
A BILL FOR AN ACT

RELATING TO WATER.

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

1 SECTION 1. The legislature finds that effective and
2 efficient water resource management requires consistent,
3 experienced, and independent leadership, especially considering
4 the climate crisis. Proper stewardship of the State's water
5 resources will benefit present and future generations by
6 perpetuating the natural lifeblood and cultural lifeways of
7 these islands and providing for essential uses such as the
8 affordable housing needs of local residents. In 1978, the
9 people of the State established article XI, section 7, of the
10 Hawaii State Constitution, mandating the legislature to "provide
11 for a water resources agency" to uphold the State's "obligation
12 to protect, control and regulate the use of Hawaii's water
13 resources for the benefit of its people". Pursuant to this
14 mandate, in 1987, the legislature promulgated the comprehensive
15 state water code, Chapter 174C, Hawaii Revised Statutes, which
16 established the commission on water resources management
17 (commission) to administer and implement the state water code.



1 The legislature is concerned that impediments and threats
2 to the independence of the commission has undermined its ability
3 to fulfill its constitutional and statutory duties. Based on
4 historical and recent experiences, the legislature finds that
5 certain administrative structures of the commission create
6 inherent conflicts and dependencies that impair its critical
7 function of comprehensive water planning and management.

8 In the *Waiahole* water case, for example, the Hawaii supreme
9 court expressed "serious misgivings" about the conflicts and
10 political pressures influencing the commission which "did
11 nothing to improve public confidence in government and the
12 administration of justice in this state". These problems
13 include the inherent conflict of interest that stems from the
14 chairperson of the department of land and natural resources also
15 presiding as the chairperson of the commission. The commission
16 also lacks the ability to employ its own legal staff and
17 consequently was left without the assistance of legal counsel in
18 the momentous, precedent-setting *Waiahole* case when the
19 department of the attorney general terminated its representation
20 of the commission and opposed the commission's recommendations.



1 More recently, in the aftermath of the 2023 Maui wildfires,
2 the commission has undergone further challenges that have
3 undermined its effectiveness and eroded public confidence in the
4 agency. These include controversies that arose due to the
5 chairperson's exercise of unilateral authority over the
6 commission in response to external political influences. In one
7 highly publicized example, the chairperson summarily suspended
8 legal protections of instream flows and removed the commission's
9 deputy director, until community objections forced the
10 administration to rescind those actions.

11 The legislature further finds that the basic governance and
12 administrative structures of the commission do not adequately
13 protect or ensure the commission's independence. For many
14 years, these concerns have been acknowledged but no action has
15 been taken. While identified reform measures have been
16 recommended as solutions, none have been adopted.

17 In 1994, the review commission tasked with comprehensively
18 reviewing the state water code recognized the "potential for
19 significant conflicts" in the chairperson of the department of
20 land natural resources also being designated by law as the
21 chairperson of the commission. To provide the commission with



1 "greater autonomy" and "accountability" and increase
2 "administrative distance" from the department of land and
3 natural resources, the review commission's final report
4 recommended various amendments to the state water code. These
5 recommendations included removing the commission from the
6 department of land and natural resources and "attaching the
7 commission to the [department] for administrative purposes
8 only"; specifying that the chairperson of the board of land and
9 natural resources shall "be ineligible to serve as chairperson
10 of the [commission]"; and providing that the chief executive
11 officer of the commission shall not be a deputy director of the
12 department of land and natural resources, but an "executive
13 director of the [commission], appointed by and answerable to the
14 [commission]".

15 The legislature also finds that in a similar fashion, the
16 Model Water Code, which guided the legislature's development of
17 the state water code, recognizes the need to establish a water
18 commission as "an independent board" and recommends model
19 governance and administrative provisions to support such
20 independence. These include provisions that members of the
21 board "shall elect" their own chairperson, and that the board



1 "shall employ an executive director as chief administrative
2 officer" and "may employ a legal staff" to provide legal
3 counsel, represent it in proceedings, and otherwise assist it in
4 the administration of the water code.

