

JAN 15 2025

---

---

# A BILL FOR AN ACT

RELATING TO WATER.

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

1           SECTION 1. The legislature finds that effective and  
2 efficient water resource management requires continuous and  
3 experienced leadership, especially given the climate crisis and  
4 urgent need to properly steward water resources to meet the  
5 housing needs of local residents. On December 28, 1994, the  
6 review commission on the state water code submitted its final  
7 report to the legislature pursuant to Act 45, Session Laws of  
8 Hawaii 1987. The review commission determined that amendments  
9 to the state water code were necessary to enable the commission  
10 on water resource management to more effectively carry out its  
11 mandate pursuant to article XI, section 7, of the Hawaii State  
12 Constitution to "set overall water conservation, quality and use  
13 policies; define beneficial and reasonable uses; protect ground  
14 and surface water resources, watersheds and natural stream  
15 environments; establish criteria for water use priorities while  
16 assuring appurtenant rights and existing correlative and  
17 riparian uses and establish procedures for regulating all uses



1 of Hawaii's water resources." Therefore, further clarification  
2 of the commission on water resource management's purpose,  
3 including its leadership structure and composition of the  
4 commission, will provide greater accountability and protection  
5 of the State's waters.

6 The purpose of this Act is to:

7 (1) Authorize the commission on water resource management  
8 to retain independent legal counsel;

9 (2) Amend the powers and duties of the commission on water  
10 resource management regarding the declaration of  
11 emergencies;

12 (3) Specify that the commission on water resource  
13 management shall be responsible for the management of  
14 groundwater near the Red Hill Bulk Fuel Storage  
15 Facility;

16 (4) Repeal the position of first deputy to the chairperson  
17 of the commission on water resource management and  
18 establish the position of executive director of the  
19 commission on water resource management;

20 (5) Amend the composition, and designation of the  
21 chairperson, of the commission on water resource



1 management, limit the commission's placement within  
2 the department of land and natural resources for  
3 administrative purposes only, and add one member to  
4 the nominating committee for the commission;

5 (6) Authorize entities to challenge an emergency order of  
6 the commission on water resource management under  
7 certain conditions;

8 (7) Establish fines for certain water use offenses; and

9 (8) Transfer all rights, powers, functions, and duties of  
10 the department of land and natural resources relating  
11 to water resource management to the commission on  
12 water resource management.

13 SECTION 2. Section 28-8.3, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending subsection (a) to read:

16 "(a) No department of the State other than the attorney  
17 general may employ or retain any attorney, by contract or  
18 otherwise, for the purpose of representing the State or the  
19 department in any litigation, rendering legal counsel to the  
20 department, or drafting legal documents for the department;



1 provided that the foregoing provision shall not apply to the  
2 employment or retention of attorneys:

3 (1) By the public utilities commission, the labor and  
4 industrial relations appeals board, and the Hawaii  
5 labor relations board;

6 (2) By any court or judicial or legislative office of the  
7 State; provided that if the attorney general is  
8 requested to provide representation to a court or  
9 judicial office by the chief justice or the chief  
10 justice's designee, or to a legislative office by the  
11 speaker of the house of representatives and the  
12 president of the senate jointly, and the attorney  
13 general declines to provide [~~such~~] representation on  
14 the grounds of conflict of interest, the attorney  
15 general shall retain an attorney for the court,  
16 judicial, or legislative office, subject to approval  
17 by the court, judicial, or legislative office;

18 (3) By the legislative reference bureau;

19 (4) By any compilation commission that may be constituted  
20 from time to time;



# S.B. NO. 3

- 1           (5) By the real estate commission for any action involving
- 2           the real estate recovery fund;
- 3           (6) By the contractors license board for any action
- 4           involving the contractors recovery fund;
- 5           (7) By the office of Hawaiian affairs;
- 6           (8) By the department of commerce and consumer affairs for
- 7           the enforcement of violations of chapters 480 and
- 8           485A;
- 9           (9) As grand jury counsel;
- 10          (10) By the Hawaii health systems corporation, or its
- 11          regional system boards, or any of their facilities;
- 12          (11) By the auditor;
- 13          (12) By the office of ombudsman;
- 14          (13) By the insurance division;
- 15          (14) By the University of Hawaii;
- 16          (15) By the Kahoolawe island reserve commission;
- 17          (16) By the division of consumer advocacy;
- 18          (17) By the office of elections;
- 19          (18) By the campaign spending commission;
- 20          (19) By the Hawaii tourism authority, as provided in
- 21          section 201B-2.5;



- 1 (20) By the division of financial institutions;
- 2 (21) By the office of information practices;
- 3 (22) By the school facilities authority;
- 4 (23) By the Mauna Kea stewardship and oversight authority;
- 5 [œ]
- 6 (24) By the commission on water resource management; or
- 7 [~~(24)~~] (25) By a department, if the attorney general, for
- 8 reasons deemed by the attorney general to be good and
- 9 sufficient, declines to employ or retain an attorney
- 10 for a department; provided that the governor waives
- 11 the provision of this section."

12 2. By amending subsection (c) to read:

13 "(c) Every attorney employed by any department on a full-

14 time basis, except an attorney employed by the public utilities

15 commission, the labor and industrial relations appeals board,

16 the Hawaii labor relations board, the office of Hawaiian

17 affairs, the Hawaii health systems corporation or its regional

18 system boards, the department of commerce and consumer affairs

19 in prosecution of consumer complaints, insurance division, the

20 division of consumer advocacy, the University of Hawaii, the

21 Hawaii tourism authority as provided in section 201B-2.5, the



1 Mauna Kea stewardship and oversight authority, the commission on  
2 water resource management, the office of information practices,  
3 or as grand jury counsel, shall be a deputy attorney general."

4 SECTION 3. Section 84-18, Hawaii Revised Statutes, is  
5 amended by amending subsection (e) to read as follows:

6 "(e) Subject to the restrictions imposed in subsections  
7 (a) through (d), the following individuals shall not represent  
8 any person or business for a fee or other consideration  
9 regarding any legislative action or administrative action, as  
10 defined in section 97-1, for twelve months after termination  
11 from their respective positions:

- 12 (1) The governor;
- 13 (2) The lieutenant governor;
- 14 (3) The administrative director of the State;
- 15 (4) The attorney general;
- 16 (5) The comptroller;
- 17 (6) The chairperson of the board of agriculture;
- 18 (7) The director of corrections and rehabilitation;
- 19 (8) The director of finance;
- 20 (9) The director of business, economic development, and  
21 tourism;



# S.B. NO. 3

- 1       (10) The director of commerce and consumer affairs;
- 2       (11) The adjutant general;
- 3       (12) The superintendent of education;
- 4       (13) The chairperson of the Hawaiian homes commission;
- 5       (14) The director of health;
- 6       (15) The director of human resources development;
- 7       (16) The director of human services;
- 8       (17) The director of labor and industrial relations;
- 9       (18) The chairperson of the board of land and natural
- 10       resources;
- 11       (19) The director of law enforcement;
- 12       (20) The director of taxation;
- 13       (21) The director of transportation;
- 14       (22) The president of the University of Hawaii;
- 15       (23) The executive administrator of the board of regents of
- 16       the University of Hawaii;
- 17       (24) The administrator of the office of Hawaiian affairs;
- 18       (25) The chief information officer;
- 19       (26) The executive director of the agribusiness development
- 20       corporation;





- 1       (27) The executive director of the campaign spending
- 2               commission;
- 3       (28) The executive director of the Hawaii community
- 4               development authority;
- 5       (29) The executive director of the Hawaii housing finance
- 6               and development corporation;
- 7       (30) The president and chief executive officer of the
- 8               Hawaii tourism authority;
- 9       (31) The executive officer of the public utilities
- 10              commission;
- 11       (32) The state auditor;
- 12       (33) The director of the legislative reference bureau;
- 13       (34) The ombudsman;
- 14       (35) The permanent employees of the legislature, other than
- 15              persons employed in clerical, secretarial, or similar
- 16              positions;
- 17       (36) The administrative director of the courts;
- 18       (37) The executive director of the state ethics commission;
- 19       (38) The executive officer of the state land use
- 20              commission;



- 1 (39) The executive director of the natural energy
  - 2 laboratory of Hawaii authority;
  - 3 (40) The executive director of the Hawaii public housing
  - 4 authority; and
  - 5 (41) The [~~first deputy to the chairperson~~] executive
  - 6 director of the commission on water resource
  - 7 management;
- 8 provided that this subsection shall not apply to any person who
- 9 has held one of the positions listed above only on an interim or
- 10 acting basis and for a period of less than one hundred eighty-
- 11 one days."

