



GOV. MSG. NO. 1237

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

June 29, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 29, 2023, the following bill was signed into law:

SB1064 SD2 HD2 CD1

RELATING TO DAM AND APPURTENANCE
SAFETY.
ACT 134

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on JUN 29 2023

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.B. NO. 1064
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO DAM AND APPURTENANCE SAFETY.

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

1 SECTION 1. In accordance with section 9 of article VII of
2 the Hawaii State Constitution and sections 37-91 and 37-93,
3 Hawaii Revised Statutes, the legislature has determined that the
4 appropriations contained in H.B. No. 300, H.D. 1, S.D. 1,
5 C.D. 1, and this Act will cause the state general fund
6 expenditure ceiling for fiscal year 2023-2024 to be exceeded by
7 \$1,073,987,367 or 11.0 per cent. This current declaration takes
8 into account general fund appropriations authorized for fiscal
9 year 2023-2024 in H.B. No. 300, H.D. 1, S.D. 1, C.D. 1, and this
10 Act only. The reasons for exceeding the general fund
11 expenditure ceiling are that:

12 (1) The appropriation made in this Act is necessary to
13 serve the public interest; and

14 (2) The appropriation made in this Act meets the needs
15 addressed by this Act.

16 SECTION 2. The legislature finds that some plantation-era
17 reservoirs across the State, including locations in Maui county,
18 are on lands sold by plantation landowners to developers.



1 Following the sale, developers constructed subdivisions, often
2 including dams and appurtenances, including reservoirs and
3 spillways, within deeds to the homeowners or a homeowners'
4 association.

5 However, many dams and appurtenances located on
6 subdivisions are not properly maintained. During periods of
7 extreme weather, the surrounding neighborhoods face significant
8 risks from flooding. Despite potential hazards posed by the
9 dams and appurtenances, the department of land and natural
10 resources considers these dams and appurtenances to be privately
11 owned and the responsibility of homeowners or homeowners'
12 associations to maintain proper safety standards. Costly
13 permits are required to conduct repairs or removal, which
14 results in dams and appurtenances remaining in an unsafe state.

15 Therefore, the purpose of this Act is to:

16 (1) Establish and appropriate moneys for a dam and
17 appurtenance improvement or removal grant program to
18 provide the owners of private dams and appurtenances
19 with funds for plans, design, construction, and
20 equipment that are used to improve or remove deficient



1 dams and appurtenances, as determined by the
2 department of land and natural resources; and
3 (2) Appropriate moneys for certain operating expenses and
4 the establishment of positions in the department of
5 land and natural resources.

6 SECTION 3. Chapter 179D, Hawaii Revised Statutes, is
7 amended by adding a new section to part II to be appropriately
8 designated and to read as follows:

9 "§179D- Dam and appurtenance improvement or removal
10 grant program. (a) There is established a dam and appurtenance
11 improvement or removal grant program, to be developed and
12 administered by the department for the improvement or removal of
13 deficient dams in the State.

14 (b) The dam and appurtenance improvement or removal grant
15 program shall provide funding to owners of private dams for
16 plans, design, construction, and equipment to improve or remove
17 deficient dams and appurtenances, as determined by the
18 department.

19 (c) Each award shall be approved by the board before
20 disbursement and shall be subject to conditions imposed by the
21 board.



1 (d) The department may award grants based on criteria that
2 shall be developed by the department. Each applicant shall meet
3 the following requirements:

4 (1) The applicant shall be an owner of a high hazard or
5 significant hazard dam or appurtenance that is
6 regulated under this chapter;

7 (2) The applicant shall be the owner of a regulated dam or
8 appurtenance that has been determined to have one or
9 more deficiencies; provided that priority shall be
10 given to dams or appurtenances rated to be in poor or
11 unsatisfactory condition;

12 (3) The applicant shall indicate on the application that
13 the proposed plans, design, construction, and
14 equipment shall be intended for remediation or removal
15 of the dam or appurtenance;

16 (4) If the applicant is an entity other than an
17 individual, the applicant shall:

18 (A) Be licensed to conduct business in the State; and

19 (B) Have bylaws or policies that describe the manner
20 in which business is conducted, prohibit



- 1 nepotism, and provide for the management of
2 potential conflicts of interest;
- 3 (5) The applicant shall agree to comply with all
4 applicable federal and state laws prohibiting
5 discrimination against any person on the basis of
6 race, color, national origin, religion, creed, sex,
7 age, sexual orientation, disability, or any other
8 characteristic protected under applicable federal or
9 state law;
- 10 (6) The applicant shall agree that grant moneys are not to
11 be used for purposes of entertainment or perquisites;
- 12 (7) The applicant shall agree that all activities and
13 improvements undertaken with funds received shall
14 comply with applicable federal, state, and county
15 laws, including statutes, ordinances, applicable
16 building codes, and rules;
- 17 (8) The applicant shall agree to make available to the
18 department all records that the applicant may have
19 relating to the grant and allow state agencies to
20 monitor the applicant's compliance with the purpose of
21 this chapter;



- 1 (9) The applicant shall establish, to the satisfaction of
2 the department, that sufficient funds are available
3 for the completion of plans, design, and construction,
4 or equipment needed for the purpose for which the
5 grant is awarded; provided that the grant amount shall
6 be included among the calculation of sufficient funds;
7 and
8 (10) The applicant shall comply with other requirements or
9 conditions as the department or board may prescribe."

10 SECTION 4. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$10,000,000 or so
12 much thereof as may be necessary for fiscal year 2023-2024 as
13 one-time seed funding for the purposes of the dam and
14 appurtenance improvement or removal grant program.

15 SECTION 5. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$220,000 or so much
17 thereof as may be necessary for fiscal year 2023-2024 and the
18 same sum or so much thereof as may be necessary for fiscal year
19 2024-2025 to be expended under program ID Department of Land and
20 Natural Resources - Prevention of Natural Disasters (LNR810),
21 for operating expenses and the establishment of the following



1 two full-time equivalent (2.0 FTE) permanent positions in the
2 department of land and natural resources:

3 (1) One planner position; and

4 (2) One accountant position.

5 The sums appropriated in section 4 and this section of this
6 Act shall be expended by the department of land and natural
7 resources for the purposes of this Act.

8 SECTION 6. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on July 1, 2023.

APPROVED this 29th day of June, 2023



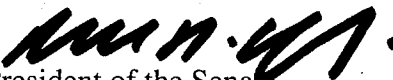
GOVERNOR OF THE STATE OF HAWAII




THE SENATE OF THE STATE OF HAWAI‘I

Date: May 4, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.


President of the Senate


Clerk of the Senate

SB No. 1064, SD 2, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 4, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives