

S.B. NO. 1339

JAN 25 2023

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that illegal use of
2 fireworks in Hawaii has caused brush fires, structural fires,
3 injuries, and even death despite the various local, state, and
4 federal laws governing the manufacture, transportation,
5 distribution, sale, and use of fireworks that continue to be
6 violated at what appears to be an increasing rate. While law
7 enforcement efforts to control illegal fireworks in Hawaii have
8 had limited results, the legislature finds that a concerted
9 multi-jurisdictional approach is needed to address the illegal
10 fireworks problem in Hawaii.

11 The purpose of this Act is to establish an illegal
12 fireworks task force to plan, coordinate, and engage in law
13 enforcement operations to interdict illegal fireworks, develop a
14 comprehensive strategic plan to stop the importation of illegal
15 fireworks and explosives into Hawaii, promote compliance with
16 the state fireworks control laws, and ensure the safety and
17 security of the airports, harbors, and other facilities and

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1 institutions in the State against the discharge of illegal
2 fireworks and explosives.

3 SECTION 2. (a) There shall be established within the
4 department of law enforcement for administrative purposes the
5 illegal fireworks task force. The task force shall use the
6 findings from the legislative reference bureau's 2019 report,
7 "Blast from the Past: An Update to the Report of the Illegal
8 Fireworks Task Force to the Legislature for the Regular Session
9 of 2011", as the basis for developing a comprehensive strategic
10 plan to stop the importation of illegal fireworks and explosives
11 into Hawaii, promote compliance with the state fireworks control
12 laws, and ensure the safety and security of the airports,
13 harbors, and other facilities and institutions in the State
14 against the discharge of illegal fireworks and explosives.

15 (b) The director of law enforcement or the director's
16 designee shall be the chair of the task force.

17 (c) The following individuals or their designees shall
18 serve as members of the task force:

- 19 (1) Attorney general;
20 (2) Deputy director of the harbors division of the
21 department of transportation;
22 (3) Chief of police of each county police department; and

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1 (4) Prosecuting attorney of each county.

2 (d) The chair shall invite representatives of the
3 following federal entities to serve as members of the task
4 force:

5 (1) United States Attorney's Office, District of Hawaii;

6 (2) United States Department of Homeland Security;

7 (3) Federal Bureau of Alcohol, Tobacco, Firearms, and
8 Explosives;

9 (4) Federal Bureau of Investigation;

10 (5) United States Coast Guard;

11 (6) United States Customs and Border Protection; and

12 (7) United States Drug Enforcement Administration.

13 (e) The task force and their represented agencies may
14 plan, coordinate, and engage in law enforcement operations to
15 interdict illegal fireworks and the task force shall develop a
16 comprehensive strategic plan to stop the importation of illegal
17 fireworks and explosives into Hawaii, promote compliance with
18 the state fireworks control laws, and ensure the safety and
19 security of the airports, harbors, and other facilities and
20 institutions in the State against the discharge of illegal
21 fireworks and explosives.

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1 (f) The task force shall submit a report of its
2 comprehensive strategic plan, including findings,
3 recommendations, and any proposed legislation, to the
4 legislature no later than twenty days prior to the convening of
5 the regular session of 2024 and no later than twenty days prior
6 to the convening of the regular session of 2025.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ _____ or so
9 much thereof as may be necessary for fiscal year 2023-2024 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2024-2025 to carry out the purposes of this Act, including
12 the hiring of necessary administrative support staff for the
13 task force, operation of the task force, and reimbursement of
14 funds to law enforcement agencies for task-force-related law
15 enforcement operations, including law enforcement personnel,
16 overtime and other salary-related payments, charges for fuel,
17 equipment, and storage and disposal of confiscated fireworks.

18 The sums appropriated shall be expended by the department
19 of law enforcement.

20

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1 SECTION 4. This Act shall, upon its approval, take effect
2 on July 1, 2023, and shall be repealed on June 30, 2025.

3

4 INTRODUCED BY: M. N. M.

5 BY REQUEST

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Report Title:

Illegal Fireworks Task Force; Law Enforcement; Fireworks

Description:

Establishes the Illegal Fireworks Task Force within the Department of Law Enforcement to plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks, develop a comprehensive strategic plan to stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control laws, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State against the discharge of illegal fireworks and explosives. Requires a report to the Legislature. Appropriates funds.

