

JAN 27 2016

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES PROGRAM ADMINISTRATION.

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

1 SECTION 1. The legislature reaffirms that the invasion of
2 Hawaii by insects, disease-bearing organisms, snakes, weeds, and
3 other pests is the single greatest threat to Hawaii's economy
4 and natural environment and to the health and lifestyle of
5 Hawaii's people. The legislature finds that action is needed to
6 improve the State's programs to mitigate the threats and impacts
7 of invasive species.

8 In 2014 a resolution supporting the Aloha+ Challenge was
9 adopted by the legislature, the governor, the mayors of the
10 counties, and the office of hawaiian affairs. The Aloha+
11 Challenge identifies six targets that the State has committed to
12 achieve by 2030. Invasive species directly impact the State's
13 ability to achieve several of these targets, including the
14 doubling of local food production and the reversal of natural
15 resource loss mauka to makai. Enhanced coordination of invasive
16 species programs will substantially increase the State's ability
17 to meet these commitments. Increasing the efficacy of the
18 State's invasive species programs will position Hawaii as a

1 global leader on this issue as the International Union for the
2 Conservation of Nature prepares to hold its World Conservation
3 Congress in Hawaii in September 2016.

4 A 2002 legislative reference bureau study titled, "Filling
5 the Gaps in the Fight Against Invasive Species," described the
6 invasive species problem in Hawaii as a multiagency issue that
7 does not fit within the mandates of any one department. The
8 study recommended a model for establishing interagency
9 coordination for invasive species, including a staffed
10 coordinating entity directed by an interagency board, supported
11 by a dedicated revenue source. In 2003, the legislature created
12 the Hawaii invasive species council, an interagency board
13 mandated to provide policy-level direction and coordination on
14 invasive species issues, co-chaired by the department of land
15 and natural resources and the department of agriculture. The
16 authorizing legislation for the council did not create staff
17 positions or a revenue source. The council is administered by
18 staff within the department of land and natural resources and
19 has received varying special and general fund appropriations
20 over the past ten years.

21 The Hawaii invasive species council has achieved a number
22 of successes in the past decade, including position statements,

1 interagency planning efforts, and the administration of an
2 interagency grants program that supports projects that attempt
3 to fill gaps between agency mandates and provide new research on
4 invasive species issues. Despite these successes, mitigation of
5 invasive species threats and impacts often remains fragmented
6 between agencies and is insufficiently enabled by a lack of
7 support for interagency data collection and management, public
8 pest reporting, interagency response coordination, and statewide
9 public outreach. Further, the need for financial support for
10 interagency projects supported by the council's grants program
11 has exceeded the amount of funding appropriated.

12 The purpose of this Act is to restructure the Hawaii
13 invasive species council into a new entity, the Hawaii invasive
14 species authority, attached administratively to the department
15 of agriculture. The establishment of the authority will expand
16 upon the existing council model by adding additional expertise
17 to the interagency board of directors, authorizing the board to
18 hire staff as necessary, and mandating new duties relating to
19 the coordination of interagency invasive species and biosecurity
20 efforts including data collection and management, support for
21 rapid response to pests, and public resources for pest reporting
22 and outreach.

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 INVASIVE SPECIES AUTHORITY

6
7 § -1 Administration of chapter. Notwithstanding
8 section 26-35, Hawaii Revised Statutes, the Hawaii invasive
9 species authority and the department of agriculture shall
10 administer this chapter.

11 § -2 Definitions. As used in this chapter, unless the
12 context requires otherwise:

13 "Authority" means the Hawaii invasive species authority
14 established by section -3.

15 "Biosecurity" means the policies and procedures utilized to
16 minimize threats and mitigate impacts from invasive species,
17 including prevention, early detection, rapid response, control,
18 enforcement, and outreach.

19 "Department" means any entity that is a member of the
20 authority.

21 "Invasive species" means a species that was introduced to
22 Hawaii by humans or human activity and whose introduction causes

1 or is likely to cause economic or environmental harm or harm to
2 human health.

