

A Bill for an Act Relating to a Water Commission and Formulation of a State Water Code.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that the State, pursuant to Article XI, section 7, of the Constitution of the State of Hawaii, has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people by establishing conservation, quality; and use policies; defining beneficial and reasonable uses; protecting water resources and related environments; establishing criteria for water use priorities; safeguarding existing water uses; and establishing procedures for regulating all water uses. The legislature further finds that the formulation and enactment of a state water code is necessary to implement this constitutional provision.

The legislature finds that a comprehensive review of the numerous issues relating to Hawaii's water resources should be conducted by a specially designated study group. The purpose of this Act is to establish and fund an advisory study commission on water resources to carefully and comprehensively review the various issues relating to Hawaii's water resources, including existing state and county laws and rules relating to water resources, and to formulate a proposed water code.

SECTION 2. The water code is intended to be a permanent repository of fundamental principles and policies from which all rights, privileges, and powers of the citizens and the State to use, develop, and regulate water resources are logically derived. The basic function of the water code is to recognize, clarify, and systematize legal concepts relating to water resources. The water code shall include only fundamental matters of policy, principles, and rights that have continuous application and will not require or be subject to frequent amendment.

During the formulation of the water code, the areas to be considered by the advisory study commission on water resources shall include, but not be limited to:

- (1) The protection of water resources for the benefit of the people of Hawaii;
- (2) The preservation of environmental and ecological values;

- (3) Commonly accepted hydrological principles;
- (4) The prevention of excessive demands beyond the sustainable yield of any watershed;
- (5) The prevention of overdevelopment and undesirable developments which may adversely affect water resources;
- (6) The control of future water developments to insure that new projects and uses will be beneficial, promote the public interest, further the State's economic and social needs and goals, and provide continuity of sufficient quantities and appropriate quality of water from all sources;
- (7) The recognition, confirmation, and certification of the right to continue any existing beneficial use of water;
- (8) The protection of public and private investments in facilities for and enterprises dependent on beneficial uses of water;
- (9) The establishment of incentives for future water developments for desirable and needed beneficial uses of water;
- (10) The elimination of temporary and local water shortages through the development of storage facilities and importation of water;
- (11) The purchase and transfer of water rights;
- (12) The shift of water to new uses and the adaptation of water rights to accommodate population growth and to promote industrial and agricultural development; and
- (13) Changes in the use and distribution of water resources.

SECTION 3. There is established within the office of the legislative reference bureau for administrative purposes an advisory study commission on water resources, hereafter in this Act referred to as "the commission" which shall perform a study on water resources and shall formulate a state water code in line with the concerns noted in section 2 of this Act. The commission shall be an advisory body and shall recognize that all of its activities shall be primarily advisory, and that the policy making power shall remain with the legislature. The commission is to develop and recommend a state water code relating to the protection, control, and regulation of the use of Hawaii's water resources and shall be directly accountable to the legislature. The commission shall consist of thirteen voting members as follows: the chairman of the board of land and natural resources, the director of planning and economic development, the chairman of the Hawaiian homes commission, the director of health, the chief executive for each county board of water supply, and five appointees by the president of the senate and the speaker of the house of representatives, which shall include two members of the general public, one each to represent major water users, the Hawaii Farm Bureau Federation, and major landowners. Appointments to the commission shall be made within sixty days from the effective date of this Act.

Any vacancy on the commission shall be filled in the same manner in which the original position was filled. The commission shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the commission shall constitute a quorum.

SECTION 4. The commission shall receive such administrative support from the office of the legislative reference bureau to accomplish its duties as it may

request. The commission shall have the power to appoint an advisory committee or committees from time to time, to assist in the formulation of the water code, to which employees of the State and counties and the non-public sector shall be eligible.

SECTION 5. Members of the commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SECTION 6. Prior to the convening of the second regular session following the effective date of this Act, the commission shall submit a progress report to the legislature. No later than twenty days prior to the convening of the third regular session following the effective date of this Act, the commission shall submit a report to the legislature which shall contain the commission's findings and recommendations and a proposed water code for consideration and, as appropriate, adoption by the legislature. Upon the adjournment of the third regular session following the effective date of this Act, the commission shall cease to exist.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary, for fiscal year 1982-1983, for use by the commission in carrying out the purposes of this Act.

SECTION 8. The sum appropriated shall be expended by the office of the legislative reference bureau for the purposes of this Act.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 5, 1982.)