

JAN 24 2019

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# A BILL FOR AN ACT

RELATING TO WATER RIGHTS.

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

1 SECTION 1. Section 171-58, Hawaii Revised Statutes, is  
2 amended by amending subsection (c) to read as follows:

3 "(c) Disposition of water rights may be made by lease at  
4 public auction as provided in this chapter or by permit for  
5 temporary use on a month-to-month basis under those conditions  
6 ~~[which]~~ that will best serve the interests of the State and  
7 subject to a maximum term of one year and other restrictions  
8 under the law; provided that:

9 (1) Where an application has been made for a lease under  
10 this section to continue a previously authorized  
11 disposition of water rights, a holdover may be  
12 authorized annually until the pending application for  
13 the disposition of water rights is finally resolved  
14 ~~[or for a total of three consecutive one year~~  
15 ~~holdovers, whichever occurs sooner; provided that the~~  
16 ~~total period of the holdover for any applicant shall~~  
17 ~~not exceed three years]; provided [further] that the~~



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1           annual authorization finds that the holdover is  
2           consistent with the public trust doctrine~~[+]~~ and the  
3           lease continues to be actively pursued;

4           ~~(2)~~ If a contested case pursuant to chapter 91 is  
5           requested on a one-year holdover, the resulting  
6           proceedings shall be expedited and, any provision of  
7           law to the contrary notwithstanding, the holdover  
8           shall be continued without action by the board pending  
9           the completion of the proceedings;

10          ~~[(2)]~~ (3) Any disposition by lease shall be subject to  
11           disapproval by the legislature by two-thirds vote of  
12           either the senate or the house of representatives or  
13           by majority vote of both in any regular or special  
14           session next following the date of disposition; and

15          ~~[(3)]~~ (4) After a certain land or water use has been  
16           authorized by the board subsequent to public hearings  
17           and conservation district use application and  
18           environmental impact statement approvals, water used  
19           in nonpolluting ways, for nonconsumptive purposes  
20           because it is returned to the same stream or other  
21           body of water from which it was drawn, and essentially



1 not affecting the volume and quality of water or biota  
2 in the stream or other body of water, may also be  
3 leased by the board with the prior approval of the  
4 governor and the prior authorization of the  
5 legislature by concurrent resolution."

6 SECTION 2. The department of land and natural resources  
7 shall prepare and submit an annual report to legislature no  
8 later than twenty days before the convening of each regular  
9 session of the legislature. The report shall include:

- 10 (1) The status of applications to continue previously-  
11 authorized dispositions of water rights;
- 12 (2) Actions taken on the applications during the  
13 immediately preceding fiscal period; and
- 14 (3) Any relevant recommendations for legislative action or  
15 appropriation of funding.

16 SECTION 3. Act 126, Session Laws of Hawaii 2016, is  
17 amended by amending section 4 to read as follows:

18 "SECTION 4. This Act shall take effect upon its approval,  
19 and shall apply to applications for a lease to continue a  
20 previously authorized disposition of water rights that are  
21 pending before the board of land and natural resources on the



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1 effective date of this Act or filed with the board of land and  
 2 natural resources on or after the effective date of this Act[  
 3 ~~but prior to June 30, 2019; provided that:~~

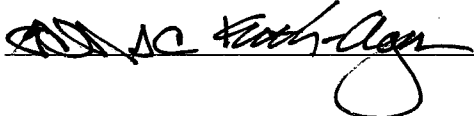
4 ~~(1) This Act shall be repealed on June 30, 2019, and~~  
 5 ~~section 171-58(c), Hawaii Revised Statutes, shall be~~  
 6 ~~reenacted in the form in which it read on the day~~  
 7 ~~prior to the effective date of this Act; and~~

8 ~~(2) A any holdovers first applied for under this Act prior~~  
 9 ~~to June 30, 2019, may be reauthorized, as provided in~~  
 10 ~~section 1 of this Act, beyond June 30, 2019]."~~

11 SECTION 4. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on June 29, 2019;  
 14 provided that this Act shall apply to applications for a lease  
 15 to continue a previously authorized disposition of water rights  
 16 that are pending before the board of land and natural resources  
 17 on the effective date of this Act or filed with the board of  
 18 land and natural resources on or after the effective date of  
 19 this Act.

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INTRODUCED BY: 

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**Report Title:**

Department of Land and Natural Resources; Water Rights;  
Contested Care Hearings; Extension; Holdover

**Description:**

Allows holdovers of revocable water permits to continue until the pending application for a lease is resolved. Requires prompt execution of contested case proceedings for 1-year holdovers. Allows holdovers to continue pending completion of contested case proceedings. Removes repeal and reenactment provisions relating to section 171-58(c), Hawaii Revised Statutes.

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