3 § -3 Establishment of the Hawaii invasive species

4 authority; duties. (a) There is established the Hawaii
5 invasive species authority for the special purpose of providing
6 policy level direction, coordination, and planning among state
7 departments, federal agencies, and international and local
8 initiatives for the control and eradication of harmful invasive
9 species infestations throughout the State and for preventing the
10 introduction of other invasive species that may be potentially
11 harmful. The authority shall:

12 (1) Maintain a broad overview of the invasive species
13 problem in the State;

14 (2) Advise, consult, and coordinate invasive species-
15 related efforts with and between the departments of
16 agriculture, land and natural resources, health, and
17 transportation, as well as state, federal,
18 international, and privately organized programs and
19 entities;

20 (3) Identify and prioritize each lead agency's
21 organizational and resource shortfalls with respect
22 to invasive species;

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- 1 (4) After consulting with appropriate state agencies,
2 create and in coordination with the various agencies
3 implement an interagency biosecurity plan that
4 includes the prevention, early detection, rapid
5 response, control, enforcement, and education of the
6 public with respect to invasive species, as well as
7 fashion a mission statement articulating the State's
8 position against invasive species; provided that the
9 appropriate state agencies shall collaborate with the
10 counties and communities to develop and implement a
11 systematic approach to reduce and control coqui frog
12 infestations on public lands that are near or adjacent
13 to communities, and shall provide annual reports on
14 the progress made in achieving this objective;
- 15 (5) Coordinate and promote the State's position with
16 respect to federal issues, including:
- 17 (A) Quarantine preemption;
- 18 (B) International trade agreements that ignore
19 the problem of invasive species in Hawaii;
- 20 (C) First class mail inspection prohibition;

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- 1 (D) Whether quarantine of domestic pests
2 arriving from the mainland should be
3 provided by the federal government;
- 4 (E) Coordinating efforts with federal
5 agencies to maximize resources and reduce or
6 eliminate system gaps and leaks, including
7 deputizing the United States Department of
8 Agriculture's plant protection and
9 quarantine inspectors to enforce Hawaii's
10 laws;
- 11 (F) Promoting the amendment of federal laws as
12 necessary, including the Lacey Act
13 Amendments of 1981, Title 16 United States
14 Code sections 3371-3378; Public Law 97-79,
15 and laws related to inspection of domestic
16 airline passengers, baggage, and cargo; and
- 17 (G) Coordinating efforts and issues with the
18 federal Invasive Species Council and its
19 National Invasive Species Management Plan;
- 20 (6) Identify and record all invasive species present in
21 the State;
- 22 (7) Serve as a multiagency coordinating system for

- 1 interagency emergency responses to invasive species
2 and, for a given response, designate a department as
3 the lead agency for each function of invasive species
4 control, including prevention, rapid response,
5 eradication, enforcement, and education;
- 6 (8) Identify all state, federal, and other moneys expended
7 for the purposes of the invasive species problem in
8 the State;
- 9 (9) Identify all federal and private funds available to
10 the State to fight invasive species and advise and
11 assist state departments to acquire these funds;
- 12 (10) Advise the governor and legislature on budgetary and
13 other issues regarding invasive species;
- 14 (11) Provide annual reports on budgetary and other related
15 issues to the legislature twenty days prior to each
16 regular session;
- 17 (12) Coordinate with the counties in the fight against
18 invasive species to increase resources and funding and
19 to address county-sponsored activities that involve
20 invasive species;
- 21 (13) Review state agency mandates and commercial interests
22 that may result in the maintenance of potentially

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- 1 destructive alien species as resources for sport
2 hunting, aesthetic resources, or other values;
- 3 (14) Review the structure of fines and penalties to ensure
4 maximum deterrence for invasive species-related
5 crimes;
- 6 (15) Suggest appropriate legislation to improve the State's
7 administration of invasive species programs and
8 policies;
- 9 (16) Incorporate and expand upon the Hawaii-Pacific weed
10 risk assessment protocol to the extent appropriate for
11 the authority's invasive species control and
12 eradication efforts;
- 13 (17) Provide a central repository for the collection and
14 management of relevant summary data from invasive
15 species programs in the State;
- 16 (18) Develop and implement an online resource for public
17 reporting of invasive species and for the sharing of
18 information relating to invasive species detections
19 and responses among state departments;
- 20 (19) Implement an interagency grants program in each
21 fiscal year to support projects that address gaps

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1 between agency mandates or support research related
2 to invasive species; and

3 (20) Perform any other function necessary to effectuate
4 the purposes of this chapter.

