

JAN 25 2006

A BILL FOR AN ACT

RELATING TO AN ENVIRONMENTAL COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

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

11 The purpose of this Act is to promote and protect Hawaii's
12 natural environment through consistent and uniform application
13 of our environmental laws by establishing environmental courts
14 to hear cases and preside over administrative proceedings
15 relating to environmental law.

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



1 "CHAPTER

2 ENVIRONMENTAL COURT

3 § -1 **Environmental court; establishment.** To the full
4 extent permitted by the state constitution and except as
5 otherwise provided by law, environmental courts shall be created
6 as divisions of the circuit courts of the State and shall not be
7 deemed to be other courts as that term is used in the state
8 constitution. An environmental court shall be held at the
9 courthouse in each circuit, or other duly designated place, by
10 the judge or judges of the respective environmental courts. The
11 chief justice of the supreme court shall designate an
12 environmental judge or judges for each circuit, as may be
13 necessary. In any circuit in which more than one judge is
14 authorized to exercise jurisdiction as judge of the
15 environmental court, the chief justice shall designate one of
16 the judges as senior judge. The chief justice may temporarily
17 assign an environmental court judge to preside in another
18 circuit when the urgency of one or more cases requires the chief
19 justice to do so.

20 § -2 **Jurisdiction.** (a) The environmental courts shall
21 have jurisdiction over all actions and violations and shall hear
22 appeals of contested cases and any other administrative



1 proceedings authorized by chapter 91, arising under chapters 6D,
2 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183, 183C, 183D, 184,
3 185, 187A, 188, 189, 190, 190D, 195, 195D, 197, 198, 198D, 200,
4 205, 205A, 269, 339, 340B, 340E, 340F, 342B, 342C, 342D, 342E,
5 342F, 342G, 342H, 342I, 342J, 342L, 342P, and 343.

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

12 § -3 **Rules.** The supreme court shall adopt rules
13 regarding the administration, operation, and procedures of the
14 environmental courts.

15 § -4 **Appointment and duties of employees.** For each
16 environmental court, the judge, or the senior judge when there
17 is more than one judge, shall appoint a chief administrative and
18 executive officer who shall have the title of director of the
19 environmental court. Under the general supervision of the
20 senior judge or the judge, the director shall:

21 (1) Prepare an annual budget for the court;



- 1 (2) Formulate procedures governing the routine
2 administration of court services;
- 3 (3) Make recommendations to the court for improvement in
4 court services;
- 5 (4) Make recommendations to the senior judge or the judge
6 for the appointment of administrative, supervisory,
7 consultant, and necessary professional, clerical, and
8 other personnel to perform the duties assigned to the
9 court and the director;
- 10 (5) Provide supervision and consultation to the
11 administrative and supervisory staff regarding the
12 administration of court services, recruitment of
13 personnel, in-service training, and fiscal and office
14 management; and
- 15 (6) Perform other duties as the senior judge or the judge
16 shall specify."

17 SECTION 3. Chapter 91, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§91-_____ **Judicial review of environmental matters.**
21 Judicial review of administrative proceedings arising under
22 chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183,



1 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D, 195, 195D, 197,
 2 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E, 340F, 342B,
 3 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, and
 4 343 shall be heard by the environmental court."

5 SECTION 4. Section 91-7, Hawaii Revised Statutes, is
 6 amended by amending subsection (a) to read as follows:

7 "(a) Any interested person may obtain a judicial
 8 declaration as to the validity of an agency rule as provided in
 9 subsection (b) [~~herein~~] by bringing an action against the agency
 10 in the circuit court or, if applicable, the environmental court
 11 in accordance with section 91- , of the county in which the
 12 petitioner resides or has its principal place of business. The
 13 action may be maintained whether or not the petitioner has first
 14 requested the agency to pass upon the validity of the rule in
 15 question."

16 SECTION 5. Section 91-14, Hawaii Revised Statutes, is
 17 amended by amending subsection (b) to read as follows:

18 "(b) Except as otherwise provided herein, proceedings for
 19 review shall be instituted in the circuit court or in the
 20 environmental court, as provided in section 91- , within
 21 thirty days after the preliminary ruling or within thirty days
 22 after service of the certified copy of the final decision and



1 order of the agency pursuant to rule of court, except where a
2 statute provides for a direct appeal to the supreme court, which
3 appeal shall be subject to chapter 602, and in such cases the
4 appeal shall be in [~~like~~] the same manner as an appeal from the
5 circuit court to the supreme court, including payment of the fee
6 prescribed by section 607-5 for filing the notice of appeal
7 (except in cases appealed under sections 11-51 and 40-91). The
8 court in its discretion may permit other interested persons to
9 intervene."

10 SECTION 6. Act 202, Session Laws of Hawaii 2004, is
11 amended by amending section 8 to read as follows:

12 "SECTION 8. Section 91-14, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Except as otherwise provided herein, proceedings for
15 review shall be instituted in the circuit court or in the
16 environmental court, as provided in section 91- , within
17 thirty days after the preliminary ruling or within thirty days
18 after service of the certified copy of the final decision and
19 order of the agency pursuant to rule of court, except where a
20 statute provides for a direct appeal to the intermediate
21 appellate court, subject to chapter 602. In such cases, the
22 appeal shall be treated in the same manner as an appeal from the



1 circuit court to the intermediate appellate court, including
2 payment of the fee prescribed by section 607-5 for filing the
3 notice of appeal (except in cases appealed under sections 11-51
4 and 40-91). The court in its discretion may permit other
5 interested persons to intervene."

6 SECTION 7. Chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D,
7 181, 182, 183, 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D,
8 195, 195D, 197, 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E,
9 340F, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,
10 342L, 342P, and 343 of the Hawaii Revised Statutes are amended
11 by substituting the term "environmental court", or like term,
12 wherever the term "court", "district court", or "circuit court",
13 or like term, appears, as the context requires.

14 SECTION 8. Matters pending in any state court as of the
15 effective date of this Act may be transferred to the
16 environmental court as the chief justice of the supreme court,
17 in the chief justice's sole discretion, directs.

18 SECTION 9. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



1 SECTION 10. This Act shall take effect upon its approval;
2 provided that section 6 of this Act shall take effect on July 1,
3 2006.
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INTRODUCED BY:

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Report Title:

Environmental Court

SB. NO. 3175

Description:

Establishes environmental courts as divisions within the circuit court to handle complaints, administrative appeals, and other judicial proceedings of an environmental nature.

