

JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LT. GOVERNOR



WENDY GADY  
EXECUTIVE DIRECTOR

STATE OF HAWAII  
**AGRIBUSINESS DEVELOPMENT CORPORATION**  
HUI HO'OULU AINA MAHIAI

TESTIMONY OF WENDY L. GADY  
EXECUTIVE DIRECTOR  
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE SENATE COMMITTEES ON WAYS AND MEANS and JUDICIARY  
March 4, 2026  
10:35 a.m.  
Conference Room 211 & Videoconference

SENATE BILL NO. 2022, SD1  
RELATING TO STATE WATER CODE PENALTIES

Chairpersons Dela Cruz and Rhoads, Vice Chairs Moriwaki and Gabbard, and Members of the Committees:

We respectfully submit **comments** regarding SB 2022, SD1, which proposes strengthening enforcement of the State Water Code by establishing a minimum penalty, increasing the maximum penalty per violation, clarifying separate offenses, and requiring the Commission on Water Resource Management (CWRM) to consider enumerated factors when setting fines.

While we support the overall intent to deter noncompliance with the State Water Code and protect Hawai'i's precious water resources, we request amendments to guard against unintended harm to agricultural producers, food security, and wildfire mitigation outcomes.

**1. Overly rigid penalties could jeopardize productive agriculture.**

SB 2022, SD1, would add a minimum penalty and expand per-day offense treatment. Without proportional discretion for minor or technical violations, small and mid-sized farmers risk penalties that exceed their capacity to absorb costs, potentially forcing them to reduce production or exit farming.

Agriculture is a cornerstone of local food availability and institutional purchasing goals. Disrupting active agricultural operations through inflexible penalties undermines Hawaii's ability to increase local food production and meet State food mandates.

**2. Stability and predictability are critical for long-term food investments.**

Investments in irrigation, crop diversification, and drought resilience require certainty in regulatory enforcement. Penalty structures that treat all continuations as separate violations without appropriate cure windows can disincentivize improvements and impede reliable water use planning by producers.

**3. Active agricultural land management reduces fuel loads.**

Many agricultural practices (e.g., grazing, cultivation) function as ongoing wildfire mitigation by reducing unmanaged vegetation. Policies that unintentionally push land out of active production can increase unmanaged fuel loads, undermine public safety and increasing emergency response costs.

**4. Land abandonment increases unmanaged vegetation.**

If enforcement penalties pose disproportionate economic risk, producers may reduce acreage under production, creating fallow lands that accumulate fine fuels and elevate wildfire risks.

To preserve the deterrence intent of SB 2022, SD1, while mitigating undue impacts on agriculture and food security, we propose the following refinements:

**1. Tiered Enforcement with Cure Periods:**

- Establish a warning and defined compliance period for first-time technical violations before financial penalties accrue.
- This ensures enforcement is **proportional to harm** and not punitive for inadvertent administrative errors.

**2. Per-Day Penalties Commence After Notice and Cure Period:**

- Current draft treats each ongoing day as a separate offense.
- Amend to start per-day penalties **only after written notice and an opportunity to cure**, except in cases of willful or reckless violations.

**3. Sliding Scale Based on Operation Size and Impact:**

- For non-willful violations, allow CWRM to scale penalties relative to operation size, actual water diversion/usage, and economic impact on the producer.
- This retains deterrence while protecting small and mid-sized farms.

**4. Safe Harbor for Self-Reporting and Remediation:**

- Provide penalty mitigation for users who self-report violations, promptly implement corrective actions, and demonstrate ongoing compliance efforts.

**5. Penalty-in-Lieu Compliance Investments:**

- Where appropriate, allow verified water-benefit actions (e.g., telemetry installation, leak repair, efficiency upgrades) to satisfy a percentage of penalties, directly advancing water code objectives.

SB 2022, SD1's objective of strengthening water code compliance is laudable and necessary to safeguard Hawai'i's water resources. However, without calibrated adjustments, the proposed penalty framework may inadvertently reduce productive agricultural activity, undermine food security goals, and increase wildfire risk by discouraging active land stewardship.

We urge the Committee to adopt the amendments above, ensuring that enforcement tools are effective without being disproportionate to the nature of violations or the size and economic realities of agricultural producers.

Thank you for your consideration. We are available to provide additional analysis or suggested language for specific bill sections.

**BOARD OF WATER SUPPLY  
KA 'OIHANA WAI  
CITY AND COUNTY OF HONOLULU**

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March 4, 2026

The Honorable Donovan M. Dela Cruz, Chair  
and Members  
Senate Committee on Ways and Means  
Hawaii State Capitol, Room 211  
Honolulu, Hawaii 96813

The Honorable Karl Rhoads, Chair  
and Members  
Senate Committee on Judiciary  
Hawaii State Capitol, Room 211  
Honolulu, Hawaii 96813

Dear Chair Dela Cruz, Chair Rhoads and Members:

Subject: Senate Bill 2022, SD1: Relating to State Water Code Penalties

The Honolulu Board of Water Supply (BWS) and various county Departments of Water Supply (DWS), offer comments for your consideration on Senate Bill (SB) 2022, Senate Draft (SD) 1, relating to state water code penalties. The purpose of SB 2022, SD1, is to strengthen Section §174C-15, Hawaii Revised Statutes (HRS), by setting a minimum and maximum penalty per violation and authorizing the Commission on Water Resource Management (CWRM) to consider each day that a violation exists or continues to exist as a separate offense. This measure also proposes an automatic increase of the maximum fine per violation every 5 years effective 2031 through 2046.

The BWS and DWS support the intent of SB 2022, SD1, which is to protect Hawaii's water resources and deter violators for noncompliance. SB 2022, SD1, may create unintended operational and financial impacts to individuals, small and mid-sized farmers, businesses, water utilities, etc. There should be transparency and public input on the automatic increase-in-maximum penalty. Stakeholder input is needed to ensure due diligence is provided to all that may be affected.

The BWS and the undersigned DWS support having the CWRM consider certain factors when imposing penalties. This tiered approach to penalties will allow CWRM to impose

The Honorable Donovan M. Dela Cruz  
The Honorable Karl Rhoads, Chair  
and Members  
March 4, 2026  
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higher monetary penalties toward serious violations and for minor, first-time violations, with lower penalties.

CWRM should consider imposing the per-day penalties only after notification is made, with a reasonable timeframe to correct the violation. For those who self-report violations, there should be a mitigation penalty to reduce or lessen the severity of the legal penalty.

Thank you for the opportunity to provide testimony on SB 2022, SD 1.

Sincerely,

*Ernest Y.W. Lau*

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Ernest Y.W. Lau, P.E.  
Manager and Chief Engineer  
City and County of Honolulu  
Board of Water Supply

*Keith K. Okamoto*

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Keith K. Okamoto, P.E.  
Manager-Chief Engineer  
County of Hawai'i  
Department of Water Supply

*Joe Tait*

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Joe Tait  
Manager and Chief Engineer  
County of Kaua'i  
Department of Water

**RICHARD T. BISSEN, JR.**  
Mayor

**JOSIAH K. NISHITA**  
Managing Director



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TO: Senator Donovan M. Dela Cruz  
Senator Sharon Moriwaki  
Senate Committee on Ways and Means

Senator Karl Rhoads  
Senator Mike Gabbard  
Senate Committee on Judiciary

FROM: Richard T. Bissen, Jr., Mayor  
John Stufflebean, P.E., Director of Water Supply

DATE: March 2, 2026

SUBJECT: **COMMENTS FOR SB 2022, SD1: Relating to State Water Code Penalties**

Thank you for the opportunity to testify in support of SB2022 SD1 which would add a minimum penalty and maximum penalty per violation of the State Water Code and authorize 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 every 5 years from 2031 to 2046. Effective 7/1/2050. (SD1)

While we support the overall intent of this measure, we are offering the following comments for consideration:

1. While this act would protect Hawai'i's water resources and deter violators for noncompliance. SB 2022, SD1, may create unintended operational and financial impacts to individuals, small and mid-sized farmers, businesses, water utilities, etc. There should be transparency and public input on the automatic increase-in-maximum penalty. Stakeholder input is needed to ensure due diligence is provided to all that may be affected.
2. The DWS supports having the CWRM consider certain factors when imposing penalties. This tiered approach to penalties will allow CWRM to impose higher monetary penalties toward serious violations and for minor, first-time violations, with lower penalties.

3. CWRM should consider imposing the per-day penalties only after notification is made, with a reasonable timeframe to correct the violation. For those who self-report violations, there should be a mitigation penalty to reduce or lessen the severity of the legal penalty.

Mahalo for your consideration.

