

JAN 24 2024

A BILL FOR AN ACT

RELATING TO THE RED HILL REMEDIATION AUTHORITY.

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

1 PART I

2 SECTION 1. The legislature finds that the United States
3 Navy's Red Hill Bulk Fuel Storage Facility consists of twenty
4 steel-lined underground storage tanks that were built from 1940
5 to 1943. Each tank can store 12.5 million gallons of fuel; in
6 total, the Red Hill Bulk Fuel Storage Facility can store up to
7 two hundred fifty million gallons. The tanks are located only
8 about one hundred feet above the United States Environmental
9 Protection Agency's designated sole-source groundwater aquifer
10 that provides drinking water to approximately four hundred
11 thousand residents of the island of Oahu. Over the past eighty
12 years, numerous spills have occurred at Red Hill. Specifically,
13 on November 20, 2021, about ninety-three thousand individuals
14 served by the Navy's potable water system for Joint Base Pearl
15 Harbor-Hickam were directly affected when the Navy's Red Hill
16 shaft was contaminated by the release of up to nineteen thousand
17 gallons of fuel, including JP-5 jet fuel, older fuels stored at



1 the Red Hill Bulk Fuel Storage Facility, and any additives used.
2 Over six thousand individuals sought medical attention, and one
3 thousand were forced to leave their homes due to the
4 contamination. Much of the fuel released from the Red Hill Bulk
5 Fuel Storage Facility remains in the environment, trapped within
6 the complex geological formations beneath and near the tanks.

7 The legislature further finds that on May 9, 2023,
8 officials from the State and city and county of Honolulu signed
9 a unified statement on Red Hill, recognizing the stewardship
10 responsibility to ensure that there is clean water on Oahu for
11 future generations. The Red Hill Water Alliance Initiative
12 (WAI), a working group, met regularly in 2023 since the signing
13 of the unified statement. The Red Hill WAI posed questions,
14 conducted research, listened to subject-matter experts, and
15 formulated recommended policies.

16 The legislature also finds that the Red Hill WAI's approach
17 of total stewardship responsibility required a stance of
18 extending beyond statutory roles, specific responsibilities,
19 tenure in those roles, and even personal lifetimes. Its inquiry
20 included the pursuit of critical questions for which there may
21 currently be no answers. Thus, the pursuit of those answers is
22 part of the ongoing work.



1 The legislature notes that besides its regulatory functions
2 under federal and state environmental laws, the State also has
3 unique public trust responsibilities set forth in the Hawaii
4 State Constitution, which establishes an affirmative duty of the
5 State to preserve and protect public trust resources, including
6 water resources.

7 The legislature additionally finds that the focus of the
8 Red Hill WAI's inquiry is the remediation needs after the
9 defueling of the tanks and removal of residual fuel and
10 contaminants from the Red Hill Bulk Fuel Storage Facility. In
11 particular, the Red Hill WAI is concerned with the unknowns
12 posed by fuel contaminants already in the ground, as well as the
13 residuals of the fuel plume in the aquifer as a result of the
14 spill that occurred on November 20, 2021. In fact, there may be
15 as many as 1,940,000 gallons of fuel constituents in the ground
16 that have leaked or spilled over eight decades. Pursuant to a
17 proactive approach, the Red Hill WAI seeks to describe the
18 remediation it believes necessary for the future well-being of
19 the aquifer in which there is a negligible risk to current and
20 future water sources, including the Halawa Shaft, Halawa wells,
21 and Aiea wells; the water distribution system; and the
22 ecosystem, including springs, streams, and nearshore waters.



1 After much diligent work, the Red Hill WAI issued a public
2 report in November 2023 that set forth its findings and
3 recommendations. Some of the recommendations can only be
4 addressed by the federal government, while other recommendations
5 can be undertaken by the State and city and county of Honolulu.
6 Moreover, the legislature finds that there must be no delay in
7 adopting the recommendations of the Red Hill WAI, especially
8 those that can be implemented at the state and county levels.

9 Therefore, the purpose of this Act is to:

- 10 (1) Establish the Red Hill remediation authority; and
- 11 (2) Create the Red Hill remediation special fund.

12 PART II

13 SECTION 2. The Hawaii Revised Statutes is amended by
14 adding a new chapter to be appropriately designated and to read
15 as follows:

16 "CHAPTER

17 RED HILL WATER ALLIANCE INITIATIVE; REMEDIATION AUTHORITY

18 § -1 Definitions. As used in this chapter, unless a
19 different meaning is plainly required by the context:

20 "Authority" means the Red Hill remediation authority.

21 "Board of directors" means the board of directors of the
22 Red Hill remediation authority.



1 "Red Hill Water Alliance Initiative" means the group of
2 individuals composed of the governor, speaker of the house of
3 representatives, president of the senate, chairperson of the
4 board of land and natural resources and commission on water
5 resource management, president of the University of Hawaii,
6 mayor of the city and county of Honolulu, chairperson of the
7 Honolulu city council, and manager and chief engineer of the
8 Honolulu board of water supply that issued a public report in
9 November 2023 concerning the remediation of Red Hill following
10 the defueling of the Red Hill Bulk Fuel Storage Facility.

11 "Special fund" means the Red Hill remediation special fund.

12 § -2 **Red Hill remediation authority.** (a) There is
13 established the Red Hill remediation authority, which shall be a
14 body corporate and public instrumentality of the State for the
15 purpose of implementing this chapter; provided that section 26-
16 35 shall not apply to the authority. The authority shall:

17 (1) Facilitate and oversee the remediation of
18 contamination resulting from the Red Hill Bulk Fuel
19 Storage Facility; and

20 (2) Engage in direct implementation, as appropriate.

