
A BILL FOR AN ACT

RELATING TO THE HAWAII ENVIRONMENTAL PROTECTION AGENCY.

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

1 PART I

2 SECTION 1. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5 "CHAPTER

6 HAWAII ENVIRONMENTAL PROTECTION AGENCY

7 § -1 Hawaii environmental protection agency;

8 **established.** (a) The Hawaii environmental protection agency
9 shall be established within the department of land and natural
10 resources. The agency shall be headed by a single executive to
11 be known as the director of environmental protection.

12 (b) The agency shall be responsible for exercising
13 regulatory functions and coordinating responsibilities to manage
14 the State's environment.

15 (c) The following responsibilities are transferred to, and
16 placed under the administration of, the Hawaii environmental
17 protection agency as established by this chapter:



- 1 (1) Environmental response law (chapter 128D);
- 2 (2) Hawaii pesticides law (chapter 149A);
- 3 (3) Solid waste (chapter 340A);
- 4 (4) Wastewater treatment personnel (chapter 340B);
- 5 (5) Safe drinking water (chapter 340E);
- 6 (6) Hawaii law for mandatory certification of public water
- 7 system operators (chapter 340F);
- 8 (7) Environmental quality control (chapter 341);
- 9 (8) Air pollution control (chapter 342B);
- 10 (9) Water pollution (chapter 342D);
- 11 (10) Nonpoint source pollution management and control
- 12 (chapter 342E);
- 13 (11) Integrated solid waste management (chapter 342G);
- 14 (12) Solid waste pollution (chapter 342H);
- 15 (13) Special wastes recycling (chapter 342I);
- 16 (14) Hazardous waste (chapter 342J);
- 17 (15) Underground storage tanks (chapter 342L);
- 18 (16) State environmental policy (chapter 344); and
- 19 (17) The uniform environmental covenants act
- 20 (chapter 508C).



1 § -2 Hawaii environmental protection agency special
2 **fund; established.** (a) There is hereby established in the
3 state treasury a special fund known as the Hawaii environmental
4 protection agency special fund, into which shall be deposited:

- 5 (1) Appropriations made by the legislature for deposit
6 into the fund;
- 7 (2) All contributions from public or private partners; and
8 (3) All interest earned on or accrued to moneys deposited
9 in the special fund.

10 (b) Moneys in the Hawaii environmental protection agency
11 special fund shall be administered by the Hawaii environmental
12 protection agency for personnel costs and operating and
13 administrative costs deemed necessary by the agency to fulfill
14 its responsibilities pursuant to section -1."

15 SECTION 2. (a) By October 1, 2024, the governor shall
16 designate a representative who shall facilitate the Hawaii
17 environmental protection agency's orderly succession to the
18 jurisdiction, powers, functions, rights, benefits, obligations,
19 assets, liabilities, funds, accounts, contracts, and all other
20 things currently held, used, incurred, or performed by the
21 department of agriculture or the chairperson of the board of



1 agriculture and their staff, the department of health or
2 director of health and their staff, and department of business,
3 economic development, and tourism or the director of business,
4 economic development, and tourism and their staff, in
5 administering and exercising the authority and fulfilling the
6 responsibilities authorized or conferred upon these entities by
7 the chapters transferred in section 1 of this Act.

8 (b) By January 1, 2025, the governor shall appoint a
9 director of environmental protection.

10 (c) To facilitate the Hawaii environmental protection
11 agency's timely assumption of the agency's authority and
12 responsibilities, the department of agriculture; department of
13 health; department of accounting and general services;
14 department of human resources development; department of
15 business, economic development, and tourism; state procurement
16 office; and any other state department or agency shall, if
17 requested by the Hawaii environmental protection agency, enter
18 into a memorandum of understanding with the Hawaii environmental
19 protection agency to:



- 1 (1) Provide administrative support services for the agency
2 pending the transfer of employees to the Hawaii
3 environmental protection agency;
- 4 (2) Develop a policy and set of robust procurement
5 procedures that foster accountability, transparency,
6 and oversight of contracts, including compliance with
7 federal procurement requirements;
- 8 (3) Assist the Hawaii environmental protection agency with
9 the organization of its human resources development
10 functions, including establishing:
- 11 (A) A human resources office; and
- 12 (B) The Hawaii environmental protection agency's
13 civil service and civil service positions; and
14 the classification system; merit appeals board;
15 recruitment system; performance appraisal system;
16 and administrative rules, policies, standards and
17 procedures, including internal complaint
18 procedures, adopted to support its civil service;
- 19 (4) Assist the Hawaii environmental protection agency in
20 establishing its accounting, budgeting, fund
21 management, and communication and electronic



