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**A BILL FOR AN ACT**

RELATING TO COUNTY USER FEES.

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

1           SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§46-1.5 General powers and limitation of the counties.

4 Subject to general law, each county shall have the following  
5 powers and shall be subject to the following liabilities and  
6 limitations:

7           (1) Each county shall have the power to frame and adopt a  
8 charter for its own self-government that shall  
9 establish the county executive, administrative, and  
10 legislative structure and organization, including but  
11 not limited to the method of appointment or election  
12 of officials, their duties, responsibilities, and  
13 compensation, and the terms of their office;

14           (2) Each county shall have the power to provide for and  
15 regulate the marking and lighting of all buildings and  
16 other structures that may be obstructions or hazards  
17 to aerial navigation, so far as may be necessary or

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1 proper for the protection and safeguarding of life,  
2 health, and property;

3 (3) Each county shall have the power to enforce all claims  
4 on behalf of the county and approve all lawful claims  
5 against the county, but shall be prohibited from  
6 entering into, granting, or making in any manner any  
7 contract, authorization, allowance payment, or  
8 liability contrary to the provisions of any county  
9 charter or general law;

10 (4) Each county shall have the power to make contracts and  
11 to do all things necessary and proper to carry into  
12 execution all powers vested in the county or any  
13 county officer;

14 (5) Each county shall have the power to:

15 (A) Maintain channels, whether natural or artificial,  
16 including their exits to the ocean, in suitable  
17 condition to carry off storm waters;

18 (B) Remove from the channels, and from the shores and  
19 beaches, any debris that is likely to create an  
20 unsanitary condition or become a public nuisance;  
21 provided that, to the extent any of the foregoing  
22 work is a private responsibility, the

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1 responsibility may be enforced by the county in  
2 lieu of the work being done at public expense;  
3 (C) Construct, acquire by gift, purchase, or by the  
4 exercise of eminent domain, reconstruct, improve,  
5 better, extend, and maintain projects or  
6 undertakings for the control of and protection  
7 against floods and flood waters, including the  
8 power to drain and rehabilitate lands already  
9 flooded;  
10 (D) Enact zoning ordinances providing that lands  
11 deemed subject to seasonable, periodic, or  
12 occasional flooding shall not be used for  
13 residence or other purposes in a manner as to  
14 endanger the health or safety of the occupants  
15 thereof, as required by the Federal Flood  
16 Insurance Act of 1956 (chapter 1025, Public Law  
17 1016); and  
18 (E) Establish and charge user fees to create and  
19 maintain any stormwater management system or  
20 infrastructure; provided that no county shall  
21 charge against or collect user fees from the  
22 department of transportation in excess of

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1                   \$1,500,000 in the aggregate per year; provided  
2                   further that no services shall be denied to the  
3                   department of transportation by reason of  
4                   nonpayment of the fees; provided further that no  
5                   county shall charge or collect user fees from the  
6                   department of Hawaiian home lands in excess of  
7                   \$100,000 in the aggregate per year; provided  
8                   further that no services shall be denied to the  
9                   department of Hawaiian home lands;

10           (6) Each county shall have the power to exercise the power  
11           of condemnation by eminent domain when it is in the  
12           public interest to do so;

13           (7) Each county shall have the power to exercise  
14           regulatory powers over business activity as are  
15           assigned to them by chapter 445 or other general law;

16           (8) Each county shall have the power to fix the fees and  
17           charges for all official services not otherwise  
18           provided for;

19           (9) Each county shall have the power to provide by  
20           ordinance assessments for the improvement or  
21           maintenance of districts within the county;

