

STAND. COM. REP. NO. 928

Honolulu, Hawaii

MAR 05 2021

RE: S.B. No. 1122
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1122, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE COUNTY BOARDS OF WATER SUPPLY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify requirements on the county boards of water supply to ensure adequate water supplies to residents of Hawaiian home lands; and
- (2) Add representation on the county boards of water supply of the interests to be served by the allocation of water for current and foreseeable development and use of Hawaiian home lands as set forth in section 221 of the Hawaiian Homes Commission Act.

Your Committee received testimony in support of this measure from the Office of Hawaiian Affairs, Department of Hawaiian Home Lands, and one individual. Your Committee received testimony in opposition to this measure from the County of Hawai'i, Department of Water of the County of Kaua'i, Board of Water Supply of the City and County of Honolulu, Department of Water Supply of the County of Hawai'i, Water Board of the County of Hawai'i, and one



individual. Your Committee received comments on this measure from the Department of Land and Natural Resources.

Your Committee finds that the lack of available water has been and remains a significant barrier to the State's ability to develop projects on Hawaiian home lands. The Department of Hawaiian Home Lands has worked in conjunction with the Department of Land and Natural Resources' Commission on Water Resource Management to set groundwater and surface water reservations for Hawaiian home lands projects on each island with lands set aside for homesteading purposes. However, your Committee further finds that there is no statewide standard for policies and procedures to provide for these water reservations. Your Committee additionally finds that the county boards and departments of water supply provide a vital and essential service to the counties, and that a requirement to reallocate significant water resources runs the risk of disregarding pre-existing legal protections and systems regarding water use and allocation, therefore a statutory mandate for the boards to coordinate with the Department of Hawaiian Home Lands and accommodate the department's requests may be a more feasible solution.

Accordingly, your Committee has amended this measure by:

- (1) Allowing the Department of Hawaiian Home Lands to request the reservation of available and unallocated water credits;
- (2) Requiring the county boards of water supply to consider the Department of Hawaiian Home Land's request when allocating available and unallocated water credits;
- (3) Requiring each board of water supply to develop policies that comply with the public trust doctrine to implement in case of water shortage;
- (4) Deleting the requirement that boards of water supply must apply for state water licenses;
- (5) Clarifying terminology used to refer to the boards of water supply;



- (6) Clarifying that the requirements of the new statutory section apply to each of the county boards of water supply;
- (7) Clarifying that, effective July 1, 2024, one of the appointed members of each board of water supply, including the Department of Water Supply of the County of Hawai'i, must be a representative of the Department of Hawaiian Home Lands;
- (8) Deleting language relating to the membership on the county board of water supply of individuals from different geographic regions of the County of Hawai'i;
- (9) Amending section 1 to reflect its amended purpose;
- (10) Inserting an effective date of May 6, 2137, to encourage further discussion; and
- (11) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1122, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1122, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,




KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1122 SD1	HWN, JDC	03/03/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura	✓			
GABBARD, Mike		✓		
KIM, Donna Mercado		✓		
LEE, Chris	✓			
FEVELLA, Kurt		✓		
TOTAL	4	3	0	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes