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# A BILL FOR AN ACT

RELATING TO CLEAN WATER.

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

1 SECTION 1. The legislature finds that the federal Clean  
2 Water Act establishes minimum national water quality standards  
3 while expressly preserving the authority of states to adopt and  
4 enforce protections that are more stringent or broader in scope.  
5 The legislature further finds that recent federal judicial  
6 decisions, administrative rulemakings, and regulatory actions  
7 have narrowed the scope of waters subject to federal Clean Water  
8 Act jurisdiction, including wetlands, ephemeral streams, and  
9 hydrologically connected groundwater. These federal actions  
10 have created regulatory gaps that may result in the loss of  
11 protections previously afforded to waters essential to Hawaii's  
12 environment, public health, drinking water resources, and  
13 traditional and customary Native Hawaiian practices.  
14 The legislature also finds that Hawaii's waters are public  
15 trust resources held for the benefit of present and future  
16 generations, and that the State has an affirmative  
17 constitutional and statutory duty to conserve and protect these



1 resources. To prevent the loss of water quality safeguards due  
2 to changes in federal law, it is necessary for the State to  
3 ensure continuity of protections that existed before any federal  
4 rollback of those safeguards.

5 The intent of the legislature is to prevent the loss or  
6 diminishing of protections previously provided under the federal  
7 Clean Water Act in Hawaii due solely to federal action, unless  
8 the legislature affirmatively amends these protections under  
9 state law.

10 The purpose of this Act is to preserve, as a matter of  
11 state law, water quality, permitting, and aquatic resource  
12 protections that are at least as protective as the federal Clean  
13 Water Act regulations and standards in effect as of January 1,  
14 2026, and to ensure that those protections continue to apply  
15 under state law regardless of subsequent federal amendments,  
16 repeals, or reductions.

17 SECTION 2. The Hawaii Revised Statutes is amended by  
18 adding a new chapter to be appropriately designated and to read  
19 as follows:

20 **"CHAPTER**

21 **STATE PRESERVATION OF FEDERAL CLEAN WATER ACT PROTECTIONS**



1       **§ -1 Definitions.** As used in this chapter, unless the  
2 context requires otherwise, "department" means the department of  
3 health.

4       **§ -2 State adoption of baseline federal protections;**  
5 **continuity; static incorporation.** (a) Notwithstanding any  
6 other law to the contrary, the department shall adopt,  
7 administer, and enforce water quality standards, permitting  
8 requirements, and aquatic resource protections that are no less  
9 protective than the federal Clean Water Act regulations and  
10 standards in effect as of January 1, 2026.

11       (b) If any federal Clean Water Act regulation or standard  
12 is repealed, amended, narrowed, or otherwise rendered less  
13 protective after January 1, 2026, the State shall continue to  
14 apply and enforce the version of that regulation or standard  
15 that was in effect immediately before the federal action.

16       (c) The adoption of protections under this section shall  
17 be fixed as of January 1, 2026, and shall not dynamically  
18 incorporate future federal actions.

19       (d) Implementation of this section shall be based on the  
20 State's independent constitutional and statutory authority and



1 shall not be construed as relying upon, or being contingent  
2 upon, federal delegation, authorization, or approval.

3       **§ -3 Application to state waters.** (a) The protections  
4 preserved and adopted under this chapter shall apply to all  
5 waters of the State, including but not limited to:

6           (1) Wetlands;  
7           (2) Perennial, intermittent, and ephemeral streams; and  
8           (3) Groundwater, aquifers, and hydrologically connected  
9           waters.

10          (b) The applicability of this chapter shall not be limited  
11 by the jurisdictional scope of the federal Clean Water Act.

12       **§ -4 Duties.** (a) The department shall administer,  
13 implement, and enforce the protections adopted pursuant to this  
14 chapter, including through permitting, compliance monitoring,  
15 enforcement actions, and other applicable regulatory functions.

16          (b) The department shall identify and request all  
17 appropriations necessary to carry out statewide responsibilities  
18 consistent with the protections preserved under this chapter.

19       **§ -5 Rules.** The department shall adopt rules pursuant  
20 to chapter 91 necessary to implement, administer, and enforce  
21 this chapter.



1           **§ -6 Enforcement.** (a) The department may issue notices  
2 of violation, administrative orders, or compliance directives to  
3 ensure adherence to the protections preserved under this  
4 chapter.

5           (b) The department may assess civil penalties for  
6 violations of this chapter or rules adopted pursuant to this  
7 chapter. Penalties shall be consistent with, and no less  
8 protective than, those available under the Clean Water Act as of  
9 January 1, 2026.

10           (c) The attorney general, upon request of the department,  
11 may institute civil actions for injunctive relief or other  
12 appropriate remedies to enforce this chapter.

13           **§ -7 Relationship to federal law.** (a) This chapter is  
14 enacted pursuant to the State's independent constitutional and  
15 statutory authority, including its public trust  
16 responsibilities.

17           (b) Implementation of this chapter shall not be contingent  
18 upon federal approval.

19           (c) Nothing in this chapter shall be construed to limit  
20 the State's authority to adopt or enforce water protection



1 requirements more stringent than those preserved in this  
2 chapter."

3 SECTION 3. If any provision of this Act, or the  
4 application thereof to any person or circumstance, is held  
5 invalid, the invalidity does not affect other provisions or  
6 applications of the Act that can be given effect without the  
7 invalid provision or application, and to this end the provisions  
8 of this Act are severable.

9 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



A handwritten signature in black ink, appearing to read "Prodyo P. Payne".

JAN 26 2026



**Report Title:**

Clean Water Act; State-Level Preservation of Protections

**Description:**

Preserves, as state law, water quality, permitting, and aquatic resource protections that are at least as protective as federal Clean Water Act regulations and standards in effect as of January 1, 2026, and ensures their continued applicability regardless of subsequent federal amendments, repeals, or reductions.

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