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# 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 resolved in a variety of state courts.  
3 This system inadvertently promotes the inconsistent application  
4 of the state's 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, uniqueness, and stability to enhance the  
9 mental and physical well-being of Hawaii's people.

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

15           SECTION 2. The Hawaii Revised Statutes is amended by  
16 adding a new chapter to be appropriately designated and to read  
17 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 environmentally-related actions and  
22 violations and shall hear appeals of contested cases and any



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

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

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

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

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



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

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

19 **"§91- Judicial review of environmental matters.**  
 20 Judicial review of administrative proceedings arising under  
 21 chapters 6D, 6E, 6K, 149A, 150A, 174C, 179D, 181, 182, 183,  
 22 183C, 183D, 184, 185, 187A, 188, 189, 190, 190D, 195, 195D, 197,



1 198, 198D, 200, 205, 205A, 269, 339, 340B, 340E, 340F, 342B,  
2 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, and  
3 343 shall be heard by the environmental court."

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

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

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

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



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

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

17 SECTION 7. Matters pending in any state court as of the  
18 effective date of this Act may be transferred to the  
19 environmental court as the chief justice of the supreme court,  
20 in the chief justice's sole discretion, directs.

21 SECTION 8. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2009.

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INTRODUCED BY: Mele Carroll

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JAN 23 2009



**Report Title:**

Environmental Court

**Description:**

Establishes environmental courts as divisions within the circuit court to hear cases and preside over other administrative proceedings relating to environmental law.

