its final report to the legislature
8 pursuant to Act 45, Session Laws of Hawaii 1987. The review
9 commission determined that amendments to the state water code
10 were necessary to enable the commission on water resource
11 management to more effectively carry out its mandate pursuant to
12 article XI, section 7, of the Hawaii State Constitution to "set
13 overall water conservation, quality and use policies; define
14 beneficial and reasonable uses; protect ground and surface water
15 resources, watersheds and natural stream environments; establish
16 criteria for water use priorities while assuring appurtenant
17 rights and existing correlative and riparian uses and establish



1 procedures for regulating all uses of Hawaii's water resources."
2 Therefore, further clarification of the commission on water
3 resource management's purpose, including its leadership
4 structure and composition of the commission's board, will
5 provide greater accountability and protection of the State's
6 waters.

7 The purpose of this Act is to:

- 8 (1) Define the public trust responsibilities of the
9 commission on water resource management and require
10 the commission, in acting upon water use permit
11 applications, to prioritize applications for public
12 trust purposes;
- 13 (2) Allow the commission to retain independent legal
14 counsel;
- 15 (3) Amend the scope of the commission on water resource
16 management to include declarations of emergencies;
- 17 (4) Repeal the position of deputy to the chairperson of
18 the commission on water resource management and
19 establish the position of executive director of the
20 commission on water resource management;



- 1 (5) Amend the composition of the commission on water
- 2 resource management;
- 3 (6) Authorize entities to challenge an emergency order of
- 4 the commission on water resource management under
- 5 certain conditions; and
- 6 (7) Establish fines for certain water use offenses.

7 SECTION 2. Chapter 174C, Hawaii Revised Statutes, is
8 amended by adding a new section to part IV to be appropriately
9 designated and to read as follows:

10 "§174C- Public trust purpose. The commission shall act
11 upon water use permit applications, filed in accordance with
12 sections 174C-51, 174C-52, and 174C-53, for both existing and
13 new public trust purposes before acting upon water use permit
14 applications for other existing or new uses, or both, filed in
15 accordance with sections 174C-51, 174C-52, and 174C-53.
16 Proceedings for applications for public trust purposes shall be
17 held first and separate from proceedings for all other
18 applications filed in accordance with sections 174C-51, 174C-52,
19 and 174C-53."

20 SECTION 3. Section 28-8.3, Hawaii Revised Statutes, is
21 amended as follows:



1 1. By amending subsection (a) to read:

2 "(a) No department of the State other than the attorney
3 general may employ or retain any attorney, by contract or
4 otherwise, for the purpose of representing the State or the
5 department in any litigation, rendering legal counsel to the
6 department, or drafting legal documents for the department;
7 provided that the foregoing provision shall not apply to the
8 employment or retention of attorneys:

9 (1) By the public utilities commission, the labor and
10 industrial relations appeals board, and the Hawaii
11 labor relations board;

12 (2) By any court or judicial or legislative office of the
13 State; provided that if the attorney general is
14 requested to provide representation to a court or
15 judicial office by the chief justice or the chief
16 justice's designee, or to a legislative office by the
17 speaker of the house of representatives and the
18 president of the senate jointly, and the attorney
19 general declines to provide such representation on the
20 grounds of conflict of interest, the attorney general
21 shall retain an attorney for the court, judicial, or



- 1 legislative office, subject to approval by the court,
2 judicial, or legislative office;
- 3 (3) By the legislative reference bureau;
- 4 (4) By any compilation commission that may be constituted
5 from time to time;
- 6 (5) By the real estate commission for any action involving
7 the real estate recovery fund;
- 8 (6) By the contractors license board for any action
9 involving the contractors recovery fund;
- 10 (7) By the office of Hawaiian affairs;
- 11 (8) By the department of commerce and consumer affairs for
12 the enforcement of violations of chapters 480 and
13 485A;
- 14 (9) As grand jury counsel;
- 15 (10) By the Hawaii health systems corporation, or its
16 regional system boards, or any of their facilities;
- 17 (11) By the auditor;
- 18 (12) By the office of ombudsman;
- 19 (13) By the insurance division;
- 20 (14) By the University of Hawaii;
- 21 (15) By the Kahoolawe island reserve commission;



- 1 (16) By the division of consumer advocacy;
- 2 (17) By the office of elections;
- 3 (18) By the campaign spending commission;
- 4 (19) By the Hawaii tourism authority, as provided in
- 5 section 201B-2.5;
- 6 (20) By the division of financial institutions;
- 7 (21) By the office of information practices;
- 8 (22) By the school facilities authority;
- 9 (23) By the Mauna Kea stewardship and oversight authority;
- 10 [or]

11 (24) By the commission on water resource management; or
 12 [~~(24)~~] (25) By a department, if the attorney general, for
 13 reasons deemed by the attorney general to be good and
 14 sufficient, declines to employ or retain an attorney
 15 for a department; provided that the governor waives
 16 the provision of this section."

17 2. By amending subsection (c) to read:
 18 "(c) Every attorney employed by any department on a
 19 full-time basis, except an attorney employed by the public
 20 utilities commission, the labor and industrial relations appeals
 21 board, the Hawaii labor relations board, the office of Hawaiian

1 affairs, the Hawaii health systems corporation or its regional
2 system boards, the department of commerce and consumer affairs
3 in prosecution of consumer complaints, insurance division, the
4 division of consumer advocacy, the University of Hawaii, the
5 Hawaii tourism authority as provided in section 201B-2.5, the
6 Mauna Kea stewardship and oversight authority, the commission on
7 water resource management, the office of information practices,
8 or as grand jury counsel, shall be a deputy attorney general."

9 SECTION 4. Section 84-18, Hawaii Revised Statutes, is
10 amended by amending subsection (e) to read as follows:

11 "(e) Subject to the restrictions imposed in subsections
12 (a) through (d), the following individuals shall not represent
13 any person or business for a fee or other consideration
14 regarding any legislative action or administrative action, as
15 defined in section 97-1, for twelve months after termination
16 from their respective positions:

- 17 (1) The governor;
- 18 (2) The lieutenant governor;
- 19 (3) The administrative director of the State;
- 20 (4) The attorney general;
- 21 (5) The comptroller;



- 1 (6) The chairperson of the board of agriculture;
- 2 (7) The director of corrections and rehabilitation;
- 3 (8) The director of finance;
- 4 (9) The director of business, economic development, and
- 5 tourism;
- 6 (10) The director of commerce and consumer affairs;
- 7 (11) The adjutant general;
- 8 (12) The superintendent of education;
- 9 (13) The chairperson of the Hawaiian homes commission;
- 10 (14) The director of health;
- 11 (15) The director of human resources development;
- 12 (16) The director of human services;
- 13 (17) The director of labor and industrial relations;
- 14 (18) The chairperson of the board of land and natural
- 15 resources;
- 16 (19) The director of law enforcement;
- 17 (20) The director of taxation;
- 18 (21) The director of transportation;
- 19 (22) The president of the University of Hawaii;
- 20 (23) The executive administrator of the board of regents of
- 21 the University of Hawaii;



- 1 (24) The administrator of the office of Hawaiian affairs;
- 2 (25) The chief information officer;
- 3 (26) The executive director of the agribusiness development
- 4 corporation;
- 5 (27) The executive director of the campaign spending
- 6 commission;
- 7 (28) The executive director of the Hawaii community
- 8 development authority;
- 9 (29) The executive director of the Hawaii housing finance
- 10 and development corporation;
- 11 (30) The president and chief executive officer of the
- 12 Hawaii tourism authority;
- 13 (31) The executive officer of the public utilities
- 14 commission;
- 15 (32) The state auditor;
- 16 (33) The director of the legislative reference bureau;
- 17 (34) The ombudsman;
- 18 (35) The permanent employees of the legislature, other than
- 19 persons employed in clerical, secretarial, or similar
- 20 positions;
- 21 (36) The administrative director of the courts;



- 1 (37) The executive director of the state ethics commission;
- 2 (38) The executive officer of the state land use
- 3 commission;
- 4 (39) The executive director of the natural energy
- 5 laboratory of Hawaii authority;
- 6 (40) The executive director of the Hawaii public housing
- 7 authority; and
- 8 (41) The [~~first deputy to the chairperson~~] executive
- 9 director of the commission on water resource
- 10 management;

11 provided that this subsection shall not apply to any person who
12 has held one of the positions listed above only on an interim or
13 acting basis and for a period of less than one hundred
14 eighty-one days."

15 SECTION 5. Section 174C-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§174C-5 General powers and duties. The general
18 administration of the state water code shall rest with the
19 commission on water resource management. In addition to its
20 other powers and duties, the commission:



- 1 (1) Shall carry out topographic surveys, research, and
2 investigations into all aspects of water use and water
3 quality;
- 4 (2) Shall designate water management areas for regulation
5 under this chapter where the commission, after the
6 research and investigations mentioned in paragraph
7 (1), shall consult with the appropriate county council
8 and county water agency, and after public hearing and
9 published notice, finds that the water resources of
10 the areas are being threatened by existing or proposed
11 withdrawals of water;
- 12 (3) Shall establish an instream use protection program
13 designed to protect, enhance, and reestablish, where
14 practicable, beneficial instream uses of water in the
15 State;
- 16 (4) May contract and cooperate with the various agencies
17 of the federal government and with state and local
18 administrative and governmental agencies or private
19 persons;
- 20 (5) May enter, after obtaining the consent of the property
21 owner, at all reasonable times upon any property other



1 than dwelling places for the purposes of conducting
2 investigations and studies or enforcing any of the
3 provisions of this code, being liable, however, for
4 actual damage done. If consent cannot be obtained,
5 reasonable notice shall be given prior to entry;

6 (6) Shall cooperate with federal agencies, other state
7 agencies, county or other local governmental
8 organizations, and all other public and private
9 agencies created for the purpose of utilizing and
10 conserving the waters of the State, and assist these
11 organizations and agencies in coordinating the use of
12 their facilities and participate in the exchange of
13 ideas, knowledge, and data with these organizations
14 and agencies. For this purpose the commission shall
15 maintain an advisory staff of experts;

16 (7) Shall prepare, publish, and issue printed pamphlets
17 and bulletins as the commission deems necessary for
18 the dissemination of information to the public
19 concerning its activities;

20 (8) May appoint and remove agents, including hearings
21 officers and consultants, necessary to carry out the



1 purposes of this chapter, who may be engaged by the
2 commission without regard to the requirements of
3 chapter 76 and section 78-1;

4 (9) May hire employees in accordance with chapter 76;

5 (10) May appoint and dismiss attorneys as may be necessary,
6 who shall be exempt from chapter 76;

7 ~~[(10)]~~ (11) May acquire, lease, and dispose of real and
8 personal property as may be necessary in the
9 performance of its functions, including the
10 acquisition of real property for the purpose of
11 conserving and protecting water and water related
12 resources as provided in section 174C-14;

13 ~~[(11)]~~ (12) Shall identify, by continuing study, those areas
14 of the State where salt water intrusion is a threat to
15 fresh water resources and report its findings to the
16 appropriate county mayor and council and the public;

17 ~~[(12)]~~ (13) Shall provide coordination, cooperation, or
18 approval necessary to the effectuation of any plan or
19 project of the federal government in connection with
20 or concerning the waters of the State. The commission
21 shall approve or disapprove any federal plans or



1 projects on behalf of the State. No other agency or
2 department of the State shall assume the duties
3 delegated to the commission under this paragraph;
4 except that the department of health shall continue to
5 exercise the powers vested in it with respect to water
6 quality, and except that the department of business,
7 economic development, and tourism shall continue to
8 carry out its duties and responsibilities under
9 chapter 205A;

10 [~~(13)~~] (14) Shall plan and coordinate programs for the
11 development, conservation, protection, control, and
12 regulation of water resources, based upon the best
13 available information, and in cooperation with federal
14 agencies, other state agencies, county or other local
15 governmental organizations, and other public and
16 private agencies created for the utilization and
17 conservation of water;

18 [~~(14)~~] (15) Shall catalog and maintain an inventory of all
19 water uses and water resources; [~~and~~

20 ~~(15)~~] (16) Shall determine appurtenant water rights,
21 including but not limited to the quantification of the



1 amount of water and the specification of the water
2 course or the means of access and delivery entitled to
3 by that right, which determination shall be valid for
4 purposes of this chapter[-]; and

5 (17) May declare an emergency if the commission determines,
6 in consultation with the governor, the appropriate
7 county, and the department of health, that there is an
8 absence of sufficient quantity and quality of water in
9 any area, whether within or outside of a water
10 management area, that immediately threatens the public
11 health, safety, and welfare. The commission may issue
12 orders reciting the existence of the emergency and
13 requiring those actions as the commission deems
14 necessary to address the emergency be taken, including
15 but not limited to apportioning, rotating, limiting,
16 or prohibiting the use of the water resources of the
17 area; provided that an emergency order shall expire no
18 later than one year after issuance by the commission;
19 provided further that the order may be extended by a
20 separate or supplementary order."



