

JAN 19 2018

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 a severe threat to Hawaii's economy and natural
4 environment and to the health and lifestyle of Hawaii's people.
5 The legislature finds that action is needed to improve the
6 State's programs to mitigate the threats and impacts of invasive
7 species and to effectively implement the Hawaii interagency
8 biosecurity plan.

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



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

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

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



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

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

10 "CHAPTER

11 HAWAII INVASIVE SPECIES AUTHORITY

12 § -1 Administration of chapter. The Hawaii invasive
13 species authority shall administer this chapter.

14 § -2 Definitions. As used in this chapter, unless the
15 context requires otherwise:

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

18 "Biosecurity" means the set of measures taken to manage the
19 risk from invasive species to the economy, environment, and
20 health and lifestyle of the people.



1 "Department" means any governmental entity whose
2 representative or designee is a member of the authority.

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

6 § -3 Establishment of the Hawaii invasive species
7 authority; duties. (a) There is established the Hawaii
8 invasive species authority for the special purpose of providing
9 policy level direction, coordination, and planning among state
10 departments, federal agencies, and international and local
11 initiatives for the control and eradication of invasive species
12 infestations throughout the State and for preventing the
13 introduction of other invasive species. The authority shall:

14 (1) Maintain a broad overview of the invasive species
15 problem in the State;

16 (2) Identify invasive species present in the State and
17 adopt a list of invasive species designated for
18 control or eradication, by rule, according to criteria
19 for the designation established by rule, pursuant to
20 chapter 91;



- 1 (3) Advise, consult, and coordinate invasive species-
2 related efforts with and between the departments of
3 agriculture, land and natural resources, health,
4 transportation, business, economic development, and
5 tourism, and the University of Hawaii, as well as
6 state, federal, international, and privately organized
7 programs and entities;
- 8 (4) Coordinate amongst departments and stakeholders the
9 implementation of the Hawaii Interagency Biosecurity
10 Plan developed by the department of agriculture, and
11 track progress and outcomes related to implementation
12 of the plan;
- 13 (5) Serve as a multiagency coordinating system for
14 interagency emergency responses to invasive species
15 and, for a given response, designate roles and
16 responsibilities of individual departments;
- 17 (6) Advise the governor and legislature on budgetary and
18 other issues regarding invasive species;
- 19 (7) Suggest appropriate legislation to improve the State's
20 administration of invasive species programs and
21 policies;



- 1 (8) Incorporate and expand upon the Hawaii-Pacific weed
2 risk assessment protocol to the extent appropriate for
3 the authority's biosecurity efforts;
- 4 (9) Provide a central repository for the collection and
5 management of relevant summary data from invasive
6 species programs in the State;
- 7 (10) Develop and implement an online resource for public
8 reporting of invasive species and for the sharing of
9 information relating to the State's multi-agency
10 biosecurity and invasive species programs;
- 11 (11) Implement an interagency budget for projects that
12 address gaps between agency mandates or support
13 research related to invasive species;
- 14 (12) Coordinate and promote the State's position with
15 respect to federal issues, including:
16 (A) Quarantine preemption;
17 (B) International trade agreements that ignore the
18 problem of invasive species in Hawaii;
19 (C) First class mail inspection prohibition;
20 (D) Coordinating efforts with federal agencies to
21 maximize resources and reduce or eliminate system



1 gaps and leaks, including deputizing the United
2 States Department of Agriculture's plant
3 protection and quarantine inspectors to enforce
4 Hawaii's laws;

5 (E) Promoting the amendment of federal laws as
6 necessary, including the Lacey Act Amendments of
7 1981, Title 16 United States Code sections 3371-
8 3378; Public Law 97-79, and laws related to
9 inspection of domestic airline passengers,
10 baggage, and cargo; and

11 (F) Coordinating efforts and issues with the federal
12 Invasive Species Council and its National
13 Invasive Species Management Plan;

14 (13) Coordinate with the counties in the fight against
15 invasive species to increase resources and funding and
16 to address county-sponsored activities that involve
17 invasive species; and

18 (14) Perform any other function necessary to effectuate the
19 purposes of this chapter.

20 (b) The authority shall be placed within the department of
21 agriculture for administrative purposes only, as provided in



section 26-35. The authority shall be composed of the following
nine members:

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

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

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

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

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

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

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

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

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

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



1 (c) The chairpersons of the board of land and natural
2 resources and the board of agriculture shall act as co-
3 chairpersons of the authority.

4 (d) The members of the authority other than ex officio
5 members or their designees shall serve without pay but shall be
6 reimbursed upon request for their actual and necessary expenses,
7 including travel expenses, incurred in carrying out their
8 duties.

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

12 (f) The authority shall meet no less than twice annually.

13 (g) The authority shall submit a report to the governor
14 and legislature no later than twenty days prior to the convening
15 of each regular session of the legislature detailing its
16 activities as well as budgetary and other issues relating to
17 invasive species.

18 (h) The authority, without regard to the requirements of
19 chapters 76 and 89, may hire employees, including but not
20 limited to an executive director, necessary to perform the
21 duties of the authority. The executive director shall serve at



1 the pleasure of the authority, and the salary of the executive
2 director shall be set by the authority. The authority, through
3 its executive director, may appoint officers, agents, and
4 employees; prescribe their duties and qualifications; and set
5 their salaries, without regard to chapters 76 and 89.

6 Notwithstanding section 26-35 to the contrary, the executive
7 director may represent the authority in communications with the
8 governor and the legislature. The authority may delegate to its
9 employees, by formal action, the power and authority vested in
10 the authority by this chapter as the authority deems reasonable
11 and proper for the effective administration of this chapter.

12 **§ -4 Lead agencies; accountability.** A state department
13 that is designated as a lead agency for a particular interagency
14 response effort under section -3(a)(5), with respect to a
15 particular function of invasive species control, shall have
16 administrative responsibility and accountability for that
17 designated function of invasive species control. The lead
18 agency shall coordinate with other departments and federal and
19 private agencies to control or eradicate the designated invasive
20 species.



1 § -5 Relation of chapter to other laws. Notwithstanding
2 any other law to the contrary, and in addition to any other
3 authority provided by law that is not inconsistent with the
4 purposes of this chapter, a department is authorized to examine,
5 control, and eradicate all instances of invasive species
6 identified by the authority for control or eradication and found
7 on any public or private premises or in any aircraft or vessel
8 landed or docked in waters of the State.

9 § -6 Entry; private property. (a) Whenever any
10 invasive species identified by the authority for control or
11 eradication is found on private property, a department or its
12 authorized agent may enter such premises to control or eradicate
13 the invasive species after reasonable notice is given to the
14 owner of the property and, if entry is refused, pursuant to a
15 court order as provided in subsection (d).

16 (b) A duplicate of the notice so given shall be left with
17 one or more of the tenants or occupants of the premises, if
18 applicable. If the premises are unoccupied, notice shall be
19 mailed to the last known place of residence of the owner, if
20 residing in the State. If the owner does not reside in this



1 State or cannot be expeditiously provided with notice, notice
2 left at or posted on the premises shall be sufficient.

3 (c) The department may instead cause notice to be given,
4 and order an owner to control or eradicate the invasive species,
5 if such species was intentionally and knowingly established by
6 the owner on the owner's property and not naturally dispersed
7 from neighboring properties, at the owner's expense within such
8 reasonable time as the department may deem proper, pursuant to
9 the notice requirements of this section.

10 (d) If the owner who is provided notice pursuant to this
11 section fails to comply with the order of the department within
12 the time specified by the department, or if entry is refused
13 after notice is given pursuant to subsection (a) and, if
14 applicable, subsection (b), the department may apply to the
15 district court of the circuit in which the property is situated
16 for a warrant, directed to any police officer of the circuit,
17 commanding the police officer to take sufficient aid and to
18 assist the department member or its agent in gaining entry onto
19 the premises, and executing measures to control or eradicate the
20 invasive species.



1 (e) The department may recover by appropriate proceedings
2 its expenses incurred due to any owner who, after proper notice,
3 fails to comply with the department's order.

4 (f) In no case shall the department or any officer or
5 agent thereof be liable for costs in any action or proceeding
6 that may be commenced pursuant to this chapter.

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

14 (b) In case of a failure to control or eradicate the
15 invasive species to the satisfaction of the department, the
16 procedure shall be the same as provided for cases of private
17 property in section -6.

18 § -8 Rules. The authority may adopt rules pursuant to
19 chapter 91 to effectuate this chapter."

20 SECTION 3. Section 46-1.52, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[+]§46-1.52[+] Authority to enter private property; pests
2 or invasive species. Each county of this State, through its
3 employees or authorized agents, may enter private property
4 within the respective county to control or eradicate pests and
5 invasive species pursuant to ~~[sections]~~ section 141-3.6 [and
6 ~~194-5~~]."

7 SECTION 4. Any ongoing actions or obligations of the
8 Hawaii invasive species council shall be transferred to the
9 Hawaii invasive species authority, along with any relevant
10 equipment and copies of all applicable records regarding the
11 Hawaii invasive species council, upon repeal of chapter 194,
12 Hawaii Revised Statutes.

13 SECTION 5. Chapter 194, Hawaii Revised Statutes, is
14 repealed on July 1, 2019.

15 SECTION 6. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$500,000 or so much
17 thereof as may be necessary for fiscal year 2018-2019 for
18 positions and other operating expenditures of the Hawaii
19 invasive species authority.

20 The sum appropriated shall be expended by the department of
21 agriculture for the purposes of this Act.



1 SECTION 7. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$10,000,000 or so
3 much thereof as may be necessary for fiscal year 2018-2019 for
4 interagency projects and research related to invasive species,
5 as described in section -3(a)(11), Hawaii Revised Statutes,
6 in section 2 of this Act, and as directed by the Hawaii invasive
7 species authority.

8 The sum appropriated shall be expended by the department of
9 land and natural resources for the purposes of this Act;
10 provided that portions of this appropriation may be transferred
11 to other departments to implement the directions of the Hawaii
12 invasive species authority. In subsequent fiscal years the sum
13 appropriated for interagency projects and research shall be
14 expended by the department of agriculture for the purposes of
15 this Act.

16 SECTION 8. This Act shall take effect on July 1, 2018.

17
INTRODUCED BY:

Alan B. B.
Y. B. B.

Mike Caballero
Clarence B. B.
Ed. B.
Paul E. B.



S.B. NO. 2399

~~SEN. SC. Keith Eliza~~
RD



S.B. NO. 2399

Report Title:

Invasive Species Authority; Establishment; Appropriation

Description:

Restructures the Hawaii invasive species council as the Hawaii invasive species authority, to be administratively attached to the department of agriculture, to coordinate implementation of the Hawaii interagency biosecurity plan and to improve coordination of the State's invasive species prevention, early detection, rapid response, control, enforcement, and outreach programs. Appropriates funds for the authority and relevant interagency invasive species projects.

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