5 (b) The authority shall be placed within the department of
6 agriculture for administrative purposes only as provided in
7 section 26-35. The authority shall be composed of nine members
8 including:

9 (1) The president of the University of Hawaii, or the
10 president's designated representative;

11 (2) The director, or the director's designated
12 representative, of each of the following departments:

13 (A) Business, economic development, and tourism;

14 (B) Health; and

15 (C) Transportation; and

16 (3) The chairperson, or the chairperson's designated
17 representative, of the executive boards of each of the
18 following departments:

19 (A) Agriculture; and

20 (B) Land and natural resources; and

21 (4) Three members appointed by the governor pursuant to
22 section 26-34, including:

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1 (A) A representative of the University of Hawaii's
2 invasive species committees, from a list provided
3 by the Pacific cooperative studies unit at the
4 University of Hawaii;

5 (B) A representative of the agricultural or nursery
6 industry;

7 (C) An individual with expertise in both conservation
8 and native Hawaiian cultural practices.

9 (c) The chairpersons of the board of land and natural
10 resources and the board of agriculture shall act as co-
11 chairpersons of the authority notwithstanding section 26-35.

12 (d) The members of the authority other than ex officio
13 members or their designated representatives shall serve without
14 pay but shall be reimbursed upon request for their actual and
15 necessary expenses, including travel expenses, incurred in
16 carrying out their duties.

17 (e) The authority, without regard to the requirements of
18 chapter 76, may hire employees necessary to perform its duties.
19 The authority may delegate to its employees, by formal action,
20 such power and authority vested in the authority by this chapter
21 as the authority deems reasonable and proper for the effective
22 administration of this chapter.

1 (f) Representatives of federal agencies, the legislature,
2 and members of the private sector shall be asked to participate
3 or be consulted for advice and assistance. Representatives of
4 the legislature are not members of the board and their presence
5 does not contribute toward quorum. Representatives of the
6 legislature shall consist of eight legislative members, as
7 follows:

8 (1) Four senators, one from each county, to be selected by
9 the senate president; and

10 (2) Four representatives, one from each county, to be
11 selected by the speaker of the house of
12 representatives.

13 (g) The authority shall meet no less than twice annually
14 to discuss and assess progress and recommend changes to the
15 invasive species programs based on results of current risk
16 assessments, performance standards, and other relevant data.
17 Notwithstanding any law to the contrary:

18 (h) The authority shall submit a report of its activities
19 to the governor and legislature annually.

20 § -4 Lead agencies; accountability. A state department
21 that is designated as a lead agency for a particular interagency
22 response effort under section -3(a)(7), with respect to a

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1 particular function of invasive species control, shall have
2 administrative responsibility and accountability for that
3 designated function of invasive species control. The lead
4 agency shall coordinate with other departments and federal and
5 private agencies to control or eradicate the designated invasive
6 species.

7 § -5 Relation of chapter to other laws.

8 Notwithstanding any other law to the contrary, and in addition
9 to any other authority provided by law that is not inconsistent
10 with the purposes of this chapter, a department is authorized to
11 examine, control, and eradicate all instances of invasive
12 species identified by the authority for control or eradication
13 and found on any public or private premises or in any aircraft
14 or vessel landed or docked in waters of the State.

15 § -6 Entry; private property. (a) Whenever any
16 invasive species identified by the authority for control or
17 eradication is found on private property, a department or its
18 authorized agent may enter such premises to control or eradicate
19 the invasive species after reasonable notice is given to the
20 owner of the property and, if entry is refused, pursuant to a
21 court order as provided in subsection (d).

1 (b) A duplicate of the notice so given shall be left with
2 one or more of the tenants or occupants of the premises, if
3 applicable. If the premises are unoccupied, notice shall be
4 mailed to the last known place of residence of the owner, if
5 residing in the State. If the owner does not reside in this
6 State or cannot be expeditiously provided with notice, notice
7 left at or posted on the premises shall be sufficient.

8 (c) The department may instead cause notice to be given,
9 and order an owner to control or eradicate the invasive species,
10 if such species was intentionally and knowingly established by
11 the owner on the owner's property and not naturally dispersed
12 from neighboring properties, at the owner's expense within such
13 reasonable time as the department may deem proper, pursuant to
14 the notice requirements of this section.

