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# 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.



**Report Title:**

DLNR; BLNR; Dam and Reservoirs; Grant Program; Appropriation;  
Expenditure Ceiling

**Description:**

Establishes the Dam and Appurtenance Improvement or Removal Grant Program for plans, design, construction, and equipment that is used to improve or remove deficient dams and appurtenances as determined by the Department of Land and Natural Resources. Specifies eligibility requirements for dam and appurtenance improvement or removal grants. Appropriates funds. (CD1)

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