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# A BILL FOR AN ACT

RELATING TO PROTECTION OF STREAMS.

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

1           SECTION 1. Ola i ka wai. The legislature finds that the  
2 board of land and natural resources lacks rules for rendering  
3 decisions on dispositions of water. The legislature recognizes  
4 that public trust principles must guide these decisions and must  
5 supersede commercial interests. The legislature further  
6 recognizes that impacts of climate change are not sufficiently  
7 clear to allow for any disposition lasting more than fifteen  
8 years.

9           The purpose of this Act is to:

- 10           (1) Prohibit the board from approving any disposition that  
11           authorizes the diversion of water from streams unless  
12           certain conditions are met to maintain the natural  
13           resources in public trust;
- 14           (2) Require moneys collected through such dispositions to  
15           be deposited into the forest stewardship fund;  
16           provided that the department of Hawaiian home lands



1 and office of Hawaiian affairs each receive their  
2 constitutionally-entitled share.

3 SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
4 amended by adding a new section to be appropriately designated  
5 and to read as follows:

6 "§171- Dispositions that authorize the diversion of  
7 water from streams. (a) The board shall not approve any  
8 disposition that authorizes or has the effect of authorizing the  
9 diversion of water from streams, unless:

- 10 (1) The authorization is for no more than fifteen years;
- 11 (2) The board has accurate information regarding the  
12 amount of water that flows through the subject stream  
13 and the amount of water proposed to be removed from  
14 the stream;
- 15 (3) The amount of consideration is at least ninety per  
16 cent of the avoided cost to the applicant of obtaining  
17 the water from an alternative source;
- 18 (4) No more than fifty per cent of the water in a  
19 stream, as measured near the diversion, may be removed  
20 from the stream at any time;



- 1        (5) The board determines that the diversion will not
- 2                adversely impact the ecological, cultural,
- 3                recreational, and aesthetic values of the stream; and
- 4        (6) All other legal requirements are met.
- 5        (b) Subsection (a) shall not apply to any authorization
- 6 for taro cultivation.
- 7        (c) Moneys collected through any disposition that
- 8 authorizes or has the effect of authorizing the diversion of
- 9 water from a stream shall be deposited into the forest
- 10 stewardship fund, section 195F-4; provided that the department
- 11 of Hawaiian home lands and the office of Hawaiian affairs each
- 12 receive their constitutionally-entitled share."

13        SECTION 3. New statutory material is underscored.

14        SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: Tim Wilhagen  
Kindel Higgins  
Ray M. Smith  
Alan

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# H.B. NO. 848

**Report Title:**

Water Diversion; Land Disposition; Forest Stewardship Fund; DLNR

**Description:**

Prohibits dispositions authorizing the diversion of water from streams unless certain conditions are met. Requires moneys collected through such dispositions to be deposited into the Forest Stewardship Fund, provided that the Department of Hawaiian Home Lands and Office of Hawaiian Affairs each receive their constitutionally-entitled share.

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