

JAN 27 2021

A BILL FOR AN ACT

RELATING TO THE COUNTY BOARDS OF WATER SUPPLY.

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

1 SECTION 1. Article XII, section 2, of the state
2 constitution states in part that "The State and its people do
3 further agree and declare that the spirit of the Hawaiian Homes
4 Commission Act looking to the continuance of the Hawaiian homes
5 projects for the further rehabilitation of the Hawaiian race
6 shall be faithfully carried out." This obligation held by the
7 State is also held by the counties, which are under article VIII
8 of the state constitution political subdivisions of the State.

9 Furthermore, the lack of available water has been and
10 remains a significant barrier to the State's ability to
11 faithfully carry out Hawaiian homes projects. The county boards
12 and departments of water supply have no administrative rules or
13 policies for differentiating and prioritizing the development
14 and provision of water for Hawaiian homes projects when compared
15 to other State or even private projects and, therefore, some
16 counties have treated the department of Hawaiian home lands like
17 any other developer.

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1 Furthermore, working with the department of Hawaiian home
2 lands, the commission on water resource management has set some
3 ground water and surface water reservations for Hawaiian homes
4 projects on Kaua`i, O`ahu, Moloka`i, Lāna`i, Maui, and Hawai`i
5 islands, and continues to set additional reservations in partial
6 fulfillment of the requirements of section 174C-101(a), Hawaii
7 Revised Statutes.

8 Furthermore, this necessary action by the commission on
9 water resource management will result in being nothing more than
10 the noting of numbers on paper unless the counties as political
11 subdivisions of the State, and particularly their boards and
12 departments of water supply, fulfill their legal obligations to
13 faithfully take actions within their powers to fulfill the
14 Hawaiian Homes Commission Act in spirit and practice.

15 The purpose of this Act is to clarify requirements on the
16 county boards of water supply to fulfill the Constitutional
17 mandate.

18 SECTION 2. Chapter 54, Hawaii Revised Statutes, is amended
19 by adding to part II a new section to be appropriately
20 designated and to read as follows:

21 "§54- County boards of water supply and their obligation
22 to the department of hawaiian home lands. (a) Prior to June 30

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1 of each fiscal year, each board of water supply shall transmit
2 to the department of Hawaiian home lands an accounting of all
3 water credits held by the county for all of their respective
4 systems. The department of Hawaiian home lands shall inform the
5 counties by no later than September 30 of that same fiscal year
6 the number of credits it requires for its uses under section 221
7 of the Hawaiian Homes Commission Act. The boards shall reserve
8 those credits for the use of the department of Hawaiian home
9 lands and not allocate them to any other user unless the
10 department of Hawaiian home lands surrenders those credits.

11 (b) In the negotiation of any water development, water
12 credit, or similar agreement, the counties shall not withhold
13 any water developed by the department of Hawaiian home lands for
14 the board of water supply's own use and allocation, but shall
15 instead credit the department of Hawaiian home lands the full
16 amount of credits justified by the water development.

17 (c) Each board of water supply shall develop policies to
18 implement in case of water shortage that do not call for equal
19 percentage reductions in use, but rather first require
20 reductions in non public trust uses of water, including the uses
21 on Hawaiian home lands under section 221 of the Hawaiian Homes
22 Commission Act.

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1 (d) No later than July 30, 2022, each board of water
2 supply shall apply for water licenses of any waters they develop
3 or have in their system emanating from state lands, under
4 section 171-58.

5 (e) This section shall apply to the board of water supply
6 and the counties notwithstanding any provisions in a county
7 charter or ordinance to the contrary."

8 SECTION 3. Section 54-12, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§54-12 Board of water supply.** If a county does not have
11 an existing board of water supply, there shall be a board of
12 water supply for each county consisting of seven members of whom
13 five shall be nominated, and by and with the advice and consent
14 of the council, appointed by the mayor, provided that at least
15 one of the five members shall represent the interests to be
16 served by the allocation of water for current and foreseeable
17 development and use of Hawaiian home lands as set forth in
18 section 221 of the Hawaiian Homes Commission Act, one of whom
19 shall be the state district engineer of the state department of
20 transportation and one of whom shall be the chief engineer of
21 the respective county.

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1 No employee or officer of any county shall be eligible to
2 serve as a board member, except as otherwise provided herein.

