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# A BILL FOR AN ACT

RELATING TO DAMS AND RESERVOIRS.

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

1 SECTION 1. Section 179D-6, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The board shall administer the dam and reservoir  
4 safety program established by this chapter. In carrying out  
5 this chapter, the board shall cooperate, advise, consult,  
6 contract, and enter into cooperative agreements with the United  
7 States government or any of its agencies, other state agencies,  
8 and the county governments or any of their agencies. In the  
9 performance of its duties, the board shall:

10 (1) Establish by rules adopted under chapter 91, policies,  
11 requirements, or standards governing the design,  
12 construction, operation, maintenance, enlargement,  
13 alteration, repair, removal, and inspection of dams,  
14 reservoirs, and appurtenant works for the protection  
15 of life and property from structural failure of dams  
16 and reservoirs;

17 (2) Conduct investigations and [~~the collection of~~] collect  
18 data, including technological advances made in dam and



1 reservoir safety practices elsewhere, as may be needed  
2 for the proper review and study of the various  
3 features of the design, construction, repair, removal,  
4 inspection, operation, maintenance, alteration, and  
5 enlargement of dams, reservoirs, and appurtenant  
6 works. The board may require submittal of reports of  
7 investigations from all owners;

8 (3) Conduct investigations and require reports from all  
9 owners to be made from time to time, including  
10 watershed investigations and studies, as may be  
11 necessary to keep abreast of developments affecting  
12 stream runoff and as required to facilitate its  
13 decisions;

14 (4) Be authorized to enter upon such private property of  
15 the dam or reservoir as may be necessary in making, at  
16 the owner's expense, any investigation or inspection  
17 required or authorized by this chapter. The entry  
18 shall not constitute a cause of action in favor of the  
19 owner of the land, except for damages resulting from  
20 wilful acts or negligence by the board or its agents;

21 (5) Require the owners to apply for, and obtain from the  
22 board written approval of plans and specifications on



1 the construction of any new dam or reservoir or the  
2 enlargement of any dam or reservoir prior to  
3 commencement of any work;

4 (6) Require the owners to file an application and secure  
5 the written approval of the board before commencing  
6 the repair, alteration, or removal of a dam or  
7 reservoir, including the alteration or removal of a  
8 dam or reservoir so that it no longer constitutes a  
9 dam or reservoir as defined in this chapter. Repairs  
10 shall not be deemed to apply to routine maintenance  
11 not affecting the safety of the structure;

12 (7) Require owners to secure the written approval of the  
13 board to impound water;

14 (8) Require fees to cover a portion of the board's costs  
15 in carrying out the administration of dam and  
16 reservoir safety;

17 (9) Cooperate with all public and private agencies created  
18 for the purpose of enhancing dam and reservoir safety  
19 activities and training, assist these organizations  
20 and agencies in coordinating the use of their  
21 facilities, and participate in the exchange of ideas,



1 knowledge, and data with these organizations and  
2 agencies;

3 (10) Consider dams and reservoirs as important water  
4 resources for the State that provide significant  
5 benefits to the general public, including irrigation  
6 for agriculture and other important uses, and  
7 acknowledge the need for dams and reservoirs to be  
8 consistently maintained and operated in a safe and  
9 feasible manner that sustains their roles as important  
10 water resources; provided that public safety concerns  
11 are addressed;

12 [~~+10~~] (11) Prepare, publish, and issue printed pamphlets,  
13 bulletins, or advisories, or conduct training as the  
14 board deems necessary for the dissemination of  
15 information to the public;

16 [~~+11~~] (12) Appoint and remove agents and employees,  
17 including hearing officers, specialists, and  
18 consultants, as necessary to carry out the purposes of  
19 this chapter, who may be engaged by the board without  
20 regard to the requirements of chapter 76;



1        [~~(12)~~] (13) Catalog and maintain an inventory of all  
2                    regulated dams and reservoirs in the State pursuant to  
3                    this chapter without regard to chapter 91;

4        [~~(13)~~] (14) Establish similar or consistent hazard potential  
5                    classifications in conjunction with other applicable  
6                    state or federal guidelines for all regulated dams and  
7                    reservoirs in the State pursuant to this chapter  
8                    without regard to chapter 91;

9        [~~(14)~~] (15) Examine and approve or disapprove applications  
10                    for approval of the construction, enlargement, repair,  
11                    alteration, or removal of a dam or reservoir and  
12                    applications for certificates of approval to impound;

13        [~~(15)~~] (16) Order the suspension, revocation, or both, of any  
14                    application approval or certificate of approval to  
15                    impound for any act or failure to comply with this  
16                    chapter or with any rules or orders adopted pursuant  
17                    to this chapter, or with any of the conditions  
18                    contained in or attached to the application approval  
19                    or certificate of approval to impound;

20        [~~(16)~~] (17) Issue orders requiring the adoption by an owner  
21                    of remedial measures necessary for the safety of life



1 or public or private property, or for carrying out  
2 this chapter or rules issued under this chapter;

3 [~~(17)~~] (18) Order the immediate cessation of any act that is  
4 started or continued without an application approval  
5 or certificate of approval to impound as required by  
6 this chapter;

7 [~~(18)~~] (19) Enter private property and immediately take  
8 actions necessary to provide protection to life or  
9 property at the owner's expense, including removal of  
10 the dam or reservoir. The entry shall not constitute  
11 a cause of action in favor of the owner of the land,  
12 except for damages resulting from wilful acts or gross  
13 negligence by the board or its agents;

14 [~~(19)~~] (20) Recover from the owner, in the name of the State,  
15 the expenses incurred in taking any action required by  
16 the owner of the dam or reservoir in the same manner  
17 that debts are recoverable by law;

18 [~~(20)~~] (21) Assess civil penalties for violation of this  
19 chapter or any rule or standard adopted or order  
20 issued by the board pursuant to this chapter;

21 [~~(21)~~] (22) Place liens, as needed, on the owner's property,  
22 to be collected as delinquent taxes against the lands



**Report Title:**

Dams and Reservoirs

**Description:**

Requires board of land and natural resources to consider dams' and reservoirs' roles as important water resources for the State and the need to maintain and operate them in a safe and feasible manner. (SD1 Proposed)

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