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# A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

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

1           SECTION 1. Section 46-1.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§46-1.5 General powers and limitation of the counties.

4 Subject to general law, each county shall have the following  
5 powers and shall be subject to the following liabilities and  
6 limitations:

7           (1) Each county shall have the power to frame and adopt a  
8 charter for its own self-government that shall  
9 establish the county executive, administrative, and  
10 legislative structure and organization, including but  
11 not limited to the method of appointment or election  
12 of officials, their duties, responsibilities, and  
13 compensation, and the terms of their office;

14           (2) Each county shall have the power to provide for and  
15 regulate the marking and lighting of all buildings and  
16 other structures that may be obstructions or hazards  
17 to aerial navigation, so far as may be necessary or



1 proper for the protection and safeguarding of life,  
2 health, and property;

3 (3) Each county shall have the power to enforce all claims  
4 on behalf of the county and approve all lawful claims  
5 against the county, but shall be prohibited from  
6 entering into, granting, or making in any manner any  
7 contract, authorization, allowance payment, or  
8 liability contrary to the provisions of any county  
9 charter or general law;

10 (4) Each county shall have the power to make contracts and  
11 to do all things necessary and proper to carry into  
12 execution all powers vested in the county or any  
13 county officer;

14 (5) Each county shall have the power to:

15 (A) Maintain channels, whether natural or artificial,  
16 including their exits to the ocean, in suitable  
17 condition to carry off storm waters;

18 (B) Remove from the channels, and from the shores and  
19 beaches, any debris that is likely to create an  
20 unsanitary condition or become a public nuisance;  
21 provided that, to the extent any of the foregoing



1 work is a private responsibility, the  
2 responsibility may be enforced by the county in  
3 lieu of the work being done at public expense;  
4 (C) Construct, acquire by gift, purchase, or by the  
5 exercise of eminent domain, reconstruct, improve,  
6 better, extend, and maintain projects or  
7 undertakings for the control of and protection  
8 against floods and flood waters, including the  
9 power to drain and rehabilitate lands already  
10 flooded;  
11 (D) Enact zoning ordinances providing that lands  
12 deemed subject to seasonable, periodic, or  
13 occasional flooding shall not be used for  
14 residence or other purposes in a manner as to  
15 endanger the health or safety of the occupants  
16 thereof, as required by the Federal Flood  
17 Insurance Act of 1956 (chapter 1025, Public Law  
18 1016); and  
19 (E) Establish and charge user fees to create and  
20 maintain any stormwater management system or  
21 infrastructure;



- 1           (6) Each county shall have the power to exercise the power  
2           of condemnation by eminent domain when it is in the  
3           public interest to do so;
- 4           (7) Each county shall have the power to exercise  
5           regulatory powers over business activity as are  
6           assigned to them by chapter 445 or other general law;
- 7           (8) Each county shall have the power to fix the fees and  
8           charges for all official services not otherwise  
9           provided for;
- 10          (9) Each county shall have the power to provide by  
11          ordinance assessments for the improvement or  
12          maintenance of districts within the county;
- 13          (10) Except as otherwise provided, no county shall have the  
14          power to give or loan credit to, or in aid of, any  
15          person or corporation, directly or indirectly, except  
16          for a public purpose;
- 17          (11) Where not within the jurisdiction of the public  
18          utilities commission, each county shall have the power  
19          to regulate by ordinance the operation of motor  
20          vehicle common carriers transporting passengers within



1 the county and adopt and amend rules the county deems  
2 necessary for the public convenience and necessity;

3 (12) Each county shall have the power to enact and enforce  
4 ordinances necessary to prevent or summarily remove  
5 public nuisances and to compel the clearing or removal  
6 of any public nuisance, refuse, and uncultivated  
7 undergrowth from streets, sidewalks, public places,  
8 and unoccupied lots. In connection with these powers,  
9 each county may impose and enforce liens upon the  
10 property for the cost to the county of removing and  
11 completing the necessary work where the property  
12 owners fail, after reasonable notice, to comply with  
13 the ordinances. The authority provided by this  
14 paragraph shall not be self-executing, but shall  
15 become fully effective within a county only upon the  
16 enactment or adoption by the county of appropriate and  
17 particular laws, ordinances, or rules defining "public  
18 nuisances" with respect to each county's respective  
19 circumstances. The counties shall provide the  
20 property owner with the opportunity to contest the  
21 summary action and to recover the owner's property;



1           (13) Each county shall have the power to enact ordinances  
2                   deemed necessary to protect health, life, and  
3                   property, and to preserve the order and security of  
4                   the county and its inhabitants on any subject or  
5                   matter not inconsistent with, or tending to defeat,  
6                   the intent of any state statute where the statute does  
7                   not disclose an express or implied intent that the  
8                   statute shall be exclusive or uniform throughout the  
9                   State;

