

JAN 22 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. The legislature finds that article XII, section
2 2, of the state constitution states, in part, that "[T]he 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 also applies to the counties,
8 which, pursuant to article VIII of the state constitution, are
9 political subdivisions of the State.

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



1 The legislature further finds that working with the
2 department of Hawaiian home lands, the commission on water
3 resource management has set some ground water and surface water
4 reservations for Hawaiian homes projects on Kauai, Oahu,
5 Molokai, Lanai, Maui, and Hawaii islands, and continues to set
6 additional reservations in partial fulfillment of the
7 requirements of section 174C-101(a), Hawaii Revised Statutes.

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

16 Accordingly, the purpose of this Act is to amend the
17 statutes relating to the county boards of water supply by:

18 (1) Requiring each board of water supply to send an annual
19 accounting of water credits to the department of
20 Hawaiian home lands;



- 1 (2) Requiring the boards to annually reserve the water
2 credits requested by the department of Hawaiian home
3 lands;
- 4 (3) Prohibiting counties from withholding any water
5 developed by the department of Hawaiian home lands for
6 the board of water supply's own use and allocation in
7 the negotiation of any water development, water
8 credit, or similar agreement;
- 9 (4) Requiring the counties to credit the department of
10 Hawaiian home lands the full amount of credits
11 justified by the water development;
- 12 (5) Requiring each county board of water supply to develop
13 water shortage policies that first require reductions
14 in non-public trust uses of water, including non-
15 public trust uses on Hawaiian home lands under section
16 221 of the Hawaiian Homes Commission Act rather than
17 equal percentage reductions in use;
- 18 (6) Requiring each county board of water supply to apply
19 for water licenses of any waters they develop or have
20 in their system emanating from state lands under
21 section 171-58 before July 30, 2022;



S.B. NO. 878

- 1 (7) Requiring that one of the five nominated members of
2 county boards of water supply to represent the
3 interests as set forth in section 221 of the Hawaiian
4 Homes Commission Act;
- 5 (8) Requiring that at least two of the eight appointive
6 members of the Hawaii county board of water supply
7 represent the interests as set forth in section 221 of
8 the Hawaiian Homes Commission Act;
- 9 (9) Requiring that at least one of the four members who
10 are residents of the district of North or South Hilo
11 on the Hawaii county board of water supply represent
12 the interests as set forth in section 221 of the
13 Hawaiian Homes Commission Act; and
- 14 (10) Requiring that at least one of the five members who
15 are residents of the districts of North Kona or South
16 Kona, North Kohala or South Kohala, Hamakua, Puna, and
17 Kau on the Hawaii county board of water supply
18 represent the interests as set forth in section 221 of
19 the Hawaiian Homes Commission Act.



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

4 "§54- County boards of water supply and their obligation
5 to the department of Hawaiian home lands. (a) Prior to June 30
6 of each fiscal year, each board of water supply shall transmit
7 to the department of Hawaiian home lands an accounting of all
8 water credits held by the county for all of their respective
9 systems. The department of Hawaiian home lands shall inform the
10 counties no later than September 30 of that same fiscal year the
11 number of credits it requires for its uses under section 221 of
12 the Hawaiian Homes Commission Act. The boards shall reserve the
13 credits for the use of the department of Hawaiian home lands and
14 shall not allocate them to any other user unless the department
15 of Hawaiian home lands surrenders the credits.

16 (b) In the negotiation of any water development, water
17 credit, or similar agreement, the counties shall not withhold
18 any water developed by the department of Hawaiian home lands for
19 the board of water supply's own use and allocation, but shall
20 instead credit the department of Hawaiian home lands the entire
21 amount of credits justified by the water development.



1 (c) Each board of water supply shall develop policies to
2 implement in case of water shortage that do not call for equal
3 percentage reductions in use, but rather first require
4 reductions in non-public trust uses of water, including non-
5 public trust uses on Hawaiian home lands under section 221 of
6 the Hawaiian Homes Commission Act.

7 (d) No later than July 30, 2022, each board of water
8 supply shall apply for water licenses of any waters they develop
9 or have in their system emanating from state lands under section
10 171-58.

11 (e) Notwithstanding any provisions in a county charter or
12 ordinance to the contrary, this section shall apply to the board
13 of water supply and the counties."

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

16 **"§54-12 Board of water supply.** If a county does not have
17 an existing board of water supply, there shall be a board of
18 water supply for each county consisting of seven members of whom
19 five shall be nominated, and by and with the advice and consent
20 of the council, appointed by the mayor, one of whom shall be the
21 state district engineer of the state department of



1 transportation and one of whom shall be the chief engineer of
2 the respective county[-]; provided that at least one of the five
3 members shall represent the interests as set forth in section
4 221 of the Hawaiian Homes Commission Act.

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

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

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

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



1 "§54-52 Appointment. The eight appointive members of the
2 board of water supply shall be appointed by the chairperson of
3 the council of the county, with the approval of the council[-];
4 provided that at least two of the eight members shall represent
5 the interests as set forth in section 221 of the Hawaiian Homes
6 Commission Act. The chairperson shall likewise designate the
7 chairperson of the board of water supply from among the
8 appointive members. The members of the board shall serve
9 without pay, but shall be reimbursed for their reasonable
10 expenses. Each member of the board shall be, at the time of the
11 member's appointment, an elector of the county of Hawaii and
12 shall have been such for at least three years next preceding the
13 member's appointment. Any member of the board may be removed
14 from office by the chairperson of the council of the county,
15 with the approval of the council.

16 Membership of the board shall include four members who are
17 residents of the district of North or South Hilo; provided that
18 at least one of the four members shall represent the interests
19 as set forth in section 221 of the Hawaiian Homes Commission Act
20 provided further that; one of the four members shall be the
21 person who for the time being shall be the legal incumbent of



1 the office of the chief engineer of the department of public
2 works of the county. In addition, one member shall be a
3 resident of the district of North Kona or South Kona, one member
4 shall be a resident of the district of North Kohala or South
5 Kohala, one member shall be a resident of the district of
6 Hamakua, one member shall be a resident of the district of Puna,
7 and one member shall be a resident of the district of Kau. Of
8 the five members from different geographic regions of the county
9 of Hawaii, at least one of the five members shall represent the
10 interests as set forth in section 221 of the Hawaiian Homes
11 Commission Act.

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

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



S.B. NO. 878

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

2

INTRODUCED BY:

A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be the initials 'AK'.

S.B. NO. 878

Report Title:

Board of Water Supply; County Representation; Hawaiian Home Lands

Description:

Requires each board of water supply to send an annual accounting of water credits to the department of Hawaiian home lands. Requires the boards to annually reserve the water credits requested by the department of Hawaiian home lands. Prohibits counties from withholding any water developed by the department of Hawaiian home lands for the board of water supply's own use and allocation in the negotiation of any water development, water credit, or similar agreement. Requires the counties to credit the department of Hawaiian home lands the full amount of credits justified by the water development. Requires each board of water supply to develop water shortage policies that first require reductions in non-public trust uses of water, including the uses on Hawaiian home lands under section 221 of the Hawaiian Homes Commission Act rather than equal percentage reductions in use. Requires each county board of water supply to apply for water licenses of any waters they develop or have in their system emanating from state lands under section 171-58 before July 30, 2022. Adds representation of the interests set forth on section 221 of the Hawaiian homes commission Act onto the county boards of water supply.

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

