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# HOUSE CONCURRENT RESOLUTION

REQUESTING A TASK FORCE TO BE ESTABLISHED TO RECOMMEND CHANGES  
TO THE STRUCTURE AND ADMINISTRATION OF THE COMMISSION ON  
WATER RESOURCE MANAGEMENT TO IMPROVE ITS OPERATIONS AND  
FUNCTIONS AND PROTECT ITS MISSION.

1           WHEREAS, the Commission on Water Resource Management  
2 administers the State Water Code, which was enacted in 1987; and

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4           WHEREAS, water is a finite resource that must be carefully  
5 managed and allocated in order for the State to meet its  
6 mandates; and

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8           WHEREAS, article XII, section 7, of the Hawaii State  
9 Constitution reaffirms and protects all rights customarily and  
10 traditionally exercised for subsistence, cultural, and religious  
11 purposes and possessed by ahupua'a tenants who are descendants of  
12 native Hawaiians who inhabited the Hawaiian Islands prior to  
13 1778, subject to the right of the State to regulate these  
14 rights; and

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16           WHEREAS, article XI, section 1, of the Hawaii State  
17 Constitution states that for the benefit of present and future  
18 generations, the State and its political subdivisions shall  
19 conserve and protect Hawaii's natural beauty and all natural  
20 resources, including land, water, air, minerals, and energy  
21 resources, and shall promote the development and utilization of  
22 these resources in a manner consistent with their conservation  
23 and in furtherance of the self-sufficiency of the State; and

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25           WHEREAS, the State Water Code requires that adequate  
26 provisions be made for the protection of traditional and  
27 customary native Hawaiian rights; protection and propagation of  
28 fish and wildlife; maintenance of proper ecological balance and  
29 scenic beauty; and preservation and enhancement of the waters of



1 the State for municipal uses, public recreation, public water  
2 supply, agriculture, and navigation; and

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4 WHEREAS, the Commission on Water Resource Management's  
5 mission is to protect and manage the waters of the State for  
6 present and future generations; and

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8 WHEREAS, the Commission on Water Resource Management is  
9 statutorily attached to the Department of Land and Natural  
10 Resources; and

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12 WHEREAS, because of this administrative structure, there  
13 may be real or perceived conflicts of interest between the  
14 Commission on Water Resource Management and Department of Land  
15 and Natural Resources; and

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17 WHEREAS, the Commission on Water Resource Management faces  
18 certain political and legal vulnerabilities in implementing the  
19 State Water Code that could allow external interests to unduly  
20 impede its important work; and

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22 WHEREAS, under existing law, the Chairperson of the  
23 Commission on Water Resource Management is the Chairperson of  
24 the Board of Land and Natural Resources, who serves as a member  
25 of the Governor's cabinet, and the Chief Legal Counsel of the  
26 Commission on Water Resource Management is the Attorney General,  
27 who also serves as a member of the Governor's cabinet; and

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29 WHEREAS, as currently structured, the Chairperson of the  
30 Board of Land and Natural Resources and Attorney General wield  
31 considerable influence over the Commission on Water Resource  
32 Management and its staff, including the ability to determine  
33 whether and how submittals containing recommendations for action  
34 reach the Commission; and

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36 WHEREAS, it was claimed in August 2023 that the Chairperson  
37 of the Commission on Water Resource Management holds the  
38 unilateral authority to remove the Deputy Director for Water  
39 Resource Management, without notice to or input by the public or  
40 Commission; and



1 WHEREAS, section 28-8.3, Hawaii Revised Statutes, provides  
2 for over twenty-four cases in which agencies of the State are  
3 permitted to employ independent legal counsel, including by the  
4 Office of Hawaiian Affairs, University of Hawaii, Public  
5 Utilities Commission, Kahoolawe Island Reserve Commission,  
6 Campaign Spending Commission, and Mauna Kea Stewardship and  
7 Oversight Authority; and

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9 WHEREAS, it is crucially important to provide greater  
10 layers of political and legal insulation to the Commission on  
11 Water Resource Management, including the avoidance of even the  
12 appearance of a conflict of interest; now, therefore,

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14 BE IT RESOLVED by the House of Representatives of the  
15 Thirty-second Legislature of the State of Hawaii, Regular  
16 Session of 2024, the Senate concurring, that a task force is  
17 requested to be established to recommend changes to the  
18 structure and administration of the Commission on Water Resource  
19 Management to improve its operations and functions and protect  
20 its mission; and

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22 BE IT FURTHER RESOLVED that the task force is requested to  
23 consist of the following members:

- 24  
25 (1) The Chairperson of the Board of Land and Natural  
26 Resources;
- 27  
28 (2) A representative of the Office of Hawaiian Affairs;
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30 (3) The Acting Deputy Director for Water Resource  
31 Management;
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33 (4) The chairperson of the House of Representatives  
34 standing committee with primary jurisdiction over  
35 water and land, or the chairperson's designee;
- 36  
37 (5) The chairperson of the Senate standing committee with  
38 primary jurisdiction over water and land, or the  
39 chairperson's designee;
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41 (6) A representative of the Judiciary, to be designated by  
42 the Chief Justice of the Hawaii Supreme Court;



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(7) Two members of the public with experience in water resource management--one to be invited by the Speaker of the House of Representatives and one to be invited by the President of the Senate; and

(8) Three members of the public with expertise in traditional and customary native Hawaiian practices and water policy, to be invited by the Commission on Water Resource Management; and

BE IT FURTHER RESOLVED that the members of the task force are requested to choose a chairperson from among themselves; provided that the individual identified in paragraph (1) in the clause above is requested not to serve as the chairperson of the task force; and

BE IT FURTHER RESOLVED that the members of the task force may invite additional members who have applicable subject-matter expertise; and

BE IT FURTHER RESOLVED that the members of the task force are requested to serve without compensation but may be reimbursed for necessary expenses, including travel expenses, incurred in carrying out their duties; and

BE IT FURTHER RESOLVED that the task force is requested to make recommendations concerning:

- (1) The establishment of procedures and safeguards to avoid conflicts of interest;
- (2) The amendment of the structure and administrative functions of the Commission on Water Resource Management to improve the Commission's ability to fulfill its duties as mandated by the Hawaii State Constitution and Hawaii Revised Statutes; and
- (3) The prevention of government overreach from affecting the work and mission of the Commission on Water Resource Management; and



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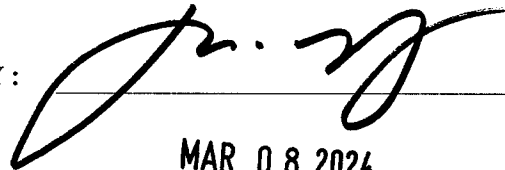
1 BE IT FURTHER RESOLVED that the task force is requested to  
2 submit a report of its findings and recommendations, including  
3 any proposed legislation, to the Legislature by December 1,  
4 2024; and

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6 BE IT FURTHER RESOLVED that the Department of Land and  
7 Natural Resources is requested to provide any necessary  
8 administrative and staff support to the task force, including  
9 the preparation of the report; and

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11 BE IT FURTHER RESOLVED that certified copies of this  
12 Concurrent Resolution be transmitted to the Chief Justice of the  
13 Hawaii Supreme Court, Chairperson of the Board of Trustees of  
14 the Office of Hawaiian Affairs, Chairperson of the Board of Land  
15 and Natural Resources, and Acting Deputy Director for Water  
16 Resource Management.

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OFFERED BY: \_\_\_\_\_



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