

JAN 27 2021

A BILL FOR AN ACT

RELATING TO ADAPTIVE NATURAL RESOURCE MANAGEMENT.

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

1 SECTION 1. The department of land and natural resources
2 (department) is responsible for managing and administering the
3 aquatic and terrestrial wildlife resources of the State. These
4 natural resources are impacted by a variety of environmental and
5 anthropogenic factors, some of which may change rapidly and
6 frequently. To effectively manage these natural resources, the
7 department needs the flexibility to quickly and efficiently
8 implement temporary adaptive management measures that are based
9 on the best available scientific information.

10 Furthermore, the administrative rule-making process
11 prescribed by chapter 91, Hawaii Revised Statutes, serves the
12 important function of providing opportunity for public review
13 and input. However, it is not designed for implementation of
14 adaptive management measures in response to rapidly changing
15 resource conditions.

16 An alternative process with fewer procedural steps would
17 enable the department to quickly implement certain temporary

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1 adaptive management measures, while also providing opportunity
2 for public review and input.

3 The purpose of this Act is to authorize the board of land
4 and natural resources (board) to temporarily adopt, amend, and
5 repeal certain natural resource rules by formal board action at
6 a publicly noticed meeting if the board finds that such
7 adoption, amendment, or repeal is necessary to implement
8 effective and adaptive management measures in response to
9 rapidly changing resource conditions.

10 SECTION 2. Section 183D-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§183D-3 Rules.** (a) Subject to chapter 91, the
13 department shall adopt, amend, and repeal rules:

14 (1) Concerning the preservation, protection, regulation,
15 extension, and utilization of, and conditions for
16 entry into wildlife sanctuaries, game management
17 areas, and public hunting areas designated by the
18 department;

19 (2) Protecting, conserving, monitoring, propagating, and
20 harvesting wildlife; and

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1 ~~[(3) Concerning size limits, bag limits, open and closed~~
2 ~~seasons, and specifications of hunting gear which may~~
3 ~~be used or possessed; and~~

4 ~~(4)]~~ (3) Setting fees for activities permitted under this
5 chapter, unless otherwise provided for by law.

6 The rules may vary from county to county or in any part of
7 the county and may specify certain days of the week or certain
8 hours of the day in designating open and closed hunting seasons,
9 except that any fees established by rule shall be the same for
10 each county. All rules shall have the force and effect of law.

11 (b) In addition, notwithstanding any law to the contrary,
12 the board may adopt, amend, or repeal any rule pertaining to bag
13 limits, size limits, open or closed hunting seasons, or gear
14 restrictions by formal board action at a publicly noticed
15 meeting, provided that:

16 (1) The board finds that the timely adoption, amendment,
17 or repeal of the rule is necessary to implement
18 effective and adaptive management measures in response
19 to rapidly changing resource conditions;

20 (2) Notice of the rulemaking shall:

21 (A) Be given at least once statewide at least thirty
22 days in advance of the public meeting;

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- 1 (B) Include a statement of the topic of the proposed
2 rule to be adopted, amended, or repealed or a
3 general description of the subjects involved;
- 4 (C) Include a statement that a copy of the proposed
5 rule to be adopted, the proposed rule amendment,
6 or the rule proposed to be repealed will be
7 mailed to any interested person who requests a
8 copy and pays the required fees for the copy and
9 the postage, if any, together with a description
10 of where and how the requests may be made;
- 11 (D) Include a statement of when, where, and during
12 what times the proposed rule to be adopted, the
13 proposed rule amendment, or the rule proposed to
14 be repealed may be reviewed;
- 15 (E) Include the date, time, and place where the
16 public meeting will be held and where interested
17 persons may be heard on the proposed rule
18 adoption, amendment, or repeal; and
- 19 (F) Be mailed to all persons who have made a timely
20 written request of the board for advance notice
21 of its rule-making proceedings; and

1 (3) The adoption, amendment, or repeal of the rule shall
2 be effective for an initial period of not longer than
3 two years, subject to renewal by the board for up to
4 one year at a time.

5 Each rule hereafter adopted, amended, or repealed under
6 this subsection shall become effective ten days after formal
7 action by the board, provided that, if a later effective date is
8 specified in the rule, the later date shall be the effective
9 date. The department shall post the final adopted, amended, or
10 repealed rule on its website for the duration of time the rule
11 is in effect.

12 Any such rule established by such action of the board
13 pursuant to this subsection shall have the force and effect of
14 law. Any person who violates any rule established by such
15 action of the board shall be subject to administrative penalties
16 as provided by section 183D-12."