1 SECTION 6. Section 174C-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§174C-6 [~~Deputy to the chairperson~~] Executive director of
4 the commission on water resource management. (a) There shall
5 be [~~a first deputy to the chairperson~~] an executive director of
6 the commission on water resource management [~~("deputy for water
7 resource management") who shall be in addition to any other
8 first deputy to the chairperson as the chairperson of the board
9 of land and natural resources. The deputy]~~, who shall have
10 experience in the area of water resources and shall be appointed
11 by [~~the chairperson with the approval of a majority of~~], and
12 serve at the pleasure of, the commission.

13 (b) The duties of the [~~deputy for water resource
14 management~~] executive director shall be to administer and
15 implement, under the direction of the commission, the state
16 water code [~~and all~~], the rules, and other directives
17 [~~promulgated in accordance therewith~~] adopted by the commission.
18 Nothing in this [~~provision~~] section shall be construed as
19 limiting the authority of the commission as to matters regarding
20 water resources.



1 (c) The position of [~~deputy for water resource management~~
2 ~~is not~~] executive director shall not be subject to chapter 76.

3 (d) The salary of the [~~deputy for water resource~~
4 ~~management~~] executive director shall be [as provided in section
5 26-53 for first deputies or first assistants to the head of any
6 department.] set by the board, and the executive director shall
7 be included in any benefit program generally applicable to the
8 officers and employees of the State.

9 (e) The commission shall develop and document annual goals
10 and performance measures for the executive director that allow
11 the commission to annually evaluate the executive director's
12 work to ensure compliance by the commission with statutory and
13 constitutional requirements and achievement of its statutory and
14 constitutional purposes.

15 (f) The commission shall evaluate and document the
16 evaluation of the executive director's performance annually, or
17 more frequently upon the request of at least four members of the
18 commission, based on annual goals, performance measures, and
19 other relevant criteria."

20 SECTION 7. Section 174C-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§174C-7 Commission on water resource management. (a)
2 There is established within the department a commission on water
3 resource management consisting of seven members which shall have
4 exclusive jurisdiction and final authority in all matters
5 relating to implementation and administration of the state water
6 code, except as otherwise specifically provided in this chapter.
7 The commission shall be attached to the department of land and
8 natural resources for administrative purposes only.

9 (b) Five members shall be appointed by the governor
10 subject to confirmation by the senate in the manner prescribed
11 in subsection ~~[(d)-.]~~ (e). Each member shall have substantial
12 experience in the area of water resource management; provided
13 that at least one member shall have substantial experience or
14 expertise in traditional Hawaiian water resource management
15 techniques and in traditional Hawaiian riparian usage such as
16 those preserved by section 174C-101. Each of the members shall
17 be eligible to serve as the chairperson of the commission upon
18 election by a majority of the commission members.

19 (c) The chairperson of the board of land and natural
20 resources ~~[shall be the chairperson of the commission. The]~~ and
21 the director of health or the director's designee shall serve as



1 [an] ex officio[+], [+] voting [~~member-~~] members, but shall be
2 ineligible to serve as chairperson of the commission.

3 [~~e~~] (d) The members of the commission shall serve
4 without compensation but shall be reimbursed for expenses,
5 including travel expenses, necessary for the performance of
6 their duties.

7 [~~d~~] (e) In appointing a member to the commission, the
8 governor shall select from a list submitted by a nominating
9 committee. The nominating committee shall be composed of [~~four~~]
10 five individuals chosen as follows: two persons appointed by
11 the governor; one person appointed by the president of the
12 senate; [~~and~~] one person appointed by the speaker of the
13 house[-]; and one person appointed by the chief executive
14 officer of the office of Hawaiian affairs. The committee shall
15 solicit applications and send to the governor the names of at
16 least three individuals for each open position.

17 [~~e~~] (f) Except as otherwise provided in this chapter,
18 the commission shall be subject to sections 26-34, 26-35, and
19 26-36."

20 SECTION 8. Section 174C-9, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [†]§174C-9 [†] Proceedings before the commission
2 concerning water resources. (a) All proceedings before the
3 commission concerning the enforcement or application of any
4 provision of this chapter or any rule adopted pursuant thereto,
5 or the issuance, modification, or revocation of any permit or
6 license under this code by the commission, shall be conducted in
7 accordance with chapter 91. Hearings regarding particular water
8 resources shall be conducted on the island where those water
9 resources are located.

10 (b) Any party to whom an emergency order is directed may
11 challenge that order but shall immediately comply with the order
12 pending disposition of the party's challenge. The commission
13 shall give precedence to a hearing on the challenge over all
14 other pending matters."

15 SECTION 9. Section 174C-15, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§174C-15 Penalties and common law remedies. (a) The
18 commission may enforce its rules and orders adopted pursuant to
19 this chapter by suit for injunction or for damages or both.

20 (b) Any person who [violates any] :

21 (1) Violates any provision of this chapter [, or any] ;



1 (2) Violates any rule adopted pursuant to this chapter[
2 may];

3 (3) Violates any order of the commission;

4 (4) Fails to obtain a permit when a permit is required
5 pursuant to this chapter;

6 (5) Fails to comply with permit conditions; or

7 (6) Fails to comply with standardized water audit
8 requirements pursuant to Act 169, Session Laws of
9 Hawaii 2016,

10 shall be subject to a fine imposed by the commission. [Such]
11 The fine shall be not less than \$50 and shall not exceed
12 [\$5,000. For a continuing offense, each day during which the
13 offense is committed is a separate violation.] \$60,000 per
14 violation. Each day that a violation exists or continues to
15 exist shall constitute a separate offense. Penalties for
16 continuing violations shall be assessed from the earliest known
17 date of the violation. The earliest known date of a violation
18 shall be determined by the commission by a preponderance of the
19 evidence; provided that if the earliest known date cannot be
20 determined by a preponderance of evidence, penalties for



1 continuing violations shall be assessed from the earliest date
2 the commission is made aware of the violation.

3 (c) When imposing a penalty, the commission shall consider
4 the following factors, which shall include but not be limited
5 to:

- 6 (1) The nature, circumstances, extent, gravity, and
7 history of the violation and of any prior violations;
8 (2) The economic benefit to the violator, or anticipated
9 by the violator, resulting from the violation;
10 (3) The opportunity, difficulty, and history of corrective
11 action;
12 (4) Good faith efforts to comply;
13 (5) Degree of culpability; and
14 (6) Other matters as justice may require.

15 ~~[(e)]~~ (d) No provision of this chapter shall bar the right
16 of any injured person to seek other legal or equitable relief
17 against a violator of this chapter.

18 ~~[(d)]~~ (e) Except as otherwise provided by law, the
19 commission or its authorized representative by proper delegation
20 ~~[may]~~ shall set, charge, and collect administrative fines ~~[or]~~;
21 may bring legal action to recover administrative fees and costs



1 as documented by receipts or affidavit, including [~~attorneys~~]
2 attorney's fees and costs; [~~or~~]; and may bring legal action to
3 recover administrative fines, fees, and costs, including
4 [~~attorneys~~] attorney's fees and costs, or payment for damages
5 resulting from a violation of this chapter or any rule adopted
6 pursuant to this chapter."

7 SECTION 10. Section 174C-62, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By amending subsections (a) through (c) to read:

10 "(a) The commission shall formulate a statewide plan for
11 implementation during periods of water shortage. As a part of
12 the plan, the commission shall adopt a reasonable system of
13 permit classification according to source of water supply,
14 method of extraction or diversion, use of water, or a
15 combination thereof.

16 (b) The commission, by rule, may declare that a water
17 shortage exists within all or part of an area, whether within or
18 outside of a water management area, when insufficient water is
19 available to meet the requirements of the permit system or when
20 conditions [~~are such as to~~] require a temporary reduction in
21 total water use within the area to protect water resources from



1 serious harm. The commission shall publish a set of criteria
2 for determining when a water shortage exists[-], including but
3 not limited to impacts and effects of the climate crisis.

4 (c) In accordance with the plan adopted under subsection
5 (a), the commission may impose [~~such~~] restrictions on one or
6 more classes of permits and outside of management areas on well
7 and stream diversion owners and operators as may be necessary to
8 protect the water resources of the area from serious harm and to
9 restore them to their previous water quantity or chloride level
10 condition."

11 2. By amending subsections (e) and (f) to read:

12 "(e) When a water shortage is declared, the commission
13 shall cause a notice [~~thereof~~] of the water shortage to be
14 published in a prominent place in a newspaper of general
15 circulation throughout the area[-] and on the commission's
16 website. The notice shall be published each day for the first
17 week of the shortage and once a week [~~thereafter~~] for four
18 months, followed by monthly publications until the declaration
19 is rescinded. Publication of [~~such~~] the notice shall serve as
20 notice to all water users in the area of the condition of water
21 shortage.



1 (f) The commission shall cause each permittee in the area
2 to be notified by regular and electronic mail of any change in
3 the conditions of the permittee's permit, any suspension
4 [~~thereof,~~] of the permittee's permit, or of any other
5 restriction on the use of water for the duration of the water
6 shortage."

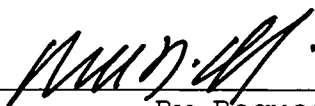
7 SECTION 11. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

10 SECTION 12. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 13. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 14. This Act shall take effect on July 1, 2025.

19

INTRODUCED BY: 
By Request



S.B. NO. 272

Report Title:

Maui County Council Package; Water; CWRM; Emergency Orders;
Water Shortages; Fines

Description:

Defines the public trust responsibilities of the Commission on Water Resource Management. Allows the Commission to retain independent legal counsel. Amends the scope of the Commission to include declaration of emergencies. Repeals the position of Deputy to the Chairperson of the Commission on Water Resource Management and establishes the position of Executive Director. Amends the composition of the Commission. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses.

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



JAN 15 2025

A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that effective and
2 efficient water resource management requires continuous and
3 experienced leadership, especially given the climate crisis and
4 urgent need to properly steward water resources to meet the
5 housing needs of local residents. On December 28, 1994, the
6 review commission on the state water code submitted its final
7 report to the legislature pursuant to Act 45, Session Laws of
8 Hawaii 1987. The review commission determined that amendments
9 to the state water code were necessary to enable the commission
10 on water resource management to more effectively carry out its
11 mandate pursuant to article XI, section 7, of the Hawaii State
12 Constitution to "set overall water conservation, quality and use
13 policies; define beneficial and reasonable uses; protect ground
14 and surface water resources, watersheds and natural stream
15 environments; establish criteria for water use priorities while
16 assuring appurtenant rights and existing correlative and
17 riparian uses and establish procedures for regulating all uses



1 of Hawaii's water resources." Therefore, further clarification
2 of the commission on water resource management's purpose,
3 including its leadership structure and composition of the
4 commission, will provide greater accountability and protection
5 of the State's waters.

6 The purpose of this Act is to:

7 (1) Authorize the commission on water resource management
8 to retain independent legal counsel;

9 (2) Amend the powers and duties of the commission on water
10 resource management regarding the declaration of
11 emergencies;

12 (3) Specify that the commission on water resource
13 management shall be responsible for the management of
14 groundwater near the Red Hill Bulk Fuel Storage
15 Facility;

16 (4) Repeal the position of first deputy to the chairperson
17 of the commission on water resource management and
18 establish the position of executive director of the
19 commission on water resource management;

20 (5) Amend the composition, and designation of the
21 chairperson, of the commission on water resource



1 management, limit the commission's placement within
2 the department of land and natural resources for
3 administrative purposes only, and add one member to
4 the nominating committee for the commission;

5 (6) Authorize entities to challenge an emergency order of
6 the commission on water resource management under
7 certain conditions;

8 (7) Establish fines for certain water use offenses; and

9 (8) Transfer all rights, powers, functions, and duties of
10 the department of land and natural resources relating
11 to water resource management to the commission on
12 water resource management.