5 The legislature additionally finds that as the fortieth
6 anniversary of the establishment of the state water code and
7 commission approaches, and the State confronts escalating
8 challenges in the management of its freshwater resources, there
9 is an urgent and overdue need to update the provisions for the
10 leadership, governance, and administration of the commission so
11 that it may be best positioned to fulfill its constitutionally
12 and statutorily mandated responsibilities for the people of the
13 State going forward in the twenty-first century.

14 Therefore, the legislature believes that clarification of
15 these provisions, as well as other updates to provisions
16 regarding penalties and emergency orders in the state water code
17 are necessary to provide greater accountability and protection
18 for the State's public trust water resources.

19 Accordingly, the purpose of this Act is to:

- 20 (1) Allow the commission on water resource management to
21 retain independent legal counsel;



- 1 (2) Repeal the position of deputy to the chairperson of
2 the commission on water resource management and
3 establish the position of executive director of the
4 commission on water resource management;
- 5 (3) Amend the composition and administrative structures of
6 the commission on water resource management to provide
7 for its separation from the department of land and
8 natural resources;
- 9 (4) Add one member to the nominating committee for the
10 commission on water resource management to be
11 appointed by the chief executive officer of the Office
12 of Hawaiian Affairs;
- 13 (5) Authorize entities to challenge an emergency order of
14 the commission on water resource management under
15 certain conditions; and
- 16 (6) Establish fines for certain water use offenses.

17 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) No department of the State other than the attorney
21 general may employ or retain any attorney, by contract or



1 otherwise, for the purpose of representing the State or the
2 department in any litigation, rendering legal counsel to the
3 department, or drafting legal documents for the department;
4 provided that the foregoing provision shall not apply to the
5 employment or retention of attorneys:

6 (1) By the public utilities commission, the labor and
7 industrial relations appeals board, and the Hawaii
8 labor relations board;

9 (2) By any court or judicial or legislative office of the
10 State; provided that if the attorney general is
11 requested to provide representation to a court or
12 judicial office by the chief justice or the chief
13 justice's designee, or to a legislative office by the
14 speaker of the house of representatives and the
15 president of the senate jointly, and the attorney
16 general declines to provide [~~such~~] representation on
17 the grounds of conflict of interest, the attorney
18 general shall retain an attorney for the court,
19 judicial, or legislative office, subject to approval
20 by the court, judicial, or legislative office;

21 (3) By the legislative reference bureau;



- 1 (4) By any compilation commission that may be constituted
2 from time to time;
- 3 (5) By the real estate commission for any action involving
4 the real estate recovery fund;
- 5 (6) By the contractors license board for any action
6 involving the contractors recovery fund;
- 7 (7) By the office of Hawaiian affairs;
- 8 (8) By the department of commerce and consumer affairs for
9 the enforcement of violations of chapters 480 and
10 485A;
- 11 (9) As grand jury counsel;
- 12 (10) By the Hawaii health systems corporation, or its
13 regional system boards, or any of their facilities;
- 14 (11) By the auditor;
- 15 (12) By the office of ombudsman;
- 16 (13) By the insurance division;
- 17 (14) By the [~~University~~] university of Hawaii;
- 18 (15) By the Kahoolawe island reserve commission;
- 19 (16) By the division of consumer advocacy;
- 20 (17) By the office of elections;
- 21 (18) By the campaign spending commission;



- 1 (19) By the Hawaii tourism authority, as provided in
2 section 201B-2.5;
- 3 (20) By the division of financial institutions;
- 4 (21) By the office of information practices;
- 5 (22) By the school facilities authority;
- 6 (23) By the Mauna Kea stewardship and oversight authority;
- 7 [~~24~~]
- 8 (24) By the commission on water resource management; or
9 ~~[(24)]~~ (25) By a department, if the attorney general, for
10 reasons deemed by the attorney general to be good and
11 sufficient, declines to employ or retain an attorney
12 for a department; provided that the governor waives
13 the provision of this section."