17 SECTION 3. Section 187A-5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§187A-5 Rules.** (a) Subject to chapter 91, the
20 department shall adopt, amend, and repeal rules for and
21 concerning the protection and propagation of introduced and
22 transplanted aquatic life, or the conservation and allocation of

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1 the natural supply of aquatic life in any area. [~~The rules may~~
2 ~~include the following:~~

3 ~~(1) Size limits;~~

4 ~~(2) Bag limits;~~

5 ~~(3) Open and closed fishing seasons;~~

6 ~~(4) Specifications and numbers of fishing or taking gear~~
7 ~~which may be used or possessed; and~~

8 ~~(5) Prescribe and limit the kind and amount of bait that~~
9 ~~may be used in taking aquatic life, and the conditions~~
10 ~~for entry into areas for taking aquatic life.]~~

11 The rules may vary from [~~one county to another~~] county to county
12 or in any part of the county and may specify certain days of the
13 week or certain hours of the day in designating open and closed
14 fishing seasons. All rules shall have the force and effect of
15 law. [~~Any~~] Except as provided by subsection (b), any person who
16 violates any of the rules adopted pursuant to this section shall
17 be guilty of a petty misdemeanor and upon conviction thereof
18 shall be punished as provided by section 188-70.

19 (b) In addition, notwithstanding any law to the contrary,
20 the board may adopt, amend, or repeal any rule pertaining to bag
21 limits, size limits, open or closed fishing seasons, or gear

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1 restrictions by formal board action at a publicly noticed
2 meeting, provided that:

3 (1) The board finds that the timely adoption, amendment,
4 or repeal of the rule is necessary to implement
5 effective and adaptive management measures in response
6 to rapidly changing resource conditions;

7 (2) Notice of the rulemaking shall:

8 (A) Be given at least once statewide at least thirty
9 days in advance of the public meeting;

10 (B) Include a statement of the topic of the proposed
11 rule to be adopted, amended, or repealed or a
12 general description of the subjects involved;

13 (C) Include a statement that a copy of the proposed
14 rule to be adopted, the proposed rule amendment,
15 or the rule proposed to be repealed will be
16 mailed to any interested person who requests a
17 copy and pays the required fees for the copy and
18 the postage, if any, together with a description
19 of where and how the requests may be made;

20 (D) Include a statement of when, where, and during
21 what times the proposed rule to be adopted, the

1 proposed rule amendment, or the rule proposed to
2 be repealed may be reviewed;

3 (E) Include the date, time, and place where the
4 public meeting will be held and where interested
5 persons may be heard on the proposed rule
6 adoption, amendment, or repeal; and

7 (F) Be mailed to all persons who have made a timely
8 written request of the board for advance notice
9 of its rule-making proceedings; and

10 (3) The adoption, amendment, or repeal of the rule shall
11 be effective for an initial period of not longer than
12 two years, subject to renewal by the board for up to
13 one year at a time.

14 Each rule hereafter adopted, amended, or repealed under
15 this subsection shall become effective ten days after formal
16 action by the board, provided that, if a later effective date is
17 specified in the rule, the later date shall be the effective
18 date. The department shall post the final adopted, amended, or
19 repealed rule on its website for the duration of time the rule
20 is in effect.

21 Any such rule established by such action of the board
22 pursuant to this subsection shall have the force and effect of

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1 law. Any person who violates any rule established by such
2 action of the board shall be subject to administrative penalties
3 as provided by section 187A-12.5."

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

6 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 
BY REQUEST

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Report Title:

Natural Resource Rules; Adaptive Management

Description:

Authorizes the Board of Land and Natural Resources (Board) to temporarily adopt, amend, and repeal certain natural resource rules by formal Board action at a publicly noticed meeting if the Board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions.

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

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO ADAPTIVE NATURAL RESOURCE MANAGEMENT.

PURPOSE: To authorize the Board of Land and Natural Resources (Board) to temporarily adopt, amend, and repeal certain natural resource rules by formal Board action at a publicly noticed meeting if the Board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions.

MEANS: Amend sections 183D-3 and 187A-5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Department is responsible for managing and administering the aquatic and terrestrial wildlife resources of the State. These natural resources are impacted by a variety of environmental and anthropogenic factors, some of which may change rapidly and frequently. To effectively manage these natural resources, the Department needs the flexibility to quickly and efficiently implement adaptive management measures that are informed by the best available scientific information.

The administrative rule-making process prescribed by chapter 91, HRS, serves the important function of providing opportunity for public review and input. However, it is not designed for implementation of adaptive management measures in response to rapidly changing resource conditions. This bill would authorize the Department to quickly implement certain temporary adaptive management measures, while also providing opportunity for public review and input.

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Impact on the public: The general public would benefit from improvements to the management of natural resources in a timely manner.

Impact on the Department and other agencies: Adaptive management would enhance the Department's ability to manage natural resources by allowing the Department to more efficiently adopt, amend, and repeal certain natural resource rules. The process would significantly reduce the staff time and resources currently required to adopt, amend, and repeal rules.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 153 and LNR 804.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.