1 information systems, and creating appropriate
2 interfaces between the agency's accounting, budgeting,
3 fund management, communication, and electronic
4 information systems, and those of other departments
5 and state agencies;

6 (5) Assist the Hawaii environmental protection agency in
7 identifying the plans and reports that departments and
8 agencies are required to prepare for the governor,
9 legislature, or other state department or agency;
10 determining whether the plans and reports have been
11 prepared and will be transferred to the agency on the
12 transfer completion date; and preparing the plans and
13 reports for the Hawaii environmental protection
14 agency, if they do not exist; and

15 (6) Expeditiously transfer to, or otherwise facilitate the
16 Hawaii environmental protection agency's acquisition
17 or assumption of, all of the powers, functions,
18 rights, benefits, obligations, assets, funds,
19 accounts, contracts, and other things held, used,
20 incurred, and performed by other departments and



1 agencies and transferred to the agency by
2 section -1(c), Hawaii Revised Statutes.

3 (d) As soon as feasible, the Hawaii environmental
4 protection agency, with the concurrence of the chairperson of
5 the board of agriculture, director of health, director of
6 business, economic development, and tourism, and governor, shall
7 establish the transfer completion date, which shall be no later
8 than December 31, 2026, and shall publish notice of the transfer
9 completion date by:

- 10 (1) Publishing the notice in a daily publication of
11 statewide circulation pursuant to section 1-28.5,
12 Hawaii Revised Statutes;
- 13 (2) Posting a copy of the notice on an electronic calendar
14 on a website maintained by the State; and
- 15 (3) Providing a copy of the notice to the head of every
16 other state department.

17 SECTION 3. No more than ninety days after the transfer
18 completion date, all appropriations, records, equipment,
19 machines, files, supplies, contracts, books, papers, documents,
20 maps, and other personal property heretofore made, used,
21 acquired, or held by the department of agriculture, department



1 of health, and department of business, economic development, and
2 tourism relating to the functions transferred to the Hawaii
3 environmental protection agency shall be transferred with the
4 functions to which they relate.

5 SECTION 4. (a) All rights, powers, functions, and duties
6 of the department of agriculture, department of health, and
7 department of business, economic development, and tourism that
8 are assigned to the Hawaii environmental protection agency by
9 section -1(c), Hawaii Revised Statutes, are transferred to
10 the Hawaii environmental protection agency.

11 (b) All employees who occupy civil service positions and
12 whose functions are transferred to the Hawaii environmental
13 protection agency by this Act shall retain their civil service
14 status, whether permanent or temporary. Employees shall be
15 transferred without any loss of salary; seniority (except as
16 prescribed by applicable collective bargaining agreements);
17 retention points; prior service credit; any vacation and sick
18 leave credits previously earned; and other rights, benefits, and
19 privileges, in accordance with state personnel laws and this
20 Act; provided that the employees possess the minimum
21 qualifications and public employment requirements for the class



1 or position to which transferred or appointed; provided further
2 that subsequent changes in status may be made pursuant to
3 applicable civil service and compensation laws.

4 (c) Any employee who, prior to this Act, is exempt from
5 civil service and is transferred as a consequence of this Act
6 may retain the employee's exempt status, but shall not be
7 appointed to a civil service position as a consequence of this
8 Act. An exempt employee who is transferred by this Act shall
9 not suffer any loss of prior service credit, vacation or sick
10 leave credits previously earned, or other employee benefits or
11 privileges as a consequence of this Act; provided that the
12 employees possess legal and public employment requirements for
13 the position to which transferred or appointed; provided further
14 that subsequent changes in status may be made pursuant to
15 applicable employment and compensation laws. The director of
16 environmental protection may prescribe the duties and
17 qualifications of these employees and fix their salaries without
18 regard to chapter 76, Hawaii Revised Statutes.