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- 1           (10) Except as otherwise provided, no county shall have the  
2                   power to give or loan credit to, or in aid of, any  
3                   person or corporation, directly or indirectly, except  
4                   for a public purpose;
- 5           (11) Where not within the jurisdiction of the public  
6                   utilities commission, each county shall have the power  
7                   to regulate by ordinance the operation of motor  
8                   vehicle common carriers transporting passengers within  
9                   the county and adopt and amend rules the county deems  
10                  necessary for the public convenience and necessity;
- 11          (12) Each county shall have the power to enact and enforce  
12                  ordinances necessary to prevent or summarily remove  
13                  public nuisances and to compel the clearing or removal  
14                  of any public nuisance, refuse, and uncultivated  
15                  undergrowth from streets, sidewalks, public places,  
16                  and unoccupied lots. In connection with these powers,  
17                  each county may impose and enforce liens upon the  
18                  property for the cost to the county of removing and  
19                  completing the necessary work where the property  
20                  owners fail, after reasonable notice, to comply with  
21                  the ordinances. The authority provided by this  
22                  paragraph shall not be self-executing, but shall

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1           become fully effective within a county only upon the  
2           enactment or adoption by the county of appropriate and  
3           particular laws, ordinances, or rules defining "public  
4           nuisances" with respect to each county's respective  
5           circumstances. The counties shall provide the

6           property owner with the opportunity to contest the  
7           summary action and to recover the owner's property;

8           (13) Each county shall have the power to enact ordinances  
9           deemed necessary to protect health, life, and  
10          property, and to preserve the order and security of  
11          the county and its inhabitants on any subject or  
12          matter not inconsistent with, or tending to defeat,  
13          the intent of any state statute where the statute does  
14          not disclose an express or implied intent that the  
15          statute shall be exclusive or uniform throughout the  
16          State;

17          (14) Each county shall have the power to:

18                (A) Make and enforce within the limits of the county  
19                all necessary ordinances covering all:

20                   (i) Local police matters;

21                   (ii) Matters of sanitation;

22                   (iii) Matters of inspection of buildings;

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- 1 (iv) Matters of condemnation of unsafe  
2 structures, plumbing, sewers, dairies, milk,  
3 fish, and morgues; and  
4 (v) Matters of the collection and disposition of  
5 rubbish and garbage;
- 6 (B) Provide exemptions for homeless facilities and  
7 any other program for the homeless authorized by  
8 part XVII of chapter 346, for all matters under  
9 this paragraph;
- 10 (C) Appoint county physicians and sanitary and other  
11 inspectors as necessary to carry into effect  
12 ordinances made under this paragraph, who shall  
13 have the same power as given by law to agents of  
14 the department of health, subject only to  
15 limitations placed on them by the terms and  
16 conditions of their appointments; and
- 17 (D) Fix a penalty for the violation of any ordinance,  
18 which penalty may be a misdemeanor, petty  
19 misdemeanor, or violation as defined by general  
20 law;
- 21 (15) Each county shall have the power to provide public  
22 pounds; to regulate the impounding of stray animals

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1 and fowl, and their disposition; and to provide for  
2 the appointment, powers, duties, and fees of animal  
3 control officers;

4 (16) Each county shall have the power to purchase and  
5 otherwise acquire, lease, and hold real and personal  
6 property within the defined boundaries of the county  
7 and to dispose of the real and personal property as  
8 the interests of the inhabitants of the county may  
9 require, except that:

10 (A) Any property held for school purposes may not be  
11 disposed of without the consent of the  
12 superintendent of education;

13 (B) No property bordering the ocean shall be sold or  
14 otherwise disposed of; and

15 (C) All proceeds from the sale of park lands shall be  
16 expended only for the acquisition of property for  
17 park or recreational purposes;

18 (17) Each county shall have the power to provide by charter  
19 for the prosecution of all offenses and to prosecute  
20 for offenses against the laws of the State under the  
21 authority of the attorney general of the State;

