

JAN 19 2018

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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY OF HAWAII'S WATER.

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

1       SECTION 1. The legislature finds that maintaining and  
2 protecting the waters of the State is a matter of public health  
3 and safety. Without proper regulation, waters could become  
4 polluted or contaminated. Additionally, disasters such as  
5 unexpected increases in sea level, hurricanes, or oil spills can  
6 negatively impact state waters.

7       The legislature further finds that the federal Clean Water  
8 Act provides the federal government with broad authority to  
9 limit pollution in major bodies of water that are considered  
10 waters of the United States. The definition of "waters of the  
11 United States" and the scope of federal regulatory jurisdiction  
12 applicable to those waters have long been disputed. In 2015,  
13 the United States Environmental Protection Agency and the United  
14 States Army Corps of Engineers issued the federal Clean Water  
15 Rule, which defined the waters of the United States to include  
16 those waters that have a "significant nexus" to navigable rivers  
17 and the sea to qualify as protected under the federal Clean



1 Water Act. President Trump has issued an executive order  
2 directing the United States Environmental Protection Agency and  
3 the United States Army Corps of Engineers to review the federal  
4 Clean Water Rule and publish for notice and comment a proposed  
5 rule rescinding or revising the rule. The executive order  
6 directed the United States Environmental Protection Agency and  
7 the United States Army Corps of Engineers to consider  
8 interpreting the Clean Water Act to apply strictly to navigable  
9 waters, and to non-navigable waters only if those waters are  
10 relatively permanent, standing, or flowing bodies of water.  
11 Changes to the federal Clean Water Rule could negatively impact  
12 waters in the State by altering their regulation under federal  
13 and state laws.

14 In response to the executive order, the United States  
15 Environmental Protection Agency, Department of the Army, and the  
16 United States Army Corps of Engineers proposed a rule to rescind  
17 the federal Clean Water Rule and to re-codify the regulatory  
18 text that existed prior to 2015 and that is currently in place  
19 as a result of the stay of the Clean Water Rule by the United  
20 States Court of Appeals for the Sixth Circuit.



1       The purpose of this Act is to promote public safety and  
2 health, and address water pollution or contamination risks due  
3 to disasters or other causes, by requiring the department of  
4 health to study the protection of waters in the State.

5       SECTION 2. (a) The department of health shall conduct a  
6 study regarding the protection of waters in the State. Within  
7 the study, the department of health shall:

8       (1) Identify state statutes that rely on, or are applied  
9 in conjunction with, the federal Clean Water Act;

10       (2) Propose amendments to state statutes to protect waters  
11 in the State if the federal Clean Water Rule is  
12 amended to be less stringent than the current rule or  
13 is rescinded;

14       (3) Identify waters in the State that are at risk of  
15 pollution or contamination due to:

16       (A) A natural disaster;

17       (B) A human-caused disaster; or

18       (C) Lack of sufficient regulation; and

19       (4) Make recommendations on how the State can prepare for  
20 and address the risks of water pollution or  
21 contamination identified under paragraph (3).



(b) The department of health shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2019.

SECTION 3. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2018-2019 to study the protection of waters in the State.

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

SECTION 4. This Act shall take effect on July 1, 2018.

INTRODUCED BY:

*James T. Lee*  
*James F. Hironaka* *Paul Hwang*  
*Will Zuo* *Silvia*  
*[Signature]* *[Signature]*  
*Breene Hwang*  
*Anna Moradsk*  
*Paul E. Lee*  
*[Signature]*



# S.B. NO. 2336

**Report Title:**

Water Protection; Disaster Preparedness; Department of Health; Appropriation

**Description:**

Requires DOH to study the protection of waters in the State. The study shall: (1) identify state statutes that rely on, or are applied in conjunction with, the federal Clean Water Act; (2) propose amendments to protect waters if the federal Clean Water Rule is amended; (3) identify waters that are at risk of pollution or contamination; and (4) recommend how the State can prepare for and address water pollution or contamination risks, including disasters. Appropriates moneys for the study.

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