
A BILL FOR AN ACT

RELATING TO THE DAM AND APPURTENANCE IMPROVEMENT OR REMOVAL
GRANT PROGRAM.

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

1 SECTION 1. The legislature finds that many private dam
2 owners do not have the resources to conduct the necessary
3 repairs or removal of their dams, resulting in dams remaining
4 unsafe and continuing to pose a risk to the downstream public in
5 the event of a dam failure. The legislature further finds that
6 although the total cost to bring all private dams into
7 compliance will be in the hundreds of millions of dollars, dams
8 in Hawaii provide many public benefits, such as potable water,
9 water for agriculture and livestock, fire protection, ground
10 water recharge, flood control, energy generation, sediment
11 control, and recreation. Therefore, it is in the public's best
12 interest for the legislature to provide financial assistance to
13 these private dam owners.

14 Act 134, Session Laws of Hawaii 2023 (Act 134), established
15 and appropriated moneys for a dam and appurtenance improvement
16 or removal grant program to financially assist owners of private



1 dams and appurtenances to keep them properly maintained.
2 Although Act 134 did appropriate \$10,000,000 out of general
3 revenues as one-time seeding for the grant program, it did not
4 establish a special fund dedicated to receive grant program
5 funding. A special fund is a critical receptacle for grant
6 funds to be deposited into and remain available for the purposes
7 of Act 134. This is especially important during the department
8 of land and natural resources' (department) inaugural creation
9 of the grant program, where administrative rulemaking to develop
10 procedures and criteria to determine eligibility and priority of
11 awarding grants would be established. The department
12 anticipates that the \$10,000,000 in seed funding appropriated
13 for the grant program in Act 134 will lapse before the
14 department can complete its rulemaking and establish its grant
15 application criteria and processes. Thereafter, without the
16 creation of the special fund, unused funds for the grant program
17 will lapse and be returned to the general fund at the close of
18 each fiscal year.

19 The purpose of this Act is to establish a special fund to
20 receive funds for the dam and appurtenance improvement or



1 removal grant program and to reappropriate funds for the dam and
2 appurtenance improvement or removal grant program.

3 SECTION 2. Section 179D-31, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~179D-31~~§~~ **Dam and appurtenance improvement or**
6 **removal grant program~~[-]~~; special fund; established.** (a) There
7 is established a dam and appurtenance improvement or removal
8 grant program, to be developed and administered by the
9 department for the improvement or removal of deficient dams in
10 the State.

11 (b) The dam and appurtenance improvement or removal grant
12 program shall provide funding to owners of private dams for
13 plans, design, construction, and equipment to improve or remove
14 deficient dams and appurtenances, as determined by the
15 department.

16 (c) Each award shall be approved by the board before
17 disbursement and shall be subject to conditions imposed by the
18 board.

19 (d) The department may award grants based on criteria that
20 shall be developed by the department. Each applicant shall meet
21 the following requirements:



- 1 (1) The applicant shall be an owner of a high hazard or
2 significant hazard dam or appurtenance that is
3 regulated under this chapter;
- 4 (2) The applicant shall be the owner of a regulated dam or
5 appurtenance that has been determined to have one or
6 more deficiencies; provided that priority shall be
7 given to dams or appurtenances rated to be in poor or
8 unsatisfactory condition;
- 9 (3) The applicant shall indicate on the application that
10 the proposed plans, design, construction, and
11 equipment shall be intended for remediation or removal
12 of the dam or appurtenance;
- 13 (4) If the applicant is an entity other than an
14 individual, the applicant shall:
 - 15 (A) Be licensed to conduct business in the State; and
 - 16 (B) Have bylaws or policies that describe the manner
17 in which business is conducted, prohibit
18 nepotism, and provide for the management of
19 potential conflicts of interest;
- 20 (5) The applicant shall agree to comply with all
21 applicable federal and state laws prohibiting



1 discrimination against any person on the basis of
2 race, color, national origin, religion, creed, sex,
3 age, sexual orientation, disability, or any other
4 characteristic protected under applicable federal or
5 state law;

6 (6) The applicant shall agree that grant moneys are not to
7 be used for purposes of entertainment or perquisites;

