

**ACT 148**

A Bill for an Act Relating to Flood Control and Amending Chapter 87C, Revised Laws of Hawaii 1955, as Amended.

*Be it Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 87C, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**“Sec. 87C-1. Declaration of purpose.** It is hereby declared:

(a) That floods caused by heavy rainstorms and abnormal tidal action are detrimental to the health, safety, and general welfare of the people of the State, resulting in jeopardy to and the loss of life and property, disruption of commerce, and interruption of transportation and communications; that the reduction of flood damage is therefore of primary importance to the people of the State; and the conservation and beneficial use of flood water is an essential adjunct to rainfall drainage and flood control.

(b) It is the purpose of this Act to provide for the coordination by the State of all federal and state flood control projects undertaken in Hawaii and for such technical and/or financial assistance to its political subdivisions as may be desirable or necessary to assure maximum benefits to the people of the State from the expenditure of state funds for flood control purposes.

(c) Nothing in this chapter shall prevent any political subdivision through its proper officials from requesting federal aid on its own initiative and at its own expense without having to secure state approval.

**Sec. 87C-2. Definitions.** The following terms, whenever used and referred to in this Act, shall have the following respective meanings, unless a different meaning clearly appears in the context:

'Abnormal tidal action' shall include high seas or surf, hurricane floods, and tsunamis or seismic waves.

'Board' shall mean the board of land and natural resources.

'Department' shall mean the department of land and natural resources.

'Drainage' shall mean the collection and conveyance of surface or subsurface water, storm runoff, or any other water to a disposal area, or into a watercourse or standing body of water to reduce damage to lands which are not necessarily adjacent to such watercourse or standing body of water, or to reclaim lands for beneficial use.

'Drainage facilities' shall mean any man-made construction undertaken for drainage purposes and shall include conduits, ditches, canals, dikes, embankments, dams, reservoirs, and other appropriate facilities.

'Drainage measures' shall include drainage facilities, land treatment, statutory and building code requirements relating to drainage, and any other measures intended to accomplish drainage purposes.

'Flood' shall mean the temporary inundation of usable lands caused by the overflow of an adjacent natural watercourse or standing body of water.

'Flood control,' 'flood water control,' and 'flood prevention,' shall mean the minimizing of flood damage by appropriate protective, preventive, and corrective measures.

'Flood control measures' shall include flood control works, land treatment, master planning and zoning to establish encroachment zones along watercourses and adjacent to standing bodies of water, training of flood fighting units, flood disaster plans and operations, and any other measures relating to flood control, flood water conservation, and flood damage.

'Flood control plan,' 'general flood control plan,' and 'plan' shall mean the report entitled General Flood Control Plan for Hawaii (Volume II of Flood Control and Flood Water Conservation in Hawaii), published by the board in January 1963.

'Flood control program' when referring to a specific watershed or subwatershed, shall mean all existing or planned flood control measures relating to such area; when referring to the statewide flood control program shall mean the general flood control plan and all activities of the board and department pursuant to the provisions of this Act.

'Flood control project,' 'federal flood control project,' and 'state flood control project' shall mean, respectively: (1) specific flood control works which comprise all or a portion of the works needed to complete a specific flood control program; (2) a flood control project authorized and implemented pursuant to the Federal Flood Control Act of 1936 or the Watershed Protection and Flood Prevention Act of 1958, as amended or supplemented, and (3) a flood control project sponsored and financed by the State and authorized and implemented pursuant to section C-4(c) of this Act.

'Flood control works,' 'works of improvement,' 'works,' or 'flood control facilities' shall mean any man-made construction undertaken to confine storm runoff within a natural watercourse, conserve such runoff, or lessen the energy and effect of abnormal tidal action, and shall include

conduits, ditches, canals, levees, dikes, embankments, dams, reservoirs, breakwaters, groins, seawalls, and other appropriate facilities.