13 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) No department of the State other than the attorney
17 general may employ or retain any attorney, by contract or
18 otherwise, for the purpose of representing the State or the
19 department in any litigation, rendering legal counsel to the
20 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and
4 industrial relations appeals board, and the Hawaii
5 labor relations board;

6 (2) By any court or judicial or legislative office of the
7 State; provided that if the attorney general is
8 requested to provide representation to a court or
9 judicial office by the chief justice or the chief
10 justice's designee, or to a legislative office by the
11 speaker of the house of representatives and the
12 president of the senate jointly, and the attorney
13 general declines to provide [~~such~~] representation on
14 the grounds of conflict of interest, the attorney
15 general shall retain an attorney for the court,
16 judicial, or legislative office, subject to approval
17 by the court, judicial, or legislative office;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted
20 from time to time;



S.B. NO. 3

- 1 (5) By the real estate commission for any action involving
- 2 the real estate recovery fund;
- 3 (6) By the contractors license board for any action
- 4 involving the contractors recovery fund;
- 5 (7) By the office of Hawaiian affairs;
- 6 (8) By the department of commerce and consumer affairs for
- 7 the enforcement of violations of chapters 480 and
- 8 485A;
- 9 (9) As grand jury counsel;
- 10 (10) By the Hawaii health systems corporation, or its
- 11 regional system boards, or any of their facilities;
- 12 (11) By the auditor;
- 13 (12) By the office of ombudsman;
- 14 (13) By the insurance division;
- 15 (14) By the University of Hawaii;
- 16 (15) By the Kahoolawe island reserve commission;
- 17 (16) By the division of consumer advocacy;
- 18 (17) By the office of elections;
- 19 (18) By the campaign spending commission;
- 20 (19) By the Hawaii tourism authority, as provided in
- 21 section 201B-2.5;



- 1 (20) By the division of financial institutions;
- 2 (21) By the office of information practices;
- 3 (22) By the school facilities authority;
- 4 (23) By the Mauna Kea stewardship and oversight authority;
- 5 [~~or~~]
- 6 (24) By the commission on water resource management; or
- 7 [~~(24)~~] (25) By a department, if the attorney general, for
- 8 reasons deemed by the attorney general to be good and
- 9 sufficient, declines to employ or retain an attorney
- 10 for a department; provided that the governor waives
- 11 the provision of this section."

12 2. By amending subsection (c) to read:

13 "(c) Every attorney employed by any department on a full-

14 time basis, except an attorney employed by the public utilities

15 commission, the labor and industrial relations appeals board,

16 the Hawaii labor relations board, the office of Hawaiian

17 affairs, the Hawaii health systems corporation or its regional

18 system boards, the department of commerce and consumer affairs

19 in prosecution of consumer complaints, insurance division, the

20 division of consumer advocacy, the University of Hawaii, the

21 Hawaii tourism authority as provided in section 201B-2.5, the



1 Mauna Kea stewardship and oversight authority, the commission on
2 water resource management, the office of information practices,
3 or as grand jury counsel, shall be a deputy attorney general."

4 SECTION 3. Section 84-18, Hawaii Revised Statutes, is
5 amended by amending subsection (e) to read as follows:

6 "(e) Subject to the restrictions imposed in subsections
7 (a) through (d), the following individuals shall not represent
8 any person or business for a fee or other consideration
9 regarding any legislative action or administrative action, as
10 defined in section 97-1, for twelve months after termination
11 from their respective positions:

- 12 (1) The governor;
- 13 (2) The lieutenant governor;
- 14 (3) The administrative director of the State;
- 15 (4) The attorney general;
- 16 (5) The comptroller;
- 17 (6) The chairperson of the board of agriculture;
- 18 (7) The director of corrections and rehabilitation;
- 19 (8) The director of finance;
- 20 (9) The director of business, economic development, and
21 tourism;



- 1 (10) The director of commerce and consumer affairs;
- 2 (11) The adjutant general;
- 3 (12) The superintendent of education;
- 4 (13) The chairperson of the Hawaiian homes commission;
- 5 (14) The director of health;
- 6 (15) The director of human resources development;
- 7 (16) The director of human services;
- 8 (17) The director of labor and industrial relations;
- 9 (18) The chairperson of the board of land and natural
10 resources;
- 11 (19) The director of law enforcement;
- 12 (20) The director of taxation;
- 13 (21) The director of transportation;
- 14 (22) The president of the University of Hawaii;
- 15 (23) The executive administrator of the board of regents of
16 the University of Hawaii;
- 17 (24) The administrator of the office of Hawaiian affairs;
- 18 (25) The chief information officer;
- 19 (26) The executive director of the agribusiness development
20 corporation;



- 1 (27) The executive director of the campaign spending
- 2 commission;
- 3 (28) The executive director of the Hawaii community
- 4 development authority;
- 5 (29) The executive director of the Hawaii housing finance
- 6 and development corporation;
- 7 (30) The president and chief executive officer of the
- 8 Hawaii tourism authority;
- 9 (31) The executive officer of the public utilities
- 10 commission;
- 11 (32) The state auditor;
- 12 (33) The director of the legislative reference bureau;
- 13 (34) The ombudsman;
- 14 (35) The permanent employees of the legislature, other than
- 15 persons employed in clerical, secretarial, or similar
- 16 positions;
- 17 (36) The administrative director of the courts;
- 18 (37) The executive director of the state ethics commission;
- 19 (38) The executive officer of the state land use
- 20 commission;



1 (39) The executive director of the natural energy
 2 laboratory of Hawaii authority;
 3 (40) The executive director of the Hawaii public housing
 4 authority; and
 5 (41) The [~~first deputy to the chairperson~~] executive
 6 director of the commission on water resource
 7 management;
 8 provided that this subsection shall not apply to any person who
 9 has held one of the positions listed above only on an interim or
 10 acting basis and for a period of less than one hundred eighty-
 11 one days."

12 SECTION 4. Section 174C-5, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§174C-5 General powers and duties.** The general
 15 administration of the state water code shall rest with the
 16 commission on water resource management. In addition to its
 17 other powers and duties, the commission:

18 (1) Shall carry out topographic surveys, research, and
 19 investigations into all aspects of water use and water
 20 quality;



- 1 (2) Shall designate water management areas for regulation
2 under this chapter where the commission, after the
3 research and investigations mentioned in paragraph
4 (1), shall consult with the appropriate county council
5 and county water agency, and after public hearing and
6 published notice, finds that the water resources of
7 the areas are being threatened by existing or proposed
8 withdrawals of water;
- 9 (3) Shall establish an instream use protection program
10 designed to protect, enhance, and reestablish, where
11 practicable, beneficial instream uses of water in the
12 State;
- 13 (4) May contract and cooperate with the various agencies
14 of the federal government and with state and local
15 administrative and governmental agencies or private
16 persons;
- 17 (5) May enter, after obtaining the consent of the property
18 owner, at all reasonable times upon any property other
19 than dwelling places for the purposes of conducting
20 investigations and studies or enforcing any of the
21 provisions of this code, being liable, however, for



- 1 actual damage done. If consent cannot be obtained,
2 reasonable notice shall be given prior to entry;
- 3 (6) Shall cooperate with federal agencies, other state
4 agencies, county or other local governmental
5 organizations, and all other public and private
6 agencies created for the purpose of utilizing and
7 conserving the waters of the State, and assist these
8 organizations and agencies in coordinating the use of
9 their facilities and participate in the exchange of
10 ideas, knowledge, and data with these organizations
11 and agencies. For this purpose the commission shall
12 maintain an advisory staff of experts;
- 13 (7) Shall prepare, publish, and issue printed pamphlets
14 and bulletins as the commission deems necessary for
15 the dissemination of information to the public
16 concerning its activities;
- 17 (8) May appoint and remove agents, including hearings
18 officers and consultants, necessary to carry out the
19 purposes of this chapter, who may be engaged by the
20 commission without regard to the requirements of
21 chapter 76 and section 78-1;



- 1 (9) May hire employees in accordance with chapter 76;
- 2 (10) May appoint and dismiss attorneys as may be necessary,
- 3 who shall be exempt from chapter 76;
- 4 [~~(10)~~] (11) May acquire, lease, and dispose of real and
- 5 personal property as may be necessary in the
- 6 performance of its functions, including the
- 7 acquisition of real property for the purpose of
- 8 conserving and protecting water and [~~water-related~~]
- 9 water-related resources as provided in section 174C-
- 10 14;
- 11 [~~(11)~~] (12) Shall identify, by continuing study, those areas
- 12 of the State where salt water intrusion is a threat to
- 13 fresh water resources and report its findings to the
- 14 appropriate county mayor and council and the public;
- 15 [~~(12)~~] (13) Shall provide coordination, cooperation, or
- 16 approval necessary to the effectuation of any plan or
- 17 project of the federal government in connection with
- 18 or concerning the waters of the State. The commission
- 19 shall approve or disapprove any federal plans or
- 20 projects on behalf of the State. No other agency or
- 21 department of the State shall assume the duties



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1 delegated to the commission under this paragraph;
2 except that the department of health shall continue to
3 exercise the powers vested in it with respect to water
4 quality, and except that the department of business,
5 economic development, and tourism shall continue to
6 carry out its duties and responsibilities under
7 chapter 205A;

8 ~~[(13)]~~ (14) Shall plan and coordinate programs for the
9 development, conservation, protection, control, and
10 regulation of water resources, based upon the best
11 available information, and in cooperation with federal
12 agencies, other state agencies, county or other local
13 governmental organizations, and other public and
14 private agencies created for the utilization and
15 conservation of water;

16 ~~[(14)]~~ (15) Shall catalog and maintain an inventory of all
17 water uses and water resources; ~~[and]~~

18 ~~[(15)]~~ (16) Shall determine appurtenant water rights,
19 including but not limited to the quantification of the
20 amount of water and the specification of the water
21 course or the means of access and delivery entitled to



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1 by that right, which determination shall be valid for
2 purposes of this chapter[-];

- 3 (17) May declare an emergency if the commission determines,
4 in consultation with the governor, the appropriate
5 county, and the department of health, that there is an
6 absence of sufficient quantity and quality of water in
7 any area, whether within or outside of a water
8 management area, that immediately threatens the public
9 health, safety, and welfare. The commission may issue
10 orders reciting the existence of the emergency and
11 requiring those actions as the commission deems
12 necessary to address the emergency be taken, including
13 but not limited to apportioning, rotating, limiting,
14 or prohibiting the use of water resources of the area;
15 provided that an emergency order shall expire no later
16 than one year after issuance by the commission;
17 provided further that the order may be extended by a
18 separate or supplementary order; and
- 19 (18) Shall manage the groundwater near the Red Hill Bulk
20 Fuel Storage Facility."



1 SECTION 5. Section 174C-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§174C-6 ~~[Deputy to the chairperson]~~ Executive director of
4 the commission on water resource management. (a) There shall
5 be ~~[a first deputy to the chairperson]~~ an executive director of
6 the commission on water resource management ~~[("deputy for water~~
7 ~~resource management") who shall be in addition to any other~~
8 ~~first deputy to the chairperson as the chairperson of the board~~
9 ~~of land and natural resources. The deputy], who shall have
10 experience in the area of water resources and shall be appointed
11 by ~~[the chairperson with the approval of a majority of]~~ the
12 commission~~[.]~~ and serve at the pleasure of the commission.~~

13 (b) The duties of the ~~[deputy for water resource~~
14 ~~management]~~ executive director shall be to administer and
15 implement, under the direction of the commission, the state
16 water code ~~[and all]~~, the rules, and other directives
17 ~~[promulgated in accordance therewith]~~ adopted by the commission.
18 Nothing in this ~~[provision]~~ section shall be construed as
19 limiting the authority of the commission as to matters regarding
20 water resources.



1 (c) The position of [~~deputy for water resource management~~
2 ~~is not~~] executive director shall not be subject to chapter 76.

3 (d) The salary of the [~~deputy for water resource~~
4 ~~management~~] executive director shall be [as provided in section
5 26-53 for first deputies or first assistants to the head of any
6 department.] set by the board, and the executive director shall
7 be included in any benefit program generally applicable to the
8 officers and employees of the State.

9 (e) The commission shall develop and document annual goals
10 and performance measures for the executive director that
11 authorize the commission to annually evaluate the executive
12 director's work to ensure compliance by the commission with
13 statutory and constitutional requirements and achievement of its
14 statutory and constitutional purposes.

15 (f) The commission shall evaluate and document the
16 evaluation of the executive director's performance annually, or
17 more frequently upon the request of at least four members of the
18 commission, based on annual goals, performance measures, and
19 other relevant criteria."

20 SECTION 6. Section 174C-7, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§174C-7 Commission on water resource management.** (a)
2 There is established [~~within the department~~] a commission on
3 water resource management consisting of seven members [~~which~~]
4 that shall have exclusive jurisdiction and final authority in
5 all matters relating to implementation and administration of the
6 state water code, except as otherwise specifically provided in
7 this chapter. The commission shall be placed within the
8 department for administrative purposes only.

9 (b) Five members shall be appointed by the governor
10 subject to confirmation by the senate in the manner prescribed
11 in subsection [~~(d)~~] (e). Each member shall have substantial
12 experience in the area of water resource management; provided
13 that at least one member shall have substantial experience or
14 expertise in traditional Hawaiian water resource management
15 techniques and in traditional Hawaiian riparian usage such as
16 those preserved by section 174C-101. Each of the members shall
17 be eligible to serve as the chairperson of the commission upon
18 election by a majority of the commission members, except as
19 provided in subsection (c).

20 (c) The chairperson of the board of land and natural
21 resources [~~shall be the chairperson of the commission. The~~] and



1 the director of health or the director's designee shall serve as
2 [~~an~~] ex officio[~~+~~],[~~+~~] voting [~~member.~~] members; provided that
3 neither the chairperson nor the director or the director's
4 designee shall be eligible to serve as chairperson of the
5 commission.

6 [~~+~~] (d) The members of the commission shall serve
7 without compensation but shall be reimbursed for expenses,
8 including travel expenses, necessary for the performance of
9 their duties.