8 (7) The applicant shall agree that all activities and
9 improvements undertaken with funds received shall
10 comply with applicable federal, state, and county
11 laws, including statutes, ordinances, applicable
12 building codes, and rules;

13 (8) The applicant shall agree to make available to the
14 department all records that the applicant may have
15 relating to the grant and allow state agencies to
16 monitor the applicant's compliance with the purpose of
17 this chapter;

18 (9) The applicant shall establish, to the satisfaction of
19 the department, that sufficient funds are available
20 for the completion of plans, design, and construction,
21 or equipment needed for the purpose for which the



1 grant is awarded; provided that the grant amount shall
2 be included among the calculation of sufficient funds;
3 and

4 (10) The applicant shall comply with other requirements or
5 conditions as the department or board may prescribe.

6 (e) Notwithstanding any provision to the contrary, there
7 is established in the department a special fund to be designated
8 as the dam and appurtenance improvement or removal grant program
9 special fund. The fund shall be administered by the department.

10 The following shall be deposited into the dam and appurtenance
11 improvement or removal grant program special fund:

12 (1) Appropriations by the legislature;

13 (2) Moneys derived from public or private sources to
14 benefit dam and appurtenance improvement or removal;

15 (3) Any other moneys collected pursuant to this section or
16 any rules adopted pursuant to this section; and

17 (4) Moneys derived from interest, dividends, or other
18 income from other sources.

19 (f) The department may expend moneys from the dam and
20 appurtenance improvement or removal grant program special fund
21 in accordance with this section and other purposes for the



1 administration of the dam and appurtenance improvement or
2 removal grant program under this section or any rule adopted
3 pursuant to this section, including but not limited to funding
4 for permanent or temporary positions."

5 SECTION 3. Act 134, Session Laws of Hawaii 2023, is
6 amended by amending section 4 to read as follows:

7 "SECTION 4. [~~There is appropriated out of the general~~
8 ~~revenues of the State of Hawaii the sum of \$10,000,000 or so~~
9 ~~much thereof as may be necessary for fiscal year 2023-2024 as~~
10 ~~one-time seed funding for the purposes of the dam and~~
11 ~~appurtenance improvement or removal grant program.] Repealed."~~

12 SECTION 4. In accordance with section 9 of article VII of
13 the Hawaii State Constitution and sections 37-91 and 37-93,
14 Hawaii Revised Statutes, the legislature has determined that the
15 appropriations contained in Act 164, Regular Session of 2023,
16 and this Act will cause the state general fund expenditure
17 ceiling for fiscal year 2024-2025 to be exceeded by
18 \$ or per cent. This current declaration takes
19 into account general fund appropriations authorized for fiscal
20 year 2024-2025 in Act 164, Regular Session of 2023, and this Act



1 only. The reasons for exceeding the general fund expenditure
2 ceiling are that:

3 (1) The appropriation made in this Act is necessary to
4 serve the public interest; and

5 (2) The appropriation made in this Act meets the needs
6 addressed by this Act.

7 SECTION 5. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2024–2025 to be
10 deposited into the dam and appurtenance improvement or removal
11 grant program special fund as seed funding for the purposes of
12 the dam and appurtenance improvement or removal grant program
13 established by section 179D-31, Hawaii Revised Statutes.

14 SECTION 6. There is appropriated out of the dam and
15 appurtenance improvement or removal grant program special fund
16 the sum of \$ or so much thereof as may be necessary
17 for fiscal year 2024-2025 for the dam and appurtenance
18 improvement or removal grant program established by section
19 179D-31, Hawaii Revised Statutes.

20 The sum appropriated shall be expended by the department of
21 land and natural resources for the purposes of this Act.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 3000.



Report Title:

Dam and Appurtenances; Special Fund; Appropriation; Expenditure Ceiling

Description:

Establishes the Dam and Appurtenance Improvement or Removal Grant Program Special Fund to receive moneys for the Dam and Appurtenance Improvement or Removal Grant Program. Appropriates funds for the Dam and Appurtenance Improvement or Removal Grant Program. Effective 7/1/3000. (HD1)

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