

ACT 121

S.B. NO. 81

A Bill for an Act Relating to Maintenance of Drainageways.

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

SECTION 1. The legislature finds that the maintenance of drainageways is of statewide concern, and that this interest must be balanced with interests of the State, county governments, and the private sector. The purpose of this Act is to define and clarify the responsibility for maintaining streams, to protect the health, safety, and welfare of the people of Hawaii.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§46- Maintenance of channels, streambeds, streambanks, and drainageways. Notwithstanding any law to the contrary, each county shall provide for the maintenance of channels, streambeds, streambanks, and drainageways, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and for the removal from the channels, streambeds, streambanks, and drainageways and from the shores and beaches any debris which is likely to create an unsanitary condition or otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at county expense, and any private entity or person refusing to comply with any final order issued by the county shall be in violation of this chapter and be liable for a civil penalty not to exceed \$500 for each day the violation continues; provided further that it shall be the responsibility of the county to maintain all channels, streambeds, streambanks, and drainageways unless such channels, streambeds, streambanks, and drainageways are privately owned or owned by the State, in which event such channels, streambeds, streambanks, and drainageways shall be maintained by their respective owners.”

SECTION 3. Section 179-4, Hawaii Revised Statutes, is amended to read:

“§179-4 Powers, duties,¹ and jurisdiction of the board. In addition to those powers and responsibilities of the board of land and natural resources established by existing law, the board is authorized to implement the declared purposes of this chapter with regard to flood control and flood water conservation in the following manner:

- (1) Coordinate the programs and activities of all agencies of the State, in conformance with the objectives of the statewide flood control program.
- (2) Compile, evaluate, interpret, and disseminate information for technical use and for the general information and education of the people of the State.
- (3) Render technical assistance to the political subdivisions and other agencies of the State only upon request of the affected agencies in matters of master planning, zoning, qualifying for, and constructing federal and state flood control projects, the training of flood fighting units, and related flood control activities.

- (4) With regard to federal flood control projects:
 - (A) Review plans submitted by federal agencies for state approval and make appropriate recommendations to the governor;
 - (B) Formulate and recommend to the legislature a general policy for state participation with the political subdivisions in the assurances of local cooperation required by federal flood control acts;
 - (C) Review requests from political subdivisions for financial assistance in meeting local participation requirements and make appropriate recommendations to the legislature; and
 - (D) Execute and administer agreements with political subdivisions to implement state assurances of participation in federal flood control projects.
- (5) For meritorious proposed projects which do not meet feasibility standards for federal flood control projects:
 - (A) Formulate state feasibility criteria and project funding procedures;
 - (B) Study, evaluate, and determine the feasibility of proposed projects in accordance with established criteria and make recommendations to the legislature;
 - (C) Execute and administer agreements with political subdivisions to assure compliance with the conditions of state projects; and
 - (D) Design, prepare plans and specifications, obtain bids, let contracts, and supervise the construction of state flood control works.
- (6) With regard to projects initiated and financed entirely by political subdivisions, render coordination and aid only if requested by the respective agencies.
- (7) With regard to state ownership of drainageways, coordinate the resolution of drainageway maintenance problems with the appropriate state agency or agencies.
- (8) With regard to multiple jurisdiction of drainageways, the board shall coordinate the resolution of drainageway maintenance problems with all affected political subdivisions.
- (9) With regard to certain streambeds, streambanks, and drainageways whose ownership is not claimed nor determined, the board shall coordinate the resolution of streambed, streambank, and drainageway maintenance problems with the appropriate state agency or agencies.
- (10) The board may promulgate rules to implement this chapter."

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 5. This Act shall take effect upon its approval.

(Approved May 8, 1986.)

Notes

- 1. Comma should be underscored.
- 2. No bracketed material. Edited pursuant to HRS §23G-16.5.