

STAND. COM. REP. NO.

3330

Honolulu, Hawaii

MAR 22 2024

RE: H.B. No. 2690  
H.D. 2  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2024  
State of Hawaii

Sir:

Your Committees on Water and Land and Agriculture and Environment, to which was referred H.B. No. 2690, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WATER,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish within the Office of the Chairperson of the Board of Land and Natural Resources a policy lead and coordinator for Red Hill Water Alliance Initiative (WAI) initiatives;
- (2) Create the Red Hill Remediation Special Fund; and
- (3) Appropriate funds.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, University of Hawai'i System, Sierra Club of Hawai'i, Democratic Party of Hawai'i, and Hawai'i Alliance for Progressive Action.

Your Committees received comments on this measure from the Department of Budget and Finance and one individual.



Prior to decision making on this measure, your Committees made available for public review a proposed S.D. 1 of this measure. The proposed S.D. 1 retained the contents of this measure and also inserted provisions that:

- (1) Repeal the position of Deputy to the Chairperson of the Commission on Water Resource Management (Commission) and establish the position of Executive Director of the Commission;
- (2) Amend the composition of the Commission and administratively attach it to the Department of Land and Natural Resources; and
- (3) Establish fines for certain water use offenses.

Your Committees received testimony in support of the proposed S.D. 1 from the Office of Hawaiian Affairs; Honolulu Board of Water Supply; Veterans for Peace, Chapter 113 Hawaii; Hui o Nā Wai 'Ehā; Chamber of Sustainable Commerce; Kupuna for the Mo'opuna; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; and twenty individuals.

Your Committees received testimony in opposition to the proposed S.D.1 from the Department of the Attorney General.

Your Committees received comments on the proposed S.D. 1 from the Department of Land and Natural Resources.

Your Committees find that the protection and preservation of fresh water resources is of paramount importance. The State also has unique public trust responsibilities set forth in the Hawaii State Constitution to preserve and protect public trust resources, which includes water resources. Part I of this measure creates the Red Hill Remediation Special Fund and establishes within the Department of Land and Natural Resources a policy and lead coordinator for Red Hill WAI initiatives to ensure that there is clean water on Oahu for future generations.

Your Committees find that the proposed S.D. 1 further promotes fresh water rights and encourages the effective and efficient management of the State's water resources. Continuous and experienced leadership is needed for the Commission to



administer and implement the State Water Code. Your Committees find that clarification of the Commission's purpose, reform of its leadership structure, and amendment to its composition will provide greater accountability and protection of the State's waters. To this end, the proposed S.D. 1 repeals the position of Deputy to the Chairperson of the Commission and establishes the position of Executive Director of the Commission (Executive Director), who shall be appointed by the Commission, to administer and implement, under the direction of the Commission, the State Water Code, the rules, and other directives adopted by the Commission.

Your Committees further find that the proposed S.D. 1 amends the composition of the Commission and administratively attaches it to the Department of Land and Natural Resources. According to testimony received by your Committees, there is concern that the current composition of the Commission makes it vulnerable to undue political influence that may hinder emergency action or enforcement of the State Water Code against wealthy and politically powerful interests. Your Committees further find that it is essential to ensure that the Commission is able to act independently in its administration and implementation of the State Water Code. The proposed S.D. 1 will protect the Commission from undue political influence by specifying that the Chairperson of the Commission shall be elected by a majority of members of the Commission. Your Committees note that the Chairperson of the Board of Land and Natural Resources and the Director of Health or their designee shall serve as ex officio, voting members of the Commission, but shall be ineligible to serve as Chairperson of the Commission. Your Committees also note that the Executive Director shall be evaluated according to annual goals, performance measures, and other relevant criteria to ensure that more objective standards are used to assess the performance of the Executive Director and the Commission's staff.

Your Committees also find that the proposed S.D. 1 establishes fines for certain water use offenses. Meaningful penalties are needed to deter violations of the State Water Code for the protection and preservation of the State's water resources. The proposed S.D. 1 will ensure that violators of the State Water Code are held accountable by authorizing the Commission to issue fines of up to \$25,000 on a case-by-case basis.



Finally, your Committees have heard testimony expressing concern that the Executive Director, and by extension, the Commission, be further insulated from external interests that may obstruct the Commission's administration and implementation of the State Water Code. Amendments to the proposed S.D. 1 to ensure the autonomy of the Commission are therefore needed.

Accordingly, your Committees have amended this measure by adopting the proposed S.D. 1 and by making further amendments:

- (1) Clarifying that the position of the WAI Policy Coordinator shall be placed within the Office of the Executive Director of the Commission, rather than the office of the Chairperson of the Board of Land and Natural Resources;
- (2) Inserting language that authorizes the Commission to employ outside legal council;
- (3) Inserting language that amends the scope of the Commission's authority to declare water emergencies;
- (4) Specifying that the nominating committee of the Commission shall include one person appointed by the Chief Executive Officer of the Office of Hawaiian Affairs;
- (5) Inserting language that authorizes entities to challenge an emergency order of the Commission under certain conditions;
- (6) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (7) Amending section 1 to reflect its amended purpose;
- (8) Amending section 7 to reflect its amended purpose; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.



As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2690, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2690, H.D. 2, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Water and Land  
and Agriculture and  
Environment,



MIKE GABBARD, Chair

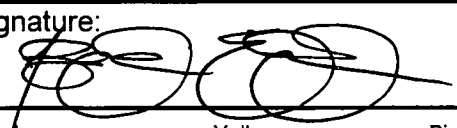


LORRAINE R. INOUE, Chair



The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

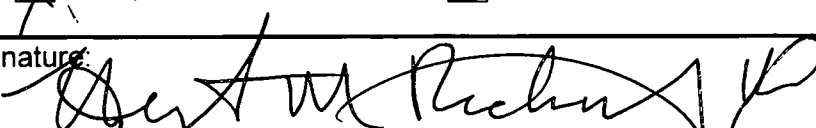
**Record of Votes**  
**Committee on Water and Land**  
**WTL**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2690, HD 2	WTL/AEN, WAM/JDC	3/20/24		
<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
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)		✓		
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.				✓
FEVELLA, Kurt		✓		
<b>TOTAL</b>	2	2	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink	Goldenrod	
File with Committee Report	Clerk's Office	Drafting Agency	Committee File Copy	

\*Only one measure per Record of Votes

The Senate  
 Thirty-Second Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Agriculture and Environment**  
**AEN**

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 2690 HD2 <del>SD</del>	WTL/AEN, WAM/JDC	03/20/24		
<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
GABBARD, Mike (C)	X			
RICHARDS, III, Herbert M. "Tim" (VC)		X		
DECOITE, Lynn		X		
RHOADS, Karl				X
AWA, Brenton				X
<b>TOTAL</b>	1	2		2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original                      Yellow                      Pink                      Goldenrod File with Committee Report    Clerk's Office              Drafting Agency              Committee File Copy				

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