14 2. By amending subsection (c) to read:

15 "(c) Every attorney employed by any department on a
16 full-time basis, except an attorney employed by the public
17 utilities commission, the labor and industrial relations appeals
18 board, the Hawaii labor relations board, the office of Hawaiian
19 affairs, the Hawaii health systems corporation or its regional
20 system boards, the department of commerce and consumer affairs
21 in prosecution of consumer complaints, insurance division, the



1 division of consumer advocacy, the [~~University~~] university of
2 Hawaii, the Hawaii tourism authority as provided in section
3 201B-2.5, the Mauna Kea stewardship and oversight authority, the
4 commission on water resource management, the office of
5 information practices, or as grand jury counsel, shall be a
6 deputy attorney general."

7 SECTION 3. Section 84-18, Hawaii Revised Statutes, is
8 amended by amending subsection (e) to read as follows:

9 "(e) Subject to the restrictions imposed in subsections
10 (a) through (d), the following individuals shall not represent
11 any person or business for a fee or other consideration
12 regarding any legislative action or administrative action, as
13 defined in section 97-1, for twelve months after termination
14 from their respective positions:

- 15 (1) The governor;
- 16 (2) The lieutenant governor;
- 17 (3) The administrative director of the State;
- 18 (4) The attorney general;
- 19 (5) The comptroller;
- 20 (6) The chairperson of the board of agriculture and
21 biosecurity;



- 1 (7) The director of corrections and rehabilitation;
- 2 (8) The director of finance;
- 3 (9) The director of business, economic development, and
4 tourism;
- 5 (10) The director of commerce and consumer affairs;
- 6 (11) The adjutant general;
- 7 (12) The superintendent of education;
- 8 (13) The chairperson of the Hawaiian homes commission;
- 9 (14) The director of health;
- 10 (15) The director of human resources development;
- 11 (16) The director of human services;
- 12 (17) The director of labor and industrial relations;
- 13 (18) The chairperson of the board of land and natural
14 resources;
- 15 (19) The director of law enforcement;
- 16 (20) The director of taxation;
- 17 (21) The director of transportation;
- 18 (22) The president of the [~~University~~] university of
19 Hawaii;
- 20 (23) The executive administrator of the board of regents of
21 the [~~University~~] university of Hawaii;



- 1 (24) The administrator of the office of Hawaiian affairs;
- 2 (25) The chief information officer;
- 3 (26) The executive director of the agribusiness development
4 corporation;
- 5 (27) The executive director of the campaign spending
6 commission;
- 7 (28) The executive director of the Hawaii community
8 development authority;
- 9 (29) The executive director of the Hawaii housing finance
10 and development corporation;
- 11 (30) The president and chief executive officer of the
12 Hawaii tourism authority;
- 13 (31) The executive officer of the public utilities
14 commission;
- 15 (32) The state auditor;
- 16 (33) The director of the legislative reference bureau;
- 17 (34) The ombudsman;
- 18 (35) The permanent employees of the legislature, other than
19 persons employed in clerical, secretarial, or similar
20 positions;
- 21 (36) The administrative director of the courts;



1 (37) The executive director of the state ethics commission;

2 (38) The executive officer of the state land use
3 commission;

4 (39) The executive director of the natural energy
5 laboratory of Hawaii authority;

6 (40) The executive director of the Hawaii public housing
7 authority; and

8 (41) The [~~first deputy to the chairperson~~] executive
9 director of the commission on water resource
10 management;

11 provided that this subsection shall not apply to any person who
12 has held one of the positions listed above only on an interim or
13 acting basis and for a period of less than one hundred
14 eighty-one days."

