

---

---

# 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 chairpersons of the  
15 board of land and natural resources and the board of  
16 agriculture. The authorizing legislation for the council did  
17 not create staff positions or a revenue source. The council is  
18 administered by staff within the department of land and natural  
19 resources and has received varying special and general fund  
20 appropriations over the past ten years.



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

14           The purpose of this Act is to restructure the Hawaii  
15 invasive species council into a new entity, the Hawaii invasive  
16 species authority, administratively attached to the department  
17 of agriculture. The establishment of the authority will expand  
18 upon the existing council model by adding additional expertise  
19 to the interagency board of directors, authorizing the board to  
20 hire staff as necessary, and mandating new duties relating to  
21 the coordination of interagency invasive species and biosecurity



1 efforts including data collection and management, support for  
2 rapid response to pests, and public resources for pest reporting  
3 and outreach.

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

7 "CHAPTER

8 INVASIVE SPECIES AUTHORITY

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

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

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

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

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



1 "Invasive species" means a species that was introduced to  
2 Hawaii by humans or human activity and whose introduction causes  
3 or is likely to cause economic or environmental harm or harm to  
4 human health.

5 § -3 Hawaii invasive species authority; established;  
6 duties. (a) There is established the Hawaii invasive species  
7 authority for the special purpose of providing policy level  
8 direction, coordination, and planning among state departments,  
9 federal agencies, and international and local initiatives for  
10 the control and eradication of harmful invasive species  
11 infestations throughout the State and for preventing the  
12 introduction of other invasive species that may be potentially  
13 harmful. The authority shall:

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



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



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



- 1           (6) Identify and record all invasive species present in  
2           the State and adopt a list of invasive species by rule  
3           pursuant to chapter 91;
- 4           (7) Serve as a multiagency coordinating system for  
5           interagency emergency responses to invasive species  
6           and, for a given response, designate a department as  
7           the lead agency for each function of invasive species  
8           control, including prevention, rapid response,  
9           eradication, enforcement, and education;
- 10          (8) Identify all state, federal, and other moneys expended  
11          for the purposes of the invasive species problem in  
12          the State;
- 13          (9) Identify all federal and private funds available to  
14          the State to fight invasive species and advise and  
15          assist state departments to acquire these funds;
- 16          (10) Advise the governor and legislature on budgetary and  
17          other issues regarding invasive species;
- 18          (11) Provide annual reports on the authority's budgetary  
19          matters, biosecurity efforts, direct assistance  
20          provided to agriculture and farmers, and other related





- 1 issues to the legislature no later than twenty days  
2 prior to the convening of each regular session;
- 3 (12) Coordinate with the counties in the fight against  
4 invasive species to increase resources and funding and  
5 to address county-sponsored activities that involve  
6 invasive species;
- 7 (13) Review state agency mandates and commercial interests  
8 that may result in the maintenance of potentially  
9 destructive alien species as resources for sport  
10 hunting, aesthetic resources, or other values;
- 11 (14) Review the structure of fines and penalties to ensure  
12 maximum deterrence for invasive species-related  
13 crimes;
- 14 (15) Suggest appropriate legislation to improve the State's  
15 administration of invasive species programs and  
16 policies;
- 17 (16) Incorporate and expand upon the Hawaii-Pacific weed  
18 risk assessment protocol to the extent appropriate for  
19 the authority's invasive species control and  
20 eradication efforts;



- 1 (17) Provide a central repository for the collection and  
2 management of relevant summary data from invasive  
3 species programs in the State;
- 4 (18) Develop and implement an online resource for public  
5 reporting of invasive species and for the sharing of  
6 information relating to invasive species detections  
7 and responses among state departments;
- 8 (19) Implement an interagency grants program in each fiscal  
9 year to support projects that address gaps between  
10 agency mandates or support research related to  
11 invasive species; and
- 12 (20) Perform any other function necessary to effectuate the  
13 purposes of this chapter.
- 14 (b) The authority shall be placed within the department of  
15 agriculture for administrative purposes only, as provided in  
16 section 26-35. The authority shall be composed of nine members  
17 as follows:
- 18 (1) The president of the University of Hawaii system, or  
19 the president's designee;
- 20 (2) The director of business, economic development, and  
21 tourism, or the director's designee;



