
A BILL FOR AN ACT

RELATING TO STORMWATER MANAGEMENT SYSTEMS.

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

1 SECTION 1. The legislature finds that Act 281, Session
2 Laws of Hawaii 2025 (Act 281), addressed public safety related
3 to stormwater detention and retention systems. Act 281
4 established section 46-11.7, Hawaii Revised Statutes, to protect
5 the health, safety, and welfare of the citizens of the State by
6 requiring the counties to regulate the permitting, construction,
7 and maintenance of retention and detention ponds and to conduct
8 a survey of existing retention and detention ponds.

9 The legislature further finds, however, that section
10 46-11.7, Hawaii Revised Statutes, should not apply to
11 agricultural infrastructure that may receive stormwater
12 incidental to their other purposes, or low-risk green stormwater
13 infrastructure, so that use of these ecologically beneficial
14 stormwater management features is not discouraged. Accordingly,
15 the purpose of this Act is to define agricultural infrastructure
16 and low-risk green stormwater infrastructure and to exclude them



1 from the applicability of section 46-11.7, Hawaii Revised
2 Statutes.

3 SECTION 2. Section 46-11.7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§46-11.7[+] **Retention ponds and detention ponds;**
6 **safety requirements.** (a) This section shall be known and may
7 be cited as "Sharkey's Law".

8 (b) Beginning January 1, 2027, each county shall adopt
9 ordinances for the regulation of all retention ponds and
10 detention ponds located within the county's jurisdiction. The
11 ordinances adopted pursuant to this subsection shall include but
12 not be limited to:

13 (1) Establishing a permitting process for the construction
14 of new retention ponds or detention ponds; and

15 (2) Establishing safety requirements, which shall include
16 but not be limited to:

17 (A) Fencing that is at least four feet high that
18 fully encloses the retention pond or detention
19 pond and allows access through one or more
20 secured, locked gates;



- 1 (B) Safety signage indicating "No Swimming" and
- 2 warning of sudden water level changes;
- 3 (C) Installation of life buoys at entry points for
- 4 emergency rescue;
- 5 (D) Proper maintenance of ground cover surrounding
- 6 the retention pond or detention pond, including
- 7 mowing, weed control, and debris removal; and
- 8 (E) Submission of maintenance plans by property
- 9 owners or managers to ensure ongoing safety and
- 10 compliance.

11 (c) This section shall not apply to [~~retention~~]:

12 (1) Retention ponds and detention ponds built on golf
13 courses, hotels, resort properties, or other secured
14 recreational areas; provided that the entities who
15 own, control, or manage such properties shall provide
16 the counties with proof of sufficient security
17 measures for [~~its~~] their retention ponds and detention
18 ponds[~~-~~];

19 (2) Agricultural infrastructure, even if it receives
20 incidental stormwater runoff; provided that the



1 receipt and treatment of stormwater is not the primary
2 purpose of the agricultural infrastructure; or

3 (3) Low-risk green stormwater infrastructure.

4 (d) For the purposes of this section:

5 "Agricultural infrastructure" means a pond, basin, or
6 reservoir designed, constructed, and operated primarily for
7 agricultural water storage, irrigation, livestock watering,
8 aquaculture, or fire protection, and located on land zoned for
9 agricultural use or used for a farming operation as defined in
10 section 165-2.

11 "Detention pond" means an area that is designed to:

12 (1) Hold stormwater until the effects of percolation,
13 evapotranspiration, or controlled release return the
14 area to its normally dry state; and

15 (2) Dissipate inflowing stormwater within seventy-two
16 hours to accommodate a new volume of water.

17 "Low-risk green stormwater infrastructure" means a system
18 designed for infiltration, evapotranspiration, filtration, or
19 water quality treatment of stormwater, including but not limited
20 to rain gardens, bioretention cells or basins, infiltration



1 trenches or basins, vegetated biofilters, and enhanced or
2 vegetated swales, that:

- 3 (1) Drains standing water within forty-eight hours
4 following cessation of rainfall; and
- 5 (2) Has a maximum ponding water depth above the planted or
6 media surface that does not exceed:
- 7 (A) Twelve inches during the applicable design storm
8 if the system's side slopes exceed a ratio of
9 four horizontal to one vertical; or
- 10 (B) Eighteen inches during the applicable design
11 storm if the system's side slopes do not exceed a
12 ratio of four horizontal to one vertical.

13 "Retention pond" means a permanent or semi-permanent
14 aquatic system that acts as a trap where pollutants picked up by
15 the initial surge of stormwater settle out before leaving the
16 system."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

Stormwater Management Systems; Agricultural Infrastructure; Low-Risk Green Stormwater Infrastructure; Counties

Description:

Exempts agricultural infrastructure and low-risk green stormwater infrastructure from regulations covering retention ponds. Defines agricultural infrastructure and low-risk green stormwater infrastructure. Effective 7/1/3000. (HD1)

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