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# A BILL FOR AN ACT

RELATING TO WATER.

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

1           SECTION 1. Section 174C-2, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending subsections (b) and (c) to read:

4           "(b) There is a need for a program of comprehensive water  
5 resources planning to address the problems of supply and  
6 conservation of water. The Hawaii water plan, with such future  
7 amendments, supplements, and additions as may be necessary, [is]  
8 shall be accepted as the guide for developing and implementing  
9 this policy.

10           (c) ~~[The state water code shall be liberally interpreted~~  
11 ~~to obtain maximum beneficial use of the waters of the State for~~  
12 ~~purposes such as domestic uses, aquaculture uses, irrigation and~~  
13 ~~other agricultural uses, power development, and commercial and~~  
14 ~~industrial uses. However, adequate provision shall be made for~~  
15 ~~the protection of traditional and customary Hawaiian rights, the~~  
16 ~~protection and procreation of fish and wildlife, the maintenance~~  
17 ~~of proper ecological balance and scenic beauty, and the~~  
18 ~~preservation and enhancement of waters of the State for~~



1 ~~municipal uses, public recreation, public water supply,~~  
2 ~~agriculture, and navigation. Such objectives are declared to be~~  
3 ~~in the public interest.]~~ The public trust doctrine shall guide  
4 the actions of the commission. In the planning and allocation  
5 of water resources, to the extent feasible, the commission shall  
6 protect the public trust purposes of resource protection,  
7 domestic uses, reservations of water for the department of  
8 Hawaiian home lands, upholding the exercise of native Hawaiian  
9 traditional and customary rights, and the conservation and  
10 protection of agricultural activity on lands identified and  
11 designated as important agricultural lands pursuant to part III  
12 of chapter 205; provided, however, that notwithstanding the  
13 foregoing, the primary duties of the commission shall be to  
14 promote the reasonable and beneficial use of water resources to  
15 maximize their social and economic benefit to the people of the  
16 State and to promote the development and use of water resources  
17 in a manner consistent with conservation and in furtherance of  
18 the self-sufficiency of the State."

19 2. By amending subsection (e) to read:

20 "(e) The state water code shall be liberally interpreted  
21 and applied in a manner [~~which~~] that conforms [~~with~~] to the



1 intentions and plans of the counties in terms of land use  
2 planning."

3 SECTION 2. Section 174C-31, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) To prepare the water resource protection and water  
6 quality plans, the commission shall:

7 (1) Study and inventory the existing water resources of  
8 the State and the means and methods of conserving and  
9 augmenting such water resources; provided that for  
10 purposes of this paragraph, "augmenting" shall  
11 include, but not be limited to, water storage, storm  
12 water capture, aquifer recharge, and aquifer storage;

13 (2) Review existing and contemplated needs and uses of  
14 water, including state and county land use plans and  
15 policies, and study their effect on the environment,  
16 procreation of fish and wildlife, and water quality;

17 (3) Study the quantity and quality of water needed for  
18 existing and contemplated uses, including irrigation,  
19 power development, geothermal power, and municipal  
20 uses;

21 (4) Identify rivers or streams, or [~~a portion~~] portions of  
22 [~~a river~~] rivers or [~~stream,~~] streams which



1 appropriately may be placed within a wild and scenic  
2 rivers system, to be preserved and protected as part  
3 of the public trust. For the purposes of this  
4 paragraph, the term "wild and scenic rivers" means  
5 rivers or streams[7] or a portion of a river or stream  
6 of high natural quality or that possess significant,  
7 scenic value, including but not limited to, rivers or  
8 streams which are within the natural area reserves  
9 system. The commission shall report its findings to  
10 the legislature twenty days prior to the convening of  
11 each regular legislative session; and

12 (5) Study such other related matters as drainage,  
13 reclamation, flood hazards, floodplain zoning, dam  
14 safety, and selection of reservoir sites, as they  
15 relate to the protection, conservation, quantity, and  
16 quality of water.

17 (d) The water resource protection plan shall include, but  
18 not be limited to:

19 (1) Nature and occurrence of water resources in the State;

20 (2) Hydrologic units and their characteristics, including  
21 the quantity and quality of available resource,

22 requirements for beneficial instream uses and



1 environmental protection, desirable uses worthy of  
2 preservation by permit, and undesirable uses for which  
3 permits may be denied;

4 (3) Existing and contemplated uses of water, as identified  
5 in the water use and development plans of the State  
6 and the counties, their impact on the resource, and  
7 their consistency with objectives and policies  
8 established in the water resource protection and water  
9 quality plans;

10 (4) Programs to conserve, augment, and protect the water  
11 resource; [and] provided that for purposes of this  
12 paragraph, "augment" shall include, but not be limited  
13 to, water storage, storm water capture, aquifer  
14 recharge, and aquifer storage; and

15 (5) Other elements necessary or desirable for inclusion in  
16 the plan.

17 Thereafter, the commission in coordination with the  
18 counties and the department of health shall formulate an  
19 integrated coordinated program for the protection, conservation,  
20 and management of the waters in each county based on the [~~above~~  
21 ~~studies-~~] requirements of this section. This program, with such  
22 amendments, supplements, and additions as may be necessary,



1 shall be known as the water resource protection and water  
2 quality plans.

3       Thereafter, each county shall prepare a water use and  
4 development plan and the appropriate state agency shall prepare  
5 the state water projects plan."

6       SECTION 3. Section 174C-53, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8       "(b) In acting upon any application, the commission need  
9 consider only those objections filed by a person [~~who has some~~  
10 ~~property interest in any land within the hydrologic unit from~~  
11 ~~which the water sought by the applicant is to be drawn or~~] who  
12 will be directly and immediately affected by the water use  
13 proposed in the application. The commission shall adopt rules  
14 governing the filing of objections and the persons having  
15 standing to file objections."

16       SECTION 4. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19       SECTION 5. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

Karen Anderson

[Signature]

[Signature]  
[Signature]  
[Signature]

JAN 17 2012



# H.B. NO. 1946

**Report Title:**

State Water Code

**Description:**

Makes the public trust doctrine the guide for the actions of the commission. Defines "augmenting" and "augment". Allows the commission to consider an objection filed by anyone directly and immediately affected by an application for a water use permit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