10          (14) Each county shall have the power to:  
11                   (A) Make and enforce within the limits of the county  
12                           all necessary ordinances covering all:  
13                               (i) Local police matters;  
14                               (ii) Matters of sanitation;  
15                               (iii) Matters of inspection of buildings;  
16                               (iv) Matters of condemnation of unsafe  
17                                   structures, plumbing, sewers, dairies, milk,  
18                                   fish, and morgues; and  
19                               (v) Matters of the collection and disposition of  
20                                   rubbish and garbage;

- 1 (B) Provide exemptions for homeless facilities and  
2 any other program for the homeless authorized by  
3 part XVII of chapter 346, for all matters under  
4 this paragraph;
- 5 (C) Appoint county physicians and sanitary and other  
6 inspectors as necessary to carry into effect  
7 ordinances made under this paragraph, who shall  
8 have the same power as given by law to agents of  
9 the department of health, subject only to  
10 limitations placed on them by the terms and  
11 conditions of their appointments; and
- 12 (D) Fix a penalty for the violation of any ordinance,  
13 which penalty may be a misdemeanor, petty  
14 misdemeanor, or violation as defined by general  
15 law;
- 16 (15) Each county shall have the power to provide public  
17 pounds; to regulate the impounding of stray animals  
18 and fowl, and their disposition; and to provide for  
19 the appointment, powers, duties, and fees of animal  
20 control officers;



- 1       (16) Each county shall have the power to purchase and  
2           otherwise acquire, lease, and hold real and personal  
3           property within the defined boundaries of the county  
4           and to dispose of the real and personal property as  
5           the interests of the inhabitants of the county may  
6           require, except that:
- 7           (A) Any property held for school purposes may not be  
8                 disposed of without the consent of the  
9                 superintendent of education;
- 10          (B) No property bordering the ocean shall be sold or  
11                 otherwise disposed of; and
- 12          (C) All proceeds from the sale of park lands shall be  
13                 expended only for the acquisition of property for  
14                 park or recreational purposes;
- 15       (17) Each county shall have the power to provide by charter  
16           for the prosecution of all offenses and to prosecute  
17           for offenses against the laws of the State under the  
18           authority of the attorney general of the State;
- 19       (18) Each county shall have the power to make  
20           appropriations in amounts deemed appropriate from any  
21           moneys in the treasury, for the purpose of:





- 1 (A) Community promotion and public celebrations;
- 2 (B) The entertainment of distinguished persons as may
- 3 from time to time visit the county;
- 4 (C) The entertainment of other distinguished persons,
- 5 as well as, public officials when deemed to be in
- 6 the best interest of the community; and
- 7 (D) The rendering of civic tribute to individuals
- 8 who, by virtue of their accomplishments and
- 9 community service, merit civic commendations,
- 10 recognition, or remembrance;
- 11 (19) Each county shall have the power to:
- 12 (A) Construct, purchase, take on lease, lease,
- 13 sublease, or in any other manner acquire, manage,
- 14 maintain, or dispose of buildings for county
- 15 purposes, sewers, sewer systems, pumping
- 16 stations, waterworks, including reservoirs,
- 17 wells, pipelines, and other conduits for
- 18 distributing water to the public, lighting
- 19 plants, and apparatus and appliances for lighting
- 20 streets and public buildings, and manage,
- 21 regulate, and control the same;



- 1 (B) Regulate and control the location and quality of
- 2 all appliances necessary to the furnishing of
- 3 water, heat, light, power, telephone, and
- 4 telecommunications service to the county;
- 5 (C) Acquire, regulate, and control any and all
- 6 appliances for the sprinkling and cleaning of the
- 7 streets and the public ways, and for flushing the
- 8 sewers; and
- 9 (D) Open, close, construct, or maintain county
- 10 highways or charge toll on county highways;
- 11 provided that all revenues received from a toll
- 12 charge shall be used for the construction or
- 13 maintenance of county highways;
- 14 (20) Each county shall have the power to regulate the
- 15 renting, subletting, and rental conditions of property
- 16 for places of abode by ordinance;
- 17 (21) Unless otherwise provided by law, each county shall
- 18 have the power to establish by ordinance the order of
- 19 succession of county officials in the event of a
- 20 military or civil disaster;