15 SECTION 4. Section 174C-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§174C-5 General powers and duties.** The general
18 administration of the state water code shall rest with the
19 commission on water resource management. In addition to its
20 other powers and duties, the commission:



- 1 (1) Shall carry out topographic surveys, research, and
2 investigations into all aspects of water use and water
3 quality;
- 4 (2) Shall designate water management areas for regulation
5 under this chapter where the commission, after the
6 research and investigations mentioned in
7 paragraph (1), shall consult with the appropriate
8 county council and county water agency, and after a
9 public hearing and published notice, finds that the
10 water resources of the areas are being threatened by
11 existing or proposed withdrawals of water;
- 12 (3) Shall establish an instream use protection program
13 designed to protect, enhance, and reestablish, where
14 practicable, beneficial instream uses of water in the
15 State;
- 16 (4) May contract and cooperate with the various agencies
17 of the federal government and with state and local
18 administrative and governmental agencies or private
19 persons;
- 20 (5) May enter, after obtaining the consent of the property
21 owner, at all reasonable times upon any property other



1 than dwelling places for the purposes of conducting
2 investigations and studies or enforcing any of the
3 provisions of this code, being liable, however, for
4 actual damage done. If consent cannot be obtained,
5 reasonable notice shall be given prior to entry;

6 (6) Shall cooperate with federal agencies, other state
7 agencies, county or other local governmental
8 organizations, and all other public and private
9 agencies created for the purpose of utilizing and
10 conserving the waters of the State, and assist these
11 organizations and agencies in coordinating the use of
12 their facilities and participate in the exchange of
13 ideas, knowledge, and data with these organizations
14 and agencies. For this purpose the commission shall
15 maintain an advisory staff of experts;

16 (7) Shall prepare, publish, and issue printed pamphlets
17 and bulletins as the commission deems necessary for
18 the dissemination of information to the public
19 concerning its activities;

20 (8) May appoint and remove agents, including hearings
21 officers and consultants, necessary to carry out the



1 purposes of this chapter, who may be engaged by the
2 commission without regard to the requirements of
3 chapter 76 and section 78-1;

4 (9) May hire employees in accordance with chapter 76;

5 (10) May appoint and dismiss attorneys as may be necessary,
6 who shall be exempt from chapter 76;

7 [~~+10~~] (11) May acquire, lease, and dispose of real and
8 personal property as may be necessary in the
9 performance of its functions, including the
10 acquisition of real property for the purpose of
11 conserving and protecting water and water related
12 resources as provided in section 174C-14;

13 [~~+11~~] (12) Shall identify, by continuing study, those areas
14 of the State where salt water intrusion is a threat to
15 fresh water resources and report its findings to the
16 appropriate county mayor and council and the public;

17 [~~+12~~] (13) Shall provide coordination, cooperation, or
18 approval necessary to the effectuation of any plan or
19 project of the federal government in connection with
20 or concerning the waters of the State. The commission
21 shall approve or disapprove any federal plans or



1 projects on behalf of the State. No other agency or
2 department of the State shall assume the duties
3 delegated to the commission under this paragraph;
4 [~~except~~] provided that the department of health shall
5 continue to exercise the powers vested in it with
6 respect to water quality [~~and except~~]; provided
7 further that the department of business, economic
8 development, and tourism shall continue to carry out
9 its duties and responsibilities under chapter 205A;
10 [~~(13)~~] (14) Shall plan and coordinate programs for the
11 development, conservation, protection, control, and
12 regulation of water resources, based upon the best
13 available information, and in cooperation with federal
14 agencies, other state agencies, county or other local
15 governmental organizations, and other public and
16 private agencies created for the utilization and
17 conservation of water;
18 [~~(14)~~] (15) Shall catalog and maintain an inventory of all
19 water uses and water resources; and
20 [~~(15)~~] (16) Shall determine appurtenant water rights,
21 including but not limited to the quantification of the



1 amount of water and the specification of the water
2 course or the means of access and delivery entitled
3 [~~to~~] by that right, which determination shall be valid
4 for purposes of this chapter."

5 SECTION 5. Section 174C-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~§174C-6 [Deputy to the chairperson]~~ Executive director of
8 the commission on water resource management. (a) There shall
9 be [~~a first deputy to the chairperson]~~ an executive director of
10 the commission on water resource management [~~("deputy for water~~
11 ~~resource management")~~] who shall be in addition to any other
12 first deputy to the chairperson as the chairperson of the board
13 of land and natural resources. The deputy] who shall have
14 experience in the area of water resources [~~and shall]~~, be
15 appointed by [~~the chairperson with the approval of a majority~~
16 ~~of]~~ the commission[-], and serve at the pleasure of the
17 commission.

18 (b) The duties of the [~~deputy]~~ executive director for
19 water resource management shall be to administer and implement,
20 under the direction of the commission, the state water code [~~and~~
21 ~~all]~~, the rules, and other directives [~~promulgated in accordance~~



1 ~~therewith]~~ adopted by the commission. Nothing in this
2 ~~[provision]~~ section shall be construed as limiting the authority
3 of the commission as to matters regarding water resources.

4 (c) The position of ~~[deputy]~~ executive director for water
5 resource management ~~[is not]~~ shall not be subject to chapter 76.

6 (d) The salary of the ~~[deputy]~~ executive director for
7 water resource management shall be ~~[as provided in section 26-53~~
8 ~~for first deputies or first assistants to the head of any~~
9 ~~department.]~~ set by the commission, and the executive director
10 shall be included in any benefit program generally applicable to
11 the officers and employees of the State.

12 (e) The commission shall develop and document annual goals
13 and performance measures for the executive director that
14 authorize the commission to annually evaluate the executive
15 director's work to ensure compliance by the commission with
16 statutory and constitutional requirements and achievement of its
17 statutory and constitutional purposes.

18 (f) The commission shall evaluate and document the
19 evaluation of the executive director's performance annually, or
20 more frequently upon the request of at least four members of the



1 commission, based on annual goals, performance measures, and
2 other relevant criteria."

3 SECTION 6. Section 174C-7, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§174C-7 Commission on water resource management.** (a)

6 There is established [~~within the department~~] a commission on
7 water resource management consisting of seven members which
8 shall have exclusive jurisdiction and final authority in all
9 matters relating to implementation and administration of the
10 state water code, except as otherwise specifically provided in
11 this chapter. The commission shall be attached to the
12 department of land and natural resources for administrative
13 purposes only.

14 (b) Five members shall be appointed by the governor
15 subject to confirmation by the senate in the manner prescribed
16 in subsection [~~(d)~~] (e). Each member shall have substantial
17 experience in the area of water resource management; provided
18 that at least one member shall have substantial experience or
19 expertise in traditional Hawaiian water resource management
20 techniques and in traditional Hawaiian riparian usage [~~such as~~]
21 including those preserved by section 174C-101. Each of the



1 members shall be eligible to serve as the chairperson of the
2 commission upon election by a majority of the commission
3 members.

4 (c) The chairperson of the board of land and natural
5 resources [~~shall be the chairperson of the commission. The~~] and
6 the director of health or the director's designee shall serve as
7 [~~an~~] ex officio[~~+~~], [~~+~~] voting [~~member.~~] members, but shall not
8 be eligible to serve as the chairperson of the commission.

9 [~~(d)~~] (d) The members of the commission shall serve
10 without compensation but shall be reimbursed for expenses,
11 including travel expenses, necessary for the performance of
12 their duties.

