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

5 SECTION 3. In accordance with section 9 of article VII of  
6 the Hawaii State Constitution and sections 37-91 and 37-93,  
7 Hawaii Revised Statutes, the legislature has determined that the  
8 appropriations contained in Act 164, Regular Session of 2023,  
9 and this Act will cause the state general fund expenditure  
10 ceiling for fiscal year 2024-2025 to be exceeded by  
11 \$ or per cent. This current declaration takes  
12 into account general fund appropriations authorized for fiscal  
13 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
14 only. The reasons for exceeding the general fund expenditure  
15 ceiling are that:

- 16 (1) The appropriation made in this Act is necessary to  
17 serve the public interest; and
- 18 (2) The appropriation made in this Act meets the needs  
19 addressed by this Act.

20 SECTION 4. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$10,000,000 or so

1 much thereof as may be necessary for fiscal year 2024–2025 to be  
2 deposited into the dam and appurtenance improvement or removal  
3 grant program special fund as seed funding for the purposes of  
4 the dam and appurtenance improvement or removal grant program  
5 established by section 179D-31, Hawaii Revised Statutes.

6 SECTION 5. There is appropriated out of the dam and  
7 appurtenance improvement or removal grant program special fund  
8 the sum of \$10,000,000 or so much thereof as may be necessary  
9 for fiscal year 2024–2025 for the dam and appurtenance  
10 improvement or removal grant program established by section  
11 179D-31, Hawaii Revised Statutes, as seed funding.

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

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on July 1, 2024.



**Report Title:**

Dam and Appurtenances; Special Fund; Expenditure Ceiling;  
Appropriation

**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. Declares that the general fund expenditure ceiling is exceeded. (SD2)

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