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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

1           SECTION 1. The legislature finds that providing explicit  
2 authority to the department of land and natural resources to  
3 enter into community co-management agreements honors the Native  
4 Hawaiian concepts of malama aina and ahupuaa-based management,  
5 promoting more effective stewardship of public trust resources  
6 for present and future generations.

7           The legislature further finds that grassroots communities  
8 across the State, including Haena, Pupukea, Moomomi, Kipahulu,  
9 Hookena, Kaupulehu, and Kealakekua, have spent decades  
10 collaborating with government agencies to care for wahi pana and  
11 surrounding resources. These efforts would be more effective  
12 and sustainable if supported by long-term community  
13 co-management agreements.

14           Although community-government partnerships exist through  
15 curatorships, revocable permits, and concession agreements, the  
16 lack of statutory authority and a formalized process limits  
17 their effectiveness. For example, the Hui Makaaainana o Makana



1 has worked since 1998 to steward Haena state park and  
2 perpetuate ike kupuna. The board of land and natural resources  
3 approved entering into a concession agreement, yet has not  
4 secured a long-term co-management agreement with the Hui. Other  
5 āina-based organizations face similar challenges.

6 Community-based co-management has also been successful in  
7 fisheries through the community-based subsistence fishing area  
8 framework. Communities in Haena, Milolii, Kipahulu, and  
9 Kealahou have established community-based subsistence fishing  
10 areas, and additional communities are organizing, all of which  
11 would benefit from long-term co-management agreements.

12 The legislature further finds that the State alone cannot  
13 sustainably manage the State's public trust resources and that  
14 place-based Native Hawaiian and local communities provide  
15 essential stewardship, capacity, and local knowledge.  
16 Article XI, section 1, and article XII, section 7, of the Hawaii  
17 State Constitution support co-management agreements as a means  
18 of restoring and protecting biocultural public trust resources  
19 for future generations, including for subsistence, cultural, and  
20 religious purposes.

21 The purpose of this Act is to:



- 1 (1) Authorize the department of land and natural resources
- 2 to enter into community co-management agreements;
- 3 (2) Establish qualifications for eligible community
- 4 co-managers; and
- 5 (3) Authorize the disposition of public lands by a
- 6 community co-management agreement.

7 SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
 8 amended by adding a new part to be appropriately designated and  
 9 to read as follows:

10 **"PART . COMMUNITY CO-MANAGEMENT**

11 **§171-A Findings and purpose.** The legislature finds that  
 12 providing specific authority to the department of land and  
 13 natural resources to enter into community co-management  
 14 agreements with community-based organizations honors the  
 15 traditional Native Hawaiian concept of malama aina and  
 16 place-based practices for natural and cultural resource  
 17 management, promoting more effective protection of the State's  
 18 public trust resources for the benefit of present and future  
 19 generations.

20 **§171-B Definitions.** Notwithstanding any other definition  
 21 to the contrary provided in this chapter, as used in this part:



1 "Aina education" means learning pathways that are guided  
2 and grounded in geographic place, aina and kai, and Native  
3 Hawaiian values, language, culture, and history.

4 "Community-based organization" means a nonprofit  
5 corporation incorporated in the State that has a mission,  
6 capacity, and commitment to malama aina; care for natural and  
7 cultural resources; and engage in community-driven planning,  
8 management, and projects that benefit public trust resources.

9 "Community co-management unit" means the location and  
10 boundaries of the land subject to a community co-management  
11 agreement.

12 "Land" means all interests therein and natural resources  
13 including water, streams, shorelines out to a mile or the  
14 fringing reef, ocean minerals, and all things connected with  
15 land, unless otherwise expressly provided.

16 **§171-C Community co-management agreements.** (a) The board  
17 may enter into community co-management agreements, by direct  
18 negotiation and without recourse to public auction, with  
19 qualified community-based organizations to implement this part.



1 (b) Community co-management agreements shall be used  
2 solely and exclusively for one or more of the following  
3 purposes:

- 4 (1) Preservation and practice of all rights customarily  
5 and traditionally exercised by Native Hawaiians for  
6 subsistence, cultural, and religious purposes;
- 7 (2) Preservation, protection, and restoration of  
8 archaeological, historical, and environmental  
9 resources;
- 10 (3) Rehabilitation, revegetation, restoration, and  
11 preservation of native species and habitats;
- 12 (4) Management of parking, visitor activities, and public  
13 and recreational parks and facilities in conjunction  
14 with malama aina-focused principles; or
- 15 (5) Aina education;

16 provided that no community co-management agreement shall  
17 allocate the sharing of management functions and  
18 responsibilities and the rights of entry and use for a given  
19 community co-management unit under the jurisdiction of the  
20 department for a period of time exceeding sixty-five years.



