
A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY OF HAWAII'S WATER.

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

1 SECTION 1. The legislature finds that maintaining and
2 protecting the waters of the State is a matter of public health
3 and safety. Without proper regulation, waters could become
4 polluted or contaminated. Additionally, disasters such as
5 unexpected increases in sea level, hurricanes, or oil spills can
6 negatively impact state waters.

7 The legislature further finds that the federal Clean Water
8 Act provides the federal government with broad authority to
9 limit pollution in major bodies of water that are considered
10 waters of the United States. The definition of "waters of the
11 United States" and the scope of federal regulatory jurisdiction
12 applicable to those waters have long been disputed. In 2015,
13 the United States Environmental Protection Agency and the United
14 States Army Corps of Engineers issued the federal Clean Water
15 Rule, which defined the waters of the United States to include
16 those waters that have a "significant nexus" to navigable rivers
17 and the sea to qualify as protected under the federal Clean



1 Water Act. President Trump has issued an executive order
2 directing the United States Environmental Protection Agency and
3 the United States Army Corps of Engineers to review the federal
4 Clean Water Rule and publish for notice and comment a proposed
5 rule rescinding or revising the rule. The executive order
6 directed the United States Environmental Protection Agency and
7 the United States Army Corps of Engineers to consider
8 interpreting the Clean Water Act to apply strictly to navigable
9 waters, and to non-navigable waters only if those waters are
10 relatively permanent, standing, or flowing bodies of water.
11 Changes to the federal Clean Water Rule could negatively impact
12 waters in the State by altering their regulation under federal
13 and state laws.

14 In response to the executive order, the United States
15 Environmental Protection Agency, Department of the Army, and the
16 United States Army Corps of Engineers proposed a rule to rescind
17 the federal Clean Water Rule and to re-codify the regulatory
18 text that existed prior to 2015 and that is currently in place
19 as a result of the stay of the Clean Water Rule by the United
20 States Court of Appeals for the Sixth Circuit.



1 The purpose of this Act is to promote public safety and
2 health, and address water pollution or contamination risks due
3 to disasters or other causes, by requiring the department of
4 health to study the protection of waters in the State.

5 SECTION 2. (a) The department of health shall conduct a
6 study regarding the protection of waters in the State. Within
7 the study, the department of health shall:

8 (1) Identify state statutes that rely on, or are applied
9 in conjunction with, the federal Clean Water Act,
10 prior to the issuance of the Clean Water Rule;

11 (2) Identify waters in the State that are at risk of
12 pollution or contamination due to:

13 (A) A natural disaster;

14 (B) A human-caused disaster; or

15 (C) Lack of sufficient regulation; and

16 (3) Make recommendations on how the State can prepare for
17 and address the risks of water pollution or
18 contamination identified under paragraph (2).

19 (b) The department of health shall submit a report of its
20 findings and recommendations, including any proposed



1 legislation, to the legislature no later than twenty days prior
2 to the convening of the regular session of 2019.

3 SECTION 3. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2018-2019 to study
6 the protection of waters in the State.

7 The sum appropriated shall be expended by the department of
8 health for the purposes of this Act.

9 SECTION 4. This Act shall take effect on January 28, 2045.



Report Title:

Water Protection; Disaster Preparedness; Department of Health;
Appropriation

Description:

Requires DOH to study the protection of waters in the State. The study shall identify state statutes that rely on, or are applied in conjunction with, the federal Clean Water Act, prior to the issuance of the Clean Water Rule; identify waters that are at risk of pollution or contamination; and recommend how the State can prepare for and address water pollution or contamination risks, including disasters. Appropriates moneys for the study. (HB1708 HD1)

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