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

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JUSTIFICATION SHEET

DEPARTMENT: Law Enforcement

TITLE: A BILL FOR AN ACT RELATING TO FIREWORKS.

PURPOSE: To establish the Illegal Fireworks Task Force within the Department of Law Enforcement to plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks, develop a comprehensive strategic plan to stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control law, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State against the discharge of illegal fireworks and explosives. The bill also requires a report to the legislature and appropriates funds.

MEANS: Establishes the Illegal Fireworks Task Force within the Department of Law Enforcement.

JUSTIFICATION: Despite existing county, state, and federal laws prohibiting the importation, distribution, possession, or use of illegal fireworks, the communities in Hawaii continue to see an increase in illegal fireworks. The Illegal Fireworks Task Force is needed to undertake a comprehensive collaborative review of the problem, plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks.

Impact on the public: There will be a positive impact to the public as the task force develops the required strategic plan that will help stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control law, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State

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against the discharge of illegal fireworks and explosives.

Impact on the department and other agencies:

The proposed measure will bring state, county, and federal partners together to develop a successful solution to the fireworks problems in Hawaii.

GENERAL FUND: _____.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION:

OTHER AFFECTED

AGENCIES:

LAW 900.

Department of Transportation, Department of the Attorney General, county police departments, county prosecutor offices, and various federal agencies upon invitation.

EFFECTIVE DATE: Upon approval.

A BILL FOR AN ACT

RELATING TO CARBON OFFSETS.

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

1 SECTION 1. The legislature finds that climate change is
2 the most pressing issue of our time. There are many
3 contributors to climate change, and transportation-generated
4 greenhouse gas emissions are a source. The legislature
5 acknowledges that, within the transportation sector, the air
6 transportation component faces particularly difficult technical
7 challenges in reducing carbon dioxide emissions associated with
8 air travel. Since air travel is essential to tourism, the
9 legislature notes that air travel and its associated carbon
10 emissions will remain key elements of Hawai‘i's intertwined
11 economy and climate for the foreseeable future.

12 In the past few years, the United Nations has established
13 an extensive framework for the provision of carbon offsets for
14 carbon emissions resulting from international air travel, known
15 as the carbon offsetting and reduction scheme for international
16 aviation (CORSIA). However, the Federal Aviation



1 Administration's CORSIA program does not apply to air travel to
2 Hawai'i from the continental United States.

3 The legislature further finds that, for essential
4 activities including air travel, that are intractably resistant,
5 at least in the near term, to technological solutions to carbon
6 emission reductions, the use of carbon offsets to compensate for
7 those emissions is a strategic necessity for achieving the zero
8 emission clean economy target set for the State by Act 15,
9 Session Laws of Hawaii 2018.

10 The legislature anticipates that many travelers will take
11 advantage of a program where air travelers may voluntarily
12 purchase carbon offsets from providers of the offsets, given the
13 increasing awareness by air travelers of the climate change
14 implications of their travel. The legislature additionally
15 finds that the ease of purchasing offsets may have the effect of
16 enhancing the desirability of travel to Hawai'i.

17 The purpose of this Act is to provide a process by which
18 the department of transportation shall assist persons traveling
19 by air to or from airports in Hawai'i in the purchase of
20 verifiable carbon offsets to compensate for carbon dioxide
21 emissions from air travel.



1 SECTION 2. Chapter 261, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§261- Air travel carbon offset purchase. (a) Pursuant
5 to its authority under section 261-4, the department shall
6 facilitate the voluntary purchase of verified carbon offsets by
7 persons engaging in qualified air travel to or from an airport
8 in the State. To effectuate this purpose, the department:

9 (1) Shall accept requests from each person who will be
10 engaging in, or has recently engaged in, qualified air
11 travel to or from an airport in the State for
12 assistance in voluntarily purchasing a verified carbon
13 offset for the carbon dioxide emissions associated
14 with the person's qualified air travel;

15 (2) Shall use reasonable best efforts to facilitate the
16 requestor's connection with a provider of verified
17 carbon offsets for carbon dioxide emissions from air
18 travel from whom the requestor may purchase a carbon
19 offset for the requestor's trip;

20 (3) Shall place information on the department's website
21 describing the process established by the department

1 to assist air travelers with purchasing verified
2 carbon offsets for their air travel from providers of
3 the offsets, including interactive capability by which
4 air travelers may arrange for the online purchase of
5 verified carbon offsets;

6 (4) Shall encourage airlines using airports in the State
7 to provide links on the airlines' respective websites
8 to the department's webpage concerning carbon offsets
9 for air travel;

10 (5) Shall maintain a list of public and private entities
11 that provide verified carbon offsets for passenger air
12 travel; and

13 (6) May contract with other entities to conduct one or
14 more of the duties described in paragraphs (1) through
15 (5).

16 (b) For the purposes of this section:

17 "Carbon offset" means a reduction in carbon dioxide or
18 other greenhouse gases in, or emitted into, the atmosphere that
19 is achieved by or on behalf of a person to compensate, in a
20 carbon dioxide-equivalent amount, for the emissions of carbon
21 dioxide resulting from air travel by the person to or from an

1 airport in the State. "Carbon offset" includes an action that
2 removes greenhouse gases from the atmosphere or that reduces
3 future greenhouse gas emissions.

4 "Qualified air travel" means any air travel regulated under
5 this chapter that occurs between an airport in the State and any
6 other airport in the State or in another state or United States
7 territory.

8 "Verified" means, with respect to a carbon offset, a
9 reduction in carbon dioxide, or carbon dioxide-equivalent amount
10 of other greenhouse gases, that is determined to be real,
11 permanent, and unlikely to occur in the absence of an offset
12 program, through a process of validation and verification by an
13 independent third party."

14 SECTION 3. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

16

INTRODUCED BY: Ryan
JAN 24 2023

H.B. NO. 1165

Report Title:

Air Travel; Verified Carbon Offsets; Qualified Air Travel

Description:

Establishes procedures for the Department of Transportation to assist and enable a person to voluntarily purchase a verified carbon offset for carbon dioxide emissions resulting from the person's air travel to or from an airport in the State.

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A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that, in an effort to
2 address the problem of illegal fireworks, the legislature passed
3 Act 170, Session Laws of Hawaii 2010, which established the
4 illegal fireworks task force to develop strategies and make
5 recommendations to address the illegal importation and use of
6 fireworks in the State. Among other things, the task force
7 recommended increasing random inspections for illegal fireworks
8 by expanding inspection authority and focusing cargo inspections
9 to make the inspections more manageable.

10 Subsequently, pursuant to Act 184, Session Laws of Hawaii
11 2019, the legislative reference bureau updated the findings and
12 recommendations of the *Report of the Illegal Fireworks Task*
13 *Force to the Legislature for the Regular Session of 2011*. The
14 2019 legislative reference bureau report, *Blast from the Past:*
15 *An Update to the Report of the Illegal Fireworks Task Force to*
16 *the Legislature for the Regular Session of 2011*, indicated that
17 the "majority of respondents to the [Legislative Reference]



1 Bureau's Survey appeared to agree that the issues and challenges
2 presented by the Task Force in its 2011 report remain relevant
3 today".

4 The legislature understands this is a complex issue that
5 will require collaboration from many people and agencies. The
6 intent of this Act is not to attempt to change or diminish the
7 job duties of department of transportation employees who
8 currently have inspection responsibilities, nor is it attempting
9 to interfere with existing collective bargaining agreements.

10 The legislature finds it is important to safeguard the health
11 and safety of those in Hawaii. The use of illegal fireworks
12 often leads to serious, permanent bodily injury or death and
13 causes stress and anxiety for those living with post-traumatic
14 stress disorder.

15 The purpose of this Act is to address the illegal
16 importation and use of fireworks in the State by:

17 (1) Establishing a shipping container inspection program
18 to randomly inspect shipping containers arriving in
19 the State for illegal fireworks, including the use of
20 explosive-sniffing dogs to inspect the containers; and

1 (2) Appropriating funds for the effective detection, safe
2 storage, and disposal of illegal fireworks.

3 SECTION 2. Chapter 266, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§266- Shipping container inspection program. (a) The
7 department of public safety, in collaboration with the
8 department of transportation, and any other state or federal
9 agencies, including any of the United States armed services, and
10 private organizations involved with shipping cargo into the
11 State, shall develop and implement a program to randomly inspect
12 shipping containers arriving in the State for illegal fireworks
13 being brought into the State. The program shall begin no later
14 than December 1, 2023.

