

**ACT 218**

S.B. NO. 632

A Bill for an Act Relating to the Environmental Courts.

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

SECTION 1. The legislature finds that environmental disputes are currently dealt with in a variety of courts. This organizational structure inadvertently promotes inconsistent application of the wide variety of environmental laws.

The legislature also finds that the continued maintenance and improvement of Hawaii's environment requires constant vigilance and continued stewardship to ensure its lasting beauty, cleanliness, uniqueness, and the stability of its natural systems, all of which enhance the mental and physical well-being of Hawaii's people.

The legislature further finds that Hawaii's natural resources are compromised every day resulting in numerous violations of the law. An environmental court will better ensure that the State upholds its constitutional obligation to protect the public trust for the benefit of all beneficiaries.

The purpose of this Act is to promote and protect Hawaii's natural environment through consistent and uniform application of environmental laws by establishing environmental courts.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
ENVIRONMENTAL COURTS**

**§ -1 Environmental courts; establishment.** (a) The environmental courts shall be created as divisions of the circuit courts and district courts of the State and shall not be deemed to be other courts as that term is used in the state constitution. An environmental court shall be held at the courthouse in each circuit, or other duly designated place, by the judge or judges of the respective environmental courts.

(b) The chief justice of the supreme court shall designate an environmental judge or judges for each circuit and for a district court in each circuit, as may be necessary; provided that if the volume of environmental cases in the circuit or district in which an environmental judge presides is not adequate to provide an environmental court judge with a full time docket, the judge may hear cases arising from other areas of law. In any circuit that has more than one judge designated for the environmental court, the chief justice shall designate one of the judges as senior judge. The chief justice may temporarily assign an environmental court judge to preside in another circuit when the chief justice determines that the urgency of one or more cases in the circuit court or district court or the volume of the cases in the circuit court or district court so requires.

**§ -2 Jurisdiction.** (a) The environmental courts shall have exclusive, original jurisdiction over all proceedings, including judicial review of administrative proceedings and proceedings for declaratory judgment on the validity of agency rules authorized under chapter 91, arising under chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and title 12; provided that upon the motion of a party or sua sponte by the chief justice, the chief justice may assign to the environmental courts issues before the courts when the chief justice determines that due to their subject matter the assignment is required to ensure the uniform application of environmental laws throughout the State or to otherwise effectuate the purpose of this chapter.

(b) In any case in which it has jurisdiction, the environmental courts shall exercise general equity powers as authorized by law. Nothing in this chapter shall be construed to limit the jurisdiction and authority of any judge, designated as judge of an environmental court, to matters within the scope of this chapter.

§ -3 Rules. The supreme court shall adopt rules regarding the administration, operation, and procedures of the environmental courts.”

SECTION 3. Section 91-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any interested person may obtain a judicial declaration as to the validity of an agency rule as provided in subsection (b) [herein] by bringing an action against the agency in the circuit court or, if applicable, the environmental court, of the county in which the petitioner resides or has its principal place of business. The action may be maintained whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.”

SECTION 4. Section 91-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Except as otherwise provided herein, proceedings for review shall be instituted in the circuit court or, if applicable, the environmental court, within thirty days after the preliminary ruling or within thirty days after service of the certified copy of the final decision and order of the agency pursuant to rule of court, except where a statute provides for a direct appeal to the intermediate appellate court, subject to chapter 602. In such cases, the appeal shall be treated in the same manner as an appeal from the circuit court to the intermediate appellate court, including payment of the fee prescribed by section 607-5 for filing the notice of appeal (except in cases appealed under sections 11-51 and 40-91). The court in its discretion may permit other interested persons to intervene.”

SECTION 5. Section 91-15, Hawaii Revised Statutes, is amended to read as follows:

“§91-15 Appeals. Review of any final judgment of the circuit court or, if applicable, the environmental court, under this chapter shall be governed by chapter 602.”

SECTION 6. The judiciary shall conduct a study to determine the number of environmental-related cases filed in the circuit courts in each of the past five years. The judiciary shall report findings to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 7. The judiciary shall convene a working group, with members to be appointed by the chief justice of the supreme court, to make recommendations to the chief justice regarding the implementation of environmental courts within the circuit and district courts of the State. The judiciary shall prepare a report describing the implementation of environmental courts, including any further legislation that may be necessary, to the legislature no later than twenty days prior to the convening of the regular session of 2015.

SECTION 8. Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and title 12 of the Hawaii Revised Statutes are amended by substituting the term “environmental court”, or like term, wherever the term “court”, “circuit court”, “district court”, or like term, appears, as the context requires.

SECTION 9. Matters pending in any state court as of the effective date of this Act may be transferred to the environmental courts as directed by the chief justice of the supreme court, in the chief justice’s sole discretion.

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SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect on July 1, 2015; provided that sections 6 and 7 shall take effect upon approval.

(Approved July 7, 2014.)