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# HOUSE 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  
15

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  
30 the State for municipal uses, public recreation, public water  
31 supply, agriculture, and navigation; and



1  
2 WHEREAS, the Commission on Water Resource Management's  
3 mission is to protect and manage the waters of the State for  
4 present and future generations; and

5  
6 WHEREAS, the Commission on Water Resource Management is  
7 statutorily attached to the Department of Land and Natural  
8 Resources; and

9  
10 WHEREAS, because of this administrative structure, there  
11 may be real or perceived conflicts of interest between the  
12 Commission on Water Resource Management and Department of Land  
13 and Natural Resources; and

14  
15 WHEREAS, the Commission on Water Resource Management faces  
16 certain political and legal vulnerabilities in implementing the  
17 State Water Code that could allow external interests to unduly  
18 impede its important work; and

19  
20 WHEREAS, under existing law, the Chairperson of the  
21 Commission on Water Resource Management is the Chairperson of  
22 the Board of Land and Natural Resources, who serves as a member  
23 of the Governor's cabinet, and the Chief Legal Counsel of the  
24 Commission on Water Resource Management is the Attorney General,  
25 who also serves as a member of the Governor's cabinet; and

26  
27 WHEREAS, as currently structured, the Chairperson of the  
28 Board of Land and Natural Resources and Attorney General wield  
29 considerable influence over the Commission on Water Resource  
30 Management and its staff, including the ability to determine  
31 whether and how submittals containing recommendations for action  
32 reach the Commission; and

33  
34 WHEREAS, it was claimed in August 2023 that the Chairperson  
35 of the Commission on Water Resource Management holds the  
36 unilateral authority to remove the Deputy Director for Water  
37 Resource Management, without notice to or input by the public or  
38 Commission; and

39  
40 WHEREAS, section 28-8.3, Hawaii Revised Statutes, provides  
41 for over twenty-four cases in which agencies of the State are  
42 permitted to employ independent legal counsel, including by the



1 Office of Hawaiian Affairs, University of Hawaii, Public  
2 Utilities Commission, Kahoolawe Island Reserve Commission,  
3 Campaign Spending Commission, and Mauna Kea Stewardship and  
4 Oversight Authority; and

5  
6 WHEREAS, it is crucially important to provide greater  
7 layers of political and legal insulation to the Commission on  
8 Water Resource Management, including the avoidance of even the  
9 appearance of a conflict of interest; now, therefore,

10  
11 BE IT RESOLVED by the House of Representatives of the  
12 Thirty-second Legislature of the State of Hawaii, Regular  
13 Session of 2024, that a task force is requested to be  
14 established to recommend changes to the structure and  
15 administration of the Commission on Water Resource Management to  
16 improve its operations and functions and protect its mission;  
17 and

18  
19 BE IT FURTHER RESOLVED that the task force is requested to  
20 consist of the following members:

- 21  
22 (1) The Chairperson of the Board of Land and Natural  
23 Resources;
- 24  
25 (2) A representative of the Office of Hawaiian Affairs;
- 26  
27 (3) The Acting Deputy Director for Water Resource  
28 Management;
- 29  
30 (4) The chairperson of the House of Representatives  
31 standing committee with primary jurisdiction over  
32 water and land, or the chairperson's designee;
- 33  
34 (5) The chairperson of the Senate standing committee with  
35 primary jurisdiction over water and land, or the  
36 chairperson's designee;
- 37  
38 (6) A representative of the Judiciary, to be designated by  
39 the Chief Justice of the Hawaii Supreme Court;
- 40  
41 (7) Two members of the public with experience in water  
42 resource management--one to be invited by the Speaker



1 of the House of Representatives and one to be invited  
2 by the President of the Senate; and

- 3  
4 (8) Three members of the public with expertise in  
5 traditional and customary native Hawaiian practices  
6 and water policy, to be invited by the Commission on  
7 Water Resource Management; and  
8

9 BE IT FURTHER RESOLVED that the members of the task force  
10 are requested to choose a chairperson from among themselves;  
11 provided that the individual identified in paragraph (1) in the  
12 clause above is requested not to serve as the chairperson of the  
13 task force; and  
14

15 BE IT FURTHER RESOLVED that the members of the task force  
16 may invite additional members who have applicable subject-matter  
17 expertise; and  
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19 BE IT FURTHER RESOLVED that the members of the task force  
20 are requested to serve without compensation but may be  
21 reimbursed for necessary expenses, including travel expenses,  
22 incurred in carrying out their duties; and  
23

24 BE IT FURTHER RESOLVED that the task force is requested to  
25 make recommendations concerning:  
26

- 27 (1) The establishment of procedures and safeguards to  
28 avoid conflicts of interest;  
29  
30 (2) The amendment of the structure and administrative  
31 functions of the Commission on Water Resource  
32 Management to improve the Commission's ability to  
33 fulfill its duties as mandated by the Hawaii State  
34 Constitution and Hawaii Revised Statutes; and  
35  
36 (3) The prevention of government overreach from affecting  
37 the work and mission of the Commission on Water  
38 Resource Management; and  
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40 BE IT FURTHER RESOLVED that the task force is requested to  
41 submit a report of its findings and recommendations, including



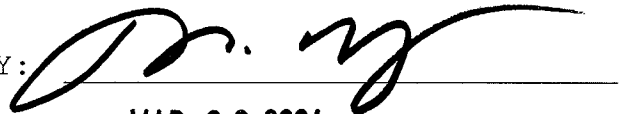
1 any proposed legislation, to the Legislature by December 1,  
2 2024; and

3  
4 BE IT FURTHER RESOLVED that the Department of Land and  
5 Natural Resources is requested to provide any necessary  
6 administrative and staff support to the task force, including  
7 the preparation of the report; and

8  
9 BE IT FURTHER RESOLVED that certified copies of this  
10 Resolution be transmitted to the Chief Justice of the Hawaii  
11 Supreme Court, Chairperson of the Board of Trustees of the  
12 Office of Hawaiian Affairs, Chairperson of the Board of Land and  
13 Natural Resources, and Acting Deputy Director for Water Resource  
14 Management.

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OFFERED BY:



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