

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO WATER POLLUTION.

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

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

4 "§342D- Total maximum daily load coordinator. The  
5 department may establish not more than two exempt positions  
6 entitled "total maximum daily load coordinator". The total  
7 maximum daily load coordinator positions shall, among other  
8 duties, assist the department to meet federal requirements for  
9 establishing total maximum daily loads in Hawaii. This includes  
10 quantifying waste load allocations and load allocation limits on  
11 pollutant loading of Hawaii inland and marine waters and  
12 developing technically based plans for achieving the State's  
13 stated water quality goals. The positions shall be appointed by  
14 the director without regard to chapter 76. These positions  
15 shall be funded by federal grants to the State under the Clean  
16 Water Act."

17 SECTION 2. New statutory material is underscored.

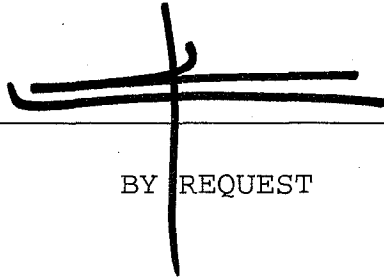
S.B. NO. 934

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

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

**Report Title:**

Water Pollution

**Description:**

Establish exempt positions entitled Total Maximum Daily Load Coordinator.

SB 934

JUSTIFICATION SHEET

DEPARTMENT: Health

TITLE: A BILL FOR AN ACT RELATING TO WATER POLLUTION.

PURPOSE: To establish exempt coordinator positions within the Department of Health (DOH) to plan and oversee the preparation of total maximum daily loads (TMDLs) in Hawaii.

MEANS: Add a new section to chapter 342D, Hawaii Revised Statutes (HRS).

JUSTIFICATION: To meet federal Clean Water Act requirements, DOH must prepare pollutant loading budgets, otherwise known as TMDLs, for state waters that exceed water quality standards and are considered "impaired" (see 40 CFR §130.7). These federal regulations also require a review of all Hawaiian water bodies every two years and an updating of the Hawaii Listing of Impaired Waters. Currently, there are approximately seven hundred TMDLs, expressed as water body - pollutant combinations, which have been identified for completion in Hawaii. More are being added every two years. The Listing of Impaired Waters and the resultant state TMDL decisions are submitted to the U.S. EPA for review and approval after public review and comments.

Currently this work is done by an exempt project position under section 76-16(b)(12), HRS, within the department's Environmental Health Administration, and is funded through a grant from the United States Environmental Protection Agency (U.S. EPA). The responsibilities charged to this exempt position are continually growing due to the ever expanding list of Impaired Waters and related concerns at the federal, state, county, and community levels. The current project position coordinates, oversees, and

writes technically-based plans which establish WLAs for pollutant-impaired State water bodies identified on the State's Clean Water Act 303(d) list and the corresponding federal enabling regulations. Historically, this position is renewed each year as a project position, but the department has been told the exemption will not be administratively renewed. Establishing this exempt position by statute better ensures that the department can continue to gather data and prepare decisions by people who understand Hawaii's unique environmental and cultural needs.

Without this position, U.S. EPA will be compelled to conduct the TMDL process and the decisions rendered may not serve the best interests of the State of Hawaii.

Impact on the public: Passage of this measure will allow for continued TMDL development and implementation that is sensitive to Hawaii's unique environmental and cultural heritage. The State will continue to ensure compliance with any limitations necessary to implement the approved TMDLs.

Impact on the department and other agencies: The primary impact is that DOH will continue to establish the TMDLs and subsequently implement them through National Pollutant Discharge Elimination System Permit conditions, polluted runoff control and coastal nonpoint pollution control programs, and the Clean Water Act Revolving Fund, all of which serve the state Water Quality Standards.

GENERAL FUND:

None.

OTHER FUNDS:

U.S. EPA, Section 106 Grant.

PPBS PROGRAM  
DESIGNATION:

HTH-849.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.