

S.B. NO. 2728

JAN 24 2018

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 and to effectively implement the Hawaii
8 Interagency Biosecurity Plan.

9 The legislature recognized invasive species as a multi-
10 agency issue following the 2002 legislative reference bureau
11 report titled, "Filling the Gaps in the Fight Against Invasive
12 Species," which recommended the creation of an interagency
13 coordinating body with dedicated staff and funding. In 2003,
14 the legislature created the Hawaii invasive species council for
15 coordination purposes, but did not establish dedicated staff or
16 funding. The council has been administered by the department of
17 land and natural resources and has been appropriated varying
18 levels of general and special funds to support interagency

1 mitigation projects. In 2015, the legislative reference bureau
2 released an additional report titled, "Can't See the Forest for
3 the (Albizia) Trees: an Invasive Species Update," again
4 recommending the establishment of a coordinating body with
5 adequate staff and funding.

6 Improved biosecurity and invasive species management are
7 central goals of the governor's sustainable Hawaii initiative,
8 the department of agriculture's new Hawaii Interagency
9 Biosecurity Plan, and the Aloha+ Challenge adopted by the
10 legislature in 2014. Building on the model of the Hawaii
11 invasive species council by adding additional expertise to the
12 board, as well as staff and funding resources, would allow the
13 State to effectively implement and track outcomes of the Hawaii
14 Interagency Biosecurity Plan, provide centralized data
15 collection and management for multi-agency invasive species
16 programs, better support emergency responses implemented by
17 departments, and better engage industries and the public in
18 invasive species reporting and mitigation.

19 The purpose of this Act is to restructure the Hawaii
20 invasive species council into a new entity, the Hawaii invasive
21 species authority, attached administratively to the department
22 of agriculture. The establishment of the authority will expand

1 upon the existing council model by adding additional expertise
2 to the interagency board of directors, authorizing the board to
3 hire staff as necessary, and mandating new duties relating to
4 the coordination of the interagency biosecurity plan.

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

8 "CHAPTER

9 HAWAII INVASIVE SPECIES AUTHORITY

10 § -1 Administration of chapter. The Hawaii invasive
11 species authority 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 set of measures taken to manage the
17 risk from invasive species to the economy, environment, and
18 health and lifestyle of the people.

19 "Department" means any governmental entity whose
20 representative or designee is a member of the authority.

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1 "Invasive species" means a species that is not native to
2 Hawaii and whose introduction causes or is likely to cause
3 economic or environmental harm or harm to human health.

4 § -3 Establishment of the Hawaii invasive species
5 authority; duties. (a) There is established the Hawaii
6 invasive species authority for the special purpose of providing
7 policy level direction, coordination, and planning among state
8 departments, federal agencies, and international and local
9 initiatives for the control and eradication of invasive species
10 infestations throughout the State and for preventing the
11 introduction of other invasive species. The authority shall:

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

14 (2) Identify invasive species present in the State and
15 adopt a list of invasive species designated for
16 control or eradication, by rule, according to criteria
17 for the designation established by rule, pursuant to
18 chapter 91;

19 (3) Advise, consult, and coordinate invasive species-
20 related efforts with and between the departments of
21 agriculture, land and natural resources, health,
22 transportation, business, economic development and

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1 tourism, and the University of Hawaii, as well as
2 state, federal, international, and privately organized
3 programs and entities;

4 (4) Coordinate amongst departments and stakeholders the
5 implementation of the Hawaii Interagency Biosecurity
6 Plan developed by the department of agriculture, and
7 track progress and outcomes related to implementation
8 of the plan;

9 (5) Serve as a multiagency coordinating system for
10 interagency emergency responses to invasive species
11 and, for a given response, designate roles and
12 responsibilities of individual departments;

13 (6) Advise the governor and legislature on budgetary and
14 other issues regarding invasive species;

15 (7) Suggest appropriate legislation to improve the State's
16 administration of invasive species programs and
17 policies;

18 (8) Incorporate and expand upon the Hawaii-Pacific weed
19 risk assessment protocol to the extent appropriate for
20 the authority's biosecurity efforts;

