
A BILL FOR AN ACT

RELATING TO THE COUNTY BOARDS OF WATER SUPPLY.

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

1 SECTION 1. The legislature finds that article XII,
2 section 2, of the Hawaii State Constitution states in part that
3 "[t]he State and its people do further agree and declare that
4 the spirit of the Hawaiian Homes Commission Act looking to the
5 continuance of the Hawaiian homes projects for the further
6 rehabilitation of the Hawaiian race shall be faithfully carried
7 out." This obligation held by the State is also held by the
8 counties, which are, under article VIII of the Hawaii State
9 Constitution, political subdivisions of the State.

10 The legislature further finds that the lack of available
11 water has been and remains a significant barrier to the State's
12 ability to faithfully carry out Hawaiian homes projects. The
13 county boards and departments of water supply have no
14 administrative rules or policies for differentiating and
15 prioritizing the development and provision of water for Hawaiian
16 homes projects when compared to other State or even private



1 projects and, therefore, some counties have treated the
2 department of Hawaiian home lands like any other developer.

3 The legislature further finds that working with the
4 department of Hawaiian home lands, the commission on water
5 resource management has set some ground water and surface water
6 reservations for Hawaiian homes projects on Kauai, Oahu,
7 Molokai, Lanai, Maui, and Hawaii islands, and continues to set
8 additional reservations in partial fulfillment of the
9 requirements of section 174C-101(a), Hawaii Revised Statutes.

10 The legislature also finds that this necessary action by
11 the commission on water resource management will result in being
12 nothing more than the noting of numbers on paper unless the
13 counties as political subdivisions of the State, and
14 particularly their boards and departments of water supply,
15 fulfill their legal obligations to faithfully take actions
16 within their powers to fulfill the Hawaiian Homes Commission Act
17 in spirit and practice.

18 The purpose of this Act is to clarify requirements on the
19 county boards of water supply to fulfill the constitutional
20 mandate.



SECTION 2. Chapter 54, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§54- County boards of water supply; obligation to the department of Hawaiian home lands. (a) Before June 30 of each year, each board of water supply shall transmit to the department of Hawaiian home lands an accounting of all water credits held by the county for all of their respective systems. The department of Hawaiian home lands shall inform the counties by no later than September 30 of each year the number of credits it requires for its uses under section 221 of the Hawaiian Homes Commission Act, 1920, as amended. The boards shall reserve those credits for the use of the department of Hawaiian home lands and not allocate them to any other user unless the department of Hawaiian home lands surrenders those credits.

(b) In the negotiation of any water development, water credit, or similar agreement, the counties shall not withhold any water developed by the department of Hawaiian home lands for the board of water supply's own use and allocation, but shall instead credit the department of Hawaiian home lands the full amount of credits justified by the water development.



1 (c) Each board of water supply shall develop policies
2 that, in cases of water shortage, require reductions in
3 nonpublic trust uses of water to occur before reductions of
4 other uses, including the uses on Hawaiian home lands under
5 section 221 of the Hawaiian Homes Commission Act, 1920, as
6 amended.

7 (d) No later than July 30, 2022, each board of water
8 supply shall apply for water leases of any waters they develop
9 or have in their system emanating from state lands under section
10 171-58.

11 (e) This section shall apply to the boards of water supply
12 and the counties notwithstanding any provisions in a county
13 charter or ordinance to the contrary."

14 SECTION 2. Section 54-12, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§54-12 Board of water supply.** (a) If a county does not
17 have an existing board of water supply, there shall be a board
18 of water supply for each county consisting of seven members of
19 whom five shall be nominated, and by and with the advice and
20 consent of the council, appointed by the mayor[~~one~~]; provided
21 that:



1 (1) One of whom shall be the state district engineer of
2 the state department of transportation [~~and one~~];

3 (2) One of whom shall be the chief engineer of the
4 respective county[~~-~~]; and

5 (3) At least one of whom shall represent the interests to
6 be served by the allocation of water for current and
7 foreseeable development and use of Hawaiian home lands
8 as set forth in section 221 of the Hawaiian Homes
9 Commission Act, 1920, as amended.

10 (b) No employee or officer of any county shall be eligible
11 to serve as a board member, except as otherwise provided herein.

12 (c) The members of the board shall serve without pay, but
13 shall be reimbursed for their reasonable expenses incurred in
14 the discharge of their duties as members of the board.

15 (d) The term of office of each appointed member of the
16 board shall be five years from the date of the member's
17 appointment; provided that of the initial members one shall be
18 appointed for a term to expire on January 1, 1963; one for a
19 term to expire on January 1, 1964; one for a term to expire on
20 January 1, 1965; one for a term to expire on January 1, 1966;
21 and one for a term to expire on January 1, 1967. Any vacancy



1 occurring on the board shall be filled in accordance with the
2 foregoing provisions for the unexpired portion of the term
3 concerned."

4 SECTION 4. Section 54-52, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§54-52 Appointment.** (a) The eight appointive members of
7 the board of water supply shall be appointed by the chairperson
8 of the council of the county, with the approval of the
9 council[-]; provided that at least two of the eight members
10 shall represent the interests to be served by the allocation of
11 water for current and foreseeable development and use of
12 Hawaiian home lands as set forth in section 221 of the Hawaiian
13 Homes Commission Act, 1920, as amended. The chairperson shall
14 likewise designate the chairperson of the board of water supply
15 from among the appointive members. The members of the board
16 shall serve without pay, but shall be reimbursed for their
17 reasonable expenses. Each member of the board shall be, at the
18 time of the member's appointment, an elector of the county of
19 Hawaii and shall have been such for at least three years next
20 preceding the member's appointment. Any member of the board may



1 be removed from office by the chairperson of the council of the
2 county, with the approval of the council.

3 **(b)** Membership of the board shall include four members who
4 are residents of the district of North or South Hilo; provided
5 that at least one of the four members shall represent the
6 interests to be served by the allocation of water for current
7 and foreseeable development and use of Hawaiian home lands as
8 set forth in section 221 of the Hawaiian Homes Commission Act,
9 1920, as amended; provided further that one of the four members
10 shall be the person who for the time being shall be the legal
11 incumbent of the office of the chief engineer of the department
12 of public works of the county. In addition, one member shall be
13 a resident of the district of North Kona or South Kona, one
14 member shall be a resident of the district of North Kohala or
15 South Kohala, one member shall be a resident of the district of
16 Hamakua, one member shall be a resident of the district of Puna,
17 and one member shall be a resident of the district of Kau[~~ai~~];
18 provided that at least one of these five members shall represent
19 the interests to be served by the allocation of water for
20 current and foreseeable development and use of Hawaiian home



1 lands as set forth in section 221 of the Hawaiian Homes
2 Commission Act, 1920, as amended.

3 (c) The term of office of the appointive members of the
4 board shall be five years from and after the date of their
5 respective appointments. Any vacancy occurring on the board
6 shall be filled by appointment. The one appointed to fill the
7 vacancy shall serve only for the unexpired term of the person
8 whom the appointive member succeeds. Officers and employees of
9 the county of Hawaii shall not be eligible for appointive
10 membership on the board."

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.

14

INTRODUCED BY:

Dan Gurnea BR

JAN 22 2021



H.B. NO. 548

Report Title:

County Boards of Water Supply; Department of Hawaiian Home Lands

Description:

Requires county boards of water supply to provide an accounting of water credits to and to reserve credits for the department of Hawaiian home lands. Requires boards to develop policies that reduce nonpublic trust uses before other uses in cases of emergency. Requires boards to apply for leases for water from state lands. Designates a certain number of board members to represent interests for water allocation on Hawaiian home lands.

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