13 [~~(e)~~] (e) In appointing a member to the commission, the
14 governor shall select from a list submitted by a nominating
15 committee. The nominating committee shall be composed of [~~four~~]
16 five individuals chosen as follows: two persons appointed by
17 the governor; one person appointed by the president of the
18 senate; [~~and~~] one person appointed by the speaker of the
19 house[~~-~~]; and one person appointed by the chief executive
20 officer of the office of Hawaiian affairs. The committee shall



1 solicit applications and send to the governor the names of at
2 least three individuals for each open position.

3 ~~(e)~~ (f) Except as otherwise provided in this chapter,
4 the commission shall be subject to sections 26-34, 26-35, and
5 26-36."

6 SECTION 7. Section 174C-9, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§~~174C-9~~§~~ **Proceedings before the commission**

9 **concerning water resources.** (a) All proceedings before the
10 commission concerning the enforcement or application of any
11 provision of this chapter or any rule adopted pursuant thereto,
12 or the issuance, modification, or revocation of any permit or
13 license under this code by the commission, shall be conducted in
14 accordance with chapter 91. Hearings regarding particular water
15 resources shall be conducted on the island where those water
16 resources are located.

17 (b) Any party to whom an emergency order is directed may
18 challenge that order but shall immediately comply with the order
19 pending disposition of the party's challenge. The commission
20 shall give precedence to a hearing on the challenge over all
21 other pending matters."



1 SECTION 8. Section 174C-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§174C-15 Penalties and common law remedies.** (a) The
4 commission may enforce its rules and orders adopted pursuant to
5 this chapter by suit for injunction or for damages or both.

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

7 (1) Violates any provision of this chapter[~~, or any~~];

8 (2) Violates any rule adopted pursuant to this chapter[~~, or~~
9 may];

10 (3) Violates any order of the commission;

11 (4) Fails to obtain a permit when a permit is required
12 pursuant to this chapter;

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

14 (6) Fails to comply with standardized water audit
15 requirements pursuant to Act 169, Session Laws of
16 Hawaii 2016,

17 shall be subject to a fine imposed by the commission. [~~Such~~

18 The fine shall not be less than \$250 and shall not exceed

19 [\$5,000. ~~For a continuing offense, each day during which the~~
20 ~~offense is committed is a separate violation.] \$60,000 per~~

21 violation. Each day that a violation exists or continues to



1 exist shall constitute a separate offense. Penalties for
2 continuing violations shall be assessed from the earliest known
3 date of the violation. The earliest known date of a violation
4 shall be determined by the commission by a preponderance of the
5 evidence; provided that if the earliest known date cannot be
6 determined by a preponderance of evidence, penalties for
7 continuing violations shall be assessed from the earliest date
8 the commission is made aware of the violation.

9 (c) When imposing a penalty, the commission shall consider
10 factors, including but not limited to the following:

- 11 (1) The nature, circumstances, extent, gravity, and
12 history of the violation and of any prior violations;
13 (2) The economic benefit to the violator, or anticipated
14 by the violator, resulting from the violation;
15 (3) The potential or actual harm to water resources, other
16 water users, or the environment;
17 (4) The violator's good faith efforts to comply;
18 (5) The violator's degree of culpability; and
19 (6) Any other matters as justice may require.



1 [~~e~~] (d) No provision of this chapter shall bar the right
2 of any injured person to seek other legal or equitable relief
3 against a violator of this chapter.

4 [~~d~~] (e) Except as otherwise provided by law, the
5 commission or its authorized representative by proper delegation
6 ~~may~~ shall set, charge, and collect administrative fines ~~[or]~~;
7 may bring legal action to recover administrative fees and costs
8 as documented by receipts or affidavit, including attorneys'
9 fees and costs; ~~[or]~~ and may bring legal action to recover
10 administrative fines, fees, and costs, including attorneys' fees
11 and costs, or payment for damages resulting from a violation of
12 this chapter or any rule adopted pursuant to this chapter."

