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## A BILL FOR AN ACT

RELATING TO HAWAIIAN HOME LANDS.

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

1           SECTION 1. On July 9, 1921, the United States Congress,  
2           acknowledging a unique trust responsibility of the United States  
3           and the State of Hawaii to promote the welfare of the  
4           aboriginal, indigenous people of the State, enacted the Hawaiian  
5           Homes Commission Act, 1920. State responsibility for the  
6           homeland trust was delegated to the department of Hawaiian home  
7           lands.

8           Over the ensuing years, the department of Hawaiian home  
9           lands has faced significant challenges. Presently, its waiting  
10          lists reflect a total of more than forty thousand applications  
11          for residential, agricultural, and pastoral homesteads.  
12          Applications on these lists have often been left to linger,  
13          sometimes for decades, so that it is not uncommon for qualified  
14          applicants to die without ever realizing the benefit of  
15          homestead land for which they are qualified and to which they  
16          are entitled.

17          One major barrier to placing qualified beneficiaries on  
18          homestead residential, agricultural, and pastoral land is the



1 lack of water infrastructure and resulting lack of access to  
2 water on these lands. This problem is not a new one. In 1964,  
3 the legislative reference bureau in a study on the Hawaiian  
4 homes program noted that, "[p]art of the difficulties  
5 encountered in developing agricultural endeavors and rural  
6 settlements has obviously been due to the nature of the land and  
7 particularly the lack of water." The same study states, "much  
8 of the land was and still is potentially useful for the growing  
9 of crops if sufficient water could be provided."

10 The Hawaii Supreme Court has recognized that under the laws  
11 of the Hawaiian monarchy, "[e]very portion of land, large or  
12 small, ahupuaa, ili or kuleana, upon which people dwelt was ...  
13 entitled to drinking water for its human occupants and for their  
14 animals and was entitled to water for other domestic purposes.  
15 At no time in Hawaii's judicial history has this been denied."  
16 *McBryde Sugar Co., Ltd., v. Robinson*, 54 Haw. 174.

17 The Hawaiian Homes Commission Act, 1920, unequivocally  
18 states as one of its principal purposes the provision of  
19 "adequate amounts of water and supporting infrastructure so that  
20 homestead lands will always be useable and accessible." It is  
21 also a principal purpose of that Act to establish a permanent  
22 land base upon which native Hawaiians may live, farm, and ranch;



1 promptly and efficiently place native Hawaiians on homestead  
2 land; and provide technical and financial support to native  
3 Hawaiians to ensure that the traditions, culture, and quality of  
4 life of native Hawaiians shall be forever self-sustaining.

5 Without adequate water infrastructure and the provision of  
6 technical and other support needed to ensure an adequate water  
7 supply for Hawaiian home lands, these stated purposes will not  
8 be fulfilled and these lands and the solemn trust created by the  
9 Hawaiian Homes Commission Act, 1920, are of little use to the  
10 native Hawaiians who are intended to benefit from them.

11 Further delay in this regard is unacceptable. Action must  
12 be taken to affirm the fiduciary duty of the department of  
13 Hawaiian home lands to faithfully administer the provisions of  
14 the Hawaiian Homes Commission Act, 1920, on behalf of its native  
15 Hawaiian beneficiaries.

16 The purpose of this Act is to require the department of  
17 Hawaiian home lands to provide a plan, along with a timeline for  
18 its implementation, for providing the necessary water  
19 infrastructure to allow the development of Hawaiian home lands  
20 as required by the Hawaiian Homes Commission Act, 1920, historic  
21 Hawaiian law, and the interests of justice for the native  
22 Hawaiian people.



1 SECTION 2. The department of Hawaiian home lands shall  
2 develop a comprehensive plan to provide sufficient  
3 infrastructure to allow access to water and enable development  
4 of Hawaiian home lands. This plan shall include:

5 (1) An inventory list of projects or land under the  
6 authority of the department that require water to be  
7 developed;

8 (2) A priority list specifying the order in which water or  
9 infrastructure shall be provided to specified projects  
10 or land; and

11 (3) A timeline for the implementation of the plan.

12 The development of the comprehensive plan required by this  
13 Act shall not delay or hinder the provision of water or water  
14 infrastructure; the placement of qualified applicants on  
15 Hawaiian homestead land; or any other actions necessary for the  
16 development of any project or land used or intended to be used  
17 for residential, agricultural, or pastoral purposes for the  
18 benefit of the native Hawaiian beneficiaries of the department  
19 of Hawaiian home lands

20 SECTION 3. The department of Hawaiian home lands shall  
21 submit the plan required by this Act to the legislature no later



1 than twenty days prior to the convening of the regular session  
2 of 2015.

3 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

JAN 18 2014



# H.B. NO. 2104

**Report Title:**

Hawaiian Home Lands; Development; Water

**Description:**

Requires the Department of Hawaiian Home Lands to devise a comprehensive plan to provide water and infrastructure sufficient for development of Hawaiian home lands.

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