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- 1 (9) Provide a central repository for the collection and
2 management of relevant summary data from invasive
3 species programs in the State;
- 4 (10) Develop and implement an online resource for public
5 reporting of invasive species and for the sharing of
6 information relating to the State's multi-agency
7 biosecurity and invasive species programs;
- 8 (11) Implement an interagency budget for projects that
9 address gaps between agency mandates or support
10 research related to invasive species;
- 11 (12) Coordinate and promote the State's position with
12 respect to federal issues, including:
- 13 (A) Quarantine preemption;
- 14 (B) International trade agreements that ignore the
15 problem of invasive species in Hawaii;
- 16 (C) First class mail inspection prohibition;
- 17 (D) Coordinating efforts with federal agencies to
18 maximize resources and reduce or eliminate system
19 gaps and leaks, including deputizing the United
20 States Department of Agriculture's plant
21 protection and quarantine inspectors to enforce
22 Hawaii's laws;

(E) Promoting the amendment of federal laws as necessary, including the Lacey Act Amendments of 1981, Title 16 United States Code sections 3371-3378; Public Law 97-79, and laws related to inspection of domestic airline passengers, baggage, and cargo; and

(F) Coordinating efforts and issues with the federal Invasive Species Council and its National Invasive Species Management Plan;

(13) Coordinate with the counties in the fight against invasive species to increase resources and funding and to address county-sponsored activities that involve invasive species; and

(14) Perform any other function necessary to effectuate the purposes of this chapter.

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

(1) The president of the University of Hawaii, or the president's designee;

- 1 (2) The director of business, economic development, and
- 2 tourism, or the director's designee;
- 3 (3) The director of health, or the director's designee;
- 4 (4) The director of transportation, or the director's
- 5 designee;
- 6 (5) The chairperson of the board of agriculture, or the
- 7 chairperson's designee;
- 8 (6) The chairperson of the board of land and natural
- 9 resources, or the chairperson's designee; and
- 10 (7) Three members appointed by the governor pursuant to
- 11 section 26-34, including:
- 12 (A) An individual representing the interests of
- 13 natural resource conservation;
- 14 (B) An individual representing the interests of
- 15 agriculture or horticulture; and
- 16 (C) An individual with expertise in native Hawaiian
- 17 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.
- 21 (d) The members of the authority other than ex officio
- 22 members or their designees shall serve without pay but shall be

1 reimbursed upon request for their actual and necessary expenses,
2 including travel expenses, incurred in carrying out their
3 duties.

4 (e) Representatives of federal agencies, the legislature,
5 and county agencies may be asked to participate in meetings of
6 the authority or be consulted for advice and assistance.

7 (f) The authority shall meet no less than twice annually.

8 (g) The authority shall submit a report to the governor
9 and legislature twenty days prior to each regular session
10 detailing its activities as well as budgetary and other issues
11 relating to invasive species.

12 (h) The authority, without regard to the requirements of
13 chapter 76 and chapter 89, may hire employees necessary to
14 perform its duties, including but not limited to an executive
15 director. The executive director shall serve at the pleasure of
16 the authority and the salary of the executive director shall be
17 set by the authority. The authority, through its executive
18 director, may appoint officers, agents, and employees; prescribe
19 their duties and qualifications, and set their salaries, without
20 regard to chapter 76 and chapter 89. Notwithstanding section
21 26-35, the executive director may represent the authority in
22 communications with the governor and the legislature. The

1 authority may delegate to its employees, by formal action, such
2 power and authority vested in the authority by this chapter as
3 the authority deems reasonable and proper for the effective
4 administration of this chapter.

5 **§ -4 Lead agencies; accountability.** A state department
6 that is designated as a lead agency for a particular interagency
7 response effort under section -3(a)(5), with respect to a
8 particular function of invasive species control, shall have
9 administrative responsibility and accountability for that
10 designated function of invasive species control. The lead
11 agency shall coordinate with other departments and federal and
12 private agencies to control or eradicate the designated invasive
13 species.

14 **§ -5 Relation of chapter to other laws.**

15 Notwithstanding any other law to the contrary, and in addition
16 to any other authority provided by law that is not inconsistent
17 with the purposes of this chapter, a department is authorized to
18 examine, control, and eradicate all instances of invasive
19 species identified by the authority for control or eradication
20 and found on any public or private premises or in any aircraft
21 or vessel landed or docked in waters of the State.

1 § -6 Entry; private property. (a) Whenever any
2 invasive species identified by the authority for control or
3 eradication is found on private property, a department or its
4 authorized agent may enter such premises to control or eradicate
5 the invasive species after reasonable notice is given to the
6 owner of the property and, if entry is refused, pursuant to a
7 court order as provided in subsection (d).