12 SECTION 4. Section 174C-5, Hawaii Revised Statutes, is

13 amended to read as follows:

14 "**§174C-5 General powers and duties.** The general

15 administration of the state water code shall rest with the

16 commission on water resource management. In addition to its

17 other powers and duties, the commission:

- 18 (1) Shall carry out topographic surveys, research, and
- 19 investigations into all aspects of water use and water
- 20 quality;



- 1           (2) Shall designate water management areas for regulation  
2           under this chapter where the commission, after the  
3           research and investigations mentioned in paragraph  
4           (1), shall consult with the appropriate county council  
5           and county water agency, and after public hearing and  
6           published notice, finds that the water resources of  
7           the areas are being threatened by existing or proposed  
8           withdrawals of water;
- 9           (3) Shall establish an instream use protection program  
10          designed to protect, enhance, and reestablish, where  
11          practicable, beneficial instream uses of water in the  
12          State;
- 13          (4) May contract and cooperate with the various agencies  
14          of the federal government and with state and local  
15          administrative and governmental agencies or private  
16          persons;
- 17          (5) May enter, after obtaining the consent of the property  
18          owner, at all reasonable times upon any property other  
19          than dwelling places for the purposes of conducting  
20          investigations and studies or enforcing any of the  
21          provisions of this code, being liable, however, for



- 1 actual damage done. If consent cannot be obtained,  
2 reasonable notice shall be given prior to entry;
- 3 (6) Shall cooperate with federal agencies, other state  
4 agencies, county or other local governmental  
5 organizations, and all other public and private  
6 agencies created for the purpose of utilizing and  
7 conserving the waters of the State, and assist these  
8 organizations and agencies in coordinating the use of  
9 their facilities and participate in the exchange of  
10 ideas, knowledge, and data with these organizations  
11 and agencies. For this purpose the commission shall  
12 maintain an advisory staff of experts;
- 13 (7) Shall prepare, publish, and issue printed pamphlets  
14 and bulletins as the commission deems necessary for  
15 the dissemination of information to the public  
16 concerning its activities;
- 17 (8) May appoint and remove agents, including hearings  
18 officers and consultants, necessary to carry out the  
19 purposes of this chapter, who may be engaged by the  
20 commission without regard to the requirements of  
21 chapter 76 and section 78-1;



- 1           (9) May hire employees in accordance with chapter 76;
- 2           (10) May appoint and dismiss attorneys as may be necessary,  
3           who shall be exempt from chapter 76;
- 4       ~~[(10)]~~ (11) May acquire, lease, and dispose of real and  
5           personal property as may be necessary in the  
6           performance of its functions, including the  
7           acquisition of real property for the purpose of  
8           conserving and protecting water and ~~[water-related]~~  
9           water-related resources as provided in section 174C-  
10          14;
- 11       ~~[(11)]~~ (12) Shall identify, by continuing study, those areas  
12          of the State where salt water intrusion is a threat to  
13          fresh water resources and report its findings to the  
14          appropriate county mayor and council and the public;
- 15       ~~[(12)]~~ (13) Shall provide coordination, cooperation, or  
16          approval necessary to the effectuation of any plan or  
17          project of the federal government in connection with  
18          or concerning the waters of the State. The commission  
19          shall approve or disapprove any federal plans or  
20          projects on behalf of the State. No other agency or  
21          department of the State shall assume the duties



# S.B. NO. 3

1 delegated to the commission under this paragraph;  
2 except that the department of health shall continue to  
3 exercise the powers vested in it with respect to water  
4 quality, and except that the department of business,  
5 economic development, and tourism shall continue to  
6 carry out its duties and responsibilities under  
7 chapter 205A;

8 ~~[(13)]~~ (14) Shall plan and coordinate programs for the  
9 development, conservation, protection, control, and  
10 regulation of water resources, based upon the best  
11 available information, and in cooperation with federal  
12 agencies, other state agencies, county or other local  
13 governmental organizations, and other public and  
14 private agencies created for the utilization and  
15 conservation of water;

16 ~~[(14)]~~ (15) Shall catalog and maintain an inventory of all  
17 water uses and water resources; ~~[and]~~

18 ~~[(15)]~~ (16) Shall determine appurtenant water rights,  
19 including but not limited to the quantification of the  
20 amount of water and the specification of the water  
21 course or the means of access and delivery entitled to



# S.B. NO. 3

1 by that right, which determination shall be valid for  
2 purposes of this chapter[-];

3 (17) May declare an emergency if the commission determines,  
4 in consultation with the governor, the appropriate  
5 county, and the department of health, that there is an  
6 absence of sufficient quantity and quality of water in  
7 any area, whether within or outside of a water  
8 management area, that immediately threatens the public  
9 health, safety, and welfare. The commission may issue  
10 orders reciting the existence of the emergency and  
11 requiring those actions as the commission deems  
12 necessary to address the emergency be taken, including  
13 but not limited to apportioning, rotating, limiting,  
14 or prohibiting the use of water resources of the area;  
15 provided that an emergency order shall expire no later  
16 than one year after issuance by the commission;  
17 provided further that the order may be extended by a  
18 separate or supplementary order; and

19 (18) Shall manage the groundwater near the Red Hill Bulk  
20 Fuel Storage Facility."



1 SECTION 5. Section 174C-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§174C-6 ~~[Deputy to the chairperson]~~ Executive director of  
4 the commission on water resource management. (a) There shall  
5 be ~~[a first deputy to the chairperson]~~ an executive director of  
6 the commission on water resource management ~~[("deputy for water~~  
7 ~~resource management") who shall be in addition to any other~~  
8 ~~first deputy to the chairperson as the chairperson of the board~~  
9 ~~of land and natural resources. The deputy], who shall have  
10 experience in the area of water resources and shall be appointed  
11 by ~~[the chairperson with the approval of a majority of]~~ the  
12 commission~~[.]~~ and serve at the pleasure of the commission.~~

13 (b) The duties of the ~~[deputy for water resource~~  
14 ~~management]~~ executive director shall be to administer and  
15 implement, under the direction of the commission, the state  
16 water code ~~[and all]~~, the rules, and other directives  
17 ~~[promulgated in accordance therewith]~~ adopted by the commission.  
18 Nothing in this ~~[provision]~~ section shall be construed as  
19 limiting the authority of the commission as to matters regarding  
20 water resources.





1 (c) The position of [~~deputy for water resource management~~  
2 ~~is not~~] executive director shall not be subject to chapter 76.

3 (d) The salary of the [~~deputy for water resource~~  
4 ~~management~~] executive director shall be [as provided in section  
5 26-53 for first deputies or first assistants to the head of any  
6 department.] set by the board, and the executive director shall  
7 be included in any benefit program generally applicable to the  
8 officers and employees of the State.

9 (e) The commission shall develop and document annual goals  
10 and performance measures for the executive director that  
11 authorize the commission to annually evaluate the executive  
12 director's work to ensure compliance by the commission with  
13 statutory and constitutional requirements and achievement of its  
14 statutory and constitutional purposes.

15 (f) The commission shall evaluate and document the  
16 evaluation of the executive director's performance annually, or  
17 more frequently upon the request of at least four members of the  
18 commission, based on annual goals, performance measures, and  
19 other relevant criteria."

20 SECTION 6. Section 174C-7, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§174C-7 Commission on water resource management.** (a)  
2 There is established [~~within the department~~] a commission on  
3 water resource management consisting of seven members [~~which~~]  
4 that shall have exclusive jurisdiction and final authority in  
5 all matters relating to implementation and administration of the  
6 state water code, except as otherwise specifically provided in  
7 this chapter. The commission shall be placed within the  
8 department for administrative purposes only.

9           (b) Five members shall be appointed by the governor  
10 subject to confirmation by the senate in the manner prescribed  
11 in subsection [~~(d)~~] (e). Each member shall have substantial  
12 experience in the area of water resource management; provided  
13 that at least one member shall have substantial experience or  
14 expertise in traditional Hawaiian water resource management  
15 techniques and in traditional Hawaiian riparian usage such as  
16 those preserved by section 174C-101. Each of the members shall  
17 be eligible to serve as the chairperson of the commission upon  
18 election by a majority of the commission members, except as  
19 provided in subsection (c).

20           (c) The chairperson of the board of land and natural  
21 resources [~~shall be the chairperson of the commission. The~~] and



1 the director of health or the director's designee shall serve as  
2 [~~an~~] ex officio[~~+~~], [~~+~~] voting [~~member.~~] members; provided that  
3 neither the chairperson nor the director or the director's  
4 designee shall be eligible to serve as chairperson of the  
5 commission.

6 [~~+e+~~] (d) The members of the commission shall serve  
7 without compensation but shall be reimbursed for expenses,  
8 including travel expenses, necessary for the performance of  
9 their duties.

10 [~~+d+~~] (e) In appointing a member to the commission, the  
11 governor shall select from a list submitted by a nominating  
12 committee. The nominating committee shall be composed of [~~four~~]  
13 five individuals chosen as follows: two persons appointed by  
14 the governor; one person appointed by the president of the  
15 senate; one person appointed by the speaker of the house[~~+~~] of  
16 representatives; and one person appointed by the chief executive  
17 officer of the office of Hawaiian affairs. The committee shall  
18 solicit applications and send to the governor the names of at  
19 least three individuals for each open position.



1           ~~(e)~~ (f) Except as otherwise provided in this chapter,  
2 the commission shall be subject to sections 26-34, 26-35, and  
3 26-36."

4           SECTION 7. Section 174C-9, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "~~§~~174C-9~~§~~ **Proceedings before the commission**

7 **concerning water resources.** (a) All proceedings before the  
8 commission concerning the enforcement or application of any  
9 provision of this chapter or any rule adopted pursuant thereto,  
10 or the issuance, modification, or revocation of any permit or  
11 license under this code by the commission, shall be conducted in  
12 accordance with chapter 91. Hearings regarding particular water  
13 resources shall be conducted on the island where those water  
14 resources are located.

15           (b) Any party to whom an emergency order is directed may  
16 challenge that order but shall immediately comply with the order  
17 pending disposition of the party's challenge. The commission  
18 shall give precedence to a hearing on the challenge over all  
19 other pending matters."

20           SECTION 8. Section 174C-15, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "**§174C-15 Penalties and common law remedies.** (a) The  
2 commission may enforce its rules and orders adopted pursuant to  
3 this chapter by suit for injunction or for damages or both.

4       (b) Any person who [~~violates any~~]:

5       (1) Violates any provision of this chapter[~~, or any~~];

6       (2) Violates any rule adopted pursuant to this chapter[~~,~~  
7       may];

8       (3) Violates any order of the commission;

9       (4) Fails to obtain a permit when a permit is required  
10       pursuant to this chapter;

11       (5) Fails to comply with permit conditions; or

12       (6) Fails to comply with standardized water audit  
13       requirements pursuant to Act 169, Session Laws of  
14       Hawaii 2016,

15 shall be subject to a fine imposed by the commission. [~~Such~~]  
16 The fine shall be not less than \$50 and shall not exceed  
17 [\$5,000. ~~For a continuing offense, each day during which the~~  
18 ~~offense is committed is a separate violation.~~] \$25,000 per  
19 violation. Each day that a violation exists or continues to  
20 exist shall constitute a separate offense. Penalties for  
21 continuing violations shall be assessed from the earliest known



1 date of the violation. The earliest known date of a violation  
2 shall be determined by the commission by a preponderance of the  
3 evidence; provided that, if the earliest known date cannot be  
4 determined by a preponderance of evidence, penalties for  
5 continuing violations shall be assessed from the earliest date  
6 the commission is made aware of the violation.

7 (c) When imposing a penalty, the commission shall consider  
8 the following factors, which shall include but not be limited  
9 to:

- 10 (1) The nature, circumstances, extent, gravity, and  
11 history of the violation and of any prior violations;  
12 (2) The economic benefit to the violator, or anticipated  
13 by the violator, resulting from the violation;  
14 (3) The opportunity, difficulty, and history of corrective  
15 action;  
16 (4) Good faith efforts to comply;  
17 (5) Degree of culpability; and  
18 (6) Other matters as justice may require.

19 ~~(e)~~ (d) No provision of this chapter shall bar the right  
20 of any injured person to seek other legal or equitable relief  
21 against a violator of this chapter.



