

JAN 19 2007

A BILL FOR AN ACT

RELATING TO AN ENVIRONMENTAL COURT.

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

1 SECTION 1. The legislature finds that environmental
2 disputes are currently dealt with in a variety of courts. This
3 organizational structure inadvertently promotes inconsistent
4 application of the wide variety of environmental laws.

5 The legislature also finds that the continued maintenance
6 and improvement of Hawaii's environment requires constant
7 vigilance and continued stewardship to ensure its lasting
8 beauty, cleanliness, and uniqueness and the stability of its
9 natural systems, all of which enhance the mental and physical
10 well-being of Hawaii's people.

11 The purpose of this Act is to promote and protect Hawaii's
12 natural environment through consistent and uniform application
13 of our environmental laws by establishing environmental courts
14 to hear cases and preside over administrative proceedings
15 relating to environmental law.



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

4 "CHAPTER

5 ENVIRONMENTAL COURT

6 § -1 Environmental court; establishment. To the full
7 extent permitted by the state constitution and except as
8 otherwise provided by law, environmental courts shall be created
9 as divisions of the circuit courts of the State and shall not be
10 deemed to be other courts as that term is used in the state
11 constitution. An environmental court shall be held at the
12 courthouse in each circuit, or other duly designated place, by
13 the judge or judges of the respective environmental courts. The
14 chief justice of the supreme court shall designate an
15 environmental judge or judges for each circuit, as may be
16 necessary. In any circuit in which more than one judge is
17 authorized to exercise jurisdiction as judge of the
18 environmental court, the chief justice shall designate one of
19 the judges as senior judge. The chief justice may temporarily
20 assign an environmental court judge to preside in another
21 circuit when the urgency of one or more cases requires the chief
22 justice to do so.



1 **§ -2 Jurisdiction.** (a) The environmental courts shall
2 have jurisdiction over all actions and violations and shall hear
3 appeals of contested cases and any other administrative
4 proceedings authorized by chapter 91, arising under chapters 6D,
5 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183, 183C, 183D, 184,
6 185, 187A, 188, 189, 190, 190D, 195, 195D, 197, 198, 198D, 200,
7 205, 205A, 269, 339, 340B, 340E, 340F, 342B, 342C, 342D, 342E,
8 342F, 342G, 342H, 342I, 342J, 342L, 342P, and 343.

9 (b) In any case in which it has jurisdiction, the
10 environmental court shall exercise general equity powers as
11 authorized by law. Nothing in this chapter shall be construed
12 to limit the jurisdiction and authority of any circuit judge,
13 designated as judge of the environmental court, to matters
14 within the scope of this chapter.

15 **§ -3 Rules.** The supreme court shall adopt rules
16 regarding the administration, operation, and procedures of the
17 environmental courts."

18 SECTION 3. Chapter 91, Hawaii Revised Statutes, is amended
19 by adding a new section to be appropriately designated and to
20 read as follows:

21 "§91- Judicial review of environmental matters.

22 Notwithstanding any law to the contrary, judicial review of



1 administrative proceedings arising under chapters 6D, 6E, 6K,
 2 149A, 150A, 174C, 179D, 181, 182, 183, 183C, 183D, 184, 185,
 3 187A, 188, 189, 190, 190D, 195, 195D, 197, 198, 198D, 200, 205,
 4 205A, 269, 339, 340B, 340E, 340F, 342B, 342C, 342D, 342E, 342F,
 5 342G, 342H, 342I, 342J, 342L, 342P, and 343 shall be heard by
 6 the environmental court."

7 SECTION 4. Section 91-7, Hawaii Revised Statutes, is
 8 amended by amending subsection (a) to read as follows:

9 "(a) Any interested person may obtain a judicial
 10 declaration as to the validity of an agency rule as provided in
 11 subsection (b) [~~herein~~] by bringing an action against the agency
 12 in the circuit court or, if applicable, the environmental court
 13 in accordance with section 91- , of the county in which the
 14 petitioner resides or has its principal place of business. The
 15 action may be maintained whether or not the petitioner has first
 16 requested the agency to pass upon the validity of the rule in
 17 question."

18 SECTION 5. The judiciary shall conduct a study of to
 19 determine the number of environmental-related cases filed in
 20 each of the past five years. The judiciary shall report
 21 findings to the legislature no later than twenty days prior to
 22 the convening of the regular session of 2008.



1 SECTION 6. Chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D,
 2 181, 182, 183, 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D,
 3 195, 195D, 197, 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E,
 4 340F, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,
 5 342L, 342P, and 343 of the Hawaii Revised Statutes are amended
 6 by substituting the term "environmental court," or like term,
 7 wherever the term "court," "district court," or "circuit court,"
 8 or like term, appears, as the context requires.

9 SECTION 7. Matters pending in any state court as of the
 10 effective date of this Act may be transferred to the
 11 environmental court as the chief justice of the supreme court,
 12 in the chief justice's sole discretion, directs.

13 SECTION 8. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 2008;
 16 provided that section 5 shall take effect upon its approval.
 17

INTRODUCED BY:

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Report Title:

Environmental Court

Description:

Establishes environmental courts as divisions within the circuit court to handle complaints, administrative appeals, and other judicial proceedings of an environmental nature.

