



GOV. MSG. NO. 1257

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 23, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

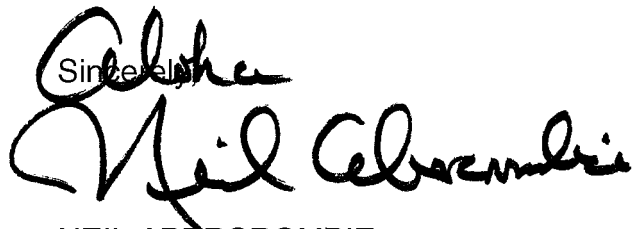
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 23, 2011, the following bill was signed into law:

SB142 SD1 HD1 CD1

RELATING TO DAMS AND RESERVOIRS.
Act 154 (11)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

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
14 any 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
15 State, the expenses incurred in taking any action
16 required by the owner of the dam or reservoir in the
17 same manner 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

1 and property, if the owner neglects to pay any costs,
2 expenses, or penalties chargeable to the owner under
3 this chapter or any rule, order, or condition adopted,
4 issued, or required under this chapter;

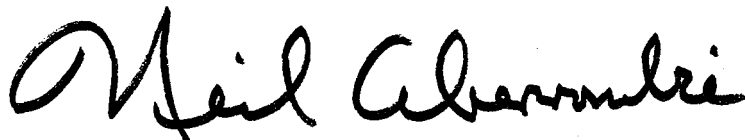
5 [~~(22)~~] (23) With the assistance of the attorney general,
6 institute and prosecute all court actions that may be
7 necessary to obtain the enforcement of any order
8 issued by the board in carrying out this chapter; and

9 [~~(23)~~] (24) Take any and all other actions as may be
10 necessary to carry out this chapter."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 23 day of JUN, 2011



GOVERNOR OF THE STATE OF HAWAII