1        [~~(d)~~] (e) Except as otherwise provided by law, the  
2        commission or its authorized representative by proper delegation  
3        [~~may~~] shall set, charge, and collect administrative fines [~~or~~];  
4        may bring legal action to recover administrative fees and costs  
5        as documented by receipts or affidavit, including [~~attorneys'~~]  
6        attorney's fees and costs; [~~or~~] and may bring legal action to  
7        recover administrative fines, fees, and costs, including  
8        [~~attorneys'~~] attorney's fees and costs, or payment for damages  
9        resulting from a violation of this chapter or any rule adopted  
10       pursuant to this chapter."

11       SECTION 9. Section 174C-62, Hawaii Revised Statutes, is  
12       amended to read as follows:

13       "~~[§]~~**§174C-62**~~[§]~~ **Declaration of water shortage.** (a) The  
14       commission shall formulate a statewide plan for implementation  
15       during periods of water shortage. As a part of the plan, the  
16       commission shall adopt a reasonable system of permit  
17       classification according to source of water supply, method of  
18       extraction or diversion, use of water, or a combination thereof.

19       (b) The commission, by rule, may declare that a water  
20       shortage exists within all or part of an area, whether within or  
21       outside of a water management area, when insufficient water is



1 available to meet the requirements of the permit system or when  
2 conditions [~~are such as to~~] require a temporary reduction in  
3 total water use within the area to protect water resources from  
4 serious harm. The commission shall publish a set of criteria  
5 for determining when a water shortage exists[~~+~~], including but  
6 not limited to impacts and effects of the climate crisis.

7 (c) In accordance with the plan adopted under subsection  
8 (a), the commission may impose [~~such~~] restrictions on one or  
9 more classes of permits and outside of management areas on well  
10 and stream diversion owners and operators as may be necessary to  
11 protect the water resources of the area from serious harm and to  
12 restore them to their previous water quantity or chloride level  
13 condition.

14 (d) A declaration of water shortage and any measures  
15 adopted pursuant thereto may be rescinded by rule by the  
16 commission.

17 (e) When a water shortage is declared, the commission  
18 shall cause a notice [~~thereof~~] of the water shortage to be  
19 published in a prominent place in a newspaper of general  
20 circulation throughout the area[~~+~~] and on the commission's  
21 website. The notice shall be published each day for the first





1 week of the shortage and once a week [~~thereafter~~] for four  
2 months, followed by monthly publications until the declaration  
3 is rescinded. Publication of [~~such~~] the notice shall serve as  
4 notice to all water users in the area of the condition of water  
5 shortage.

6 (f) The commission shall cause each permittee in the area  
7 to be notified by regular and electronic mail of any change in  
8 the conditions of the permittee's permit, any suspension  
9 [~~thereof,~~] of the permittee's permit, or of any other  
10 restriction on the use of water for the duration of the water  
11 shortage.

12 [~~(g) If an emergency condition arises due to a water~~  
13 ~~shortage within any area, whether within or outside of a water~~  
14 ~~management area, and if the commission finds that the~~  
15 ~~restrictions imposed under subsection (c) are not sufficient to~~  
16 ~~protect the public health, safety, or welfare, or the health of~~  
17 ~~animals, fish, or aquatic life, or a public water supply, or~~  
18 ~~recreational, municipal, agricultural, or other reasonable uses,~~  
19 ~~the commission may issue orders reciting the existence of such~~  
20 ~~an emergency and requiring that such actions as the commission~~  
21 ~~deems necessary to meet the emergency be taken, including but~~



1 ~~not limited to apportioning, rotating, limiting, or prohibiting~~  
2 ~~the use of the water resources of the area. Any party to whom~~  
3 ~~an emergency order is directed may challenge such an order but~~  
4 ~~shall immediately comply with the order, pending disposition of~~  
5 ~~the party's challenge. The commission shall give precedence to~~  
6 ~~a hearing on such challenge over all other pending matters.]"~~

7 SECTION 10. All rights, powers, functions, and duties of  
8 the department of land and natural resources relating to water  
9 resource management are transferred to the commission on water  
10 resource management.

11 SECTION 11. All appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the department of land and natural  
15 resources relating to the functions transferred to the  
16 commission on water resource management shall be transferred  
17 with the functions to which they relate.

