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## HOUSE CONCURRENT RESOLUTION

CALLING FOR THE ESTABLISHMENT OF A TASK FORCE TO STUDY HOW  
COOPERATION BETWEEN THE PUBLIC AND PRIVATE SECTOR CAN  
FURTHER THE PURPOSES OF THE CLEAN WATER ACT.

1           WHEREAS, the adversity brought about by the global economic  
2           downturn also provides an opportunity to augment the practices  
3           of state government in such a way as to create efficiencies and  
4           reduce costs while still meeting the goals of a particular  
5           policy; and  
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7           WHEREAS, the Department of Health's Clean Water Branch is  
8           responsible for regulating the federal Clean Water Act, and more  
9           specifically, the Clean Water Branch is responsible for  
10          reviewing applications and granting permits for potential sites  
11          of nonpoint source pollution, such as construction sites and  
12          manufacturing/production facilities, auditing of those sites and  
13          facilities, and enforcement of penalties on those that violate  
14          the Clean Water Act's standards; and  
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16          WHEREAS, part of the solution to limited resources for the  
17          provision of government services is cooperation with the private  
18          sector; and  
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20          WHEREAS, cooperation with the private sector with respect  
21          to self-monitoring is consistent with long-standing U.S.  
22          Environmental Protection Agency (EPA) policy as in Volume 51,  
23          Number 131, of the Federal Register dated July 9, 1986, the EPA  
24          announced a final policy statement in which it submitted that,  
25          "[E]nvironmental audits can improve compliance by complementing  
26          conventional federal, state and local oversight [. . .]  
27          Environmental auditing has developed for sound business reasons,  
28          particularly as a means of helping regulated entities manage  
29          pollution control affirmatively over time instead of reacting to  
30          crises. Auditing can result in improved facility environmental  
31          performance, help communicate effective solutions to common



1 environmental problems, focus facility managers' attention on  
2 current and upcoming regulatory requirements, and generate  
3 protocols and checklists which help facilities better manage  
4 themselves. Auditing also can result in better-integrated  
5 management of environmental hazards, since auditors frequently  
6 identify environmental liabilities which go beyond regulatory  
7 compliance [. . .] EPA encourages regulated entities to adopt  
8 sound environmental management practices to improve  
9 environmental performance [. . .] Audits can be conducted  
10 effectively by independent internal or third party auditors.";  
11 and  
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13 WHEREAS, this policy is incorporated and supported in a  
14 1997 EPA document entitled "Voluntary Environmental Self-  
15 Policing and Self-Disclosure Policy", where the EPA states, "One  
16 of the Environmental Protection Agency's most important  
17 responsibilities is obtaining compliance with federal laws that  
18 protect public health and safeguard the environment. That goal  
19 can be achieved only with the voluntary cooperation of thousands  
20 of businesses and other regulated entities subject to these  
21 requirements [. . .] the Agency recognizes that we cannot  
22 achieve maximum compliance without the cooperation of a  
23 regulated community willing to act responsibly by detecting,  
24 disclosing, and correcting violations. Already, regulated  
25 entities have many compelling incentives to implement  
26 environmental management/auditing systems, as noted in EPA's  
27 1986 auditing policy."; and  
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29 WHEREAS, this policy was further updated and strengthened  
30 in Volume 65, Number 70, of the Federal Register dated April 11,  
31 2000, where the EPA issued a final policy statement in which it  
32 proposed, among other things, that "[t]he purpose of the Policy  
33 is to enhance protection of human health and the environment by  
34 encouraging regulated entities to voluntarily discover,  
35 disclose, correct and prevent violations of Federal  
36 environmental law [. . .] The revised Policy reflects EPA's  
37 continuing commitment to encouraging voluntary self-policing  
38 while preserving fair and effective enforcement."; and  
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40 WHEREAS, the benefits to cooperation in this case can  
41 include cooperative self-monitoring, which can provide a  
42 mechanism by which real-time electronic transmission of data  
43 related to regulated sites and facilities to regulatory  
44 authority can occur; and



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WHEREAS, the information gathered through cooperative self-monitoring can include permit applications, best management practices and related attachments associated with these applications, and site and facility inspection results, which would allow regulatory agencies to be more readily capable of addressing the constraints of limited public resources while continuing to fulfill their role in the common purpose of stewardship of the environment; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-Fifth Legislature of the State of Hawaii, Regular Session of 2010, the Senate concurring, that the Department of Health is requested to convene a task force for the purpose of determining how cooperation between the public and private sector can further the purposes of the Clean Water Act; and

BE IT FURTHER RESOLVED that the task force be chaired by the Director of Health and consist of the following members:

- (1) A representative from the U.S. Environmental Protection Agency;
- (2) The director of the department of transportation, or his designee;
- (3) A representative from a county agency responsible for environmental regulation;
- (4) A representative from a county agency responsible for transportation management, provided that this representative shall not be from the same county as the representative from a county agency responsible for environmental regulation;
- (5) A member of the house of representatives, as selected by the speaker of the house of representatives;
- (6) A member of the senate, as selected by the senate president; and
- (7) Four persons who have volunteered to be regulated through the Hawaii Task Force for the Modernization of Clean Water Act Compliance, as selected by the persons



1 regulated through the Hawaii Task Force for the  
2 Modernization of Clean Water Act Compliance; and  
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4 BE IT FURTHER RESOLVED that the task force is requested to  
5 look into the best standards, rules, and procedures for managing  
6 or mitigating nonpoint source pollution or maintaining  
7 compliance with adopted department rules or standards for  
8 nonpoint source pollution management that are at least equal to  
9 those promulgated by the department, and that these best  
10 standards, rules, and procedures be used to maximize the use of  
11 public-private partnerships to supplement and augment the public  
12 resources with private resources to create greater efficiencies  
13 in effecting the public purposes of this resolution, including:  
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- 15 (1) uniform auditing and enforcement protocols and  
16 standards, including uniform training of auditors and  
17 field agents;
- 18 (2) use of third-party agents to audit sites of possible  
19 nonpoint source pollution; and  
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- 21 (3) data collection and transmission features that assist  
22 the department in meeting any state or federal  
23 reporting guidelines with respect to nonpoint source  
24 pollution, and access rights to the data; and  
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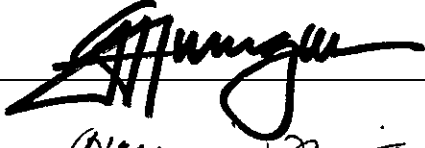
26  
27 BE IT FURTHER RESOLVED that the task force report its  
28 findings and recommendations, including any proposed legislation  
29 or rules, to the Legislature not later than twenty days prior to  
30 the convening of the Regular Session of 2011; and  
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32 BE IT FURTHER RESOLVED that certified copies of this  
33 Concurrent Resolution be transmitted to the Administrator of the  
34 United States Environmental Protection Agency, the State  
35 Director of Health, the State Director of Transportation, the  
36 Mayors of all counties, the President of the Senate, the Speaker  
37 of the House of Representatives, and the Governor.  
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# H.C.R. NO. 274

OFFERED BY:

  
Dennis M. Smith

MAR 10 2010

