



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1328

July 7, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813


The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 7, 2014, the following bill was signed into law:

SB632 SD2 HD1 CD1

RELATING TO THE ENVIRONMENTAL COURTS
ACT 218 (14)

Aloha
Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

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, 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 legislature further finds that Hawaii's natural
12 resources are compromised every day resulting in numerous
13 violations of the law. An environmental court will better
14 ensure that the State upholds its constitutional obligation to
15 protect the public trust for the benefit of all beneficiaries.

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



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

4 "CHAPTER

5 ENVIRONMENTAL COURTS

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

13 (b) The chief justice of the supreme court shall designate
14 an environmental judge or judges for each circuit and for a
15 district court in each circuit, as may be necessary; provided
16 that if the volume of environmental cases in the circuit or
17 district in which an environmental judge presides is not
18 adequate to provide an environmental court judge with a full
19 time docket, the judge may hear cases arising from other areas
20 of law. In any circuit that has more than one judge designated
21 for the environmental court, the chief justice shall designate
22 one of the judges as senior judge. The chief justice may



1 temporarily assign an environmental court judge to preside in
2 another circuit when the chief justice determines that the
3 urgency of one or more cases in the circuit court or district
4 court or the volume of the cases in the circuit court or
5 district court so requires.

6 **§ -2 Jurisdiction.** (a) The environmental courts shall
7 have exclusive, original jurisdiction over all proceedings,
8 including judicial review of administrative proceedings and
9 proceedings for declaratory judgment on the validity of agency
10 rules authorized under chapter 91, arising under chapters 6D,
11 6E, 6K, 128D, 339, 339D, 340A, 340E, 342B, 342C, 342D, 342E,
12 342F, 342G, 342H, 342I, 342J, 342L, 342P, 343, and 508C, and
13 title 12; provided that upon the motion of a party or sua sponte
14 by the chief justice, the chief justice may assign to the
15 environmental courts issues before the courts when the chief
16 justice determines that due to their subject matter the
17 assignment is required to ensure the uniform application of
18 environmental laws throughout the State or to otherwise
19 effectuate the purpose of this chapter.

20 (b) In any case in which it has jurisdiction, the
21 environmental courts shall exercise general equity powers as
22 authorized by law. Nothing in this chapter shall be construed



1 to limit the jurisdiction and authority of any judge, designated
2 as judge of an environmental court, to matters within the scope
3 of this chapter.

4 **§ -3 Rules.** The supreme court shall adopt rules
5 regarding the administration, operation, and procedures of the
6 environmental courts."

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

9 "(a) Any interested person may obtain a judicial
10 declaration as to the validity of an agency rule as provided in
11 subsection (b) [~~herein~~] by bringing an action against the agency
12 in the circuit court or, if applicable, the environmental court,
13 of the county in which the petitioner resides or has its
14 principal place of business. The action may be maintained
15 whether or not the petitioner has first requested the agency to
16 pass upon the validity of the rule in question."

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

19 "(b) Except as otherwise provided herein, proceedings for
20 review shall be instituted in the circuit court or, if
21 applicable, the environmental court, within thirty days after
22 the preliminary ruling or within thirty days after service of



1 the certified copy of the final decision and order of the agency
2 pursuant to rule of court, except where a statute provides for a
3 direct appeal to the intermediate appellate court, subject to
4 chapter 602. In such cases, the appeal shall be treated in the
5 same manner as an appeal from the circuit court to the
6 intermediate appellate court, including payment of the fee
7 prescribed by section 607-5 for filing the notice of appeal
8 (except in cases appealed under sections 11-51 and 40-91). The
9 court in its discretion may permit other interested persons to
10 intervene."

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

13 **"§91-15 Appeals.** Review of any final judgment of the
14 circuit court or, if applicable, the environmental court, under
15 this chapter shall be governed by chapter 602."

16 SECTION 6. The judiciary shall conduct a study to
17 determine the number of environmental-related cases filed in the
18 circuit courts in each of the past five years. The judiciary
19 shall report findings to the legislature no later than twenty
20 days prior to the convening of the regular session of 2015.

21 SECTION 7. The judiciary shall convene a working group,
22 with members to be appointed by the chief justice of the supreme



1 court, to make recommendations to the chief justice regarding
2 the implementation of environmental courts within the circuit
3 and district courts of the State. The judiciary shall prepare a
4 report describing the implementation of environmental courts,
5 including any further legislation that may be necessary, to the
6 legislature no later than twenty days prior to the convening of
7 the regular session of 2015.

8 SECTION 8. Chapters 6D, 6E, 6K, 128D, 339, 339D, 340A,
9 340E, 342B, 342C, 342D, 342E, 342F, 342G, 342H, 342I, 342J,
10 342L, 342P, 343, and 508C, and title 12 of the Hawaii Revised
11 Statutes are amended by substituting the term "environmental
12 court", or like term, wherever the term "court", "circuit
13 court", "district court", or like term, appears, as the context
14 requires.


15 SECTION 9. Matters pending in any state court as of the
16 effective date of this Act may be transferred to the
17 environmental courts as directed by the chief justice of the
18 supreme court, in the chief justice's sole discretion.

19 SECTION 10. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 11. This Act shall take effect on July 1, 2015;
22 provided that sections 6 and 7 shall take effect upon approval.

S.B. NO. 632
S.D. 2
H.D. 1
C.D. 1

APPROVED this 7 day of JUL, 2014

A handwritten signature in black ink, reading "Neil Abernethy". The signature is written in a cursive style with a large initial "N".

GOVERNOR OF THE STATE OF HAWAII