10 [~~+~~] (e) In appointing a member to the commission, the
11 governor shall select from a list submitted by a nominating
12 committee. The nominating committee shall be composed of [~~four~~]
13 five individuals chosen as follows: two persons appointed by
14 the governor; one person appointed by the president of the
15 senate; one person appointed by the speaker of the house[~~+~~] of
16 representatives; and one person appointed by the chief executive
17 officer of the office of Hawaiian affairs. The committee shall
18 solicit applications and send to the governor the names of at
19 least three individuals for each open position.



1 ~~(e)~~ (f) Except as otherwise provided in this chapter,
2 the commission shall be subject to sections 26-34, 26-35, and
3 26-36."

4 SECTION 7. Section 174C-9, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "~~§~~174C-9~~§~~ **Proceedings before the commission**

7 **concerning water resources.** (a) All proceedings before the
8 commission concerning the enforcement or application of any
9 provision of this chapter or any rule adopted pursuant thereto,
10 or the issuance, modification, or revocation of any permit or
11 license under this code by the commission, shall be conducted in
12 accordance with chapter 91. Hearings regarding particular water
13 resources shall be conducted on the island where those water
14 resources are located.

15 (b) Any party to whom an emergency order is directed may
16 challenge that order but shall immediately comply with the order
17 pending disposition of the party's challenge. The commission
18 shall give precedence to a hearing on the challenge over all
19 other pending matters."

20 SECTION 8. Section 174C-15, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§174C-15 Penalties and common law remedies.** (a) The
2 commission may enforce its rules and orders adopted pursuant to
3 this chapter by suit for injunction or for damages or both.

4 (b) Any person who [~~violates any~~]:

5 (1) Violates any provision of this chapter[~~, or any~~];

6 (2) Violates any rule adopted pursuant to this chapter[~~,~~

7 may];

8 (3) Violates any order of the commission;

9 (4) Fails to obtain a permit when a permit is required

10 pursuant to this chapter;

11 (5) Fails to comply with permit conditions; or

12 (6) Fails to comply with standardized water audit

13 requirements pursuant to Act 169, Session Laws of

14 Hawaii 2016,

15 shall be subject to a fine imposed by the commission. [~~Such~~]

16 The fine shall be not less than \$50 and shall not exceed

17 [\$5,000. ~~For a continuing offense, each day during which the~~

18 ~~offense is committed is a separate violation.~~] \$25,000 per

19 violation. Each day that a violation exists or continues to

20 exist shall constitute a separate offense. Penalties for

21 continuing violations shall be assessed from the earliest known



1 date of the violation. The earliest known date of a violation
2 shall be determined by the commission by a preponderance of the
3 evidence; provided that, if the earliest known date cannot be
4 determined by a preponderance of evidence, penalties for
5 continuing violations shall be assessed from the earliest date
6 the commission is made aware of the violation.

7 (c) When imposing a penalty, the commission shall consider
8 the following factors, which shall include but not be limited
9 to:

- 10 (1) The nature, circumstances, extent, gravity, and
11 history of the violation and of any prior violations;
12 (2) The economic benefit to the violator, or anticipated
13 by the violator, resulting from the violation;
14 (3) The opportunity, difficulty, and history of corrective
15 action;
16 (4) Good faith efforts to comply;
17 (5) Degree of culpability; and
18 (6) Other matters as justice may require.

19 ~~(e)~~ (d) No provision of this chapter shall bar the right
20 of any injured person to seek other legal or equitable relief
21 against a violator of this chapter.



1 ~~[(d)]~~ (e) Except as otherwise provided by law, the
2 commission or its authorized representative by proper delegation
3 ~~[may]~~ shall set, charge, and collect administrative fines ~~[or]~~;
4 may bring legal action to recover administrative fees and costs
5 as documented by receipts or affidavit, including ~~[attorneys']~~
6 attorney's fees and costs; ~~[or]~~ and may bring legal action to
7 recover administrative fines, fees, and costs, including
8 ~~[attorneys']~~ attorney's fees and costs, or payment for damages
9 resulting from a violation of this chapter or any rule adopted
10 pursuant to this chapter."

11 SECTION 9. Section 174C-62, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "~~[+]§174C-62[+]~~ **Declaration of water shortage.** (a) The
14 commission shall formulate a statewide plan for implementation
15 during periods of water shortage. As a part of the plan, the
16 commission shall adopt a reasonable system of permit
17 classification according to source of water supply, method of
18 extraction or diversion, use of water, or a combination thereof.

19 (b) The commission, by rule, may declare that a water
20 shortage exists within all or part of an area, whether within or
21 outside of a water management area, when insufficient water is



1 available to meet the requirements of the permit system or when
2 conditions [~~are such as to~~] require a temporary reduction in
3 total water use within the area to protect water resources from
4 serious harm. The commission shall publish a set of criteria
5 for determining when a water shortage exists[~~-~~], including but
6 not limited to impacts and effects of the climate crisis.

7 (c) In accordance with the plan adopted under subsection
8 (a), the commission may impose [~~such~~] restrictions on one or
9 more classes of permits and outside of management areas on well
10 and stream diversion owners and operators as may be necessary to
11 protect the water resources of the area from serious harm and to
12 restore them to their previous water quantity or chloride level
13 condition.

14 (d) A declaration of water shortage and any measures
15 adopted pursuant thereto may be rescinded by rule by the
16 commission.

17 (e) When a water shortage is declared, the commission
18 shall cause a notice [~~thereof~~] of the water shortage to be
19 published in a prominent place in a newspaper of general
20 circulation throughout the area[~~-~~] and on the commission's
21 website. The notice shall be published each day for the first



1 week of the shortage and once a week [~~thereafter~~] for four
2 months, followed by monthly publications until the declaration
3 is rescinded. Publication of [~~such~~] the notice shall serve as
4 notice to all water users in the area of the condition of water
5 shortage.

6 (f) The commission shall cause each permittee in the area
7 to be notified by regular and electronic mail of any change in
8 the conditions of the permittee's permit, any suspension
9 [~~thereof,~~] of the permittee's permit, or of any other
10 restriction on the use of water for the duration of the water
11 shortage.

12 [~~(g) If an emergency condition arises due to a water~~
13 ~~shortage within any area, whether within or outside of a water~~
14 ~~management area, and if the commission finds that the~~
15 ~~restrictions imposed under subsection (c) are not sufficient to~~
16 ~~protect the public health, safety, or welfare, or the health of~~
17 ~~animals, fish, or aquatic life, or a public water supply, or~~
18 ~~recreational, municipal, agricultural, or other reasonable uses,~~
19 ~~the commission may issue orders reciting the existence of such~~
20 ~~an emergency and requiring that such actions as the commission~~
21 ~~deems necessary to meet the emergency be taken, including but~~



1 ~~not limited to apportioning, rotating, limiting, or prohibiting~~
2 ~~the use of the water resources of the area. Any party to whom~~
3 ~~an emergency order is directed may challenge such an order but~~
4 ~~shall immediately comply with the order, pending disposition of~~
5 ~~the party's challenge. The commission shall give precedence to~~
6 ~~a hearing on such challenge over all other pending matters.]"~~

7 SECTION 10. All rights, powers, functions, and duties of
8 the department of land and natural resources relating to water
9 resource management are transferred to the commission on water
10 resource management.

11 SECTION 11. All appropriations, records, equipment,
12 machines, files, supplies, contracts, books, papers, documents,
13 maps, and other personal property heretofore made, used,
14 acquired, or held by the department of land and natural
15 resources relating to the functions transferred to the
16 commission on water resource management shall be transferred
17 with the functions to which they relate.

18 All employees who occupy civil service positions and whose
19 functions are transferred to the commission on water resource
20 management by this Act shall retain their civil service status,
21 whether permanent or temporary. Employees shall be transferred



1 without loss of salary, seniority (except as prescribed by
2 applicable collective bargaining agreements), retention points,
3 prior service credit, any vacation and sick leave credits
4 previously earned, and other rights, benefits, and privileges,
5 in accordance with state personnel laws and this Act; provided
6 that the employees possess the minimum qualifications and public
7 employment requirements for the class or position to which
8 transferred or appointed, as applicable; provided further that
9 subsequent changes in status may be made pursuant to applicable
10 civil service and compensation laws.

11 Any employee who, prior to this Act, is exempt from civil
12 service and is transferred as a consequence of this Act may
13 retain the employee's exempt status but shall not be appointed
14 to a civil service position as a consequence of this Act. An
15 exempt employee who is transferred by this Act shall not suffer
16 any loss of prior service credit, vacation or sick leave credits
17 previously earned, or other employee benefits or privileges as a
18 consequence of this Act; provided that the employees possess
19 legal and public employment requirements for the position to
20 which transferred or appointed, as applicable; provided further
21 that subsequent changes in status may be made pursuant to



1 applicable employment and compensation laws. The executive
2 director of the commission on water resource management may
3 prescribe the duties and qualifications of these employees and
4 fix their salaries without regard to chapter 76, Hawaii Revised
5 Statutes.

6 SECTION 12. All rules, policies, procedures, guidelines
7 and other material relating to water resource management adopted
8 or developed by the board or department of land and natural
9 resources shall remain in full force and effect until amended or
10 repealed by the commission on water resource management pursuant
11 to chapter 91, Hawaii Revised Statutes.

12 In the interim, every reference to the board or department
13 of land and natural resources or chairperson of the board of
14 land and natural resources in those rules, policies, procedures,
15 guidelines, and other material is amended to refer to the
16 commission on water resource management or executive director of
17 the commission on water resource management, as appropriate.

18 SECTION 13. All deeds, leases, contracts, loans,
19 agreements, permits, or other documents executed or entered into
20 by or on behalf of the board or department of land and natural
21 resources relating to water resource management shall remain in



1 full force and effect. Upon the effective date of this Act,
2 every reference to the board or department of land and natural
3 resources or the chairperson of the board of land and natural
4 resources therein shall be construed as a reference to the
5 commission on water resource management or executive director of
6 the commission on water resource management, as appropriate.

7 SECTION 14. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 15. This Act does not affect rights and duties
14 that matured, penalties that were incurred, and proceedings that
15 were begun before its effective date.

16 SECTION 16. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.



S.B. NO. 3

1 SECTION 17. This Act shall take effect upon its approval;
2 provided that section 6 of this Act shall take effect on July 1,
3 2026.

4

INTRODUCED BY: *Maguire L. Amodeo*



Report Title:

DLNR; CWRM; OHA; Responsibilities; Commission Membership; Executive Director; Independent Legal Counsel; Emergency Order; Water Emergencies; Water Shortage Declarations; Red Hill Bulk Fuel Storage Facility; Fines

Description:

Authorizes the Commission of Water Resource Management to retain independent legal counsel. Repeals the position of First Deputy to the Chairperson of the CWRM and establishes the position of Executive Director of the CWRM. Authorizes entities to challenge an emergency order of the CWRM under certain conditions. Establishes fines for certain water use offenses. Amends the CWRM's authority to declare water emergencies and issue orders to address them and declare water shortages and related notice requirements. Adds the management of groundwater near the Red Hill Bulk Fuel Storage Facility to the powers and duties of the CWRM. Transfers all rights, powers, functions, and duties of DLNR relating to water resource management to CWRM. Effective 7/1/2026, amends the composition of the CWRM, amends the designation of the Chairperson of the CWRM, limits CWRM's placement within the Department of Land and Natural Resources for administrative purposes only, and adds one member to the nominating committee for CWRM, to be appointed and by the Chief Executive Officer of the Office of Hawaiian Affairs.

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



JAN 15 2025

A BILL FOR AN ACT

RELATING TO WATER SYSTEMS.

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

1 SECTION 1. The legislature finds that West Maui's water
2 resources are under significant strain due to prolonged drought
3 conditions, climate change, and increased demand from private
4 entities controlling approximately eighty per cent of these
5 resources, supplying water to hotels, golf courses, and large
6 estates. The 2023 Maui wildfires, exacerbated by invasive
7 grasses and limited water availability, highlighted the critical
8 need for improved water management and accessibility.
9 Additionally, the diversion of streams for private use has
10 negatively affected traditional Native Hawaiian agricultural
11 practices and the ecological health of the region.

12 The legislature further finds that it is imperative to
13 assert public control over west Maui's water systems to ensure
14 equitable distribution, enhance resilience against climate-
15 induced droughts and wildfires, and uphold the public trust
16 doctrine enshrined in the Hawaii State Constitution.



1 Accordingly, the purpose of this Act is to mandate that the
2 department of land and natural resources acquire all west Maui
3 water systems through eminent domain and hold them in a trust
4 for management by the county of Maui.

5 SECTION 2. (a) The department of land and natural
6 resources shall exercise its power to acquire water and water
7 sources by eminent domain pursuant to section 174-5, Hawaii
8 Revised Statutes, to acquire all west Maui water systems and
9 hold the systems in trust.

10 (b) The county of Maui shall manage the west Maui water
11 systems acquired pursuant to subsection (a).

