

JAN 23 2026

---

## A BILL FOR AN ACT

RELATING TO STATE WATER CODE PENALTIES.

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

1 SECTION 1. The legislature finds that in 1987, the state  
2 water code was adopted to protect the precious water resources  
3 of the State. To better enable the department of land and  
4 natural resources and commission on water resource management to  
5 carry out that mission, the legislature further finds that the  
6 water code's penalties and fines must be amended and increased  
7 to serve as an effective deterrence to violators.

8 The legislature additionally finds that increasing  
9 potential fines for water code violations will also:

10 (1) Help to preserve water resources by ensuring the  
11 sustainable management and conservation of limited  
12 water resources for future generations, particularly  
13 in areas facing over-extraction or misuse;

14 (2) Protect the ecosystems by safeguarding wetlands,  
15 rivers, and aquifers that depend on healthy water  
16 systems to maintain biodiversity and environmental  
17 balance;



- 1 (3) Promote public health and safety by preventing  
2 contamination of drinking water supplies and reducing  
3 health risks associated with waterborne diseases and  
4 pollutants;
- 5 (4) Promote climate change resilience by regulating water  
6 usage and protecting vulnerable water sources to  
7 address challenges posed by prolonged droughts,  
8 erratic rainfall, and rising sea levels;
- 9 (5) Promote economic stability by helping to avoid  
10 economic losses in agriculture, tourism, and other  
11 industries that rely heavily on consistent and clean  
12 water supplies;
- 13 (6) Promote enforcement of equity and justice to ensure  
14 fair access to water resources for all, including  
15 marginalized communities that may be  
16 disproportionately affected by water scarcity or poor  
17 water management;
- 18 (7) Increase accountability for violations to deter  
19 illegal activities such as unauthorized diversions,  
20 pollution, or overuse of water resources by imposing  
21 stricter penalties and fines; and



**5** The purpose of this Act is to:

6 (1) Ensure that all violators of the state water code are  
7 held accountable for their violations by adding a  
8 minimum penalty and amending the maximum penalty, with  
9 scheduled incremental increases, per violation of the  
10 state water code and clarifying what constitutes a  
11 separate offense; and  
12 (2) Require the commission on water resources management  
13 to consider certain factors when imposing penalties.

14 SECTION 2. Section 174C-15, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§174C-15 Penalties and common law remedies. (a) The  
17 commission may enforce its rules and orders adopted pursuant to  
18 this chapter by suit for injunction or for damages or both.

19 (b) Any person who [ ~~violates any~~ ]:

**20** (1) Violates any provision of this chapter [, or any];

1       (2) Violates any rule adopted pursuant to this chapter[,  
2                   may];

3       (3) Violates any order of the commission regarding the  
4                   enforcement or application of any provision of this  
5                   chapter or rule adopted under this chapter;

6       (4) Fails to obtain a permit when a permit is required  
7                   under this chapter;

8       (5) Fails to comply with permit conditions; or

9       (6) Fails to comply with standardized water audit  
10                   requirements pursuant to Act 169, Session Laws of  
11                   Hawaii 2016,  
12                   shall be subject to a fine imposed by the commission. [Such  
13                   fine shall not exceed \$5,000. For a continuing offense, each  
14                   day during which the offense is committed is a separate  
15                   violation.] Each day that a violation exists or continues to  
16                   exist may be considered a separate offense. Penalties for  
17                   continuing violations shall be assessed from the earliest known  
18                   date of the violation. The earliest known date of violation  
19                   shall be determined by the commission by a preponderance of the  
20                   evidence; provided that if the earliest known date cannot be  
21                   determined by a preponderance of the evidence, penalties for



1 continuing violations shall be assessed from the earliest date  
2 the commission is made aware of the violation.

3 (c) A fine imposed pursuant to this section shall not be  
4 less than \$50 and shall not exceed:

5 (1) \$5,000 per violation; provided that the commission has  
6 fined the violator within the five years preceding the  
7 violation; provided further that the violation does  
8 not cause harm to other water users, the environment,  
9 or water source; or

10 (2) Except as provided by subsection (g), \$25,000 per  
11 violation; provided that the commission has fined the  
12 violator within the five years preceding the  
13 violation; provided further that the violation causes  
14 harm to other water users, the environment, or water  
15 source.

16 (d) When imposing a fine, the commission shall consider  
17 the following factors, including but not limited to:

18 (1) The nature, circumstances, extent, gravity, and  
19 history of the violation and of any prior violations;  
20 (2) The economic benefit to the violator, or anticipated  
21 by the violator, resulting from the violation;



1       (3) The opportunity, difficulty, and history of corrective  
2       action;  
3       (4) The violator's good faith efforts to comply;  
4       (5) The violator's degree of culpability;  
5       (6) The quantity of water affected by the violation,  
6       including the quantity of water unlawfully diverted,  
7       wasted, or contaminated;  
8       (7) The potential or actual harm to other water users, the  
9       environment, or water source caused by the violation;  
10       and  
11       (8) Any other matters as justice may require.

12       [+e] (e) No provision of this chapter shall bar the right  
13       of any injured person to seek other legal or equitable relief  
14       against a violator of this chapter.

15       [+d] (f) Except as otherwise provided by law, the  
16       commission or its authorized representative by proper delegation  
17       may set, charge, and collect administrative fines [or]; may  
18       bring legal action to recover administrative fees and costs as  
19       documented by receipts or affidavit, including attorneys' fees  
20       and costs; [or] and may bring legal action to recover  
21       administrative fines, fees, and costs, including attorneys' fees



1 and costs, or payment for damages resulting from a violation of  
2 this chapter or any rule adopted pursuant to this chapter.

3 (g) The maximum fine per violation pursuant to subsection  
4 (c) (2) shall increase to:

5 (1) \$30,000 beginning January 1, 2030;  
6 (2) \$35,000 beginning January 1, 2035;  
7 (3) \$40,000 beginning January 1, 2040; and  
8 (4) \$45,000 beginning January 1, 2045."

9 SECTION 3. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 4. This Act does not affect rights and duties that  
16 matured, penalties that were incurred, and proceedings that were  
17 begun before its effective date.

18 SECTION 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2026.

2

INTRODUCED BY: 



# S.B. NO. 3004

**Report Title:**

CWRM; State Water Code; Penalties

**Description:**

Adds a minimum penalty and maximum penalty per violation of the State Water Code and authorizes the Commission on Water Resource Management to consider each day that a violation exists or continues to exist a separate offense. Establishes factors the CWRM must consider when determining the amount of the penalty. Increases maximum fines, for violations that cause harm, every five years from 2030 to 2045.

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

