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

10 Furthermore, the lack of available water has been and
11 remains a significant barrier to the State's ability to
12 faithfully carry out projects on lands under the jurisdiction of
13 the department of Hawaiian home lands. The county boards and
14 departments of water supply do not utilize administrative rules
15 or policies for differentiating and prioritizing the development
16 and provision of water for Hawaiian homes projects in comparison
17 to other State or even private projects. Therefore, some



1 counties have treated the department of Hawaiian home lands like
2 any other private developer without due considerations of the
3 trust obligations to the department of Hawaiian home lands'
4 beneficiaries.

5 The commission on water resource management has worked with
6 the department of Hawaiian home lands to set certain ground
7 water and surface water reservations for Hawaiian homes projects
8 on Kauai, Oahu, Molokai, Lanai, Maui, and Hawaii islands, and
9 continues to set additional reservations in partial fulfillment
10 of the requirements of section 174C-101(a), Hawaii Revised
11 Statutes.

12 Furthermore, this necessary action by the commission on
13 water resource management will not materialize in ensuring
14 adequate water supplies to beneficiaries unless the counties as
15 political subdivisions of the State, and their boards and
16 departments of water supply, fulfill their legal obligations to
17 faithfully take actions in alignment with their responsibilities
18 to the Hawaiian Homes Commission Act.

19 The purpose of this Act is to:



(1) Clarify requirements on the county boards of water supply to ensure adequate water supplies to residents of Hawaiian home lands; and

(2) 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.

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

"§54- County boards of water supply and their obligation to the department of Hawaiian home lands. (a) Prior to June 30 of each fiscal year, each board of water supply shall transmit to the department of Hawaiian home lands an accounting of all water credits held by the county for all of their respective systems. The department of Hawaiian home lands shall inform the counties by no later than September 30 of that same fiscal year of the number of credits it requires for its uses under section 221 of the Hawaiian Homes Commission Act 1920, as amended.



1 The boards shall reserve those credits for the use of the
2 department of Hawaiian home lands and not allocate them to any
3 other user unless the department of Hawaiian home lands
4 surrenders those credits.

5 (b) In the negotiation of any water development, water
6 credit, or similar agreement, the counties shall not withhold
7 any water developed by the department of Hawaiian home lands for
8 the board of water supply's own use and allocation. The
9 counties shall instead credit the department of Hawaiian home
10 lands the full amount of credits justified by the water
11 development.

12 (c) Each board of water supply shall develop policies to
13 implement in case of water shortage. These policies shall not
14 call for equal percentage reductions in use, but shall first
15 require reductions in non-public trust uses of water, including
16 the uses on Hawaiian home lands under section 221 of the
17 Hawaiian Homes Commission Act.

18 (d) No later than July 30, 2022, each county board of
19 water supply shall apply for water licenses of any waters it
20 develops or have in its system emanating from state lands, under
21 section 171-58."



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

"§54-12 Board of water supply. If a county does not have an existing board of water supply, there shall be a board of water supply for each county consisting of seven members of whom five shall be nominated, and by and with the advice and consent of the county council after being appointed by the mayor; provided that at least one of the five members shall represent 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, one of whom shall be the state district engineer of the ~~[state]~~ department of transportation and one of whom shall be the chief engineer of the respective county.

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

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

The term of office of each appointed member of the board shall be five years from the date of the member's appointment;



1 provided that of the initial members one shall be appointed for
2 a term to expire on January 1, 1963; one for a term to expire on
3 January 1, 1964; one for a term to expire on January 1, 1965;
4 one for a term to expire on January 1, 1966; and one for a term
5 to expire on January 1, 1967. Any vacancy occurring on the
6 board shall be filled in accordance with the foregoing
7 provisions for the unexpired portion of the term concerned."

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

10 "§54-52 Appointment. The eight appointive members of the
11 board of water supply shall be appointed by the chairperson of
12 the council of the county, with the approval of the council[-];
13 provided that at least two of the eight members shall represent
14 the interests to be served by the allocation of water for
15 current and foreseeable development and use of Hawaiian home
16 lands as set forth in section 221 of the Hawaiian Homes
17 Commission Act, 1920, as amended. The chairperson shall
18 likewise designate the chairperson of the board of water supply
19 from among the [~~appointive~~] appointed members. The members of
20 the board shall serve without pay, but shall be reimbursed for
21 their reasonable expenses. Each member of the board shall be,



1 at the time of the member's appointment, an elector of the
2 county of Hawaii and shall have been such for at least three
3 years next preceding the member's appointment. Any member of
4 the board may be removed from office by the chairperson of the
5 council of the county, with the approval of the council.

6 Membership of the board shall include four members who are
7 residents of the district of North or South Hilo; provided that
8 at least one of the four members shall represent the interests
9 to be served by the allocation of water for current and
10 foreseeable development and use of Hawaiian home lands as set
11 forth in section 221 of the Hawaiian Homes Commission Act 1920,
12 as amended, and one of the four members shall be the person who
13 for the time being shall be the legal incumbent of the office of
14 the chief engineer of the department of public works of the
15 county. In addition, one member shall be a resident of the
16 district of North Kona or South Kona, one member shall be a
17 resident of the district of North Kohala or South Kohala, one
18 member shall be a resident of the district of Hamakua, one
19 member shall be a resident of the district of Puna, and one
20 member shall be a resident of the district of Kau. Of these
21 five members from different geographic regions of the county of



1 Hawaii, at least one of the five members shall represent the
2 interests to be served by the allocation of water for current
3 and foreseeable development and use of Hawaiian home lands as
4 set forth in section 221 of the Hawaiian Homes Commission Act,
5 1920, as amended.

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

14 SECTION 5. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

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



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
1920, as amended. (SD1)

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