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

13

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'L. H.', is written over a horizontal line.

S.B. NO. 386

Report Title:

DLNR; Maui County; Water Systems; Eminent Domain

Description:

Requires the Department of Land and Natural Resources to acquire all West Maui water systems by eminent domain and hold the water systems in trust for the County of Maui to manage.

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



JAN 16 2025

A BILL FOR AN ACT

RELATING TO WASTE DISPOSAL FACILITIES.

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

1 SECTION 1. The legislature finds that the search for a new
2 landfill for the city and county of Honolulu cannot be
3 prioritized over the protection of Oahu's freshwater aquifers.
4 In 2021, approximately twenty thousand gallons of jet fuel
5 leaked from the Red Hill bulk fuel storage facility and
6 contaminated the Pearl Harbor-Hickam water system that serves
7 ninety-three thousand military and civilian customers. The leak
8 also affected the Honolulu board of water supply, and the city
9 and county has shut down three wells that supply fourteen
10 million gallons of water a day to urban Honolulu. Today, the
11 Honolulu board of water supply is in search of new wells that
12 can supply urban Honolulu, which may not be ready until 2025.
13 To protect and preserve fresh water, a new landfill cannot be
14 built over a freshwater aquifer.

15 The legislature further finds that prime agricultural land
16 should be protected, preserved, and reserved for agricultural



1 and related uses. Therefore, a new landfill should not be
2 located on those agricultural lands.

3 The legislature further finds that the city and county of
4 Honolulu is required to relocate the Waimanalo Gulch sanitary
5 landfill by 2028. The county's department of environmental
6 services proposed six potential sites upon which to relocate the
7 landfill, and all sites were rejected by the landfill advisory
8 committee because of concerns that locating a landfill above
9 freshwater aquifers may damage the State's water sources.
10 Act 73, Session Laws of Hawaii 2020, prohibited waste or
11 disposal facilities in a conservation district, except in
12 emergency circumstances to mitigate significant risks to public
13 health and safety. Furthermore, the Act requires that there be
14 a one-half mile buffer zone between residences, schools, and
15 hospitals and the construction, modification, or expansion of a
16 waste or disposal facility.

17 The purpose of this Act is to prohibit the construction,
18 modification, or expansion of any waste or disposal facility for
19 hazardous waste or solid waste on land that is near or above a
20 significant aquifer, and to prohibit waste and disposal
21 facilities on land in an agricultural district having soil



1 classified by the land study bureau's detailed land
2 classification as overall (master) productivity rating class A
3 or B.

4 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) Agricultural districts shall include:

- 7 (1) Activities or uses as characterized by the cultivation
8 of crops, crops for bioenergy, orchards, forage, and
9 forestry;
- 10 (2) Farming activities or uses related to animal husbandry
11 and game and fish propagation;
- 12 (3) Aquaculture, which means the production of aquatic
13 plant and animal life within ponds and other bodies of
14 water;
- 15 (4) Wind-generated energy production for public, private,
16 and commercial use;
- 17 (5) Biofuel production, as described in
18 section 205-4.5(a)(16), for public, private, and
19 commercial use;
- 20 (6) Solar energy facilities; provided that:



- 1 (A) This paragraph shall apply only to land with soil
2 classified by the land study bureau's detailed
3 land classification as overall (master)
4 productivity rating class B, C, D, or E; and
- 5 (B) Solar energy facilities placed within land with
6 soil classified as overall productivity rating
7 class B or C shall not occupy more than ten per
8 cent of the acreage of the parcel, or twenty
9 acres of land, whichever is lesser, unless a
10 special use permit is granted pursuant to
11 section 205-6;
- 12 (7) Bona fide agricultural services and uses that support
13 the agricultural activities of the fee or leasehold
14 owner of the property and accessory to any of the
15 above activities, regardless of whether conducted on
16 the same premises as the agricultural activities to
17 which they are accessory, including farm dwellings as
18 defined in section 205-4.5(a)(4), employee housing,
19 farm buildings, mills, storage facilities, processing
20 facilities, photovoltaic, biogas, and other
21 small-scale renewable energy systems producing energy



1 solely for use in the agricultural activities of the
2 fee or leasehold owner of the property,
3 agricultural energy facilities as defined in
4 section 205-4.5(a)(17), vehicle and equipment storage
5 areas, and plantation community subdivisions as
6 defined in section 205-4.5(a)(12);

7 (8) Wind machines and wind farms;

8 (9) Small-scale meteorological, air quality, noise, and
9 other scientific and environmental data collection and
10 monitoring facilities occupying less than one-half
11 acre of land; provided that these facilities shall not
12 be used as or equipped for use as living quarters or
13 dwellings;

14 (10) Agricultural parks;

15 (11) Agricultural tourism conducted on a working farm, or a
16 farming operation as defined in section 165-2, for the
17 enjoyment, education, or involvement of visitors;
18 provided that the agricultural tourism activity is
19 accessory and secondary to the principal agricultural
20 use and does not interfere with surrounding farm
21 operations; and provided further that this paragraph



1 shall apply only to a county that has adopted
2 ordinances regulating agricultural tourism under
3 section 205-5;

4 (12) Agricultural tourism activities, including overnight
5 accommodations of twenty-one days or less, for any one
6 stay within a county; provided that this paragraph
7 shall apply only to a county that includes at least
8 three islands and has adopted ordinances regulating
9 agricultural tourism activities pursuant to
10 section 205-5; provided further that the agricultural
11 tourism activities coexist with a bona fide
12 agricultural activity. For the purposes of this
13 paragraph, "bona fide agricultural activity" means a
14 farming operation as defined in section 165-2;

15 (13) Open area recreational facilities;

16 (14) Geothermal resources exploration and geothermal
17 resources development, as defined under section 182-1;

18 (15) Agricultural-based commercial operations registered in
19 Hawaii, including:

20 (A) A roadside stand that is not an enclosed
21 structure, owned and operated by a producer for



1 the display and sale of agricultural products
2 grown in Hawaii and value-added products that
3 were produced using agricultural products grown
4 in Hawaii;

5 (B) Retail activities in an enclosed structure owned
6 and operated by a producer for the display and
7 sale of agricultural products grown in Hawaii,
8 value-added products that were produced using
9 agricultural products grown in Hawaii, logo items
10 related to the producer's agricultural
11 operations, and other food items;

12 (C) A retail food establishment owned and operated by
13 a producer and permitted under chapter 11-50,
14 Hawaii administrative rules, that prepares and
15 serves food at retail using products grown in
16 Hawaii and value-added products that were
17 produced using agricultural products grown in
18 Hawaii;

19 (D) A farmers' market, which is an outdoor market
20 limited to producers selling agricultural
21 products grown in Hawaii and value-added products



1 that were produced using agricultural products
2 grown in Hawaii; and

3 (E) A food hub, which is a facility that may contain
4 a commercial kitchen and provides for the
5 storage, processing, distribution, and sale of
6 agricultural products grown in Hawaii and
7 value-added products that were produced using
8 agricultural products grown in Hawaii.

9 The owner of an agricultural-based commercial
10 operation shall certify, upon request of an officer or
11 agent charged with enforcement of this chapter under
12 section 205-12, that the agricultural products
13 displayed or sold by the operation meet the
14 requirements of this paragraph;

15 (16) Hydroelectric facilities as described in
16 section 205-4.5(a)(23); and

17 (17) Composting and co-composting operations; provided that
18 operations that process their own green waste and do
19 not require permits from the department of health
20 shall use the finished composting product only on the



1 operation's own premises to minimize the potential
2 spread of invasive species.

3 Agricultural districts shall not include golf courses and golf
4 driving ranges, except as provided in section 205-4.5(d). With
5 respect to land that is within the agricultural district and has
6 soil classified by the land study bureau's detailed land
7 classification as overall (master) productivity rating class A
8 or B, agricultural districts shall not include waste or disposal
9 facilities as defined in section 183C-4. Agricultural districts
10 include areas that are not used for, or that are not suited to,
11 agricultural and ancillary activities by reason of topography,
12 soils, and other related characteristics."

13 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Uses not expressly permitted in subsection (a) shall
16 be prohibited, except the uses permitted as provided in
17 sections 205-6 and 205-8, and construction of single-family
18 dwellings on lots existing before June 4, 1976. Waste or
19 disposal facilities as defined in section 183C-4 are not
20 permitted uses of land that is within the agricultural district
21 and has soil classified by the land study bureau's detailed land



1 classification as overall (master) productivity rating class A
2 or B. Any other law to the contrary notwithstanding, no
3 subdivision of land within the agricultural district with soil
4 classified by the land study bureau's detailed land
5 classification as overall (master) productivity rating class A
6 or B shall be approved by a county unless those A and B lands
7 within the subdivision are made subject to the restriction on
8 uses as prescribed in this section and to the condition that the
9 uses shall be primarily in pursuit of an agricultural activity.

10 Any deed, lease, agreement of sale, mortgage, or other
11 instrument of conveyance covering any land within the
12 agricultural subdivision shall expressly contain the restriction
13 on uses and the condition, as prescribed in this section that
14 these restrictions and conditions shall be encumbrances running
15 with the land until such time that the land is reclassified to a
16 land use district other than agricultural district.

17 If the foregoing requirement of encumbrances running with
18 the land jeopardizes the owner or lessee in obtaining mortgage
19 financing from any of the mortgage lending agencies set forth in
20 the following paragraph, and the requirement is the sole reason
21 for failure to obtain mortgage financing, then the requirement



1 of encumbrances shall, insofar as such mortgage financing is
2 jeopardized, be conditionally waived by the appropriate county
3 enforcement officer; provided that the conditional waiver shall
4 become effective only in the event that the property is
5 subjected to foreclosure proceedings by the mortgage lender.

6 The mortgage lending agencies referred to in the preceding
7 paragraph are the Federal Housing Administration, Federal
8 National Mortgage Association, Department of Veterans Affairs,
9 Small Business Administration, United States Department of
10 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
11 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
12 other federal, state, or private mortgage lending agency
13 qualified to do business in Hawaii, and their respective
14 successors and assigns."

15 SECTION 4. Section 342H-52, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§342H-52 Prohibitions; buffer zones.** (a) No person,
18 including any federal agency, the State, or any county, shall
19 construct, operate, modify, expand, or close a municipal solid
20 waste landfill unit, or any component of a municipal solid waste
21 landfill unit, without first obtaining a permit from the



1 director. All permits for municipal solid waste landfill units
2 shall be subject to any terms and conditions that the director
3 determines are necessary to protect human health or the
4 environment.

5 (b) No person, including the State or a county, shall
6 construct, modify, or expand a waste or disposal facility,
7 including:

8 (1) A municipal solid waste landfill unit;

9 (2) Any component of a municipal solid waste landfill
10 unit;

11 (3) A construction and demolition unit; or

12 (4) Any component of a construction and demolition
13 landfill unit;

14 for solid waste or hazardous waste on land that is near or above
15 a significant aquifer, as determined by the department, in
16 consultation with the commission on water resource management.

17 For the purposes of this subsection:

18 "Hazardous waste" shall have the same meaning as in
19 section 342J-2.

20 [~~b~~] (c) No person, including the State or any county,
21 shall construct, modify, or expand a waste or disposal facility



1 including a municipal solid waste landfill unit, any component
2 of a municipal solid waste landfill unit, a construction and
3 demolition landfill unit, or any component of a construction and
4 demolition landfill unit without first establishing a buffer
5 zone of no less than one-half mile around the waste or disposal
6 facility. This subsection shall not apply to the continued
7 operation of an existing waste or disposal facility that is
8 properly permitted; provided that continued operation does not
9 require physical expansion, vertical or horizontal, of the
10 facility requiring additional permitting review and a permit
11 modification.

12 For the purposes of this subsection:

13 "Buffer zone" means the distance between the edge of waste
14 or waste activity and the nearest residential, school, or
15 hospital property line.

16 "Waste or disposal facility" excludes individual, state
17 certified, non-industrial redemption centers."

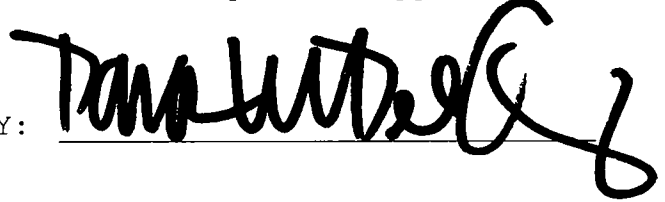
18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

2

INTRODUCED BY:





S.B. NO. 438

Report Title:

Waste or Disposal Facilities; Landfills; Solid Waste; Hazardous Waste; Aquifers; Agricultural Districts; Prohibition; DOH; CWRM

Description:

Prohibits the construction, modification, or expansion of any waste or disposal facility for hazardous waste or solid waste on land that is near or above a significant aquifer as determined by the Department of Health, in consultation with the Commission on Water Resource Management; Prohibits waste or disposal facility on class A and B agricultural land.