15 (d) If the owner thus notified fails to comply with the
16 order of the department within the time specified by the
17 department, or if entry is refused after notice is given
18 pursuant to subsection (a) and, if applicable subsection (b),
19 the department may apply to the district court of the circuit in
20 which the property is situated for a warrant, directed to any
21 police officer of the circuit, commanding the police officer to
22 take sufficient aid and to assist the department member or its

1 agent in gaining entry onto the premises, and executing measures
2 to control or eradicate the invasive species.

3 (e) The department may recover by appropriate proceedings
4 the expenses incurred from any owner who, after proper notice,
5 has failed to comply with the department's order.

6 (f) In no case shall the department or any officer or
7 agent thereof be liable for costs in any action or proceeding
8 that may be commenced pursuant to this chapter.

9 § -7 Entry; public property. (a) Whenever any
10 invasive species is found on state or county property or on a
11 public highway, street, lane, alley, or other public place
12 controlled by the State or county, notice shall be given by the
13 department or its agent, as the case may be, to the person
14 officially in charge thereof, and the person shall immediately
15 control or eradicate the invasive species as directed by the
16 department.

17 (b) In case of a failure to control or eradicate the
18 invasive species to the satisfaction of the department, the
19 procedure shall be the same as provided in case of private
20 persons in section -6.

21 § -8 Rules. The authority may adopt rules pursuant to
22 chapter 91, to effectuate this chapter.

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§ -9 Invasive species list amendment. Without regard to the notice and public hearing requirements of chapter 91, the authority may adopt rules to make additions to or deletions from the list designating invasive species required to be maintained in section -3(a)(6); provided that the authority shall adopt rules pursuant to chapter 91 to establish methods to obtain public input and notify the public of additions to or deletions from the invasive species list required under -3(a)(6).

§ -10 Invasive species authority special fund; established. (a) There is created in the state treasury a special fund to be designated as the invasive species authority special fund to be administered by the department of agriculture. Moneys deposited into this special fund shall be used to fulfill the purposes of this chapter and shall include:

- (1) Any moneys appropriated by the legislature to the special fund;
- (2) Any moneys received from grants, donations, or the proceeds from contributions; and
- (3) The interest or return on investments earned from moneys in the special fund.

(b) The authority may use moneys in the special fund to

1 carry out the purposes of this chapter, including hiring
2 employees, specialists, and consultants necessary to complete
3 projects related to the purposes of this chapter.

4 (c) Moneys deposited into or appropriated to the special
5 fund shall remain available until they are obligated or until
6 the special fund is terminated.

7 (d) If the special fund is terminated, all funds shall be
8 transferred to the general fund; provided that all unexpended or
9 unencumbered balances shall be disbursed in accordance with any
10 requirements set by funding sources and for purposes consistent
11 with this chapter.

12 (e) The authority shall include, as part of its annual
13 report to the legislature described in section -3 (a) (11),
14 the total number of and amount of grants, donations, and
15 contributions received and balances remaining on June 30 of each
16 year."

17 SECTION 3. Chapter 194, Hawaii Revised Statutes, is
18 repealed.

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$900,000 or so much
21 thereof as may be necessary for fiscal year 2016-2017, to be
22 deposited into the invasive species authority special fund for

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1 positions and other operating expenditures of the invasive
2 species authority.

3 The sum appropriated shall be expended by the department of
4 agriculture for the purposes of this Act.

5 SECTION 5. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$10,000,000 or so
7 much thereof as may be necessary for fiscal year 2016-2017, to
8 be deposited into the invasive species authority special fund
9 for interagency projects and research related to invasive
10 species, as directed by the invasive species authority.

11 The sum appropriated shall be expended by the department of
12 agriculture for the purposes of this Act, provided that portions
13 of this appropriation may be transferred to other state
14 departments to implement the directions of the invasive species
15 authority.

16 SECTION 6. This Act, upon its approval, shall take effect
17 on July 1, 2016.

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INTRODUCED BY: 

20

BY REQUEST

21

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Report Title:

Invasive Species Authority; Establishment and Appropriation

Description:

Restructures the Hawaii Invasive Species Council as the Hawaii Invasive Species Authority, attached administratively to the Department of Agriculture, for the enhancement of the State's invasive species prevention, early detection, rapid response, control, enforcement, and outreach programs. Establishes the Hawaii Invasive Species Authority Special Fund and appropriates moneys to that fund to implement the Authority and relevant invasive species projects.