3 The members of the board shall serve without pay, but shall
4 be reimbursed for their reasonable expenses incurred in the
5 discharge of their duties as members of the board.

6 The term of office of each appointed member of the board
7 shall be five years from the date of the member's appointment;
8 provided that of the initial members one shall be appointed for
9 a term to expire on January 1, 1963; one for a term to expire on
10 January 1, 1964; one for a term to expire on January 1, 1965;
11 one for a term to expire on January 1, 1966; and one for a term
12 to expire on January 1, 1967. Any vacancy occurring on the
13 board shall be filled in accordance with the foregoing
14 provisions for the unexpired portion of the term concerned."

15 SECTION 4. Section 54-52, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§54-52 Appointment.** The eight appointive members of the
18 board of water supply shall be appointed by the chairperson of
19 the council of the county, with the approval of the council[-],
20 provided that at least two of the eight members shall represent
21 the interests to be served by the allocation of water for
22 current and foreseeable development and use of Hawaiian home

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1 lands as set forth in section 221 of the Hawaiian Homes
2 Commission Act. The chairperson shall likewise designate the
3 chairperson of the board of water supply from among the
4 appointive members. The members of the board shall serve
5 without pay, but shall be reimbursed for their reasonable
6 expenses. Each member of the board shall be, at the time of the
7 member's appointment, an elector of the county of Hawaii and
8 shall have been such for at least three years next preceding the
9 member's appointment. Any member of the board may be removed
10 from office by the chairperson of the council of the county,
11 with the approval of the council.

12 Membership of the board shall include four members who are
13 residents of the district of North or South Hilo[?], provided
14 that at least one of the four members shall represent the
15 interests to be served by the allocation of water for current
16 and foreseeable development and use of Hawaiian home lands as
17 set forth in section 221 of the Hawaiian Homes Commission Act
18 and; one of the four members shall be the person who for the
19 time being shall be the legal incumbent of the office of the
20 chief engineer of the department of public works of the county.
21 In addition, one member shall be a resident of the district of
22 North Kona or South Kona, one member shall be a resident of the

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1 district of North Kohala or South Kohala, one member shall be a
2 resident of the district of Hamakua, one member shall be a
3 resident of the district of Puna, and one member shall be a
4 resident of the district of Kau. Of these five members from
5 different geographic regions of the county of Hawaii, at least
6 one of the five members shall represent the interests to be
7 served by the allocation of water for current and foreseeable
8 development and use of Hawaiian home lands as set forth in
9 section 221 of the Hawaiian Homes Commission Act.

10 The term of office of the appointive members of the board
11 shall be five years from and after the date of their respective
12 appointments. Any vacancy occurring on the board shall be
13 filled by appointment. The one appointed to fill the vacancy
14 shall serve only for the unexpired term of the person whom the
15 appointive member succeeds. Officers and employees of the
16 county of Hawaii shall not be eligible for appointive membership
17 on the board."

18 SECTION 5. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

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21 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: *Ann M. Ul*

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BY REQUEST

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Report Title:

County Boards of Water Supply; Department of Hawaiian Home Lands

Description:

Clarifies requirements on the County Boards of Water Supply.
Adds representation on the County Boards of Water Supply of the interests to be served by the allocation of water for current and foreseeable development and use of Hawaiian Home Lands as set forth in section 221 of the Hawaiian Homes Commission Act.

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

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE COUNTY BOARDS OF WATER SUPPLY.

PURPOSE: Clarify requirements on the County Boards of Water Supply and add representation on the County Boards of Water Supply of the interests to be served by the allocation of water for current and foreseeable development and use of Hawaiian Home Lands as set forth in section 221 of the Hawaiian Homes Commission Act.

MEANS: Add a new section to part II of chapter 54, Hawaii Revised Statutes (HRS) and amend sections 54-12 and 54-52, HRS.

JUSTIFICATION: The lack of available water has been and remains a significant barrier to the State's ability to faithfully carry out Hawaiian Homes projects. The County Boards and Departments of Water Supply have no administrative rules or policies for differentiating and prioritizing the development and provision of water for Hawaiian Homes projects when compared to other State or even private projects. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, this bill clarifies the requirements and adds representation on the County Boards of Water Supply.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by clarifying the requirements and adding representation on the Boards of Water Supply.

Impact on the department and other agencies:
More accountability for the allocation of
water for current and foreseeable
development and use of Hawaiian Home Lands.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HHL 625.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.