18 All employees who occupy civil service positions and whose  
19 functions are transferred to the commission on water resource  
20 management by this Act shall retain their civil service status,  
21 whether permanent or temporary. Employees shall be transferred



1 without loss of salary, seniority (except as prescribed by  
2 applicable collective bargaining agreements), retention points,  
3 prior service credit, any vacation and sick leave credits  
4 previously earned, and other rights, benefits, and privileges,  
5 in accordance with state personnel laws and this Act; provided  
6 that the employees possess the minimum qualifications and public  
7 employment requirements for the class or position to which  
8 transferred or appointed, as applicable; provided further that  
9 subsequent changes in status may be made pursuant to applicable  
10 civil service and compensation laws.

11 Any employee who, prior to this Act, is exempt from civil  
12 service and is transferred as a consequence of this Act may  
13 retain the employee's exempt status but shall not be appointed  
14 to a civil service position as a consequence of this Act. An  
15 exempt employee who is transferred by this Act shall not suffer  
16 any loss of prior service credit, vacation or sick leave credits  
17 previously earned, or other employee benefits or privileges as a  
18 consequence of this Act; provided that the employees possess  
19 legal and public employment requirements for the position to  
20 which transferred or appointed, as applicable; provided further  
21 that subsequent changes in status may be made pursuant to



1 applicable employment and compensation laws. The executive  
2 director of the commission on water resource management may  
3 prescribe the duties and qualifications of these employees and  
4 fix their salaries without regard to chapter 76, Hawaii Revised  
5 Statutes.

6 SECTION 12. All rules, policies, procedures, guidelines  
7 and other material relating to water resource management adopted  
8 or developed by the board or department of land and natural  
9 resources shall remain in full force and effect until amended or  
10 repealed by the commission on water resource management pursuant  
11 to chapter 91, Hawaii Revised Statutes.

12 In the interim, every reference to the board or department  
13 of land and natural resources or chairperson of the board of  
14 land and natural resources in those rules, policies, procedures,  
15 guidelines, and other material is amended to refer to the  
16 commission on water resource management or executive director of  
17 the commission on water resource management, as appropriate.

18 SECTION 13. All deeds, leases, contracts, loans,  
19 agreements, permits, or other documents executed or entered into  
20 by or on behalf of the board or department of land and natural  
21 resources relating to water resource management shall remain in



1 full force and effect. Upon the effective date of this Act,  
2 every reference to the board or department of land and natural  
3 resources or the chairperson of the board of land and natural  
4 resources therein shall be construed as a reference to the  
5 commission on water resource management or executive director of  
6 the commission on water resource management, as appropriate.

7 SECTION 14. If any provision of this Act, or the  
8 application thereof to any person or circumstance, is held  
9 invalid, the invalidity does not affect other provisions or  
10 applications of the Act that can be given effect without the  
11 invalid provision or application, and to this end the provisions  
12 of this Act are severable.

13 SECTION 15. This Act does not affect rights and duties  
14 that matured, penalties that were incurred, and proceedings that  
15 were begun before its effective date.

16 SECTION 16. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.



# S.B. NO. 3

1           SECTION 17. This Act shall take effect upon its approval;  
2 provided that section 6 of this Act shall take effect on July 1,  
3 2026.

4

INTRODUCED BY: *Maguire L. Amodeo*



**Report Title:**

DLNR; CWRM; OHA; Responsibilities; Commission Membership; Executive Director; Independent Legal Counsel; Emergency Order; Water Emergencies; Water Shortage Declarations; Red Hill Bulk Fuel Storage Facility; Fines

**Description:**

Authorizes the Commission of Water Resource Management to retain independent legal counsel. Repeals the position of First Deputy to the Chairperson of the CWRM and establishes the position of Executive Director of the CWRM. Authorizes entities to challenge an emergency order of the CWRM under certain conditions. Establishes fines for certain water use offenses. Amends the CWRM's authority to declare water emergencies and issue orders to address them and declare water shortages and related notice requirements. Adds the management of groundwater near the Red Hill Bulk Fuel Storage Facility to the powers and duties of the CWRM. Transfers all rights, powers, functions, and duties of DLNR relating to water resource management to CWRM. Effective 7/1/2026, amends the composition of the CWRM, amends the designation of the Chairperson of the CWRM, limits CWRM's placement within the Department of Land and Natural Resources for administrative purposes only, and adds one member to the nominating committee for CWRM, to be appointed and by the Chief Executive Officer of the Office of Hawaiian Affairs.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

