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## A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES PROGRAM ADMINISTRATION.

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

1           SECTION 1. The legislature reaffirms that the invasion of  
2 Hawaii by insects, disease-bearing organisms, snakes, weeds, and  
3 other pests is the single greatest threat to Hawaii's economy  
4 and natural environment and to the health and lifestyle of  
5 Hawaii's people. The legislature finds that action is needed to  
6 improve the State's programs to mitigate the threats and impacts  
7 of invasive species and to effectively implement the Hawaii  
8 interagency biosecurity plan.

9           The legislature recognized invasive species as a multi-  
10 agency issue following the issuance of the 2002 legislative  
11 reference bureau report entitled, "Filling the Gaps in the Fight  
12 Against Invasive Species," which recommended the creation of an  
13 interagency coordinating body with dedicated staff and funding.  
14 In 2003, the legislature created the Hawaii invasive species  
15 council for coordination purposes, but did not establish  
16 dedicated staff or provide funding. The council has been  
17 administered by the department of land and natural resources and



1 has received appropriations with varying levels of general and  
2 special funds to support interagency mitigation projects. In  
3 2015, the legislative reference bureau released an additional  
4 report entitled, "Can't See the Forest for the (Albizia) Trees:  
5 An Invasive Species Update," which again recommended the  
6 establishment of a coordinating body with adequate staff and  
7 funding.

8 Improved biosecurity and invasive species management are  
9 central goals of the governor's sustainable Hawaii initiative,  
10 the department of agriculture's new Hawaii interagency  
11 biosecurity plan, and the Aloha+ challenge adopted by the  
12 legislature in 2014. Building on the model of the Hawaii  
13 invasive species council by adding additional expertise, staff,  
14 and funding resources would allow the State to effectively  
15 implement and track outcomes of the Hawaii interagency  
16 biosecurity plan, provide centralized data collection and  
17 management for multi-agency invasive species programs, improve  
18 emergency response coordination, and better engage industries  
19 and the public in invasive species reporting and mitigation.

20 Accordingly, the purpose of this Act is to restructure the  
21 Hawaii invasive species council into a new entity, the Hawaii



1 invasive species authority, attached administratively to the  
 2 department of agriculture. The establishment of the authority  
 3 will expand upon the existing council model by adding additional  
 4 expertise to the interagency board of directors, authorizing the  
 5 board to hire staff as necessary, and mandating new duties  
 6 relating to the coordination of interagency invasive species and  
 7 biosecurity efforts.

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

11 "CHAPTER

12 INVASIVE SPECIES AUTHORITY

13 § -1 Administration of chapter. The Hawaii invasive  
 14 species authority shall administer this chapter.

15 § -2 Definitions. As used in this chapter, unless the  
 16 context requires otherwise:

17 "Authority" means the Hawaii invasive species authority  
 18 established by section -3.

19 "Biosecurity" means the set of measures taken to manage the  
 20 risk from invasive species to the State's economy and



1 environment and the health and lifestyle of people in the  
2 State.

3 "Department" means any entity that is a member of the  
4 authority.

5 "Invasive species" means a species that is not native to  
6 Hawaii and whose introduction causes or is likely to cause  
7 economic or environmental harm or harm to human health.

8 § -3 Establishment of the Hawaii invasive species  
9 authority; duties. (a) There is established the Hawaii  
10 invasive species authority for the special purpose of providing  
11 policy level direction, coordination, and planning among state  
12 departments, federal agencies, and international and local  
13 initiatives for the control and eradication of harmful invasive  
14 species infestations throughout the State and for preventing the  
15 introduction of other invasive species that are potentially  
16 harmful. The authority shall:

- 17 (1) Maintain a broad overview of the invasive species  
18 problem in the State;  
19 (2) Identify invasive species present in the State;



- 1           (3) Adopt criteria for the designation of certain invasive  
2           species for control or eradication by rules adopted  
3           pursuant to chapter 91;
- 4           (4) Adopt a list of invasive species designated pursuant  
5           to paragraph (3);
- 6           (5) Advise, consult, and coordinate invasive  
7           species-related efforts with and between the  
8           department of agriculture; department of land and  
9           natural resources; department of health; department of  
10          transportation; department of business, economic  
11          development, and tourism; and the University of  
12          Hawaii, as well as other state, federal,  
13          international, and privately organized entities and  
14          programs;
- 15          (6) Designate lead agencies pursuant to section       -4 and  
16          identify and prioritize each lead agency's  
17          organizational and resource shortfalls with respect to  
18          invasive species;
- 19          (7) Coordinate with departments and stakeholders the  
20          implementation of the Hawaii interagency biosecurity  
21          plan developed by the department of agriculture, and