Richard T. Bissen, Jr., Mayor  
John Stufflebean, P.E., Director of Water Supply  
County of Maui



Email: [communications@ulupono.com](mailto:communications@ulupono.com)

SENATE COMMITTEES ON JUDICIARY & WAYS AND MEANS  
Wednesday, March 4, 2026 — 10:35 a.m.

**Ulupono Initiative strongly supports SB 2022 SD1, Relating to State Water Code Penalties.**

Dear Chair Rhoads, Chair Dela Cruz, and Members of the Committees:

My name is Micah Munekata, and I am the Vice President of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy, clean transportation choices, and better management of freshwater resources.

**Ulupono strongly supports SB 2022 SD1**, which adds a minimum penalty and maximum penalty per violation of the State Water Code; authorizes the Commission on Water Resource Management (CWRM) to consider each day that a citation exists or continues to exist a separate offense; establishes factors the CWRM must consider when determining the amount of the penalty; and increases maximum fines every five years from 2030 to 2045.

What value do we place on an irreplaceable resource? Currently, CWRM can only impose a maximum fine of \$5,000 per violation of the State Water Code. This stands in stark contrast to other jurisdictions like Arizona, California, and Texas that have the authority to issue fines of \$10,000 per day to water users who exceed their permitted allocations. Even within our own state, the Hawai'i Department of Health (DOH) can charge a maximum penalty of \$60,000 per water pollution violation.

We cannot issue a water pollution fine if there is no water in our streams or aquifers left to pollute. The State Water Code was established to protect Hawai'i's water resources, but its effectiveness depends on compliance and meaningful enforcement. This bill sends a message that we value the health and wellbeing of water, and mistreatment of such a vital resource can have serious financial consequences.

We applaud the Legislature for underscoring the immeasurable value of *wai* by considering this measure for passage.

Thank you for the opportunity to testify.

Respectfully,  
Micah Munekata  
Vice President of Government Affairs

*Investing in a Sustainable Hawai'i*

JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'  
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CIARA W.K. KAHAHANE  
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AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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COMMISSION ON WATER RESOURCE  
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ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

Testimony of  
RYAN K.P. KANAKA'OLE  
Acting Chairperson

Before the Senate Committees on  
WAYS AND MEANS  
and  
JUDICIARY

Wednesday, March 4, 2026  
10:35 A.M.  
State Capitol, Conference Room 211

In consideration of  
SENATE BILL 2022, SENATE DRAFT 1  
RELATING TO STATE WATER CODE PENALTIES

Senate Bill 2022, Senate Draft 1 proposes to add a minimum penalty and a maximum penalty for each violation of the State Water Code; expand the types of potential violations of the State Water Code; and make each day that a violation exists or continues to exist a separate offense. This bill also requires the Commission on Water Resource Management (Commission) to consider certain factors when imposing penalties and makes the setting, charging, and collecting of administrative fines by the Commission mandatory, rather than discretionary. **The Department of Land and Natural Resources (Department) strongly supports this measure.**

The Commission has a constitutional and statutory obligation to protect and regulate Hawai'i's water resources for the benefit of present and future generations. Meaningful enforcement authority is essential to that responsibility. Experience has shown that the existing penalty structure does not always provide adequate deterrence, particularly where violations are ongoing, confer economic benefit, or are committed by repeat or well-resourced actors.

Last legislative session, the Department testified in support of a similar measure and emphasized the importance of a tiered approach to penalties that distinguishes between minor or first-time violations, and those that cause harm or reflect knowing or repeated noncompliance. A tiered penalty structure allows the Commission to target higher penalties toward the most serious violations—particularly repeat violations and those that harm other water users or the resource itself—while preserving flexibility to assess lower penalties where appropriate based on the facts and circumstances of a particular case. This approach promotes fairness, proportionality, and deterrence without adopting a one-size-fits-all enforcement model.

The Commission's enforcement history demonstrates that it exercises this discretion judiciously. Over its nearly four decades of operation, the Commission has issued relatively few fines overall, and the vast majority have resulted in penalties under \$5,000. Those fines, however, represent only a small fraction of the total dollar amount assessed, reflecting that meaningful penalties are imposed sparingly and reserved for the most egregious conduct. This bill supports the Commission's existing approach: measured, case-specific, and focused on deterrence where it is most needed.

Mahalo for the opportunity to testify in strong support of this bill.