13 SECTION 9. Section 174C-62, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[§]174C-62[§]~~ **Declaration of water shortage.** (a) The
16 commission shall formulate a statewide plan for implementation
17 during periods of water shortage. As a part of the plan, the
18 commission shall adopt a reasonable system of permit
19 classification according to source of water supply, method of
20 extraction or diversion, use of water, or a combination thereof.



1 (b) The commission, by rule, may declare that a water
2 shortage exists within all or part of an area, whether within or
3 outside of a water management area, when insufficient water is
4 available to meet the requirements of the permit system or when
5 conditions [~~are such as to~~] require a temporary reduction in
6 total water use within the area to protect water resources from
7 serious harm. The commission shall publish a set of criteria
8 for determining when a water shortage exists[~~-~~], including but
9 not limited to impacts and effects of the climate crisis.

10 (c) In accordance with the plan adopted under
11 subsection (a), the commission may impose [~~such~~] restrictions on
12 one or more classes of permits and outside of management areas
13 on well and stream diversion owners and operators as may be
14 necessary to protect the water resources of the area from
15 serious harm and to restore them to their previous water
16 quantity or chloride level condition.

17 (d) A declaration of water shortage and any measures
18 adopted pursuant thereto may be rescinded by rule by the
19 commission.

20 (e) When a water shortage is declared, the commission
21 shall cause a notice [~~thereof~~] of the water shortage to be



1 published in a prominent place in a newspaper of general
2 circulation throughout the area~~[]~~ and on the commission's
3 website. The notice shall be published each day for the first
4 week of the shortage and once a week [~~thereafter~~] for four
5 months, followed by monthly publications until the declaration
6 is rescinded. Publication of [~~such~~] the notice shall serve as
7 notice to all water users in the area of the condition of water
8 shortage.

9 (f) The commission shall cause each permittee in the area
10 to be notified by regular and electronic mail of any change in
11 the conditions of the permittee's permit, any suspension
12 [~~thereof,~~] of the permittee's permit, or of any other
13 restriction on the use of water for the duration of the water
14 shortage.

15 (g) If an emergency condition arises due to a water
16 shortage within any area, whether within or outside of a water
17 management area, and if the commission finds that the
18 restrictions imposed under subsection (c) are not sufficient to
19 protect the public health, safety, or welfare~~[]~~; the health
20 of animals, fish, or aquatic life~~[]~~; a public water
21 supply~~[]~~; or recreational, municipal, agricultural, or other



1 reasonable uses~~[r]~~; the commission may issue orders reciting the
2 existence of [~~such~~] an emergency and requiring that [~~such~~]
3 actions [~~as~~] that the commission deems necessary to meet the
4 emergency be taken, including but not limited to apportioning,
5 rotating, limiting, or prohibiting the use of the water
6 resources of the area. Any party to whom an emergency order is
7 directed may challenge [~~such-an~~] the order but shall immediately
8 comply with the order, pending disposition of the party's
9 challenge. The commission shall give precedence to a hearing on
10 [~~such~~] the challenge over all other pending matters."

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

17 SECTION 11. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect upon its approval.



Report Title:

CWRM; BLNR; OHA; Responsibilities; Commission Membership;
Executive Director; Independent Legal Counsel; Emergency Order;
Water Emergencies

Description:

Allows the Commission on Water Resource Management to retain independent counsel. Repeals the First Deputy to the Chairperson of CWRM. Establishes the Executive Director of the CWRM. Administratively attaches the CWRM to the Department of Land and Natural Resources. Authorizes members of CWRM to be eligible to serve as chairperson. Requires the Chairperson of the Board of Land and Natural Resources and Director of Health to serve as ex officio voting members who are ineligible to serve as chairperson. Adds one member to the nominating committee for CWRM, to be appointed by the Chief Executive Officer of the Office of Hawaiian Affairs. Authorizes entities to whom an emergency order is directed to challenge the order under certain conditions. Clarifies the notification requirements and contents of declarations of water shortages. Establishes fines. Makes conforming amendments. (SD1)

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

