

# S.B. NO. 1376

JAN 25 2023

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## A BILL FOR AN ACT

RELATING TO THE WATER POLLUTION CONTROL SPECIAL FUND.

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

1           SECTION 1. The State of Hawaii is responsible for the  
2 management, protection, and restoration of both marine and  
3 freshwaters within the State. As development, population, and  
4 tourism continue to grow, protection of State surface water  
5 quality is critical to ensuring that such growth is compatible  
6 with environmental protection and public health. The vast  
7 amount of surface waters within the State are not monitored  
8 frequently enough to determine how best to manage, restore, and  
9 protect those waters due to limited funding and resources. The  
10 creation of a special fund would give the department of health  
11 additional resources necessary to fund activities necessary to  
12 monitor and manage State water quality.

13           The purpose of this Act is to establish the water pollution  
14 control special fund for collection of permit, certification,  
15 and variance fees to provide a supplemental source of funding  
16 for activities for the purpose of water quality management as  
17 implemented in permits, certifications, and variances.

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1 SECTION 2. Section 342D-13, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+] §342D-13 [†]~~ ~~[Fees-]~~ Water pollution control special  
4 fund; fees. (a) There is established in the state treasury the  
5 water pollution control special fund, into which shall be  
6 deposited moneys appropriated by the legislature to the fund;  
7 fees collected pursuant to subsection (c) for permits,  
8 certifications, and variances; and any income and interest  
9 earned on the balance of the fund.

10 (b) Moneys in the water pollution control special fund  
11 shall be administered and expended by the department for the  
12 following purposes:

- 13 (1) Implementation and enforcement of the terms and  
14 conditions of permits, certifications, and variances;  
15 (2) Monitoring activities and equipment for development,  
16 implementation, enforcement, and evaluation of permit,  
17 certification, and variance conditions;  
18 (3) Total maximum daily load development and evaluation  
19 efforts pursuant to section 303(d) of the Federal  
20 Water Pollution Control Act for implementation in  
21 permits, certifications, and variances;

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- 1       (4) Research, development, and revision of statewide water  
2           quality standards established by the department as  
3           implemented in permits, certifications, and variances;  
4       (5) Outreach and education efforts to inform the public  
5           relating to permitting and certification, enforcement,  
6           and water quality monitoring; and  
7       (6) Any other activity conducted by the department for the  
8           purpose of protecting, improving, or managing water  
9           quality relating to implementation of permits,  
10          certifications, and variances.

11       (c) The director may establish reasonable fees for the  
12       issuance of permits, certifications, and variances to cover the  
13       cost of issuance thereof; [and] for the implementation and  
14       enforcement of the terms and conditions of permits,  
15       certifications, and variances (not including court costs or  
16       other costs associated with any formal enforcement action) [-];  
17       and to support State water quality monitoring efforts related to  
18       the issuance, implementation, and enforcement of permits,  
19       certifications, and variances. [The fees shall be deposited to  
20       the credit of the general fund.] "

21       SECTION 3. There is appropriated out of the water  
22       pollution control special fund the sum of \$300,000 or so much

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1 thereof as may be necessary for fiscal year 2023-2024 and the  
2 same sum or so much thereof as may be necessary for fiscal year  
3 2024-2025.

4 The sum appropriated shall be expended by the department of  
5 health for the purposes of this Act.

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

8 SECTION 5. This Act, upon its approval, shall take effect  
9 on July 1, 2023.

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INTRODUCED BY: 

BY REQUEST

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**Report Title:**

Fees; Water Pollution Control Special Fund

**Description:**

Establishes the Water Pollution Control Special Fund to collect fees formerly deposited to the State general fund to create a supplemental source of funding to implement and enforce water quality management as implemented in permits, certifications, and variances. Appropriates funds to be used by the Department of Health for the purposes of the Water Pollution Control 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.*

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## JUSTIFICATION SHEET

DEPARTMENT: HEALTH

TITLE: A BILL FOR AN ACT RELATING TO THE WATER POLLUTION CONTROL SPECIAL FUND.

PURPOSE: Establish the Water Pollution Control Special Fund for the collection of fees previously credited to the State general fund to provide a direct and supplemental source of funding for activities to implement and enforce permits, certifications, and variances.

MEANS: Amend section 342D-13, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The State of Hawaii is responsible for managing, protecting, and restoring State waters. The State has approximately 303 miles of recreational shoreline, 3,326 miles of rivers and streams, and 37 square miles of bays and harbors - a total of 565 marine water bodies statewide, only 170 of which were assessed from 2019 to 2021 (30%). Of the 170 assessed water bodies, 157 (92%) do not fully attain water quality standards for one or more parameters.

The establishment of, and funding from, the Water Pollution Control Special Fund is necessary for the Department of Health (Department) to more adequately carry out the State's responsibilities in managing, protecting, and restoring State waters. The establishment of this special fund would give the Department access to the approximately \$250,000 of permit, certification, and variance filing fees collected annually to meet these responsibilities.

Fees collected pursuant to section 342D-13, HRS, are imposed to cover the cost of issuing, implementing, and enforcing

permits, certifications, and variances, but such fees are deposited to the general fund. Changing the account into which these fees are deposited and allowing it to be used by the Department for the stated purposes would allow the Department to fund more implementation and enforcement activities and generally be more responsive.

For example, the development and assessment of Total Maximum Daily Loads (TMDLs), which are water body-based planning and implementation tools, would benefit from additional resources. Water bodies that do not meet State water quality standards are required by federal law to have a TMDL established for it to improve water quality and bring it back to compliance. Timely development, implementation, and enforcement of a TMDL is in the State's best interest in terms of the economy, health and safety, the environment, and aquatic life.

At the current level of resources and funding, it takes approximately two to three years to develop a TMDL, depending on the complexity of the water body. Assuming funding and resources remain unchanged, it would potentially take decades to develop TMDLs for all impaired State surface water bodies, and even longer to properly evaluate the effects of the TMDL. With the use of this proposed special fund, TMDLS could be developed much faster.

Current federal and state funding is just enough to cover operating expenses for the 38 Clean Water Branch staff, including equipment and supplies. The amount of federal funding has been stagnant for the past few decades and is not expected to increase.

Impact on the public: Positive. Additional monitoring, increased development of TMDLs, enforcement, and implementation of permits, certifications, and variances all contribute

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to improving water quality and protecting public health and the environment.

Impact on the department and other agencies:

Positive. In addition to the benefits for the public, this fund provides a controllable source of funding to the Department for the additional protective activities to protect and improve water quality.

GENERAL FUND: All moneys collected from fees on or after July 1, 2023, approximately \$250,000 per year, shall be deposited to the credit of the Water Pollution Control Special Fund instead of credited to the general fund.

OTHER FUNDS: N/A.

PPBS PROGRAM  
DESIGNATION: HTH 840.

OTHER AFFECTED  
AGENCIES: Department of Budget and Finance.

EFFECTIVE DATE: July 1, 2023.