
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 mālama ‘āina and ahupua‘a-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 Hā‘ena, Pūpūkea, Mo‘omomi, Kīpahulu,
9 Ho‘okena, Ka‘ūpūlehu, 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 Maka‘āinana o Makana



1 has worked since 1998 to steward Hā'ena state park and
2 perpetuate 'ike kūpuna. 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 Hā'ena, Miloli'i, Kīpahulu, 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. Article
16 XI, section 1, and article XII, section 7, of the Hawaii State
17 Constitution support co-management agreements as a means of
18 restoring and protecting biocultural public trust resources for
19 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 and visitor activities;
- 13 (5) Management of public and recreational parks and
14 facilities; or
- 15 (6) 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. (SD1)

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