- 1           (22) Each county shall have the power to sue and be sued in  
2                   its corporate name;
- 3           (23) Each county shall have the power to establish and  
4                   maintain waterworks and sewer works; to collect rates  
5                   for water supplied to consumers and for the use of  
6                   sewers; to install water meters whenever deemed  
7                   expedient; provided that owners of premises having  
8                   vested water rights under existing laws appurtenant to  
9                   the premises shall not be charged for the installation  
10                  or use of the water meters on the premises; to take  
11                  over from the State existing waterworks systems,  
12                  including water rights, pipelines, and other  
13                  appurtenances belonging thereto, and sewer systems,  
14                  and to enlarge, develop, and improve the same;
- 15          (24) (A) Each county may impose civil fines, in addition  
16                   to criminal penalties, for any violation of  
17                   county ordinances or rules after reasonable  
18                   notice and requests to correct or cease the  
19                   violation have been made upon the violator. Any  
20                   administratively imposed civil fine shall not be  
21                   collected until after an opportunity for a



1 hearing under chapter 91. Any appeal shall be  
2 filed within thirty days from the date of the  
3 final written decision. These proceedings shall  
4 not be a prerequisite for any civil fine or  
5 injunctive relief ordered by the circuit court;

6 (B) Each county by ordinance may provide for the  
7 addition of any unpaid civil fines, ordered by  
8 any court of competent jurisdiction, to any  
9 taxes, fees, or charges, with the exception of  
10 fees or charges for water for residential use and  
11 sewer charges, collected by the county. Each  
12 county by ordinance may also provide for the  
13 addition of any unpaid administratively imposed  
14 civil fines, which remain due after all judicial  
15 review rights under section 91-14 are exhausted,  
16 to any taxes, fees, or charges, with the  
17 exception of water for residential use and sewer  
18 charges, collected by the county. The ordinance  
19 shall specify the administrative procedures for  
20 the addition of the unpaid civil fines to the  
21 eligible taxes, fees, or charges and may require



1           hearings or other proceedings. After addition of  
2           the unpaid civil fines to the taxes, fees, or  
3           charges, the unpaid civil fines shall not become  
4           a part of any taxes, fees, or charges. The  
5           county by ordinance may condition the issuance or  
6           renewal of a license, approval, or permit for  
7           which a fee or charge is assessed, except for  
8           water for residential use and sewer charges, on  
9           payment of the unpaid civil fines. Upon  
10          recordation of a notice of unpaid civil fines in  
11          the bureau of conveyances, the amount of the  
12          civil fines, including any increase in the amount  
13          of the fine which the county may assess, shall  
14          constitute a lien upon all real property or  
15          rights to real property belonging to any person  
16          liable for the unpaid civil fines. The lien in  
17          favor of the county shall be subordinate to any  
18          lien in favor of any person recorded or  
19          registered prior to the recordation of the notice  
20          of unpaid civil fines and senior to any lien  
21          recorded or registered after the recordation of



1 the notice. The lien shall continue until the  
2 unpaid civil fines are paid in full or until a  
3 certificate of release or partial release of the  
4 lien, prepared by the county at the owner's  
5 expense, is recorded. The notice of unpaid civil  
6 fines shall state the amount of the fine as of  
7 the date of the notice and maximum permissible  
8 daily increase of the fine. The county shall not  
9 be required to include a social security number,  
10 state general excise taxpayer identification  
11 number, or federal employer identification number  
12 on the notice. Recordation of the notice in the  
13 bureau of conveyances shall be deemed, at such  
14 time, for all purposes and without any further  
15 action, to procure a lien on land registered in  
16 land court under chapter 501. After the unpaid  
17 civil fines are added to the taxes, fees, or  
18 charges as specified by county ordinance, the  
19 unpaid civil fines shall be deemed immediately  
20 due, owing, and delinquent and may be collected  
21 in any lawful manner. The procedure for



1 collection of unpaid civil fines authorized in  
2 this paragraph shall be in addition to any other  
3 procedures for collection available to the State  
4 and county by law or rules of the courts;

5 (C) Each county may impose civil fines upon any  
6 person who places graffiti on any real or  
7 personal property owned, managed, or maintained  
8 by the county. The fine may be up to \$1,000 or  
9 may be equal to the actual cost of having the  
10 damaged property repaired or replaced. The  
11 parent or guardian having custody of a minor who  
12 places graffiti on any real or personal property  
13 owned, managed, or maintained by the county shall  
14 be jointly and severally liable with the minor  
15 for any civil fines imposed hereunder. Any such  
16 fine may be administratively imposed after an  
17 opportunity for a hearing under chapter 91, but  
18 such a proceeding shall not be a prerequisite for  
19 any civil fine ordered by any court. As used in  
20 this subparagraph, "graffiti" means any  
21 unauthorized drawing, inscription, figure, or



1 mark of any type intentionally created by paint,  
2 ink, chalk, dye, or similar substances;

