

JAN 18 2013

A BILL FOR AN ACT

RELATING TO THE ENVIRONMENTAL COURTS.

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

1 SECTION 1. The legislature finds that environmental
2 disputes are currently dealt with in a variety of courts. This
3 organizational structure inadvertently promotes inconsistent
4 application of the wide variety of 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, and uniqueness and the stability of its
9 natural systems, all of which enhance the mental and physical
10 well-being of Hawaii's people.

11 The purpose of this Act is to promote and protect Hawaii's
12 natural environment through consistent and uniform application
13 of environmental laws by establishing environmental courts.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:



1 "CHAPTER

2 ENVIRONMENTAL COURTS

3 § -1 **Environmental courts; establishment.** (a) The
4 environmental courts shall be created as divisions of the
5 circuit courts of the State and shall not be deemed to be other
6 courts as that term is used in the state constitution. An
7 environmental court shall be held at the courthouse in each
8 circuit, or other duly designated place, by the judge or judges
9 of the respective environmental courts.

10 (b) The chief justice of the supreme court shall designate
11 an environmental judge or judges for each circuit, as may be
12 necessary. In any circuit that has more than one judge
13 designated for the environmental court, the chief justice shall
14 designate one of the judges as senior judge. The chief justice
15 may temporarily assign an environmental court judge to preside
16 in another circuit when the chief justice determines that the
17 urgency of one or more cases in the circuit court or the volume
18 of the cases in the circuit court so requires.

19 § -2 **Jurisdiction.** (a) The environmental courts shall
20 have exclusive original jurisdiction over all proceedings,
21 including judicial review of administrative proceedings and
22 proceedings for declaratory judgment on the validity of agency



1 rules authorized under chapter 91, arising under chapters 6D,
2 6E, 6K, 54, 58, 128D, 128E, 201N, 205, 205A, 220, 269, 339,
3 339D, 340A, 340B, 340E, 340F, 342B, 342C, 342D, 342E, 342F,
4 342G, 342H, 342I, 342J, 342L, 342P, 343, 508C, and 664, and
5 Titles 11 and 12; provided that upon the motion of a party or
6 sua sponte by the chief justice, the chief justice may assign to
7 the environmental courts issues before the circuit courts when
8 the chief justice determines that due to their subject matter
9 the assignment is required to ensure the uniform application of
10 environmental laws throughout the State or to otherwise
11 effectuate the purpose of this chapter.

12 (b) In any case in which it has jurisdiction, the
13 environmental courts shall exercise general equity powers as
14 authorized by law. Nothing in this chapter shall be construed
15 to limit the jurisdiction and authority of any circuit judge,
16 designated as judge of an environmental court, to matters within
17 the scope of this chapter.

18 § -3 Rules. The supreme court shall adopt rules
19 regarding the administration, operation, and procedures of the
20 environmental courts."

21 SECTION 3. Section 91-7, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Any interested person may obtain a judicial
2 declaration as to the validity of an agency rule as provided in
3 subsection (b) [~~herein~~] by bringing an action against the agency
4 in the circuit court or, if applicable, the environmental court,
5 of the county in which the petitioner resides or has its
6 principal place of business. The action may be maintained
7 whether or not the petitioner has first requested the agency to
8 pass upon the validity of the rule in question."

9 SECTION 4. Section 91-14, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) Except as otherwise provided herein, proceedings for
12 review shall be instituted in the circuit court or, if
13 applicable, the environmental court, within thirty days after
14 the preliminary ruling or within thirty days after service of
15 the certified copy of the final decision and order of the agency
16 pursuant to rule of court, except where a statute provides for a
17 direct appeal to the intermediate appellate court, subject to
18 chapter 602. In such cases, the appeal shall be treated in the
19 same manner as an appeal from the circuit court to the
20 intermediate appellate court, including payment of the fee
21 prescribed by section 607-5 for filing the notice of appeal
22 (except in cases appealed under sections 11-51 and 40-91). The



1 court in its discretion may permit other interested persons to
2 intervene."

3 SECTION 5. Section 91-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§91-15 Appeals.** Review of any final judgment of the
6 circuit court or, if applicable, the environmental court, under
7 this chapter shall be governed by chapter 602."

8 SECTION 6. The judiciary shall conduct a study to
9 determine the number of environmental-related cases filed in the
10 circuit courts in each of the past five years. The judiciary
11 shall report findings to the legislature no later than twenty
12 days prior to the convening of the regular session of 2014.

13 SECTION 7. Chapters 6D, 6E, 6K, 54, 58, 128D, 128E, 201N,
14 205, 205A, 220, 269, 339, 339D, 340A, 340B, 340E, 340F, 342B,
15 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343,
16 508C, and 664, and Titles 11 and 12 of the Hawaii Revised
17 Statutes are amended by substituting the term "environmental
18 court", or like term, wherever the term "court", "circuit
19 court", or like term, appears, as the context requires.

20 SECTION 8. Matters pending in any state circuit court as
21 of the effective date of this Act may be transferred to the



1 environmental courts as directed by the chief justice of the
2 supreme court, in the chief justice's sole discretion.

3 SECTION 9. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect on July 1, 2014;
6 provided that section 6 shall take effect upon its approval.

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INTRODUCED BY: ~~S.C. Sankar~~

Rang de Bala

J. A. Sankar

[Signature]

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Nichelle Sankar



Report Title:

Environmental Court; Judicial Review

Description:

Establishes environmental courts as divisions within the circuit courts to hear all proceedings, including certain chapter 91, Hawaii Revised Statutes, proceedings arising from environmental laws. Requires the Judiciary to report to the Legislature on the total number of environmental-related cases filed in the last five years.

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