21 (b) The authority shall be administratively attached to
22 the department of land and natural resources and governed by a



1 board of directors. All initial members of the authority who
2 are to be appointed shall be appointed no later than January 1,
3 2026.

4 (c) The board of directors shall consist of nine voting
5 members, who shall serve staggered four-year terms.

6 (d) Four voting members of the board of directors shall be
7 appointed by the governor pursuant to section 26-34 to represent
8 the community and shall consist of:

9 (1) An individual who is a resident of Oahu at the time of
10 appointment;

11 (2) A Native Hawaiian water practitioner;

12 (3) A youth advocate for environmental and climate
13 justice, natural resources, and water resources; and

14 (4) A representative of the environmental protection
15 community.

16 (e) Four voting members of the board of directors shall
17 represent government entities, as follows:

18 (1) The chairperson of the board of land and natural
19 resources, or the chairperson's designee;

20 (2) The president of the university of Hawaii, or the
21 president's designee;



1 (3) The mayor of the city and county of Honolulu, or the
2 mayor's designee; and

3 (4) The manager and chief engineer of the Honolulu board
4 of water supply, or the manager and chief engineer's
5 designee.

6 (f) The members of the board of directors shall serve
7 without compensation but shall be reimbursed for expenses,
8 including travel expenses:

9 (1) For authority-related business, as approved by the
10 authority; and

11 (2) Necessary for the performance of their duties.

12 (g) The four community members identified in subsection
13 (d) and the four ex officio members identified in subsection (e)
14 shall appoint an executive director, who shall also serve as the
15 chairperson, a voting member, of the board of directors.

16 The executive director shall:

17 (1) Administer and implement, under the direction of the
18 board of directors, all rules and directives adopted
19 by the authority; and

20 (2) Be exempt from chapter 76.

21 The salary of the executive director shall be subject to
22 section 26-53.



1 (h) The board of directors shall invite the following to
2 serve as ex officio, nonvoting members of the board of
3 directors:

- 4 (1) A representative of the United States Department of
5 Defense designated by the Department of Defense; and
- 6 (2) A representative of military families.

7 (i) In addition to the members listed in subsections (d),
8 (e), and (h), the board of directors may request the nonvoting
9 participation or input of members of the public; subject-matter
10 experts; county, state, or federal officials; and other
11 individuals, as necessary.

12 § -3 **Powers and duties.** Except as otherwise limited by
13 this chapter, the authority may:

- 14 (1) Make and execute contracts, leases, and all other
15 instruments necessary or convenient for the exercise
16 of its powers and functions under this chapter;
- 17 (2) Make and alter bylaws for its organization and
18 internal management;
- 19 (3) Adopt rules pursuant to chapter 91 for the purposes of
20 this chapter;
- 21 (4) Conduct meetings in accordance with chapter 92 for the
22 purposes of this chapter;



- 1 (5) Appoint officers, agents, and employees who may be
2 exempt from chapter 76, prescribe their duties and
3 qualifications, and fix their salaries;
- 4 (6) Engage the services of consultants on a contractual
5 basis for rendering professional and technical
6 assistance and advice;
- 7 (7) Procure insurance against any loss in connection with
8 its property and other assets and operations in
9 amounts and from insurers as it deems desirable;
- 10 (8) Contract for, accept, hold, or expend gifts or grants
11 in any form from any public agency or from any other
12 source;
- 13 (9) Adopt rules governing the procurement and purchase of
14 goods, services, and construction, not subject to the
15 requirements of chapter 103D;
- 16 (10) Enter into cooperative agreements, easements,
17 subleases, or other contracts, as necessary, with any
18 state agency, county agency, or private landowner;
- 19 (11) Contract for executive and administrative employee
20 services;



1 (12) Call upon the attorney general for legal services or
2 employ its own counsel in conformity with section 28-
3 8.3;

4 (13) Accept donations, grants, bequests, and devises of
5 money, property, services, or other things of value
6 that may be received from the United States or any
7 agency thereof, any governmental agency, or any public
8 or private institution, person, firm, or corporation,
9 to be held, used, or applied for any or all of the
10 purposes specified in this chapter;

11 (14) Establish and maintain a website that includes a
12 mission statement and access to related actions,
13 plans, reports, studies, policies, and results; and

14 (15) Do any and all things necessary to carry out its
15 purposes and exercise the powers granted in this
16 chapter.

17 § -4 **Red Hill remediation special fund.** (a) There is
18 established in the state treasury the Red Hill remediation
19 special fund into which shall be deposited the following moneys:

20 (1) Appropriations by the legislature to the special fund;



1 (2) Gifts, donations, and grants from public agencies,
2 including the United States government, and private
3 persons; and

4 (3) All interest earned on or accrued to moneys deposited
5 in the special fund.

6 (b) The special fund shall be administered by the
7 authority.

8 (c) The moneys in the special fund shall be used solely
9 for the remediation of contamination resulting from the Red Hill
10 Bulk Fuel Storage Facility, including monitoring, applied
11 research, remediation, public outreach and education, and
12 evaluation.

13 **§ -5 Cooperation by state and county agencies.** All
14 state and county agencies shall provide all information and data
15 requested by the authority within thirty calendar days; provided
16 that the authority may, in its discretion, set a longer
17 deadline.

18 **§ -6 Report.** The authority shall submit a report of its
19 activities and expenditures to the legislature, governor, and
20 mayor and city council of the city and county of Honolulu no
21 later than December 1 of each year, beginning in 2026."

22 SECTION 3. This Act shall take effect upon its approval.



S.B. NO. 3339

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INTRODUCED BY:



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S.B. NO. 3339

Report Title:

Red Hill WAI; Red Hill Remediation Authority; Red Hill Remediation Special Fund

Description:

Establishes the Red Hill remediation authority. Creates the Red Hill remediation special fund.

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

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