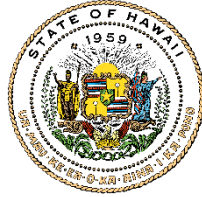


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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committees on
JUDICIARY
and
WAYS AND MEANS

Tuesday, April 4, 2023
10:00 AM

State Capitol, Conference Room 211 & Videoconference

In consideration of
HOUSE BILL 153, HOUSE DRAFT 1 SENATE DRAFT 1
RELATING TO STATE WATER CODE PENALTIES

House Bill 153, House Draft 1 Senate Draft 1 proposes to: 1) add a minimum penalty of \$50 per violation of the State Water Code; 2) make each day that a violation exists or continues a separate offense; and 3) require the Commission on Water Resource Management (Commission) of the Department of Land and Natural Resources (Department) to determine the amount of the penalty based on the circumstances of the violation. **The Department strongly supports this measure.**

The Department appreciates the clarification of a continuing violation and the guidance for the determination of the penalty amount in the newly added subsection (c) to Hawai'i Revised Statutes Section 174C-15. The guidance in subsection (c) corresponds with the Commission's Administrative and Civil Penalty Guideline (G14-01)¹ that the Commission adopted on October 1, 2014.² The Department notes that G14-01 provides for an initial administrative fee of \$500, if the Commission issued a written notice of alleged violation, in addition to any fine.

The Department also appreciates the amendments made to the bill in House Draft 1 Senate Draft 1 to raise the penalty ceiling from \$25,000 to \$60,000 per violation to be consistent with Senate Bill 445 Senate Draft 2 House Draft 1 that propose to increase the penalty ceiling of the Department of Health to \$59,973

¹ https://files.hawaii.gov/dlnr/cwrmp/planning/wrpp2019update/WRPP_AppP_201907.pdf

² <https://files.hawaii.gov/dlnr/cwrmp/submittal/2014/sb201410D1.pdf>

to increase deterrence and match penalties promulgated by the United States Environmental Protection Agency (EPA) for similar violations.

Finally, the Department also appreciates the amendment to add an appropriation for two full-time equivalent (2.0 FTE) general professional positions. These two general professional positions will help the Commission in ensuring compliance and enforcement of the State Water Code penalties.

This bill will support the Commission in its affirmative duty “*to protect, control and regulate the use of Hawaii’s water resources*” as articulated in article XI section 7 of the Constitution of the State of Hawai‘i. Currently, the Commission is overseeing 5,334 groundwater wells, 1,226 surface water diversion, and 376 perennial streams, 100 of which have a numeric interim instream flow standard that requires monitoring and enforcement. The Commission regulates the use of water in water management areas on the islands of O‘ahu, Moloka‘i and Maui with the total amount of 411 groundwater use permits and 176 surface water use permits.

Mahalo for the opportunity to provide testimony in strong support of this measure.