

## ACT 35

H.B. NO. 2550

A Bill for an Act Relating to Appurtenant Rights Under the Water Code.

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

SECTION 1. Section 174C-5, Hawaii Revised Statutes, is amended to read as follows:

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

- (1) Shall carry out topographic surveys, research, and investigations into all aspects of water use and water quality[-];
- (2) Shall designate water management areas for regulation under this chapter where the commission, after the research and investigations mentioned in paragraph (1), shall consult with the appropriate county council and county water agency, and after public hearing and published notice, finds that the water resources of the areas are being threatened by existing or proposed withdrawals of water[-];
- (3) Shall establish an instream use protection program designed to protect, enhance, and reestablish, where practicable, beneficial instream uses of water in the State[-];
- (4) May contract and cooperate with the various agencies of the federal government and with state and local administrative and governmental agencies or private persons[-];
- (5) May enter, after obtaining the consent of the property owner, at all reasonable times upon any property other than dwelling places for the purposes of conducting investigations and studies[-] or enforcing any of the provisions of this code, being liable, however, for actual damage done. If consent cannot be obtained, reasonable notice shall be given prior to entry[-];
- (6) Shall cooperate with federal agencies, other state agencies, county or other local governmental organizations, and all other public and private agencies created for the purpose of utilizing and conserving the waters of the State, and assist [sueh] these organizations and agencies in coordinating the use of their facilities and participate in the exchange of ideas, knowledge, and data with [sueh] these organizations and agencies. For this purpose the commission shall maintain an advisory staff of experts[-];
- (7) Shall prepare, publish, and issue such printed pamphlets and bulletins as the commission deems necessary for the dissemination of information to the public concerning its activities[-];
- (8) May appoint and remove agents and employees including hearings officers, specialists, and consultants necessary to carry out the purposes of this chapter [and], who may be engaged by the commission without regard to the requirements of chapter 76<sup>1</sup> and section 78-1[-];
- (9) May acquire, lease, and dispose of such real and personal property as may be necessary in the performance of its functions, including the

acquisition of real property for the purpose of conserving and protecting water and water related resources as provided in section 174C-14[-];

- (10) Shall identify, by continuing study, those areas of the State where salt water intrusion is a threat to fresh water resources and report its findings to the appropriate county mayor and council and the public[-];
- (11) Shall provide [sueh] coordination, cooperation, or approval necessary to the effectuation of any plan or project of the federal government in connection with or concerning the waters of the State. The commission shall approve or disapprove [sueh] any federal plans or projects on behalf of the State. No other agency or department of the State shall assume the duties delegated to the commission under this paragraph[-]; except that the department of health shall continue to exercise [sueh] the powers vested in it with respect to water quality, and except that the department of business, economic development, and tourism shall continue to carry out its duties and responsibilities under chapter 205A[-];
- (12) [~~Plan~~] Shall plan and coordinate programs for the development, conservation, protection, control, and regulation of water resources, based upon the best available information, and in cooperation with federal agencies, other state agencies, county or other local governmental organizations, and other public and private agencies created for the utilization and conservation of water[-];
- (13) Shall catalog and maintain an inventory of all water uses and water resources[-]; and
- (14) Shall determine appurtenant water rights, including quantification of the amount of water entitled to by that right, which determination shall be valid for purposes of this chapter."

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

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 2002.)

**Note**

- 1. So in original.