
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 clarify requirements of the
20 county boards of water supply to ensure adequate water supplies
21 to residents of Hawaiian home lands by:



- 1 (1) Requiring each board of water supply to transmit an
- 2 accounting of all water credits held by the board to
- 3 the department of Hawaiian home lands;
- 4 (2) Allowing the department of Hawaiian home lands to
- 5 request unused and unallocated water credits from each
- 6 board of water supply;
- 7 (3) Requiring each board of water supply to develop
- 8 policies that comply with the public trust doctrine to
- 9 implement in case of water shortage; and
- 10 (4) Adding a representative of the department of Hawaiian
- 11 home lands to each county board of water supply.

12 SECTION 2. Chapter 54, Hawaii Revised Statutes, is amended

13 by adding a new section to part II to be appropriately

14 designated and to read as follows:

15 "§54- County boards of water supply and their obligation

16 to the department of Hawaiian home lands. (a) Prior to June 30

17 of each fiscal year, each board of water supply shall transmit

18 to the department of Hawaiian home lands an accounting of all

19 water credits held by the board for all of their respective

20 systems. The department of Hawaiian home lands may by no later

21 than September 30 of that same fiscal year request the boards to



1 reserve a number of available and unallocated credits as
2 specified by the department of Hawaiian home lands for its uses
3 under section 221 of the Hawaiian Homes Commission Act 1920, as
4 amended. The boards shall consider the department of Hawaiian
5 home lands' requests when allocating available and unallocated
6 water credits.

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

13 (c) Each board of water supply shall develop policies that
14 comply with the public trust doctrine to implement in case of
15 water shortage.

16 (d) Notwithstanding any other provision of law to the
17 contrary, this section shall apply to the board of water supply
18 of each county."

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



1 "§54-12 Board of water supply. If a county does not have
2 an existing board of water supply, there shall be a board of
3 water supply for each county consisting of seven members of whom
4 [~~five~~]:

- 5 (1) Five shall be nominated, and by and with the advice
6 and consent of the county council [~~7~~] after being
7 appointed by the mayor [~~7, one of whom~~]; provided that,
8 effective July 1, 2024, at least one of the five
9 members to be appointed shall be a representative of
10 the department of Hawaiian home lands;
- 11 (2) One shall be the state district engineer of the
12 [~~state~~] department of transportation; and [~~one of~~
13 ~~whom~~]
- 14 (3) One shall be the chief engineer of the respective
15 county.

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

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



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

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

12 "**§54-52 Appointment.** The eight appointive members of the
13 board of water supply shall be appointed by the chairperson of
14 the council of the county, with the approval of the council[-];
15 provided that, effective July 1, 2024, at least one of the eight
16 members shall be a representative of the department of Hawaiian
17 home lands. The chairperson shall likewise designate the
18 chairperson of the board of water supply from among the
19 [~~appointive~~] appointed members. The members of the board shall
20 serve without pay, but shall be reimbursed for their reasonable
21 expenses. Each member of the board shall be, at the time of the



1 member's appointment, an elector of the county of Hawaii and
2 shall have been such for at least three years next preceding the
3 member's appointment. Any member of the board may be removed
4 from office by the chairperson of the council of the county,
5 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; one of the
8 four members shall be the person who for the time being shall be
9 the legal incumbent of the office of the chief engineer of the
10 department of public works of the county. In addition, one
11 member shall be a resident of the district of North Kona or
12 South Kona, one member shall be a resident of the district of
13 North Kohala or South Kohala, one member shall be a resident of
14 the district of Hamakua, one member shall be a resident of the
15 district of Puna, and one member shall be a resident of the
16 district of Kau.

17 The term of office of the [~~appointive~~] appointed members of
18 the board shall be five years from and after the date of their
19 respective appointments. Any vacancy occurring on the board
20 shall be filled by appointment. The one appointed to fill the
21 vacancy shall serve only for the unexpired term of the person



1 whom the [~~appointive~~] appointed member succeeds. Officers and
2 employees of the county of Hawaii shall not be eligible for
3 appointive membership on the board."

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

6 SECTION 6. This Act shall take effect on May 6, 2137.



S.B. NO. 1122
S.D. 2

Report Title:

County Boards of Water Supply; Department of Hawaiian Home Lands

Description:

Requires each board of water supply to transmit an accounting of all water credits held by the board to the department of Hawaiian home lands (DHHL). Allows DHHL to request unused and unallocated water credits from each board. Requires each board to develop policies that comply with the public trust doctrine to implement in case of water shortage. Adds a representative of DHHL to each county board of water supply. Effective 5/6/2137. (SD2)

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