

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'AINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'AINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621  
HONOLULU, HAWAII 96809

DAWN N.S. CHANG  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the House Committee on  
FINANCE

Tuesday, February 28, 2023  
10:00 AM

State Capitol, Conference Room 308 & Videoconference

In consideration of  
HOUSE BILL 153, HOUSE DRAFT 1  
RELATING TO STATE WATER CODE PENALTIES

House Bill 153, House Draft 1 proposes to: 1) add a minimum penalty of \$50 per violation of the State Water Code; 2) make each day that a violation exists or continues a separate offense; and 3) require the Commission on Water Resource Management of the Department of Land and Natural Resources (Department) to determine the amount of the penalty based on the circumstances of the violation. **The Department strongly supports this measure.**

The Department appreciates the clarification of a continuing violation and the guidance for the determination of the penalty amount in the newly added subsection (c) to Hawai'i Revised Statutes Section 174C-15. The guidance in subsection (c) corresponds with the Commission on Water Resource Management's (Commission) Administrative and Civil Penalty Guideline (G14-01)<sup>1</sup> that the Commission adopted on October 1, 2014.<sup>2</sup> The Department notes that G14-01 provides for an initial administrative fee of \$500, if the Commission issued a written notice of alleged violation, in addition to any fine.

The Department also appreciates the amendments made to the bill in House Draft 1 to raise the penalty ceiling from \$5,000 to \$25,000<sup>3</sup> per violation and add an appropriation for two full-time equivalent (2.0

<sup>1</sup> [https://files.hawaii.gov/dlnr/cwrm/planning/wrpp2019update/WRPP\\_AppP\\_201907.pdf](https://files.hawaii.gov/dlnr/cwrm/planning/wrpp2019update/WRPP_AppP_201907.pdf)

<sup>2</sup> <https://files.hawaii.gov/dlnr/cwrm/submittal/2014/sb201410D1.pdf>

<sup>3</sup> Senate Bill 445 Senate Draft 1 proposes to increase the penalty ceiling of the Department of Health (DOH) to \$59,973, the Department notes that in case Senate Bill 445 Senate draft 1 passes, the penalty ceiling in HRS section 174C-15 should be the same amount to be consistent with DOH.

FTE) general professional positions. These two general professional positions will help the Commission in ensuring compliance and enforcement of the State Water Code penalties.

This bill will support the Commission in its affirmative duty “*to protect, control and regulate the use of Hawaii’s water resources*” as articulated in article XI section 7 of the Constitution of the State of Hawai‘i. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversion, and 376 perennial streams, 100 of which have a numeric interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of O‘ahu, Moloka‘i and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits.

Mahalo for the opportunity to testify in support of this measure.