19 PART II

20 SECTION 5. Section 194-2, Hawaii Revised Statutes, is
21 amended by amending subsections (a) and (b) to read as follows:



1 "(a) There is established the invasive species council for
2 the special purpose of providing policy level direction,
3 coordination, and planning among state departments, federal
4 agencies, and international and local initiatives for the
5 control and eradication of harmful invasive species infestations
6 throughout the State and for preventing the introduction of
7 other invasive species that may be potentially harmful. The
8 council shall:

- 9 (1) Maintain a broad overview of the invasive species
10 problem in the State;
- 11 (2) Advise, consult, and coordinate invasive species-
12 related efforts with and between the departments of
13 agriculture, land and natural resources, health, and
14 transportation, as well as state, federal,
15 international, and privately organized programs and
16 policies;
- 17 (3) Identify and prioritize each lead agency's
18 organizational and resource shortfalls with respect to
19 invasive species;
- 20 (4) After consulting with appropriate state agencies,
21 create and implement a plan that includes the



1 prevention, early detection, rapid response, control,
2 enforcement, and education of the public with respect
3 to invasive species, as well as fashion a mission
4 statement articulating the State's position against
5 invasive species; provided that the appropriate state
6 agencies shall collaborate with the counties and
7 communities to develop and implement a systematic
8 approach to reduce and control coqui frog infestations
9 on public lands that are near or adjacent to
10 communities, and shall provide annual reports on the
11 progress made in achieving this objective;

- 12 (5) Coordinate and promote the State's position with
13 respect to federal issues, including:
- 14 (A) Quarantine preemption;
 - 15 (B) International trade agreements that ignore the
16 problem of invasive species in Hawaii;
 - 17 (C) First class mail inspection prohibition;
 - 18 (D) Whether quarantine of domestic pests arriving
19 from the mainland should be provided by the
20 federal government;



- 1 (E) Coordinating efforts with federal agencies to
2 maximize resources and reduce or eliminate system
3 gaps and leaks, including deputizing the United
4 States Department of Agriculture's plant
5 protection and quarantine inspectors to enforce
6 Hawaii's laws;
- 7 (F) Promoting the amendment of federal laws as
8 necessary, including the Lacey Act Amendments of
9 1981, Title 16 United States Code sections 3371-
10 3378; Public Law 97-79, and laws related to
11 inspection of domestic airline passengers,
12 baggage, and cargo; and
- 13 (G) Coordinating efforts and issues with the federal
14 Invasive Species Council and its National
15 Invasive Species Management Plan;
- 16 (6) Identify and record all invasive species present in
17 the State;
- 18 (7) Designate the Hawaii environmental protection agency
19 or department of agriculture[~~7~~] or health[~~7~~ ~~or~~ land
20 ~~and natural resources~~] as the lead agency for each
21 function of invasive species control, including



- 1 prevention, rapid response, eradication, enforcement,
2 and education;
- 3 (8) Identify all state, federal, and other moneys expended
4 for the purposes of the invasive species problem in
5 the State;
- 6 (9) Identify all federal and private funds available to
7 the State to fight invasive species and advise and
8 assist state departments to acquire these funds;
- 9 (10) Advise the governor and legislature on budgetary and
10 other issues regarding invasive species;
- 11 (11) Provide annual reports on budgetary and other related
12 issues to the legislature twenty days prior to each
13 regular session;
- 14 (12) Include and coordinate with the counties in the fight
15 against invasive species to increase resources and
16 funding and to address county-sponsored activities
17 that involve invasive species;
- 18 (13) Review state agency mandates and commercial interests
19 that sometimes call for the maintenance of potentially
20 destructive alien species as resources for sport
21 hunting, aesthetic resources, or other values;



1 (14) Review the structure of fines and penalties to ensure
2 maximum deterrence for invasive species-related
3 crimes;

4 (15) Suggest appropriate legislation to improve the State's
5 administration of invasive species programs and
6 policies;

7 (16) Incorporate and expand upon the department of
8 agriculture's weed risk assessment protocol to the
9 extent appropriate for the council's invasive species
10 control and eradication efforts; and

11 (17) Perform any other function necessary to effectuate the
12 purposes of this chapter.

13 (b) The council shall be placed within the [~~department of~~
14 ~~land and natural resources~~] Hawaii environmental protection
15 agency for administrative purposes only and shall be composed
16 of:

17 (1) The president of the University of Hawaii, or the
18 president's designated representative;

19 (2) The director, or the director's designated
20 representative, of each of the following departments:

21 (A) Business, economic development, and tourism;



- 1 (B) Health; [~~and~~]
- 2 (C) Transportation; and
- 3 (D) Environmental protection; and

4 (3) The chairperson, or the chairperson's designated
5 representative, of each of the following departments:

- 6 (A) Agriculture; and
- 7 (B) Land and natural resources."

8 SECTION 6. Section 344-2, Hawaii Revised Statutes, is
9 amended by amending the definition of "agency" to read as
10 follows:

11 ""Agency" means any agency, department, office, board, or
12 commission of the State or county government that is a part of
13 the executive branch of that government."

