

JAN 19 2024

A BILL FOR AN ACT

RELATING TO DAM AND APPURTENANCE SAFETY.

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

1 SECTION 1. The legislature finds that certain developers,
2 including some on Maui, are acquiring plantation-era reservoirs
3 when purchasing land sold by plantation landowners. Following
4 such sales, some developers have constructed subdivisions that
5 often contain dams and appurtenances, including reservoirs and
6 spillways, described within deeds of the homeowner or a
7 homeowners' association.

8 However, many dams and appurtenances located on
9 subdivisions are not properly maintained. During periods of
10 extreme weather, the surrounding neighborhoods face significant
11 risks from flooding. Despite potential hazards posed by the
12 dams and appurtenances, the department of land and natural
13 resources considers these dams and appurtenances to be privately
14 owned and the responsibility of homeowners or homeowners'
15 associations to maintain proper safety standards. Costly
16 permits are required to conduct repairs or removal, which
17 results in dams and appurtenances remaining in an unsafe state.



1 Therefore, the purpose of this Act is to:

- 2 (1) Establish and appropriate moneys for a dam and
3 appurtenance improvement or removal grant program to
4 provide the owners of private dams and appurtenances
5 with funds for plans, design, construction, and
6 equipment that are used to improve or remove deficient
7 dams and appurtenances, as determined by the
8 department of land and natural resources; and
9 (2) Appropriate moneys for certain operating expenses and
10 the establishment of positions in the department of
11 land and natural resources.

12 SECTION 2. Chapter 179D, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§179D- Dam and appurtenance improvement or removal
16 grant program. (a) There is established a dam and appurtenance
17 improvement or removal grant program, to be developed and
18 administered by the department for the improvement or removal of
19 deficient dams in the State.

20 (b) The dam and appurtenance improvement or removal grant
21 program shall provide funding to owners of private dams for



1 plans, design, construction, and equipment to improve or remove
2 deficient dams and appurtenances, as determined by the
3 department.

4 (c) Each award shall be approved by the board before
5 disbursement and shall be subject to conditions imposed by the
6 board.

7 (d) The department may award grants based on criteria that
8 shall be developed by the department. Each applicant shall meet
9 the following requirements:

10 (1) The applicant shall be an owner of a high hazard or
11 significant hazard dam or appurtenance that is
12 regulated under this chapter;

13 (2) The applicant shall be the owner of a regulated dam or
14 appurtenance that has been determined to have one or
15 more deficiencies; provided that priority shall be
16 given to dams or appurtenances rated to be in poor or
17 unsatisfactory condition;

18 (3) The applicant shall indicate on the application that
19 the proposed plans, design, construction, and
20 equipment shall be intended for remediation or removal
21 of the dam or appurtenance;



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- 1 (4) If the applicant is an entity other than an
2 individual, the applicant shall:
- 3 (A) Be licensed to conduct business in the State; and
4 (B) Have bylaws or policies that describe the manner
5 in which business is conducted, prohibit
6 nepotism, and provide for the management of
7 potential conflicts of interest;
- 8 (5) The applicant shall agree to comply with all
9 applicable federal and state laws prohibiting
10 discrimination against any person on the basis of
11 race, color, national origin, religion, creed, sex,
12 age, sexual orientation, disability, or any other
13 characteristic protected under applicable federal or
14 state law;
- 15 (6) The applicant shall agree that grant moneys are not to
16 be used for purposes of entertainment or perquisites;
- 17 (7) The applicant shall agree that all activities and
18 improvements undertaken with funds received shall
19 comply with applicable federal, state, and county
20 laws, including statutes, ordinances, applicable
21 building codes, and rules;



1 (8) The applicant shall agree to make available to the
2 department all records that the applicant may have
3 relating to the grant and allow state agencies to
4 monitor the applicant's compliance with the purpose of
5 this chapter;

6 (9) The applicant shall establish, to the satisfaction of
7 the department, that sufficient funds are available
8 for the completion of plans, design, and construction,
9 or equipment needed for the purpose for which the
10 grant is awarded; provided that the grant amount shall
11 be included among the calculation of sufficient funds;
12 and

13 (10) The applicant shall comply with other requirements or
14 conditions as the department or board may prescribe."

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$20,000,000 or so
17 much thereof as may be necessary for fiscal year 2024-2025 as
18 one-time seed funding for the purposes of the dam and
19 appurtenance improvement or removal grant program.

20 The sum appropriated shall be expended by the department of
21 land and natural resources for the purposes of this Act.



1 SECTION 4. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$220,000 or so much
3 thereof as may be necessary for fiscal year 2024-2025 to be
4 expended under Department of Land and Natural Resources -
5 Prevention of Natural Disasters (LNR810) for operating expenses
6 and the establishment of the following positions in the
7 department of land and natural resources:

- 8 (1) One full-time equivalent (1.0 FTE) permanent planner
9 position; and
- 10 (2) One full-time equivalent (1.0 FTE) permanent
11 accountant position.

12 The sum appropriated shall be expended by the department of
13 land and natural resources for the purposes of this Act.

14 SECTION 5. In accordance with section 9 of article VII of
15 the Hawaii State Constitution and sections 37-91 and 37-93,
16 Hawaii Revised Statutes, the legislature has determined that the
17 appropriations contained in H.B. No. , will cause the state
18 general fund expenditure ceiling for fiscal year 2024-2025 to be
19 exceeded by \$ or per cent. In addition, the
20 appropriations contained in this Act will cause the general fund
21 expenditure ceiling for fiscal year 2024-2025 to be further



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1 exceeded by \$ or per cent. The combined total
2 amount of general fund appropriations contained in only these
3 two Acts will cause the state general fund expenditure ceiling
4 for fiscal year 2024-2025 to be exceeded by
5 \$ or per cent. The reasons for exceeding the
6 general fund expenditure ceiling are that:

- 7 (1) The appropriations made in this Act are necessary to
8 serve the public interest; and
9 (2) The appropriations made in this Act meet the needs
10 addressed by this Act.

11 SECTION 6. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2024.

13

INTRODUCED BY: 



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Report Title:

DLNR; BLNR; Dams and Reservoirs; Grant Program; Appropriation;
Expenditure Ceiling

Description:

Establishes the Dam and Appurtenance Improvement or Removal Grant Program for plans, design, construction, and equipment that is used to improve or remove deficient dams and appurtenances as determined by the Department of Land and Natural Resources. Specifies eligibility requirements for dam and appurtenance improvement or removal grants. Appropriates funds.

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