8 (b) A duplicate of the notice so given shall be left with
9 one or more of the tenants or occupants of the premises, if
10 applicable. If the premises are unoccupied, notice shall be
11 mailed to the last known place of residence of the owner, if
12 residing in the State. If the owner does not reside in this
13 State or cannot be expeditiously provided with notice, notice
14 left at or posted on the premises shall be sufficient.

15 (c) The department may instead cause notice to be given,
16 and order an owner to control or eradicate the invasive species,
17 if such species was intentionally and knowingly established by
18 the owner on the owner's property and not naturally dispersed
19 from neighboring properties, at the owner's expense within such
20 reasonable time as the department may deem proper, pursuant to
21 the notice requirements of this section.

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

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

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

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

1 control or eradicate the invasive species as directed by the
2 department.

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

7 § -8 Rules. The authority may adopt rules pursuant to
8 chapter 91 to effectuate this chapter."

9 SECTION 3. Any ongoing actions or obligations of the
10 Hawaii invasive species council shall be transferred to the
11 Hawaii invasive species authority, along with any relevant
12 equipment and copies of all applicable records regarding the
13 Hawaii invasive species council, upon repeal of chapter 194,
14 Hawaii Revised Statutes.

15 SECTION 4. Chapter 194, Hawaii Revised Statutes, is
16 repealed on July 1, 2019.

17 SECTION 5. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$500,000 or so much
19 thereof as may be necessary for fiscal year 2018-2019 for
20 positions and other operating expenditures of the Hawaii
21 invasive species authority.

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

3 SECTION 6. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$10,000,000 or so
5 much thereof as may be necessary for fiscal year 2018-2019 for
6 interagency projects and research related to invasive species,
7 as described in section -3(a)(11), Hawaii Revised Statutes,
8 in section 2 of this Act, and as directed by the Hawaii invasive
9 species authority.

10 The sum appropriated shall be expended by the department of
11 land and natural resources for the purposes of this Act,
12 provided that portions of this appropriation may be transferred
13 to other departments to implement the directions of the Hawaii
14 invasive species authority. In subsequent fiscal years the sum
15 appropriated for interagency projects and research shall be
16 expended by the department of agriculture.

17 SECTION 7. This Act, upon its approval, shall take effect
18 on July 1, 2018.

19
20 INTRODUCED BY: _____



21 BY REQUEST
22

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Report Title:

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, to coordinate implementation of the Hawaii Interagency Biosecurity Plan and to improve coordination of the State's invasive species prevention, early detection, rapid response, control, enforcement, and outreach programs. Appropriates funds to implement the Authority and relevant interagency invasive species projects. Effective 7/1/2018.

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: Add a new chapter to the Hawaii Revised Statutes, and repeal chapter 194, Hawaii Revised Statutes.

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 held 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.

This measure provides for a single transition year wherein the Department of Agriculture utilizes funds appropriated in section 5 to set up and organize the Hawaii Invasive Species Authority, including hiring staff and identifying additional board members, while the Hawaii Invasive Species Council continues to manage the interagency funding appropriated in section 6. This temporary overlap is critical to preventing a gap in funding to important on-going projects that rely on these funds, such as the Invasive Species Committees and Hawaii Ant Lab. Because the ex-officio board members of the Hawaii Invasive Species Council and the Hawaii Invasive Species Authority are the same, the members may meet to approve an interagency budget for fiscal year 2018-2019 as the Hawaii Invasive Species Council, administered by the Department of Land and Natural Resources, and may later meet to approve of new hires under the Hawaii invasive species authority,

administered by the Department of Agriculture. Duties and functions of the support staff of the Hawaii invasive species council would be transferred to staff of the Hawaii invasive species authority over the course of fiscal year 2018-2019, with the Hawaii Invasive Species Council expiring upon repeal of chapter 194, Hawaii Revised Statutes, on July 1, 2019.

Impact on the public: Increased efforts and resources to address invasive species throughout the State.

Impact on the department and other agencies: Would in effect 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 through the repeal of chapter 194, Hawaii Revised Statutes, and render its contents, with modification, in a new chapter that establishes the Hawaii Invasive Species Authority.

GENERAL FUND:	\$10,500,000.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	Would create new ID.
OTHER AFFECTED AGENCIES:	Department of Land and Natural Resources.
EFFECTIVE DATE:	July 1, 2018.