- 1           (3) The director of health, or the director's designee;
- 2           (4) The director of transportation, or the director's
- 3           designee;
- 4           (5) The chairperson of the board of agriculture, or the
- 5           chairperson's designee;
- 6           (6) The chairperson of the board of land and natural
- 7           resources, or the chairperson's designee; and
- 8           (7) Three members appointed by the governor pursuant to
- 9           section 26-34, including:
  - 10           (A) A representative of the University of Hawaii's
  - 11           invasive species committees, from a list provided
  - 12           by the Pacific cooperative studies unit at the
  - 13           University of Hawaii;
  - 14           (B) A representative of the agricultural or nursery
  - 15           industry; and
  - 16           (C) An individual with expertise in both conservation
  - 17           and native Hawaiian cultural practices.
- 18           (c) The chairpersons of the board of land and natural
- 19           resources and the board of agriculture shall act as co-
- 20           chairpersons of the authority notwithstanding section 26-35.



1           (d) The members of the authority other than ex officio  
2 members or their designees shall serve without pay but shall be  
3 reimbursed upon request for their actual and necessary expenses,  
4 including travel expenses, incurred in carrying out their  
5 duties.

6           (e) The authority, without regard to the requirements of  
7 chapter 76, may hire employees necessary to perform its duties.  
8 The authority may delegate to its employees, by formal action,  
9 power and authority vested in the authority by this chapter as  
10 the authority deems reasonable and proper for the effective  
11 administration of this chapter.

12           (f) Representatives of federal agencies, the legislature,  
13 and members of the private sector shall be asked to participate  
14 or be consulted for advice and assistance. Representatives of  
15 the legislature shall not be deemed to be members of the board,  
16 and their presence shall not contribute toward quorum.  
17 Representatives of the legislature shall consist of eight  
18 legislative members, as follows:

19           (1) Four senators, one from each county, to be selected by  
20           the president of the senate; and



1           (2) Four representatives, one from each county, to be  
2           selected by the speaker of the house of  
3           representatives.

4           (g) The authority shall meet no less than twice annually  
5 to discuss and assess progress and recommend changes to the  
6 invasive species programs based on results of current risk  
7 assessments, performance standards, and other relevant data.

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

10          §   -4 **Lead agencies; accountability.** A state department  
11 that is designated as a lead agency for a particular interagency  
12 response effort under section   -3(a)(7), with respect to a  
13 particular function of invasive species control, shall have  
14 administrative responsibility and accountability for that  
15 designated function of invasive species control. The lead  
16 agency shall coordinate with other departments and federal and  
17 private agencies to control or eradicate the designated invasive  
18 species.

19          §   -5 **Relation to other laws.** Notwithstanding any other  
20 law to the contrary, and in addition to any other authority  
21 provided by law that is not inconsistent with the purposes of



1 this chapter, a department is authorized to examine, control,  
2 and eradicate all instances of invasive species identified by  
3 the authority for control or eradication and found on any public  
4 or private premises or in any aircraft or vessel landed or  
5 docked in waters of the State.

6 § -6 Entry; private property. (a) Whenever any  
7 invasive species identified by the authority for control or  
8 eradication is found on private property, a department or its  
9 authorized agent may enter the premises to control or eradicate  
10 the invasive species after reasonable notice is given to the  
11 owner of the property and, if entry is refused, pursuant to a  
12 court order as provided in subsection (d).

13 (b) A duplicate of notice given pursuant to subsection (a)  
14 shall be left with one or more of the tenants or occupants of  
15 the premises, if applicable. If the premises are unoccupied,  
16 notice shall be mailed to the last known place of residence of  
17 the owner, if residing in the State. If the owner does not  
18 reside in the State or cannot be expeditiously provided with  
19 notice, notice left at or posted on the premises shall be  
20 sufficient.