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

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO INVASIVE SPECIES PROGRAM ADMINISTRATION.

PURPOSE: Restructure the Hawaii Invasive Species Council into a new entity, the Hawaii Invasive Species Authority, attached administratively to the Department of Agriculture. The establishment of the authority will expand upon the existing council model by adding additional expertise to the interagency board of directors, authorizing the board to hire staff as necessary, and mandating new duties relating to the coordination of interagency invasive species and biosecurity efforts including data collection and management, support for rapid response to pests, and public resources for pest reporting and outreach.

MEANS: Repeal Chapter 194, Hawaii Revised Statutes, and render its contents, with modification, in a new chapter.

JUSTIFICATION: The invasion of Hawaii by insects, disease-bearing organisms, snakes, weeds, and other pests is the single greatest threat to Hawaii's economy and natural environment and to the health and lifestyle of Hawaii's people. Action is needed to improve the State's programs to mitigate the threats and impacts of invasive species.

In 2014 a resolution supporting the Aloha+ Challenge was adopted by the Legislature, the Governor, the mayors of the counties, and the Office of Hawaiian Affairs. The Aloha+ Challenge identifies six targets that the State has committed to achieve by 2030. Invasive species directly impact the State's ability to achieve several of these targets,

including the doubling of local food production and the reversal of natural resource loss mauka to makai. Enhanced coordination of invasive species programs will substantially increase the State's ability to meet these commitments. Increasing the efficacy of the State's invasive species programs will position Hawaii as a global leader on this issue as the International Union for the Conservation of Nature prepares to hold its World Conservation Congress in Hawaii in September 2016.

A 2002 Legislative Reference Bureau Study titled "Filling the Gaps in the Fight Against Invasive Species" described the invasive species problem in Hawaii as a multiagency issue that does not fit within the mandates of any one department. The study recommended a model for establishing interagency coordination for invasive species, including a staffed coordinating entity directed by an interagency board, supported by a dedicated revenue source. In 2003 the legislature created the Hawaii Invasive Species Council, an interagency board mandated to provide policy-level direction and coordination on invasive species issues, co-chaired by the Department of Land and Natural Resources and the Department of Agriculture. The authorizing legislation for the council did not create staff positions or a revenue source. The council is administered by staff within the Department of Land and Natural Resources and has received varying special and general fund appropriations over the past ten years.

The Hawaii Invasive Species Council has achieved a number of successes in the past decade, including position statements, interagency planning efforts, and the administration of an interagency grants program that supports projects that attempt to fill gaps between agency mandates and provide new research on invasive species

issues. Despite these successes, mitigation of invasive species threats and impacts often remains fragmented between agencies and is insufficiently supported by a lack of support for interagency data collection and management, public pest reporting, interagency response coordination, and statewide public outreach. Further, the need for financial support for interagency projects supported by the council's grants program has exceeded the amount of funding appropriated.

The establishment of the authority will expand upon the existing council model by adding additional expertise to the interagency board of directors, authorizing the board to hire staff as necessary, and mandating new duties relating to the coordination of interagency invasive species and biosecurity efforts including data collection and management, support for rapid response to pests, and public resources for pest reporting and outreach.

The general fund appropriation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular session of 2015, the Executive Branch appropriation ceiling for fiscal year 2016-17 has already been exceeded by \$14,892,787 or 0.2 percent. Funding requested in this measure to create an invasive species authority attached to the department of agriculture will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2016-17 by an additional \$10,900,000 or 0.15 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2016-17 in this measure only, and does not include other general fund appropriations for fiscal year 2016-17 that may be authorized for the Executive Branch in other legislation submitted

to the Legislature during the regular session of 2016.

Impact on the public:

Increased efforts and resources to address invasive species throughout the State.

Impact on the department and other agencies:

Would remove the Hawaii Invasive Species Council from the Department of Land and Natural Resources and place it as an attached agency within the Department of Agriculture for administrative purposes. This act would repeal Chapter 194, Hawaii Revised Statutes, and render its contents, with modification, in a new chapter.

GENERAL FUND: \$10,900,000.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: Would create new ID.

OTHER AFFECTED AGENCIES: Department of Land and Natural Resources.

EFFECTIVE DATE: July 1, 2016.