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- 1           (18) Each county shall have the power to make  
2           appropriations in amounts deemed appropriate from any  
3           moneys in the treasury, for the purpose of:
- 4           (A) Community promotion and public celebrations;  
5           (B) The entertainment of distinguished persons as may  
6           from time to time visit the county;  
7           (C) The entertainment of other distinguished persons,  
8           as well as, public officials when deemed to be in  
9           the best interest of the community; and  
10          (D) The rendering of civic tribute to individuals  
11          who, by virtue of their accomplishments and  
12          community service, merit civic commendations,  
13          recognition, or remembrance;
- 14          (19) Each county shall have the power to:
- 15          (A) Construct, purchase, take on lease, lease,  
16          sublease, or in any other manner acquire, manage,  
17          maintain, or dispose of buildings for county  
18          purposes, sewers, sewer systems, pumping  
19          stations, waterworks, including reservoirs,  
20          wells, pipelines, and other conduits for  
21          distributing water to the public, lighting  
22          plants, and apparatus and appliances for lighting

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- 1 streets and public buildings, and manage,  
2 regulate, and control the same;
- 3 (B) Regulate and control the location and quality of  
4 all appliances necessary to the furnishing of  
5 water, heat, light, power, telephone, and  
6 telecommunications service to the county;
- 7 (C) Acquire, regulate, and control any and all  
8 appliances for the sprinkling and cleaning of the  
9 streets and the public ways, and for flushing the  
10 sewers; and
- 11 (D) Open, close, construct, or maintain county  
12 highways or charge toll on county highways;  
13 provided that all revenues received from a toll  
14 charge shall be used for the construction or  
15 maintenance of county highways;
- 16 (20) Each county shall have the power to regulate the  
17 renting, subletting, and rental conditions of property  
18 for places of abode by ordinance;
- 19 (21) Unless otherwise provided by law, each county shall  
20 have the power to establish by ordinance the order of  
21 succession of county officials in the event of a  
22 military or civil disaster;

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- 1           (22) Each county shall have the power to sue and be sued in  
2                   its corporate name;
- 3           (23) Each county shall have the power to:
- 4                   (A) Establish and maintain waterworks and sewer  
5                           works;
- 6                   (B) Implement a sewer monitoring program that  
7                           includes the inspection of sewer laterals that  
8                           connect to county sewers, when those laterals are  
9                           located on public or private property, after  
10                          providing a property owner not less than ten  
11                          calendar days' written notice, to detect leaks  
12                          from laterals, infiltration, and inflow, any  
13                          other law to the contrary notwithstanding;
- 14                  (C) Compel an owner of private property upon which is  
15                          located any sewer lateral that connects to a  
16                          county sewer to inspect that lateral for leaks,  
17                          infiltration, and inflow and to perform repairs  
18                          as necessary;
- 19                  (D) Collect rates for water supplied to consumers and  
20                          for the use of sewers; provided that no county  
21                          shall charge against or collect user fees from  
22                          the department of Hawaiian home lands in excess

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1           of \$100,000 in the aggregate per year; provided  
2           further that no service shall be denied to the  
3           department of Hawaiian home lands;

4           (E) Install water meters whenever deemed expedient;  
5           provided that owners of premises having vested  
6           water rights under existing laws appurtenant to  
7           the premises shall not be charged for the  
8           installation or use of the water meters on the  
9           premises;

10          (F) Take over from the State existing waterworks  
11          systems, including water rights, pipelines, and  
12          other appurtenances belonging thereto, and sewer  
13          systems, and to enlarge, develop, and improve the  
14          same; and

15          (G) For purposes of subparagraphs (B) and (C):

16           (i) "Infiltration" means groundwater, rainwater,  
17           and saltwater that enters the county sewer  
18           system through cracked, broken, or defective  
19           sewer laterals; and

20           (ii) "Inflow" means non-sewage entering the  
21           county sewer system via inappropriate or  
22           illegal connections;

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1           (24) (A) Each county may impose civil fines, in  
2                           addition to criminal penalties, for any violation  
3                           of county ordinances or rules after reasonable  
4                           notice and requests to correct or cease the  
5                           violation have been made upon the violator. Any  
6                           administratively imposed civil fine shall not be  
7                           collected until after an opportunity for a  
8                           hearing under chapter 91. Any appeal shall be  
9                           filed within thirty days from the date of the  
10                          final written decision. These proceedings shall  
11                          not be a prerequisite for any civil fine or  
12                          injunctive relief ordered by the circuit court;  
13           (B) Each county by ordinance may provide for the  
14                           addition of any unpaid civil fines, ordered by  
15                           any court of competent jurisdiction, to any  
16                           taxes, fees, or charges, with the exception of  
17                           fees or charges for water for residential use and  
18                           sewer charges, collected by the county. Each  
19                           county by ordinance may also provide for the  
20                           addition of any unpaid administratively imposed  
21                           civil fines, which remain due after all judicial  
22                           review rights under section 91-14 are exhausted,