14 PART III

15 SECTION 7. Chapter 149A, Hawaii Revised Statutes, is
16 amended by:

- 17 (1) Substituting the phrase "Hawaii environmental
18 protection agency," or a similar term, wherever the
19 phrase "department of agriculture", or a similar term,
20 appears, as the context requires; and



1 (2) Substituting the phrase "director of environmental
2 protection", or a similar term, wherever the term
3 "chairperson of the board of agriculture", or a
4 similar term, appears, as the context requires.

5 SECTION 8. (a) The department of agriculture shall be
6 responsible for all obligations incurred by the department in
7 connection with the department's exercise of the authority and
8 performance of the duties and responsibilities conferred upon it
9 and the chairperson of the board of agriculture by chapter 149A,
10 Hawaii Revised Statutes, until the time that the obligations,
11 including any accounts payable, accrued paid time off, debt,
12 capital leases, and other obligations incurred before the
13 transfer completion date, have been assumed by the Hawaii
14 environmental protection agency, which shall not occur prior to
15 the transfer completion date.

16 (b) All collective bargaining disputes or claims against
17 the department of agriculture grounded in an act or omission, or
18 an event that occurred prior to the transfer completion date,
19 shall remain the responsibility of the department of
20 agriculture.



1 (c) All liabilities arising out of the Hawaii
2 environmental protection agency's exercise of the authority and
3 performance of the duties and responsibilities conferred upon it
4 and its director by chapter 149A, Hawaii Revised Statutes, after
5 the transfer completion date shall be the responsibility of the
6 Hawaii environmental protection agency.

7 (d) The assumption by the Hawaii environmental protection
8 agency of any bonds, notes, or other obligations of the
9 department of agriculture shall be subject to the terms and
10 provisions of any certificate, indenture, or resolution securing
11 those bonds, notes, or other obligations.

12 (e) On the transfer completion date, the Hawaii
13 environmental protection agency shall assume responsibility for
14 all rights, duties, penalties, and proceedings of the department
15 of agriculture pursuant to chapter 149A, Hawaii Revised
16 Statutes, as transferred by this Act.

17 SECTION 9. All rules, policies, procedures, guidelines,
18 and other materials adopted or developed by the department of
19 agriculture to implement provisions of the Hawaii Revised
20 Statutes that are reenacted or made applicable to the Hawaii
21 environmental protection agency by this Act shall remain in full



1 force and effect on and after the transfer completion date
2 established pursuant to section 2 of this Act, until amended or
3 repealed by the Hawaii environmental protection agency pursuant
4 to chapter 91, Hawaii Revised Statutes. In the interim, every
5 reference to the department of agriculture, board of
6 agriculture, or chairperson of the board of agriculture in those
7 rules, policies, procedures, guidelines, and other materials, is
8 amended to refer to the Hawaii environmental protection agency
9 or director of environmental protection, as appropriate.

10 SECTION 10. All deeds, executive orders, leases,
11 contracts, loans, agreements, permits, or other documents
12 executed or entered into by or on behalf of the department of
13 agriculture, pursuant to the provisions of the Hawaii Revised
14 Statutes, that are reenacted or made applicable to the Hawaii
15 environmental protection agency by this Act shall remain in full
16 force and effect. On the transfer completion date established
17 pursuant to section 2 of this Act, every reference to the
18 department of agriculture or board of agriculture in those
19 deeds, executive orders, leases, contracts, loans, agreements,
20 permits, or other documents shall be construed as a reference to
21 the Hawaii environmental protection agency.



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PART IV

SECTION 11. Chapter 341, Hawaii Revised Statutes, is amended by:

- (1) Substituting the phrase "Hawaii environmental protection agency," or a similar term, wherever the phrase "office of planning and sustainable development", or a similar term, appears, as the context requires; and
- (2) Substituting the phrase "director of environmental protection", or a similar term, wherever the term "director of the office of planning and sustainable development", or a similar term, appears, as the context requires.

PART V

SECTION 12. Chapters 128D, 340A, 340B, 340E, 340F, 342B, 342D, 342E, 342G, 342H, 342I, 342J, 342L, and 508C, Hawaii Revised Statutes, are amended by:

- (1) Substituting the phrase "Hawaii environmental protection agency," or a similar term, wherever the phrase "department of health", or a similar term, appears, as the context requires; and



1 (2) Substituting the phrase "director of environmental
2 protection", or a similar term, wherever the term
3 "director of health", or a similar term, appears, as
4 the context requires.