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JAN 17 2025

A BILL FOR AN ACT

RELATING TO WATER.

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

1 PART I

2 SECTION 1. The legislature finds that the United States
3 Navy's Red Hill Bulk Fuel Storage Facility consists of twenty
4 steel-lined underground storage tanks that were built from 1940
5 to 1943. Each tank can store 12.5 million gallons of fuel; in
6 total, the Red Hill Bulk Fuel Storage Facility can store up to
7 two hundred fifty million gallons. The tanks are located only
8 about one hundred feet above the United States Environmental
9 Protection Agency's designated sole-source groundwater aquifer
10 that provides drinking water to approximately four hundred
11 thousand residents of the island of Oahu. Over the past eighty
12 years, numerous spills have occurred at Red Hill. Specifically,
13 on November 20, 2021, about ninety-three thousand individuals
14 served by the Navy's potable water system for Joint Base Pearl
15 Harbor-Hickam were directly affected when the Navy's Red Hill
16 shaft was contaminated by the release of up to nineteen thousand
17 gallons of fuel, including JP-5 jet fuel, older fuels stored at



1 the Red Hill Bulk Fuel Storage Facility, and any additives used.
2 Over six thousand individuals sought medical attention, and one
3 thousand were forced to leave their homes due to the
4 contamination. Much of the fuel released from the Red Hill Bulk
5 Fuel Storage Facility remains in the environment, trapped within
6 the complex geological formations beneath and near the tanks.

7 The legislature further finds that on May 9, 2023,
8 officials from the State and city and county of Honolulu signed
9 a unified statement on Red Hill, recognizing the stewardship
10 responsibility to ensure that there is clean water on Oahu for
11 future generations. The Red Hill Water Alliance Initiative
12 (WAI), a working group, met regularly in 2023 since the signing
13 of the unified statement. The Red Hill WAI posed questions,
14 conducted research, listened to subject-matter experts, and
15 formulated recommended policies.

16 The legislature also finds that the Red Hill WAI's approach
17 of total stewardship responsibility required a stance of
18 extending beyond statutory roles, specific responsibilities,
19 tenure in those roles, and even personal lifetimes. Its inquiry
20 included the pursuit of critical questions for which there may



1 currently be no answers. Thus, the pursuit of those answers is
2 part of the ongoing work.

3 The legislature notes that besides its regulatory functions
4 under federal and state environmental laws, the State also has
5 unique public trust responsibilities set forth in the Hawaii
6 State Constitution, which establishes an affirmative duty of the
7 State to preserve and protect public trust resources, including
8 water resources.

9 The legislature additionally finds that the focus of the
10 Red Hill WAI's inquiry is the remediation needs after the
11 defueling of the tanks and removal of residual fuel and
12 contaminants from the Red Hill Bulk Fuel Storage Facility. In
13 particular, the Red Hill WAI is concerned with the unknowns
14 posed by fuel contaminants already in the ground, as well as the
15 residuals of the fuel plume in the aquifer as a result of the
16 spill that occurred on November 20, 2021. In fact, there may be
17 as many as 1,940,000 gallons of fuel constituents in the ground
18 that have leaked or spilled over eight decades. Pursuant to a
19 proactive approach, the Red Hill WAI seeks to describe the
20 remediation it believes necessary for the future well-being of
21 the aquifer in which there is a negligible risk to current and



1 future water sources, including the Halawa Shaft, Halawa wells,
2 and Aiea wells; the water distribution system; and the
3 ecosystem, including springs, streams, and nearshore waters.

4 After much diligent work, the Red Hill WAI issued a public
5 report in November 2023 that set forth its findings and
6 recommendations. Some of the recommendations can only be
7 addressed by the federal government, while other recommendations
8 can be undertaken by the State and city and county of Honolulu.
9 Moreover, the legislature finds that there must be no delay in
10 adopting the recommendations of the Red Hill WAI, especially
11 those that can be implemented at the state and county levels.

12 Therefore, the purpose of this Act is to:

- 13 (1) Establish within the office of the executive director
14 of the commission on water resource management a
15 policy lead and coordinator for Red Hill WAI
16 initiatives;
- 17 (2) Create the Red Hill remediation special fund; and
- 18 (3) Appropriate funds for these purposes.

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



1 "CHAPTER

2 RED HILL WATER ALLIANCE INITIATIVE

3 § -1 **Definitions.** As used in this chapter, unless a
4 different meaning is plainly required by the context:

5 "Board" means the board of land and natural resources.

6 "Chairperson" means the chairperson of the board of land
7 and natural resources.

8 "Department" means the department of land and natural
9 resources.

10 "Red Hill Water Alliance Initiative" means the group of
11 individuals composed of the governor, speaker of the house of
12 representatives, president of the senate, chairperson of the
13 board of land and natural resources and commission on water
14 resource management, president of the university of Hawaii,
15 mayor of the city and county of Honolulu, chairperson of the
16 Honolulu city council, and manager and chief engineer of the
17 Honolulu board of water supply that issued a public report in
18 November 2023 concerning the remediation of Red Hill following
19 the defueling of the Red Hill Bulk Fuel Storage Facility.

20 "Special fund" means the Red Hill remediation special fund.

21 "WAI" means the Red Hill Water Alliance Initiative.



1 § -2 **Policy lead and coordination.** (a) The department
2 shall serve as the State's policy lead on WAI initiatives
3 through the position of the WAI policy coordinator, to be placed
4 in the office of the executive director of the commission on
5 water resource management once the position of executive
6 director of the commission on water resource management is
7 established and filled pursuant to section 174C-6. The WAI
8 policy coordinator shall work with respective state and county
9 agencies and other groups.

10 (b) The WAI policy coordinator shall:

11 (1) Facilitate implementation and monitoring and interface
12 with federal entities on WAI initiatives outlined in
13 the WAI's November 2023 report;

14 (2) Periodically and regularly review:

15 (A) The health status of the ecosystem; and

16 (B) The state of science and opportunities for
17 remediation and rehabilitation;

18 (3) Develop and maintain a public-facing test results
19 dashboard describing the significance of results from
20 the State and city and county of Honolulu, as part of
21 a broader public education program; and



1 (4) Coordinate the implementation of a thirty-six-month
2 public information and education program to describe,
3 inform, and educate the general public and
4 institutions on the post-defueling remediation phases
5 for Red Hill to restore public trust, secure public
6 support, and address health and environmental
7 concerns.

8 (c) No later than December 1, 2025, the WAI policy
9 coordinator shall submit a report to the legislature regarding
10 the potential organizational structure, responsibilities,
11 duties, and powers of a proposed Red Hill remediation authority
12 based on the provisions of House Bill No. 2691, introduced
13 during the regular session of 2024, as a starting point.

14 **§ -3 Red Hill remediation special fund.** (a) There is
15 established in the state treasury the Red Hill remediation
16 special fund into which shall be deposited the following moneys:

- 17 (1) Appropriations by the legislature to the special fund;
18 (2) Gifts, donations, and grants from public agencies,
19 including the United States government, and private
20 persons; and



1 (3) All interest earned on or accrued to moneys deposited
2 in the special fund.

3 (b) The special fund shall be administered by the WAI
4 policy coordinator.

5 (c) The moneys in the special fund shall be used to
6 address contamination resulting from the Red Hill Bulk Fuel
7 Storage Facility, including monitoring, applied research, public
8 outreach and education, and evaluation; provided that the cost
9 of remediation of the aquifer shall be borne by the federal
10 government.

11 § -4 **Cooperation by state and county agencies.** All
12 state and county agencies shall provide all information and data
13 requested by the WAI policy coordinator within thirty calendar
14 days; provided that the WAI policy coordinator may, in the
15 coordinator's discretion, set a longer deadline.

16 § -5 **Report.** The WAI policy coordinator shall submit a
17 report of the coordinator's activities and expenditures to the
18 legislature, governor, and mayor and city council of the city
19 and county of Honolulu no later than December 1 of each year,
20 beginning in 2025."



1 SECTION 3. The following positions, which shall be exempt
 2 from chapter 76, Hawaii Revised Statutes, are established in the
 3 office of the chairperson of the board of land and natural
 4 resources for the purposes of Red Hill WAI policy coordination:

- 5 (1) full-time equivalent (FTE) policy
 6 coordinator;
- 7 (2) full-time equivalent (FTE) outreach
 8 coordinator; and
- 9 (3) full-time equivalent (FTE) administrative
 10 assistant.

11 SECTION 4. There is appropriated out of the general
 12 revenues of the State of Hawaii the sum of \$ or so
 13 much thereof as may be necessary for fiscal year 2025-2026 and
 14 the same sum or so much thereof as may be necessary for fiscal
 15 year 2026-2027 for the positions identified in section 3 of this
 16 Act for Red Hill WAI policy coordination.

17 The sums appropriated shall be expended by the department
 18 of land and natural resources for the purposes of this Act.

19 SECTION 5. There is appropriated out of the general
 20 revenues of the State of Hawaii the sum of \$ or so
 21 much thereof as may be necessary for fiscal year 2025-2026 and



1 the same sum or so much thereof as may be necessary for fiscal
2 year 2026-2027 for ecosystem monitoring of the area surrounding
3 the Red Hill Bulk Fuel Storage Facility by the department of
4 land and natural resources.

5 The sums appropriated shall be expended by the department
6 of land and natural resources for the purposes of this Act.

7 PART II

8 SECTION 6. The legislature finds that effective and
9 efficient water resource management requires continuous and
10 experienced leadership, especially given the climate crisis and
11 urgent need to properly steward water resources to meet the
12 affordable housing needs of local residents. On December 28,
13 1994, the review commission on the state water code submitted
14 its final report to the legislature pursuant to Act 45, Session
15 Laws of Hawaii 1987. The review commission determined that
16 amendments to the state water code were necessary to enable the
17 commission on water resource management to more effectively
18 carry out its mandate pursuant to article XI, section 7, of the
19 Hawaii State Constitution to "set overall water conservation,
20 quality and use policies; define beneficial and reasonable uses;
21 protect ground and surface water resources, watersheds and



1 natural stream environments; establish criteria for water use
2 priorities while assuring appurtenant rights and existing
3 correlative and riparian uses and establish procedures for
4 regulating all uses of Hawaii's water resources". Therefore,
5 further clarification of the commission on water resource
6 management's purpose, including its leadership structure and
7 composition of the board, will provide greater accountability
8 and protection of the State's waters.

9 The purpose of this Act is to:

- 10 (1) Allow the commission to retain independent legal
11 counsel;
- 12 (2) Amend the scope of the commission on water resource
13 management to include declaration of emergencies;
- 14 (3) Repeal the deputy to the chairperson of the commission
15 on water resource management and establish the
16 executive director of the commission on water resource
17 management;
- 18 (4) Amend the composition of the commission on water
19 resource management;



1 (5) Authorize entities to challenge an emergency order of
2 the commission on water resource management under
3 certain conditions; and

4 (6) Establish fines for certain water use offenses.

5 SECTION 7. Section 28-8.3, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) No department of the State other than the attorney
9 general may employ or retain any attorney, by contract or
10 otherwise, for the purpose of representing the State or the
11 department in any litigation, rendering legal counsel to the
12 department, or drafting legal documents for the department;
13 provided that the foregoing provision shall not apply to the
14 employment or retention of attorneys:

15 (1) By the public utilities commission, the labor and
16 industrial relations appeals board, and the Hawaii
17 labor relations board;

18 (2) By any court or judicial or legislative office of the
19 State; provided that if the attorney general is
20 requested to provide representation to a court or
21 judicial office by the chief justice or the chief



- 1 justice's designee, or to a legislative office by the
2 speaker of the house of representatives and the
3 president of the senate jointly, and the attorney
4 general declines to provide [~~such~~] representation on
5 the grounds of conflict of interest, the attorney
6 general shall retain an attorney for the court,
7 judicial, or legislative office, subject to approval
8 by the court, judicial, or legislative office;
- 9 (3) By the legislative reference bureau;
- 10 (4) By any compilation commission that may be constituted
11 from time to time;
- 12 (5) By the real estate commission for any action involving
13 the real estate recovery fund;
- 14 (6) By the contractors license board for any action
15 involving the contractors recovery fund;
- 16 (7) By the office of Hawaiian affairs;
- 17 (8) By the department of commerce and consumer affairs for
18 the enforcement of violations of chapters 480 and
19 485A;
- 20 (9) As grand jury counsel;



- 1 (10) By the Hawaii health systems corporation, or its
2 regional system boards, or any of their facilities;
- 3 (11) By the auditor;
- 4 (12) By the office of ombudsman;
- 5 (13) By the insurance division;
- 6 (14) By the [~~University~~] university of Hawaii;
- 7 (15) By the Kahoolawe island reserve commission;
- 8 (16) By the division of consumer advocacy;
- 9 (17) By the office of elections;
- 10 (18) By the campaign spending commission;
- 11 (19) By the Hawaii tourism authority, as provided in
12 section 201B-2.5;
- 13 (20) By the division of financial institutions;
- 14 (21) By the office of information practices;
- 15 (22) By the school facilities authority;
- 16 (23) By the Mauna Kea stewardship and oversight authority;
- 17 [~~or~~]
- 18 (24) By the commission on water resource management; or
19 [~~(24)~~] (25) By a department, if the attorney general, for
20 reasons deemed by the attorney general to be good and
21 sufficient, declines to employ or retain an attorney



1 for a department; provided that the governor waives
2 the provision of this section."