'Flood water conservation' shall mean the confinement, storage and beneficial utilization of storm runoff by the construction, operation, maintenance, and supervision of drainage and flood control facilities.

'Political subdivision' shall mean any of the several counties under existence in the State by virtue of the laws of Hawaii or any legally organized district or political incorporation thereof.

'Watercourse' or 'natural watercourse' shall mean any river, stream, gulch, gully, valley floor, or any other naturally formed channel having a bed and sides or banks in which water flows either perennially or intermittently. 'Natural watercourse' shall also include a drainage ditch in existence after seven years from installation but shall not include a ravine, swale, or similar depression within which water flows only during rainfall.

'Standing body of water' shall mean a fresh water pond, lake, or reservoir, or the Pacific Ocean along an extended shoreline or a tidal inlet such as a bay, harbor, pond, or estuary.

'United States' shall mean the United States of America, including the agencies, instrumentalities, officers, agents, or employees thereof.

**Sec. 87C-3. Statewide flood control agency and program.**

(a) The board of land and natural resources, whose functions include under the existing laws of Hawaii, the management and administration of water resources of the State, is hereby designated as the state agency responsible for the accomplishment of the purposes of this Act.

(b) All flood control and flood water conservation and related activities, and any attendant powers and duties, heretofore assigned to other state departments or agencies, but not including flood disaster operations, shall be transferred to the board upon the enactment of this law.

(c) It is declared that the general flood control plan is to be regarded as a general guide for the orderly and coordinated implementation of a statewide flood control program and the specific existing and planned flood control programs and the specific existing and planned flood control programs comprising the plan to be financed by state funds. This declaration is not to be construed so as to constitute approval of the specific flood control programs included in the plan. Nor shall this declaration be construed so as to prohibit the development of lands bordering watercourses or standing bodies of water. The board may, from time to time, modify the plan to the extent that it finds such to be necessary or desirable.

**Sec. 87C-4. Powers, duties and jurisdiction of the board.** In addition to those powers and responsibilities of the board established by existing law, the board is authorized to implement the declared purposes of this Act with regard to flood control and flood water conservation in the following manner:

(a) Coordinate the programs and activities of all agencies of the State, in conformance with the objectives of the statewide flood control program.

(b) Compile, evaluate, interpret, and disseminate information for technical use and for the general information and education of the people of the State.

(c) Render technical assistance to the political subdivisions and other agencies of the State only upon request of the affected agencies in matters of master planning, zoning, qualifying for and constructing federal and state flood control projects, the training of flood fighting units, and related flood control activities.

(d) With regard to federal flood control projects: (1) review plans submitted by federal agencies for state approval and make appropriate recommendations to the governor; (2) formulate and recommend to the legislature of a general policy for state participation with the political subdivisions in the assurances of local cooperation required by federal flood control acts; (3) review requests from political subdivisions for financial assistance in meeting local participation requirements and make appropriate recommendations to the legislature; and (4) execute and administer agreements with political subdivisions to implement state assurances of participation in federal flood control projects.

(e) For meritorious proposed projects which do not meet feasibility standards for federal flood control projects: (1) formulate state feasibility criteria and project funding procedures; (2) study, evaluate, and determine the feasibility of proposed projects in accordance with established criteria and make recommendations to the legislature; (3) execute and administer agreements with political subdivisions to assure compliance with the conditions of state projects; and (4) design, prepare plans and specifications, obtain bids, let contracts, and supervise the construction of state flood control works.

(f) With regard to projects initiated and financed entirely by political subdivisions, render coordination and aid only if requested by the respective agencies."

**SECTION 2. Existing laws and severability.** All laws or parts of laws which are held to be inconsistent with this Act are hereby amended to conform with the provisions of this Act. The provisions of this Act are declared to be severable, and if any portion of this Act or the application thereof to any person, circumstance, or property is held to be invalid for any reason, the validity of the remainder of this Act or the application of such portion to other persons, circumstances or property shall not be affected thereby.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 3, 1963.) **H.B. 80.**

---