1 (c) The department may cause notice to be given, and order  
2 an owner to control or eradicate the invasive species, if the  
3 species was intentionally and knowingly established by the owner  
4 on the owner's property and not naturally dispersed from  
5 neighboring properties, at the owner's expense within such  
6 reasonable time as the department may deem proper, pursuant to  
7 the notice requirements of this section.

8 (d) If the owner notified pursuant to this section fails  
9 to comply with the order of the department within the time  
10 specified by the department, or if entry is refused after notice  
11 is given pursuant to subsection (a) and, if applicable  
12 subsection (b), the department may apply to the district court  
13 of the circuit in which the property is located for a warrant,  
14 directed to any police officer of the circuit, commanding the  
15 police officer to take sufficient aid and to assist the  
16 department or its agent in gaining entry onto the premises and  
17 executing measures to control or eradicate the invasive species.

18 (e) The department may recover by appropriate proceedings  
19 the expenses incurred from any owner who, after proper notice,  
20 fails to comply with the department's order.



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

4 § -7 **Entry; public property.** (a) Whenever any invasive  
5 species is found on state or county property or on a public  
6 highway, street, lane, alley, or other public place controlled  
7 by the State or county, notice shall be given by the department  
8 or its agent, as the case may be, to the person officially in  
9 charge thereof, and the person shall immediately control or  
10 eradicate the invasive species as directed by the department.

11 (b) In case of a failure to control or eradicate the  
12 invasive species to the satisfaction of the department, the  
13 procedure shall be the same as provided in case of private  
14 persons in section -6.

15 § -8 **Rules.** The authority may adopt rules pursuant to  
16 chapter 91 to effectuate this chapter.

17 § -9 **Invasive species list amendment.** Without regard to  
18 the notice and public hearing requirements of chapter 91, the  
19 authority may adopt rules to make additions to or deletions from  
20 the list designating invasive species present in the state  
21 required to be maintained by section -3(a)(6); provided that





1 the authority shall adopt rules pursuant to chapter 91 to  
2 establish methods to obtain public input and notify the public  
3 of additions to or deletions from the invasive species list  
4 required under -3(a)(6).

5 § -10 Invasive species authority special fund;

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

11 (1) Any moneys appropriated by the legislature to the  
12 special fund;

13 (2) Any moneys received from grants, donations, or the  
14 proceeds from contributions; and

15 (3) The interest or return on investments earned from  
16 moneys in the special fund.

17 (b) The authority may use moneys in the special fund to  
18 carry out the purposes of this chapter, including hiring  
19 employees, specialists, and consultants necessary to complete  
20 projects related to the purposes of this chapter.



1 (c) Moneys deposited into or appropriated to the special  
2 fund shall remain available until they are obligated or until  
3 the special fund is terminated.

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

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

14 SECTION 3. Chapter 194, Hawaii Revised Statutes, is  
15 repealed.

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

20 SECTION 5. There is appropriated out of the invasive  
21 species authority special fund the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2016-2017 for  
2 positions and other operating expenditures of the invasive  
3 species authority.

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

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

10 SECTION 7. There is appropriated out of the invasive  
11 species authority special fund the sum of \$ or so much  
12 thereof as may be necessary for fiscal year 2016-2017 for  
13 interagency projects and research related to invasive species,  
14 as directed by the invasive species authority.

15 The sum appropriated shall be expended by the department of  
16 agriculture for the purposes of this section; provided that  
17 portions of this appropriation may be transferred to other state  
18 departments to implement the directions of the Hawaii invasive  
19 species authority.

20 SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Invasive Species Authority; Establishment; Appropriation

**Description:**

Restructures the Hawaii Invasive Species Council as the Hawaii Invasive Species Authority, administratively attached 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. Effective 7/1/2050. (SD2)

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