3 (D) At the completion of an appeal in which the  
4 county's enforcement action is affirmed and upon  
5 correction of the violation if requested by the  
6 violator, the case shall be reviewed by the  
7 county agency that imposed the civil fines to  
8 determine the appropriateness of the amount of  
9 the civil fines that accrued while the appeal  
10 proceedings were pending. In its review of the  
11 amount of the accrued fines, the county agency  
12 may consider:

- 13 (i) The nature and egregiousness of the  
14 violation;
- 15 (ii) The duration of the violation;
- 16 (iii) The number of recurring and other similar  
17 violations;
- 18 (iv) Any effort taken by the violator to correct  
19 the violation;
- 20 (v) The degree of involvement in causing or  
21 continuing the violation;





- 1 (vi) Reasons for any delay in the completion of
- 2 the appeal; and
- 3 (vii) Other extenuating circumstances.

4 The civil fine that is imposed by administrative  
5 order after this review is completed and the  
6 violation is corrected shall be subject to  
7 judicial review, notwithstanding any provisions  
8 for administrative review in county charters;

9 (E) After completion of a review of the amount of  
10 accrued civil fine by the county agency that  
11 imposed the fine, the amount of the civil fine  
12 determined appropriate, including both the  
13 initial civil fine and any accrued daily civil  
14 fine, shall immediately become due and  
15 collectible following reasonable notice to the  
16 violator. If no review of the accrued civil fine  
17 is requested, the amount of the civil fine, not  
18 to exceed the total accrual of civil fine prior  
19 to correcting the violation, shall immediately  
20 become due and collectible following reasonable



1 notice to the violator, at the completion of all  
2 appeal proceedings;

3 (F) If no county agency exists to conduct appeal  
4 proceedings for a particular civil fine action  
5 taken by the county, then one shall be  
6 established by ordinance before the county shall  
7 impose the civil fine;

8 (25) Any law to the contrary notwithstanding, any county  
9 mayor, by executive order, may exempt donors, provider  
10 agencies, homeless facilities, and any other program  
11 for the homeless under part XVII of chapter 346 from  
12 real property taxes, water and sewer development fees,  
13 rates collected for water supplied to consumers and  
14 for use of sewers, and any other county taxes,  
15 charges, or fees; provided that any county may enact  
16 ordinances to regulate and grant the exemptions  
17 granted by this paragraph;

18 (26) Any county may establish a captive insurance company  
19 pursuant to article 19, chapter 431; ~~and~~

20 (27) Each county shall have the power to enact and enforce  
21 ordinances regulating towing operations ~~[ ]~~; and



1        (28) Each county shall have the power to enact and enforce  
 2        ordinances necessary to prevent, investigate, control,  
 3        or eradicate invasive species, identified as such by  
 4        the Hawaii invasive species council, on any public or  
 5        private premises within the limits of the county. The  
 6        authority provided by this paragraph shall not be  
 7        self-executing but shall become fully effective within  
 8        a county only upon enactment or adoption by the county  
 9        of appropriate and particular laws, ordinances, or  
 10       rules. The counties shall provide property owners or  
 11       their tenants with the opportunity to contest proposed  
 12       county actions pursuant to this paragraph."

13       SECTION 2. Section 194-3, Hawaii Revised Statutes, is  
 14 amended to read as follows:

15       "[+]§194-3 **Lead agencies; accountability.**[+] A state  
 16 department that is designated as a lead agency under section  
 17 [+]194-2(a)(7)[+], with respect to a particular function of  
 18 invasive species control, shall have sole administrative  
 19 responsibility and accountability for that designated function  
 20 of invasive species control[-], except when a county acts



1 pursuant to the authority granted by section 46-1.5(28). The  
2 lead agency shall:

3 (1) Coordinate all efforts between other departments and  
4 federal and private agencies to control or eradicate  
5 the designated invasive species;

6 (2) Prepare a biennial multidepartmental budget proposal  
7 for the legislature forty days before the convening of  
8 the regular session of the legislature in each odd-  
9 numbered year, showing the budget requirements of each  
10 of the lead agency's assigned invasive species  
11 function that includes the budget requirements of all  
12 departments that it leads for that species, as well as  
13 other federal and private funding for that invasive  
14 species;

15 (3) Prepare and distribute an annual progress report forty  
16 days prior to the convening of each regular session of  
17 the legislature to the governor and the legislature  
18 that includes the status of each assigned function;  
19 and

20 (4) Any other function of a lead agency necessary to  
21 effectuate the purposes of this [†]chapter[†]."



1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 31, 2150.



**Report Title:**

County Powers; Invasive Species

**Description:**

Allows each county to enact and enforce ordinances necessary to prevent, investigate, control, or eradicate invasive species identified by the Hawaii invasive species council on any public or private premises within the limits of the county. (HB1359 HD2)

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

