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# 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.



**Report Title:**

Environmental Court; Judicial Review

**Description:**

Establishes environmental courts as divisions of the circuit courts and district courts to hear proceedings, including certain chapter 91, Hawaii Revised Statutes, proceedings arising from certain environmental laws. Requires the Judiciary to convene a working group and report to the Legislature the total number of environmental-related cases filed in the last five years and recommendations for implementing environmental courts in the State. (CD1)

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