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1 to any taxes, fees, or charges, with the  
2 exception of water for residential use and sewer  
3 charges, collected by the county. The ordinance  
4 shall specify the administrative procedures for  
5 the addition of the unpaid civil fines to the  
6 eligible taxes, fees, or charges and may require  
7 hearings or other proceedings. After addition of  
8 the unpaid civil fines to the taxes, fees, or  
9 charges, the unpaid civil fines shall not become  
10 a part of any taxes, fees, or charges. The  
11 county by ordinance may condition the issuance or  
12 renewal of a license, approval, or permit for  
13 which a fee or charge is assessed, except for  
14 water for residential use and sewer charges, on  
15 payment of the unpaid civil fines. Upon  
16 recordation of a notice of unpaid civil fines in  
17 the bureau of conveyances, the amount of the  
18 civil fines, including any increase in the amount  
19 of the fine which the county may assess, shall  
20 constitute a lien upon all real property or  
21 rights to real property belonging to any person  
22 liable for the unpaid civil fines. The lien in

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1 favor of the county shall be subordinate to any  
2 lien in favor of any person recorded or  
3 registered prior to the recordation of the notice  
4 of unpaid civil fines and senior to any lien  
5 recorded or registered after the recordation of  
6 the notice. The lien shall continue until the  
7 unpaid civil fines are paid in full or until a  
8 certificate of release or partial release of the  
9 lien, prepared by the county at the owner's  
10 expense, is recorded. The notice of unpaid civil  
11 fines shall state the amount of the fine as of  
12 the date of the notice and maximum permissible  
13 daily increase of the fine. The county shall not  
14 be required to include a social security number,  
15 state general excise taxpayer identification  
16 number, or federal employer identification number  
17 on the notice. Recordation of the notice in the  
18 bureau of conveyances shall be deemed, at such  
19 time, for all purposes and without any further  
20 action, to procure a lien on land registered in  
21 land court under chapter 501. After the unpaid  
22 civil fines are added to the taxes, fees, or

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1 charges as specified by county ordinance, the  
2 unpaid civil fines shall be deemed immediately  
3 due, owing, and delinquent and may be collected  
4 in any lawful manner. The procedure for  
5 collection of unpaid civil fines authorized in  
6 this paragraph shall be in addition to any other  
7 procedures for collection available to the State  
8 and county by law or rules of the courts;

9 (C) Each county may impose civil fines upon any  
10 person who places graffiti on any real or  
11 personal property owned, managed, or maintained  
12 by the county. The fine may be up to \$1,000 or  
13 may be equal to the actual cost of having the  
14 damaged property repaired or replaced. The  
15 parent or guardian having custody of a minor who  
16 places graffiti on any real or personal property  
17 owned, managed, or maintained by the county shall  
18 be jointly and severally liable with the minor  
19 for any civil fines imposed hereunder. Any such  
20 fine may be administratively imposed after an  
21 opportunity for a hearing under chapter 91, but  
22 such a proceeding shall not be a prerequisite for

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1 any civil fine ordered by any court. As used in  
2 this subparagraph, "graffiti" means any  
3 unauthorized drawing, inscription, figure, or  
4 mark of any type intentionally created by paint,  
5 ink, chalk, dye, or similar substances;

6 (D) At the completion of an appeal in which the  
7 county's enforcement action is affirmed and upon  
8 correction of the violation if requested by the  
9 violator, the case shall be reviewed by the  
10 county agency that imposed the civil fines to  
11 determine the appropriateness of the amount of  
12 the civil fines that accrued while the appeal  
13 proceedings were pending. In its review of the  
14 amount of the accrued fines, the county agency  
15 may consider:

- 16 (i) The nature and egregiousness of the  
17 violation;
- 18 (ii) The duration of the violation;
- 19 (iii) The number of recurring and other similar  
20 violations;
- 21 (iv) Any effort taken by the violator to correct  
22 the violation;

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- 1 (v) The degree of involvement in causing or  
2 continuing the violation;  
3 (vi) Reasons for any delay in the completion of  
4 the appeal; and  
5 (vii) Other extenuating circumstances.

6 The civil fine that is imposed by administrative  
7 order after this review is completed and the  
8 violation is corrected shall be subject to  
9 judicial review, notwithstanding any provisions  
10 for administrative review in county charters;

- 11 (E) After completion of a review of the amount of  
12 accrued civil fine by the county agency that  
13 imposed the fine, the amount of the civil fine  
14 determined appropriate, including both the  
15 initial civil fine and any accrued daily civil  
16 fine, shall immediately become due and  
17 collectible following reasonable notice to the  
18 violator. If no review of the accrued civil fine  
19 is requested, the amount of the civil fine, not  
20 to exceed the total accrual of civil fine prior  
21 to correcting the violation, shall immediately  
22 become due and collectible following reasonable

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1 notice to the violator, at the completion of all  
2 appeal proceedings; and

3 (F) If no county agency exists to conduct appeal  
4 proceedings for a particular civil fine action  
5 taken by the county, then one shall be  
6 established by ordinance before the county shall  
7 impose the civil fine;

8 (25) Any law to the contrary notwithstanding, any county  
9 mayor, by executive order, may exempt donors, provider  
10 agencies, homeless facilities, and any other program  
11 for the homeless under part XVII of chapter 346 from  
12 real property taxes, water and sewer development fees,  
13 rates collected for water supplied to consumers and  
14 for use of sewers, and any other county taxes,  
15 charges, or fees; provided that any county may enact  
16 ordinances to regulate and grant the exemptions  
17 granted by this paragraph;

18 (26) Any county may establish a captive insurance company  
19 pursuant to article 19, chapter 431; and

20 (27) Each county shall have the power to enact and enforce  
21 ordinances regulating towing operations."

22 SECTION 2. New statutory material is underscored.

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

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3

INTRODUCED BY: *Nadine K. Vukobratovic*

4

BY REQUEST

JAN 21 2025

# H.B. NO. 1090

**Report Title:**

DHHL; Counties; User Fees; County Powers

**Description:**

Exempts the Department of Hawaiian Home Lands from county user fees, in the amount of \$100,000 aggregate per year, and ensures county services to the Department of Hawaiian Home Lands for Hawaiian Home Lands.

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

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO COUNTY USER FEES.

PURPOSE: To exempt the Department from county user fees in excess of \$100,000 in the aggregate per year, while ensuring county services to the Department continue for Hawaiian Home Lands.

MEANS: Amend section 46-1.5, Hawaii Revised Statutes.

JUSTIFICATION: The Department pays county user fees that are in excess of \$100,000 in the aggregate per year. Funds saved by the Department due to exemption from county user fees could be used for infrastructure and housing needs for Hawaiian Home Lands managed by the Department.

Impact on the public: This bill advances the interest of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended, by ensuring that the Department will be exempt from county user fees in excess of \$100,000 and ensuring county services to the Department for Hawaiian Home Lands will not be denied. Due to the amount of lands under the jurisdiction of the Department, the county user fees have an excessive impact upon the Department. This bill would reduce the impact of county user fees on the Department, thereby making more funds available to be used for infrastructure and housing needs.

Impact on the department and other agencies: Hawaii counties would receive less revenue in the form of county user fees charged to the Department of Hawaiian Home Lands.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HHL 625.

OTHER AFFECTED  
AGENCIES: Counties within the State of Hawaii.

EFFECTIVE DATE: Upon approval.