1 (c) The board shall consider the following when deciding  
2 whether a community-based organization is qualified to enter  
3 into a community co-management agreement:

- 4 (1) Nonprofit status and mission;
- 5 (2) A list and qualifications of board members and staff;
- 6 (3) A summary of past and current projects in the proposed  
7 community co-management unit, including those in  
8 partnership with community groups, and federal, state,  
9 and county governments;
- 10 (4) A description of the location and boundaries of the  
11 community co-management unit;
- 12 (5) Justification for the proposed community co-management  
13 agreement;
- 14 (6) Other information deemed necessary for consideration;  
15 and
- 16 (7) A co-management plan recommended by the department  
17 containing a description of the:
  - 18 (A) Specific place-based, mission-driven, and  
19 community-led activities to be conducted in the  
20 area that sustain community, natural, and  
21 cultural resources;



- 1 (B) Demonstrated commitment to the use and knowledge
- 2 of customary and traditional Native Hawaiian
- 3 practices, understandings, and values as a core
- 4 component of the plan;
- 5 (C) Use of adaptive practices and responses to
- 6 changing conditions;
- 7 (D) Defined management functions, roles, and
- 8 responsibilities;
- 9 (E) Performance and accountability standards for
- 10 monitoring, evaluation, and revenue-generation,
- 11 if any;
- 12 (F) Reporting processes and requirements;
- 13 (G) Parameters for equitable data collection,
- 14 sharing, and rights;
- 15 (H) Dispute resolution pathways;
- 16 (I) Methods of funding and enforcement; and
- 17 (J) Other information deemed necessary to support the
- 18 application.
- 19 (d) Every ten years, beginning from the effective date of
- 20 the community co-management agreement, the department shall
- 21 submit to the board for its review a report detailing the



1 community-based organization's progress on meeting the goals set  
2 out in the co-management plan. The board may make any  
3 applicable amendments to the co-management plan or terminate the  
4 community co-management agreement.

5 (e) Notwithstanding subsection (d), a community-based  
6 organization or the board, upon written notice, may terminate  
7 the community co-management agreement, subject to the terms of  
8 the community co-management agreement.

9 (f) The department may adopt rules pursuant to chapter 91  
10 to implement this part."

11 SECTION 3. Section 171-1, Hawaii Revised Statutes, is  
12 amended by adding two new definitions to be appropriately  
13 inserted and to read as follows:

14 "Community co-management" means collaboration between the  
15 department and one or more community-based organizations, under  
16 a community co-management agreement, to allocate the sharing of  
17 management functions and responsibilities and the rights of  
18 entry and use for a given community co-management unit under the  
19 jurisdiction of the department.

20 "Community co-management agreement" means a written  
21 agreement between the department and a community-based



1 organization for community co-management pursuant to this  
2 chapter."

3 SECTION 4. Section 171-13, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§171-13 Disposition of public lands.** Except as otherwise  
6 provided by law and subject to other provisions of this chapter,  
7 the board may:

8 (1) Dispose of public land in fee simple, by lease, lease  
9 with option to purchase, license, community  
10 co-management agreement, or permit; and

11 (2) Grant easement by direct negotiation or otherwise for  
12 particular purposes in perpetuity on such terms as may  
13 be set by the board, subject to reverter to the State  
14 upon termination or abandonment of the specific  
15 purpose for which it was granted, provided the sale  
16 price of such easement shall be determined pursuant to  
17 section 171-17(b).

18 No person shall be eligible to purchase or lease public lands,  
19 or to be granted a license, community co-management agreement,  
20 permit, or easement covering public lands, who has had during  
21 the five years preceding the date of disposition a previous



1 sale, lease, license, community co-management agreement, permit,  
2 or easement covering public lands canceled for failure to  
3 satisfy the terms and conditions thereof."

4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 3000.



**Report Title:**

DLNR; Community Co-Management Agreements; Public Lands

**Description:**

Authorizes the Department of Land and Natural Resources to enter into community co-management agreements and establishes qualifications for eligible community co-managers. Authorizes the disposition of public lands by a community co-management agreement. Effective 7/1/3000. (SD2)

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