3 2. By amending subsection (c) to read:

4 "(c) Every attorney employed by any department on a full-
5 time basis, except an attorney employed by the public utilities
6 commission, the labor and industrial relations appeals board,
7 the Hawaii labor relations board, the office of Hawaiian
8 affairs, the Hawaii health systems corporation or its regional
9 system boards, the department of commerce and consumer affairs
10 in prosecution of consumer complaints, insurance division, the
11 division of consumer advocacy, the [~~University~~] university of
12 Hawaii, the Hawaii tourism authority as provided in section
13 201B-2.5, the Mauna Kea stewardship and oversight authority, the
14 commission on water resource management, the office of
15 information practices, or as grand jury counsel, shall be a
16 deputy attorney general."

17 SECTION 8. Section 84-18, Hawaii Revised Statutes, is
18 amended by amending subsection (e) to read as follows:

19 "(e) Subject to the restrictions imposed in subsections
20 (a) through (d), the following individuals shall not represent
21 any person or business for a fee or other consideration



1 regarding any legislative action or administrative action, as
2 defined in section 97-1, for twelve months after termination
3 from their respective positions:

- 4 (1) The governor;
- 5 (2) The lieutenant governor;
- 6 (3) The administrative director of the State;
- 7 (4) The attorney general;
- 8 (5) The comptroller;
- 9 (6) The chairperson of the board of agriculture;
- 10 (7) The director of corrections and rehabilitation;
- 11 (8) The director of finance;
- 12 (9) The director of business, economic development, and
13 tourism;
- 14 (10) The director of commerce and consumer affairs;
- 15 (11) The adjutant general;
- 16 (12) The superintendent of education;
- 17 (13) The chairperson of the Hawaiian homes commission;
- 18 (14) The director of health;
- 19 (15) The director of human resources development;
- 20 (16) The director of human services;
- 21 (17) The director of labor and industrial relations;



- 1 (18) The chairperson of the board of land and natural
- 2 resources;
- 3 (19) The director of law enforcement;
- 4 (20) The director of taxation;
- 5 (21) The director of transportation;
- 6 (22) The president of the University of Hawaii;
- 7 (23) The executive administrator of the board of regents of
- 8 the [~~University~~] university of Hawaii;
- 9 (24) The administrator of the office of Hawaiian affairs;
- 10 (25) The chief information officer;
- 11 (26) The executive director of the agribusiness development
- 12 corporation;
- 13 (27) The executive director of the campaign spending
- 14 commission;
- 15 (28) The executive director of the Hawaii community
- 16 development authority;
- 17 (29) The executive director of the Hawaii housing finance
- 18 and development corporation;
- 19 (30) The president and chief executive officer of the
- 20 Hawaii tourism authority;



- 1 (31) The executive officer of the public utilities
2 commission;
- 3 (32) The state auditor;
- 4 (33) The director of the legislative reference bureau;
- 5 (34) The ombudsman;
- 6 (35) The permanent employees of the legislature, other than
7 persons employed in clerical, secretarial, or similar
8 positions;
- 9 (36) The administrative director of the courts;
- 10 (37) The executive director of the state ethics commission;
- 11 (38) The executive officer of the state land use
12 commission;
- 13 (39) The executive director of the natural energy
14 laboratory of Hawaii authority;
- 15 (40) The executive director of the Hawaii public housing
16 authority; and
- 17 (41) The [~~first deputy to the chairperson~~] executive
18 director of the commission on water resource
19 management;
- 20 provided that this subsection shall not apply to any person who
21 has held one of the positions listed above only on an interim or



1 acting basis and for a period of less than one hundred eighty-
2 one days."

3 SECTION 9. Section 174C-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§174C-5 General powers and duties.** The general
6 administration of the state water code shall rest with the
7 commission on water resource management. In addition to its
8 other powers and duties, the commission:

- 9 (1) Shall carry out topographic surveys, research, and
10 investigations into all aspects of water use and water
11 quality;
- 12 (2) Shall designate water management areas for regulation
13 under this chapter where the commission, after the
14 research and investigations mentioned in paragraph
15 (1), shall consult with the appropriate county council
16 and county water agency, and after public hearing and
17 published notice, finds that the water resources of
18 the areas are being threatened by existing or proposed
19 withdrawals of water;
- 20 (3) Shall establish an instream use protection program
21 designed to protect, enhance, and reestablish, where



1 practicable, beneficial instream uses of water in the
2 State;

3 (4) May contract and cooperate with the various agencies
4 of the federal government and with state and local
5 administrative and governmental agencies or private
6 persons;

7 (5) May enter, after obtaining the consent of the property
8 owner, at all reasonable times upon any property other
9 than dwelling places for the purposes of conducting
10 investigations and studies or enforcing any of the
11 provisions of this code, being liable, however, for
12 actual damage done. If consent cannot be obtained,
13 reasonable notice shall be given prior to entry;

14 (6) Shall cooperate with federal agencies, other state
15 agencies, county or other local governmental
16 organizations, and all other public and private
17 agencies created for the purpose of utilizing and
18 conserving the waters of the State, and assist these
19 organizations and agencies in coordinating the use of
20 their facilities and participate in the exchange of
21 ideas, knowledge, and data with these organizations



- 1 and agencies. For this purpose the commission shall
2 maintain an advisory staff of experts;
- 3 (7) Shall prepare, publish, and issue printed pamphlets
4 and bulletins as the commission deems necessary for
5 the dissemination of information to the public
6 concerning its activities;
- 7 (8) May appoint and remove agents, including hearings
8 officers and consultants, necessary to carry out the
9 purposes of this chapter, who may be engaged by the
10 commission without regard to the requirements of
11 chapter 76 and section 78-1;
- 12 (9) May hire employees in accordance with chapter 76;
- 13 (10) May appoint and dismiss attorneys as may be necessary,
14 who shall be exempt from chapter 76;
- 15 [~~(10)~~] (11) May acquire, lease, and dispose of real and
16 personal property as may be necessary in the
17 performance of its functions, including the
18 acquisition of real property for the purpose of
19 conserving and protecting water and water related
20 resources as provided in section 174C-14;



1 [~~(11)~~] (12) Shall identify, by continuing study, those areas
2 of the State where salt water intrusion is a threat to
3 fresh water resources and report its findings to the
4 appropriate county mayor and council and the public;

5 [~~(12)~~] (13) Shall provide coordination, cooperation, or
6 approval necessary to the effectuation of any plan or
7 project of the federal government in connection with
8 or concerning the waters of the State. The commission
9 shall approve or disapprove any federal plans or
10 projects on behalf of the State. No other agency or
11 department of the State shall assume the duties
12 delegated to the commission under this paragraph;
13 except that the department of health shall continue to
14 exercise the powers vested in it with respect to water
15 quality, and except that the department of business,
16 economic development, and tourism shall continue to
17 carry out its duties and responsibilities under
18 chapter 205A;

19 [~~(13)~~] (14) Shall plan and coordinate programs for the
20 development, conservation, protection, control, and
21 regulation of water resources, based upon the best



1 available information, and in cooperation with federal
 2 agencies, other state agencies, county or other local
 3 governmental organizations, and other public and
 4 private agencies created for the utilization and
 5 conservation of water;

6 [~~(14)~~] (15) Shall catalog and maintain an inventory of all
 7 water uses and water resources; [~~and~~]

8 [~~(15)~~] (16) Shall determine appurtenant water rights,
 9 including but not limited to the quantification of the
 10 amount of water and the specification of the water
 11 course or the means of access and delivery entitled to
 12 by that right, which determination shall be valid for
 13 purposes of this chapter[~~-~~] and

14 (17) May declare an emergency if the commission determines,
 15 in consultation with the governor, the appropriate
 16 county, and the department of health, that there is an
 17 absence of sufficient quantity and quality of water in
 18 any area, whether within or outside of a water
 19 management area, that immediately threatens the public
 20 health, safety, and welfare. The commission may issue
 21 orders reciting the existence of the emergency and



1 requiring those actions as the commission deems
2 necessary to address the emergency be taken, including
3 but not limited to apportioning, rotating, limiting,
4 or prohibiting the use of water resources of the area;
5 provided that an emergency order shall expire no later
6 than one year after issuance by the commission;
7 provided further that the order may be extended by a
8 separate or supplementary order."

9 SECTION 10. Section 174C-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§174C-6** ~~[Deputy to the chairperson]~~ **Executive director** of
12 **the commission on water resource management.** (a) There shall
13 be ~~[a first deputy to the chairperson]~~ an executive director of
14 the commission on water resource management [~~("deputy for water~~
15 ~~resource management")~~ ~~who shall be in addition to any other~~
16 ~~first deputy to the chairperson as the chairperson of the board~~
17 ~~of land and natural resources. The deputy], who shall have
18 experience in the area of water resources and shall be appointed
19 by ~~[the chairperson with the approval of a majority of]~~ the
20 commission~~[.]~~ and serve at the pleasure of the commission.~~



1 (b) The duties of the [~~deputy~~] executive director for
2 water resource management shall be to administer and implement,
3 under the direction of the commission, the state water code [~~and~~
4 ~~all~~], the rules, and other directives [~~promulgated in accordance~~
5 ~~therewith~~] adopted by the commission. Nothing in this
6 [~~provision~~] section shall be construed as limiting the authority
7 of the commission as to matters regarding water resources.

8 (c) The position of [~~deputy~~] executive director for water
9 resource management [~~is not~~] shall not be subject to chapter 76.

10 (d) The salary of the [~~deputy~~] executive director for
11 water resource management shall be [~~as provided in section 26-53~~
12 ~~for first deputies or first assistants to the head of any~~
13 ~~department.~~] set by the board and the executive director shall
14 be included in any benefit program generally applicable to the
15 officers and employees of the State.

16 (e) The commission shall develop and document annual goals
17 and performance measures for the executive director that
18 authorize the commission to annually evaluate the executive
19 director's work to ensure compliance by the commission with
20 statutory and constitutional requirements and achievement of its
21 statutory and constitutional purposes.



1 (f) The commission shall evaluate and document the
2 evaluation of the executive director's performance annually, or
3 more frequently upon the request of at least four members of the
4 commission, based on annual goals, performance measures, and
5 other relevant criteria.

6 (g) The position of Red Hill Water Alliance Initiative
7 policy coordinator, established pursuant to section -2, Hawaii
8 Revised Statutes, shall be placed within the office of the
9 executive director."

10 SECTION 11. Section 174C-7, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§174C-7 Commission on water resource management.** (a)
13 There is established within the department a commission on water
14 resource management consisting of seven members which shall have
15 exclusive jurisdiction and final authority in all matters
16 relating to implementation and administration of the state water
17 code, except as otherwise specifically provided in this chapter.
18 The commission shall be attached to the department of land and
19 natural resources for administrative purposes only.

20 (b) Five members shall be appointed by the governor
21 subject to confirmation by the senate in the manner prescribed



1 in subsection [~~(d)~~] (e). Each member shall have substantial
2 experience in the area of water resource management; provided
3 that at least one member shall have substantial experience or
4 expertise in traditional Hawaiian water resource management
5 techniques and in traditional Hawaiian riparian usage [~~such as~~]
6 including those preserved by section 174C-101. Each of the
7 members shall be eligible to serve as the chairperson of the
8 commission upon election by a majority of the commission
9 members.

10 (c) The chairperson of the board of land and natural
11 resources [~~shall be the chairperson of the commission. The] and~~
12 the director of health or the director's designee shall serve as
13 [~~an~~] ex officio[+], [+]voting [member.] members, but shall be
14 ineligible to serve as chairperson of the commission.

15 [~~(e)~~] (d) The members of the commission shall serve
16 without compensation but shall be reimbursed for expenses,
17 including travel expenses, necessary for the performance of
18 their duties.

19 [~~(d)~~] (e) In appointing a member to the commission, the
20 governor shall select from a list submitted by a nominating
21 committee. The nominating committee shall be composed of [~~four~~]



1 five individuals chosen as follows: two persons appointed by
2 the governor; one person appointed by the president of the
3 senate; and one person appointed by the speaker of the house[~~-~~];
4 and one person appointed by the chief executive officer of the
5 office of Hawaiian affairs. The committee shall solicit
6 applications and send to the governor the names of at least
7 three individuals for each open position.

8 [~~e~~] (f) Except as otherwise provided in this chapter,
9 the commission shall be subject to sections 26-34, 26-35, and
10 26-36."