- 1 track progress and outcomes related to implementation  
2 of the plan;
- 3 (8) Serve as a multiagency coordinating system for  
4 interagency emergency responses to invasive species  
5 and, for a given response, designate roles and  
6 responsibilities of individual departments;
- 7 (9) Advise the governor and legislature on budgetary and  
8 other issues regarding invasive species;
- 9 (10) Suggest appropriate legislation to improve the State's  
10 administration of invasive species programs and  
11 policies;
- 12 (11) Incorporate and expand upon the Hawaii-Pacific weed  
13 risk assessment protocol to the extent appropriate for  
14 the authority's biosecurity efforts;
- 15 (12) Provide a central repository for the collection and  
16 management of relevant summary data from invasive  
17 species programs in the State;
- 18 (13) Develop and implement an online resource for public  
19 reporting of invasive species and for the sharing of  
20 information relating to the State's multi-agency  
21 biosecurity and invasive species programs;



- 1       (14)   Implement an interagency budget for projects that
- 2                   address gaps between agency mandates or support
- 3                   research related to invasive species;
- 4       (15)   Coordinate and promote the State's position with
- 5                   respect to federal issues, including:
- 6           (A)   Quarantine preemption;
- 7           (B)   International trade agreements that ignore the
- 8                   problem of invasive species in Hawaii;
- 9           (C)   First class mail inspection prohibitions;
- 10          (D)   Coordinating efforts with federal agencies to
- 11                   maximize resources and reduce or eliminate system
- 12                   gaps and leaks, including deputizing the United
- 13                   States Department of Agriculture's plant
- 14                   protection and quarantine inspectors to enforce
- 15                   Hawaii's laws;
- 16          (E)   Promoting the amendment of federal laws as
- 17                   necessary, including the Lacey Act Amendments of
- 18                   1981, title 16 United States Code sections 3371
- 19                   to 3378, Public Law 97-79, as amended, and laws
- 20                   related to the inspection of domestic airline
- 21                   passengers, baggage, and cargo; and



1 (F) Coordinating efforts and responses to issues with  
2 the National Invasive Species Council and its  
3 National Invasive Species Management Plan;

4 (16) Coordinate with the counties in the fight against  
5 invasive species to increase resources and funding and  
6 to address county-sponsored activities that involve  
7 invasive species; and

8 (17) Perform any other function necessary to effectuate the  
9 purposes of this chapter.

10 (b) The authority shall be placed within the department of  
11 agriculture for administrative purposes only, as provided in  
12 section 26-35. The authority shall be composed of nine members  
13 as follows:

14 (1) The president of the University of Hawaii, or the  
15 president's designee;

16 (2) The director of business, economic development, and  
17 tourism, or the director's designee;

18 (3) The director of health, or the director's designee;

19 (4) The director of transportation, or the director's  
20 designee;



1           (5) The chairperson of the board of agriculture, or the  
2           chairperson's designee;

3           (6) The chairperson of the board of land and natural  
4           resources, or the chairperson's designee; and

5           (7) Three members appointed by the governor pursuant to  
6           section 26-34, including:

7           (A) An individual representing the interests of  
8           natural resource conservation;

9           (B) An individual representing the interests of  
10          agriculture or horticulture; and

11          (C) An individual with expertise in native Hawaiian  
12          cultural practices.

13          (c) The chairpersons of the board of land and natural  
14 resources and the board of agriculture shall act as  
15 co-chairpersons of the authority.

16          (d) The members of the authority other than ex officio  
17 members or their designees shall serve without pay, but shall be  
18 reimbursed upon request for their actual and necessary expenses,  
19 including travel expenses, incurred in carrying out their  
20 duties.



1 (e) Representatives of federal agencies, the legislature,  
2 and county agencies may be asked to participate in meetings of  
3 the authority or be consulted for advice and assistance.

4 (f) The authority shall meet not less than twice annually.