5 SECTION 13. (a) The department of health shall be
6 responsible for all obligations incurred by the department in
7 connection with the department's exercise of the authority and
8 performance of the duties and responsibilities conferred upon it
9 and its director by chapters 128D, 340A, 340B, 340E, 340F, 342B,
10 342D, 342E, 342G, 342H, 342I, 342J, 342L, and 508C, Hawaii
11 Revised Statutes, until the time that the obligations, including
12 any accounts payable, accrued paid time off, debt, capital
13 leases, and other obligations incurred before the transfer
14 completion date, have been assumed by the Hawaii environmental
15 protection agency, which shall not occur prior to the transfer
16 completion date.

17 (b) All collective bargaining disputes or claims against
18 the department of health grounded in an act or omission, or an
19 event that occurred prior to the transfer completion date, shall
20 remain the responsibility of the department of health.



1 (c) All liabilities arising out of the Hawaii
2 environmental protection agency's exercise of the authority and
3 performance of the duties and responsibilities conferred upon it
4 and its director by chapters 128D, 340A, 340B, 340E, 340F, 342B,
5 342D, 342E, 342G, 342H, 342I, 342J, 342L, and 508C, Hawaii
6 Revised Statutes, after the transfer completion date shall be
7 the responsibility of the Hawaii environmental protection
8 agency.

9 (d) The assumption by the Hawaii environmental protection
10 agency of any bonds, notes, or other obligations of the
11 department of health shall be subject to the terms and
12 provisions of any certificate, indenture, or resolution securing
13 those bonds, notes, or other obligations.

14 (e) On the transfer completion date, the Hawaii
15 environmental protection agency shall assume responsibility for
16 all rights, duties, penalties, and proceedings of the department
17 of health pursuant to chapters 128D, 340A, 340B, 340E, 340F,
18 342B, 342D, 342E, 342G, 342H, 342I, 342J, 342L, and 508C, Hawaii
19 Revised Statutes, as transferred by this Act.

20 SECTION 14. All rules, policies, procedures, guidelines,
21 and other materials adopted or developed by the department of



1 health to implement provisions of the Hawaii Revised Statutes
2 that are reenacted or made applicable to the Hawaii
3 environmental protection agency by this Act shall remain in full
4 force and effect on and after the transfer completion date
5 established pursuant to section 2 of this Act, until amended or
6 repealed by the Hawaii environmental protection agency pursuant
7 to chapter 91, Hawaii Revised Statutes. In the interim, every
8 reference to the department of health and director of health in
9 those rules, policies, procedures, guidelines, and other
10 materials, is amended to refer to the Hawaii environmental
11 protection agency or director of environmental protection, as
12 appropriate.

13 SECTION 15. All deeds, executive orders, leases,
14 contracts, loans, agreements, permits, or other documents
15 executed or entered into by or on behalf of the department of
16 health, pursuant to the provisions of the Hawaii Revised
17 Statutes, that are reenacted or made applicable to the Hawaii
18 environmental protection agency by this Act shall remain in full
19 force and effect. On the transfer completion date established
20 pursuant to section 2 of this Act, every reference to the
21 department of health in those deeds, executive orders, leases,



1 contracts, loans, agreements, permits, or other documents shall
2 be construed as a reference to the Hawaii environmental
3 protection agency.

4 PART VI

5 SECTION 16. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2024-2025 to be
8 deposited into the Hawaii environmental protection agency
9 special fund established pursuant to section -2, Hawaii
10 Revised Statutes.

11 SECTION 17. There is appropriated out of the Hawaii
12 environmental protection agency special fund established
13 pursuant to section -2, Hawaii Revised Statutes, the sum of
14 \$ or so much thereof as may be necessary for fiscal
15 year 2024-2025 to the Hawaii environmental protection agency for
16 personnel costs and operating and administrative costs deemed
17 necessary by the agency to fulfill its responsibilities pursuant
18 to section -1, Hawaii Revised Statutes.

19 The sum appropriated shall be expended by the Hawaii
20 environmental protection agency for the purposes of this Act.



H.B. NO. *2164*

1 SECTION 19. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 20. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 21. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 22. This Act shall take effect on July 1, 2024.

13

INTRODUCED BY:

Elle Cochran

JAN 19 2024



H.B. NO. 2164

Report Title:

HDOA; DOH; Hawaii Environmental Protection Agency; Transfer of Functions; Appropriation; Expenditure Ceiling

Description:

Establishes the Hawaii environmental protection agency within the department of land and natural resources. Transfers jurisdiction of certain functions and employees of the department of agriculture and department of health to the Hawaii environmental protection agency. Appropriates funds.

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