11 SECTION 12. Section 174C-9, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~+~~]**§174C-9**[~~+~~] **Proceedings before the commission**
14 **concerning water resources.** (a) All proceedings before the
15 commission concerning the enforcement or application of any
16 provision of this chapter or any rule adopted pursuant thereto,
17 or the issuance, modification, or revocation of any permit or
18 license under this code by the commission, shall be conducted in
19 accordance with chapter 91. Hearings regarding particular water
20 resources shall be conducted on the island where those water
21 resources are located.



1 (b) Any party to whom an emergency order is directed may
 2 challenge that order but shall immediately comply with the order
 3 pending disposition of the party's challenge. The commission
 4 shall give precedence to a hearing on the challenge over all
 5 other pending matters."

6 SECTION 13. Section 174C-15, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§174C-15 Penalties and common law remedies.** (a) The
 9 commission may enforce its rules and orders adopted pursuant to
 10 this chapter by suit for injunction or for damages or both.

11 (b) Any person who [~~violates any~~]:

12 (1) Violates any provision of this chapter[~~, or any~~];

13 (2) Violates any rule adopted pursuant to this chapter[~~,~~
 14 may];

15 (3) Violates any order of the commission;

16 (4) Fails to obtain a permit when a permit is required
 17 pursuant to this chapter;

18 (5) Fails to comply with permit conditions; or

19 (6) Fails to comply with standardized water audit
 20 requirements pursuant to Act 169, Session Laws of
 21 Hawaii 2016,



1 shall be subject to a fine imposed by the commission. [~~Such~~
2 The fine shall be not less than \$50 and shall not exceed
3 [\$5,000. ~~For a continuing offense, each day during which the~~
4 ~~offense is committed is a separate violation.] \$25,000 per~~
5 violation. Each day that a violation exists or continues to
6 exist shall constitute a separate offense. Penalties for
7 continuing violations shall be assessed from the earliest known
8 date of the violation. The earliest known date of a violation
9 shall be determined by the commission by a preponderance of the
10 evidence; provided that if the earliest known date cannot be
11 determined by a preponderance of evidence, penalties for
12 continuing violations shall be assessed from the earliest date
13 the commission is made aware of the violation.

14 (c) When imposing a penalty, the commission shall consider
15 the following factors, which shall include but not be limited
16 to:

- 17 (1) The nature, circumstances, extent, gravity, and
18 history of the violation and of any prior violations;
19 (2) The economic benefit to the violator, or anticipated
20 by the violator, resulting from the violation;



- 1 (3) The opportunity, difficulty, and history of corrective
 2 action;
- 3 (4) Good faith efforts to comply;
- 4 (5) Degree of culpability; and
- 5 (6) Other matters as justice may require.

6 [~~e~~] (d) No provision of this chapter shall bar the right
 7 of any injured person to seek other legal or equitable relief
 8 against a violator of this chapter.

9 [~~d~~] (e) Except as otherwise provided by law, the
 10 commission or its authorized representative by proper delegation
 11 [~~may~~] shall set, charge, and collect administrative fines [~~or~~];
 12 may bring legal action to recover administrative fees and costs
 13 as documented by receipts or affidavit, including attorneys'
 14 fees and costs; [~~or~~] and may bring legal action to recover
 15 administrative fines, fees, and costs, including attorneys' fees
 16 and costs, or payment for damages resulting from a violation of
 17 this chapter or any rule adopted pursuant to this chapter."

18 SECTION 14. Section 174C-62, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "~~[§174C-62]~~ **Declaration of water shortage.** (a) The
 21 commission shall formulate a statewide plan for implementation



1 during periods of water shortage. As a part of the plan, the
2 commission shall adopt a reasonable system of permit
3 classification according to source of water supply, method of
4 extraction or diversion, use of water, or a combination thereof.

5 (b) The commission, by rule, may declare that a water
6 shortage exists within all or part of an area, whether within or
7 outside of a water management area, when insufficient water is
8 available to meet the requirements of the permit system or when
9 conditions [~~are such as to~~] require a temporary reduction in
10 total water use within the area to protect water resources from
11 serious harm. The commission shall publish a set of criteria
12 for determining when a water shortage exists[-], including but
13 not limited to impacts and effects of the climate crisis.

14 (c) In accordance with the plan adopted under subsection
15 (a), the commission may impose [~~such~~] restrictions on one or
16 more classes of permits and outside of management areas on well
17 and stream diversion owners and operators as may be necessary to
18 protect the water resources of the area from serious harm and to
19 restore them to their previous water quantity or chloride level
20 condition.



1 (d) A declaration of water shortage and any measures
2 adopted pursuant thereto may be rescinded by rule by the
3 commission.

4 (e) When a water shortage is declared, the commission
5 shall cause a notice [~~thereof~~] of the water shortage to be
6 published in a prominent place in a newspaper of general
7 circulation throughout the area[~~,-~~] and on the commission's
8 website. The notice shall be published each day for the first
9 week of the shortage and once a week [~~thereafter~~] for four
10 months, followed by monthly publications until the declaration
11 is rescinded. Publication of [~~such~~] the notice shall serve as
12 notice to all water users in the area of the condition of water
13 shortage.

14 (f) The commission shall cause each permittee in the area
15 to be notified by regular and electronic mail of any change in
16 the conditions of the permittee's permit, any suspension
17 [~~thereof,~~] of the permittee's permit, or of any other
18 restriction on the use of water for the duration of the water
19 shortage.

20 (g) If an emergency condition arises due to a water
21 shortage within any area, whether within or outside of a water



1 management area, and if the commission finds that the
2 restrictions imposed under subsection (c) are not sufficient to
3 protect the public health, safety, or welfare, or the health of
4 animals, fish, or aquatic life, or a public water supply, or
5 recreational, municipal, agricultural, or other reasonable uses,
6 the commission may issue orders reciting the existence of such
7 an emergency and requiring that such actions as the commission
8 deems necessary to meet the emergency be taken, including but
9 not limited to apportioning, rotating, limiting, or prohibiting
10 the use of the water resources of the area. Any party to whom
11 an emergency order is directed may challenge such an order but
12 shall immediately comply with the order, pending disposition of
13 the party's challenge. The commission shall give precedence to
14 a hearing on such challenge over all other pending matters."

15 PART III

16 SECTION 15. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



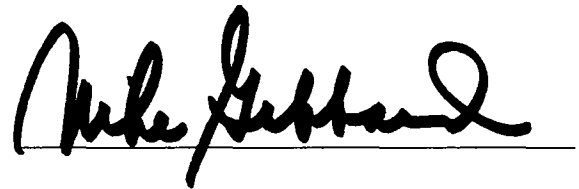
1 SECTION 16. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 17. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 18. This Act shall take effect upon its approval;
7 provided that sections 3, 4, and 5 of this Act shall take effect
8 on July 1, 2025.

9

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Mike Hubbard", is written over a horizontal line.

Report Title:

DLNR; CWRM; Red Hill WAI; Policy Lead and Coordination; Red Hill Remediation Special Fund; Public Trust Purpose; Responsibilities; Commission Membership; Executive Director; Independent Legal Counsel; Emergency Order; Water Emergencies; Water Shortage Declarations; Fines; Reports; Appropriations

Description:

Part I: Establishes a WAI Policy Coordinator and other positions within the Commission on Water Resource Management for coordination of Red Hill WAI initiatives. Creates the Red Hill Remediation Special Fund. Requires reports to the Legislature, Governor, and Mayor and City Council of the City and County of Honolulu. Appropriates funds. Part II: Allows the Commission of Water Resource Management to retain independent legal counsel. Repeals the position of Deputy to the Chairperson of the Commission and establishes the position of Executive Director of the Commission. Amends the composition of the Commission and administratively attaches it to DLNR. Authorizes entities to challenge an emergency order of the Commission under certain conditions. Establishes fines for certain water use offenses. Amends the Commission's authority to declare water emergencies and issue orders to address them and declare water shortages and related notice requirements. Specifies that the nominating committee of the Commission shall include one person appointed by the Chief Executive Officer of the Office of Hawaiian Affairs.

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



JAN 17 2025

A BILL FOR AN ACT

RELATING TO AFFORDABLE HOUSING.

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

1 SECTION 1. The legislature finds that the State is
2 suffering from an acute shortage of affordable housing, with the
3 rapidly rising cost of housing in the State consistently pricing
4 out local renters and homeowners. The development of new
5 housing is hindered by barriers such as geographic limitations,
6 lack of major infrastructure, and government regulation. The
7 legislature recognizes that the State's ongoing housing crisis
8 warrants a thorough examination of every impediment to the
9 development of affordable housing, including access to potable
10 water.

11 The legislature also finds that under article XI, section
12 7, of the Hawaii State Constitution, "[t]he State has an
13 obligation to protect, control, and regulate the use of Hawai'i's
14 water resources for the benefit of its people." Thus, the
15 Hawai'i water plan, established under the state water code
16 pursuant to chapter 174C, Hawaii Revised Statutes, implements a



1 comprehensive water resources plan to address supply and
2 conservation of the State's water resources.

3 The Hawai'i water plan consists of four parts, with a
4 different entity responsible for preparing each part, including:

5 (1) A water resource protection plan, prepared by the
6 commission on water resource management;

7 (2) A water use and development plan, prepared by each
8 county;

9 (3) A state water projects plan, prepared by the
10 engineering division of the department of land and
11 natural resources; and

12 (4) A water quality plan, prepared by the department of
13 health.

14 Each component considers the other aspects of the Hawai'i water
15 plan, therefore requiring cooperation amongst the various
16 entities involved.

17 The legislature additionally finds that in recent years,
18 determinations made by the commission on water resource
19 management have conflicted with the recommended water resource
20 distribution determined in various counties' water use and
21 development plans. The counties' water use and development



1 plans align future demand with the county's land use plans, the
 2 community's priorities, climate change impacts, and other
 3 considerations. The legislature believes that the counties are
 4 well-equipped to determine water allocation to future land use,
 5 as prescribed by the Hawai'i water plan, to maintain consistency
 6 with the respective county zoning and planning policies.

7 Accordingly, the purpose of this Act is to establish a
 8 working group to:

- 9 (1) Ascertain the State's available water resources and
 10 water system source capacity; and
- 11 (2) Streamline well permit approval processes to ensure
 12 available water supply to further plan for the
 13 development of affordable housing.

14 SECTION 2. (a) There is established a working group to
 15 ascertain and address state watershed management to enable the
 16 development and construction of affordable housing projects
 17 across the State.

18 The working group shall be placed in the office of the
 19 governor for administrative purposes.

20 (b) The working group shall conduct an inventory of all
 21 available water resources statewide and identify appropriate



1 aquifer replenishment as it pertains to each county water use
2 and development plan, including the water source capacity for
3 affordable housing development, and streamline the well permit
4 approval process to ensure available water supply.

5 (c) The working group shall address and make
6 recommendations on:

- 7 (1) Mitigating impacts arising from affordable housing
8 development;
- 9 (2) Projected water usage following the completion of
10 affordable housing projects in each county;
- 11 (3) The adoption of rules for water allocation for each
12 county;
- 13 (4) Defining the role of the commission on water resource
14 management in relation to affordable housing
15 development statewide; and
- 16 (5) The impact of federal government obligations on the
17 development of new water sources for affordable
18 housing.

19 (d) The working group shall consist of the following
20 members:



- 1 (1) The chief housing officer, who shall serve as
- 2 chairperson of the working group;
- 3 (2) The chairs of the senate and house of representatives
- 4 standing committees on housing;
- 5 (3) The executive director of the Hawaii housing finance
- 6 and development corporation, or their designee;
- 7 (4) The chairperson of the commission on water resource
- 8 management, or their designee;
- 9 (5) The chief of the department of health clean water
- 10 branch, or their designee;
- 11 (6) The chief engineer of the department of land and
- 12 natural resources engineering division, or their
- 13 designee;
- 14 (7) The directors of each county planning department, or
- 15 their designees;
- 16 (8) The directors of each county housing department, or
- 17 their designees; and
- 18 (9) The chief engineers of each county board of water
- 19 supply, or their designees.
- 20 (e) The working group shall submit an interim report of
- 21 its status and progress, including any preliminary findings, to



1 the legislature no later than September 15, 2025. The interim
2 report shall include the working group's plan on how the working
3 group intends to proceed in carrying out its duties pursuant to
4 this Act.

5 (f) The working group shall submit a final report of its
6 findings and recommendations, including any proposed
7 legislation, to the legislature no later than twenty days prior
8 to the convening of the regular session of 2026.

9 (g) The task force shall dissolve on June 30, 2026.

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

11

INTRODUCED BY: DKor



S.B. NO. 867

Report Title:

Affordable Housing; Watershed Management; Water Resources;
Working Group; Reports

Description:

Establishes a working group within the Office of the Governor for administrative purposes to ascertain the State's available water resources and water system source capacity and to streamline well permit approval processes to further plan for the development of affordable housing. Requires the working group to inventory all available water resources statewide and identify sources of aquifer replenishment in relation to affordable housing development. Requires an interim and final report to the Legislature.

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

