



**GOV. MSG. NO. 1367**

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

July 7, 2023

The Honorable Ronald D. Kouchi  
President of the Senate,  
and Members of the Senate  
Thirty-Second State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki  
Speaker, and Members of the  
House of Representatives  
Thirty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB153, without my approval and with the statement of objections relating to the measure.

HB153

RELATING TO STATE WATER CODE PENALTIES.

Sincerely,

Josh Green, M.D.  
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 7, 2023

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 153

Honorable Members  
Thirty-Second Legislature  
State of Hawai'i

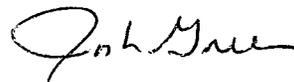
Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 153, entitled "A Bill for an Act Relating to State Water Code Penalties."

The purpose of this bill is to establish minimum and maximum penalties of \$50 and \$60,000 respectively for each day that a violation of the State Water Code, chapter 174C, Hawaii Revised Statutes, exists or continues.

This bill is objectionable because, while we understand and respect the need to hold violators of the State Water Code accountable, there are concerns that the significant increase of the maximum fine from \$5,000 a day to \$60,000 a day is not sufficiently justified. Several state agencies pump water to their housing developments, and there are indications that daily over-pumping from wells occurs throughout the State. This bill could have an adverse impact on new housing developments, because this is one of the first places county boards of water supply may look when there is a need to cut water usage.

For the foregoing reasons, I am returning House Bill No.153 without my approval.

Respectfully,



JOSH GREEN, M.D.  
Governor of Hawai'i

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A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the state  
2 water code was adopted to protect the precious water resources  
3 of the State. To better enable the department of land and  
4 natural resources and commission on water resource management to  
5 carry out that mission, the legislature further finds that the  
6 water code's penalties and fines must be amended and increased  
7 to serve as an effective deterrence to violators.

8 The purpose of this Act is to ensure that all violators of  
9 the state water code are held accountable for their violations  
10 by creating a minimum penalty of \$50 and a maximum penalty of  
11 \$60,000 for every violation.

12 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§174C-15 Penalties and common law remedies. (a) The  
15 commission may enforce its rules and orders adopted pursuant to  
16 this chapter by suit for injunction or for damages or both.



1 (b) Any person who violates any provision of this chapter,  
2 [~~or~~] violates any rule adopted pursuant to this chapter, [may]  
3 violates any order of the commission, fails to obtain a permit  
4 when a permit is required under this chapter, or fails to comply  
5 with permit conditions, shall be subject to a fine imposed by  
6 the commission. [~~Such~~] The fine shall be not less than \$50 and  
7 shall not exceed [~~\$5,000. For a continuing offense, each day~~  
8 during which the offense is committed is a separate violation.]  
9 \$60,000 per violation. Each day that a violation exists or  
10 continues to exist shall constitute a separate offense.  
11 Penalties for continuing violations shall be assessed from the  
12 earliest known date of the violation. The earliest known date  
13 of a violation shall be determined by the commission by a  
14 preponderance of the evidence; provided that if the earliest  
15 known date cannot be determined by a preponderance of the  
16 evidence, penalties for continuing violations shall be assessed  
17 from the earliest date the commission is made aware of the  
18 violation.

19 (c) The commission shall determine the penalty amount for  
20 each violation upon review of the circumstances of the  
21 violation, taking into account the nature, extent, and gravity



1 of the violation and considering the history of such violations,  
2 degree of culpability, and other matters as justice may require.

3 ~~[(e)]~~ (d) No provision of this chapter shall bar the right  
4 of any injured person to seek other legal or equitable relief  
5 against a violator of this chapter.

6 ~~[(d)]~~ (e) Except as otherwise provided by law, the  
7 commission or its authorized representative by proper delegation  
8 ~~[may]~~ shall set, charge, and collect administrative fines; ~~[or]~~  
9 may bring legal action to recover administrative fees and costs  
10 as documented by receipts or affidavit, including ~~[attorneys']~~  
11 attorney's fees and costs; ~~[or]~~ and may bring legal action to  
12 recover administrative fines, fees, and costs, including  
13 ~~[attorneys']~~ attorney's fees and costs, or payment for damages  
14 resulting from a violation of this chapter or any rule adopted  
15 pursuant to this chapter."

16 SECTION 3. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 4. This Act shall take effect on July 1, 2023.

19





HB No. 153, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki  
Speaker  
House of Representatives

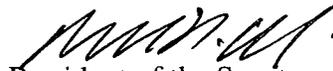


Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI‘I**

Date: May 2, 2023  
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.

  
President of the Senate

  
Clerk of the Senate