5 (g) Not later than twenty days prior to the convening of  
6 each regular legislative session, the authority shall submit a  
7 report to the governor and legislature detailing its activities  
8 as well as budgetary and other issues relating to invasive  
9 species.

10 (h) Without regard to the requirements of chapters 76 and  
11 89, the authority may hire employees necessary to perform its  
12 duties, including but not limited to an executive director.  
13 The executive director shall serve at the pleasure of the  
14 authority and the salary of the executive director shall be set  
15 by the authority. Through its executive director, the  
16 authority may appoint officers, agents, and employees, prescribe  
17 their duties and qualifications, and set their salaries, without  
18 regard to chapters 76 and 89. Notwithstanding section 26-35,  
19 the executive director may represent the authority in  
20 communications with the governor and the legislature.



1 (i) The authority may delegate to its employees, by formal  
2 action, power and authority vested in the authority by this  
3 chapter as the authority deems reasonable and proper for the  
4 effective administration of this chapter.

5 § -4 **Lead agencies; designation; accountability.** The  
6 authority may designate a state department as a lead agency for  
7 a particular interagency response effort under section -3(a)(6),  
8 with respect to a particular function of invasive species  
9 control. A lead agency shall have administrative responsibility  
10 and accountability for that designated function of invasive  
11 species control. The lead agency shall coordinate with other  
12 departments and federal and private agencies to control or  
13 eradicate the designated invasive species.

14 § -5 **Relation of chapter to other laws.** Notwithstanding  
15 any other law to the contrary, and in addition to any other  
16 authority provided by law that is not inconsistent with the  
17 purposes of this chapter, a department is authorized to examine,  
18 control, and eradicate all instances of invasive species  
19 identified by the authority for control or eradication and found  
20 on any public or private premises or in any aircraft or vessel  
21 landed or docked in waters of the State.



1           §   -6   Entry; private property. (a) Whenever any  
2   invasive species identified by the authority for control or  
3   eradication is found on private property, a state department or  
4   its authorized agent may enter those premises to control or  
5   eradicate the invasive species after reasonable notice is given  
6   to the owner of the property and, if entry is refused, pursuant  
7   to a court order as provided in subsection (d).

8           (b) A copy of the notice given under subsection (a) shall  
9   be left with one or more of the tenants or occupants of the  
10  premises, if applicable. If the premises are unoccupied,  
11  notice shall be mailed to the last known place of residence of  
12  the owner, if residing in the State. If the owner does not  
13  reside in this State or notice cannot be expeditiously provided,  
14  notice left at or posted on the premises shall be sufficient.

15          (c) A state department may cause notice to be given and  
16  order a property owner to control or eradicate an invasive  
17  species at the owner's expense within a reasonable time as the  
18  department may deem proper, pursuant to the notice  
19  requirements of this section, if that species was  
20  intentionally and knowingly established by the owner on the



1 owner's property and not naturally dispersed from neighboring  
2 properties.

3 (d) If a property owner notified pursuant to subsection  
4 (c) fails to comply with the order of the state department  
5 within the time specified by the department, or if entry is  
6 refused after notice is given pursuant to subsection (a) and,  
7 if applicable, subsection (b), the department may apply to  
8 the district court of the circuit in which the property is  
9 situated for a warrant, directed to any police officer of the  
10 circuit, commanding the police officer to take sufficient aid  
11 and to assist the department member or its agent in gaining  
12 entry onto the premises, and executing measures to control or  
13 eradicate the invasive species.

14 (e) A state department may recover by appropriate  
15 proceedings the expenses incurred from any owner who, after  
16 proper notice, has failed to comply with the department's  
17 order.

18 (f) In no case shall a state department or any officer or  
19 agent thereof be liable for costs in any action or proceeding  
20 that may be commenced pursuant to this chapter.



1           §   -7   **Entry; public property.** (a) Whenever any invasive  
2 species is found on state or county property or on a public  
3 highway, street, lane, alley, or other public place  
4 controlled by the State or a county, notice shall be given by  
5 a state department or its agent, as the case may be, to the  
6 person officially in charge thereof, and the person shall  
7 immediately control or eradicate the invasive species as  
8 directed by the department.

9           (b) In case of a failure to control or eradicate the  
10 invasive species to the satisfaction of the department, the  
11 procedure shall be the same as provided in section   -6.