15 (b) The shipping container inspection program shall:
16 (1) Include the use of explosive-sniffing dogs to inspect
17 incoming shipping containers to the greatest extent
18 reasonable at a designated secure site and, if
19 logistically necessary, located away from a commercial
20 harbor;



- 1 (2) Prioritize resources toward high-risk containers over
2 low-risk containers. For purposes of this paragraph,
3 "low-risk container" means shipping containers
4 containing goods to be delivered to the military,
5 state or county agencies, and businesses registered to
6 do business in the State that are determined to be in
7 good standing by the department of commerce and
8 consumer affairs;
- 9 (3) Inspect all shipping containers containing legal
10 fireworks using personnel who are able to distinguish
11 legal fireworks from illegal fireworks at a designated
12 secure site and, if logistically necessary, located
13 away from a commercial harbor; and
- 14 (4) Balance safety concerns with commercial interests to
15 avoid increases in consumer costs.
- 16 (c) All shipping companies or persons that cause a
17 shipping container, crate, flat, or any type of container or
18 vessel containing fireworks to be shipped by ocean-going cargo
19 shall provide all shipping documents, including any invoices,
20 bills of lading, waybills, certificates of origin, export or
21 import licenses, packing list, insurance certificate, inspection



1 certificates, or any other documents created for the shipment of
2 fireworks, to the department of public safety before the ship
3 leaves the port of departure. Any shipping company or person
4 who fails to comply with this subsection shall be fined by the
5 department of public safety no less than \$10,000 for each
6 violation.

7 (c) The department of public safety shall coordinate and
8 conduct the random inspection of shipping containers pursuant to
9 this section. The Hawaii national guard may be utilized to
10 assist in the random inspection of shipping containers.

11 (d) Any container identified by the department of public
12 safety as requiring additional inspection for possible illegal
13 fireworks shall be inspected by the appropriate bargaining unit
14 employees and shall not be performed by a contractor or
15 subcontractor.

16 (e) The department of public safety may request funding
17 from federal sources for homeland security and port security
18 measures and work with the United States military to secure
19 other funding sources for the purposes of the program.

20 (f) The department of public safety shall adopt rules in
21 accordance with chapter 91 for the purposes of this section."



1 SECTION 3. No later than forty days prior to the convening
2 of the regular sessions of 2024 and 2025, the department of
3 public safety shall submit to the legislature reports on the
4 implementation of the shipping container inspection program
5 established pursuant to this Act. The reports shall include
6 findings and recommendations, including costs expended to date,
7 the estimated cost of operating the program, and any proposed
8 legislation.

9 SECTION 4. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$ or so
11 much thereof as may be necessary for fiscal year 2023-2024 and
12 the same sum or so much thereof as may be necessary for fiscal
13 year 2024-2025 for costs to establish and administer the
14 shipping container inspection program, including the purchase,
15 care, and handling of at least two explosive-sniffing dogs.

16 The sums appropriated shall be expended by the department
17 of public safety for the purposes of this Act.

18 SECTION 5. Act , Session Laws of Hawaii 2023, sections
19 2, 3, and 4 are amended by substituting the phrase "department
20 of law enforcement", or similar term, wherever the phrase
21 "department of public safety", or similar term, appears.



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect on June 30, 3000;
3 provided that:

- 4 (1) Section 4 of this Act shall take effect on June 30,
5 3000; and
- 6 (2) Section 5 shall take effect on June 30, 3000.

7



H.B. NO. 809
H.D. 1

Report Title:

Illegal Fireworks; DPS; DOT; Shipping Container Inspection Program; Appropriation

Description:

Establishes and appropriates funds for the shipping container inspection program set to begin no later than December 1, 2023. Requires reports to the legislature on implementation of the shipping container inspection program. Effective 6/30/3000.
(HD1)

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A BILL FOR AN ACT

RELATING TO NATURAL RESOURCES.

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

1 SECTION 1. The legislature finds that climate change is
2 the overarching challenge for the State. The legislature has
3 repeatedly taken actions, set goals, and created programs to
4 reduce emissions in the energy and transportation sectors;
5 establish statewide decarbonization goals; recognize a climate
6 emergency; establish the state climate commission to facilitate
7 interdisciplinary and cross-sector solutions; and understand and
8 plan for the expected impacts of sea level rise and other
9 threats to infrastructure posed by climate change impacts. Even
10 with this clear commitment from the legislature in taking
11 climate action, the state offices tasked with natural resource
12 protection continue to lack sufficient resources, even though
13 natural resource protection is critical to the State's success
14 in mitigating and adapting to climate change.