12           §   -8   **Rules.** The authority may adopt rules pursuant to  
13 chapter 91 to effectuate this chapter."

14           SECTION 3. Section 26-35, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "**§26-35 Administrative supervision of boards and**  
17 **commissions.** (a) Whenever any board or commission is  
18 established or placed within or transferred to a principal  
19 department for administrative purposes or subject to the  
20 administrative control or supervision of the head of the



1 department, the following provisions shall apply except as  
2 otherwise specifically provided by this chapter:

3 (1) The head of the department shall represent the board  
4 or commission in communications with the governor and  
5 with the legislature; unless the legislature or a  
6 legislative committee requests to communicate directly  
7 with the board or commission;

8 (2) The financial requirements from state funds of the  
9 board or commission shall be submitted through the  
10 head of the department and included in the budget for  
11 the department;

12 (3) All rules adopted by the board or commission shall be  
13 subject to the approval of the governor;

14 (4) The employment, appointment, promotion, transfer,  
15 demotion, discharge, and job descriptions of all  
16 officers and employees of or under the jurisdiction of  
17 the board or commission shall be determined by the  
18 board or commission subject to the approval of the  
19 head of the department and to applicable personnel  
20 laws;



1 (5) All purchases of supplies, equipment, or furniture by  
2 the board or commission shall be subject to the  
3 approval of the head of the department;

4 (6) The head of the department shall have the power to  
5 allocate the space or spaces available to the  
6 department and which are to be occupied by the board  
7 or commission;

8 (7) Any quasi-judicial functions of the board or  
9 commission shall not be subject to the approval,  
10 review, or control of the head of the department; and

11 (8) Except as set forth hereinabove, the head of the  
12 department shall not have the power to supervise or  
13 control the board or commission in the exercise of its  
14 functions, duties, and powers.

15 (b) Every board or commission established or placed within  
16 a principal department for administrative purposes or subject to  
17 the administrative control or supervision of the head of the  
18 department shall be considered an arm of the State and shall  
19 enjoy the same sovereign immunity available to the State.

20 (c) As used in this section, "board or commission" shall  
21 include the Hawaii invasive species authority established under



1 section -3, in addition to any board or commission of the  
2 State."

3 SECTION 4. Any ongoing actions or obligations of the  
4 Hawaii invasive species council shall be transferred to the  
5 Hawaii invasive species authority upon the effective date of  
6 this Act.

7 SECTION 5. All appropriations, records, equipment,  
8 machines, files, supplies, contracts, books, papers, documents,  
9 maps, and other personal property heretofore made, used,  
10 acquired, or held by the Hawaii invasive species council  
11 relating to the functions transferred to the Hawaii invasive  
12 species authority shall be transferred with the functions to  
13 which they relate.

14 SECTION 6. Chapter 194, Hawaii Revised Statutes, is  
15 repealed.

16 SECTION 7. There is appropriated out of the general  
17 revenues of the State of Hawaii the sum of \$500,000 or so much  
18 thereof as may be necessary for fiscal year 2017-2018 and the  
19 same sum or so much thereof as may be necessary for fiscal year  
20 2018-2019 for the hiring of necessary staff and other expenses  
21 of the Hawaii invasive species authority.



1 The sums appropriated shall be expended by the department  
2 of agriculture for the purposes of this Act.

3 SECTION 8. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$10,000,000 or so  
5 much thereof as may be necessary for fiscal year 2017-2018 and  
6 the same sum or so much thereof as may be necessary for fiscal  
7 year 2018-2019 for interagency projects and research related to  
8 invasive species, as described in section -3(a)(14), Hawaii  
9 Revised Statutes, in section 2 of this Act and as directed by the  
10 Hawaii invasive species authority.

11 The sums appropriated shall be expended by the department  
12 of agriculture for the purposes of this Act; provided that  
13 portions of this appropriation may be transferred to other  
14 departments to implement the directions of the Hawaii invasive  
15 species authority.

16 SECTION 9. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 1, 2017.

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JAN 24 2017



# H.B. NO. 1339

**Report Title:**

Hawaii Invasive Species Authority; Established; Hawaii Invasive Species Council; Abolished; Appropriations

**Description:**

Restructures the Hawaii Invasive Species Council as the Hawaii Invasive Species Authority to coordinate implementation of the Hawaii Interagency Biosecurity Plan and related duties. 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.*