15 Hawaii's native forests and coral reefs provide essential
16 services that act as carbon sinks and help protect Hawaii's
17 residents from climate change impacts. For example, coral reefs



1 protect shorelines and coastal infrastructure from storm surges
2 and high wave impacts, providing a natural buffer to help
3 prevent loss of life, property damage, and erosion. Native
4 forests are not only the lungs of the Hawaiian islands,
5 absorbing carbon dioxide and emitting oxygen, they are also
6 sponges that capture moisture and rainfall to recharge
7 groundwater threatened by changing weather, more frequent
8 drought conditions, and the loss of native forests. Healthy
9 forests also provide protection to the nearshore environment by
10 reducing the impacts of stormwater runoff. In addition, both
11 reefs and forests provide habitats for native species, many of
12 which are threatened and endangered. Reefs and forests are also
13 essential to Hawaii's culture, traditional practices, food
14 systems, economy, and way of life.

15 At the same time, these resources that protect the State
16 from climate change are threatened by climate change impacts.
17 Hawaii's coral reef ecosystems are threatened by warming
18 temperatures, which lead to ocean acidification and coral
19 bleaching. Coral bleaching events have already caused extensive
20 damage to Hawaii's reefs and are predicted to become more
21 frequent and severe. Hawaii's forests are threatened by



1 changing weather patterns, invasive species, and wildfires that
2 have increased by four hundred per cent in the past decade.

3 Invasive species affect both land and ocean resources and
4 are defined as non-native species whose introduction causes
5 environmental harm, economic harm, or harm to human health.

6 Invasive species pose the single greatest threat to the health
7 of Hawaii's native ecosystems and the State's economy, affecting
8 not only forests and reefs but also agriculture, food security,
9 drinking water, freshwater quality, and human health. Research
10 shows that climate changes compound the impact of invasive
11 species by contributing to invasive species' range expansion,
12 increasing ecosystem stress, and worsening the decline of native
13 species and the ability of forests and oceans to sequester
14 carbon. For example, with warming temperatures, mosquitos that
15 carry diseases that kill native forest birds have moved into
16 higher elevations. Accelerated action and increased funding are
17 needed to address invasive species.

18 The legislature finds that with the passage of recent
19 federal legislation, including the Infrastructure Investment and
20 Jobs Act (Pub. L. 117-58), Inflation Reduction Act of 2022 (Pub.
21 L. 117-169), and the Restoring Resilient Reefs Act of 2021



1 (enacted as part of the James M. Inhofe National Defense
2 Authorization Act for Fiscal Year 2023) as well as the proposed
3 Recovering America's Wildlife Act, there is a record amount of
4 federal funding available to help with natural resource
5 protection. However, to best access, leverage, and maximize
6 these federal funds, state agencies will need access to matching
7 funds to draw in federal grants.

8 Therefore, the purpose of this Act is to appropriate funds
9 to address the impacts of climate change in the State.

10 SECTION 2. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2023-2024 to
13 protect, manage, and restore natural resources, including native
14 forests, native plants and animals, aquatic resources, coastal
15 lands, and freshwater resources.

16 The sum appropriated shall be expended by the department of
17 land and natural resources for the purposes of this Act.

18 SECTION 3. This Act shall take effect on June 30, 3000.

19



Report Title:

Natural Resources; Climate Change; Appropriation

Description:

Appropriates funds to the department of land and natural resources to address the impacts of climate change in the State. Effective 6/30/3000. (HD1)

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A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that the use of consumer
2 fireworks causes fires and burn injuries, mostly to children.
3 Fireworks produce excessive smoke that makes breathing
4 difficult. Noise from loud fireworks traumatizes many
5 residents, including war veterans, as well as pets. With the
6 increase in fireworks-related calls, public safety agencies are
7 strained to maintain adequate response levels for other critical
8 emergencies. The legislature further finds that people in the
9 State and its communities deserve to live in peace and security
10 without the public safety risk and disruptive impact of consumer
11 fireworks.

12 The purpose of this Act is to limit the use of consumer
13 fireworks by:

14 (1) Authorizing the sale and use of consumer fireworks
15 only for cultural purposes; and
16 (2) Discontinuing the authorization of the noncultural use
17 of consumer fireworks on the three designated



1 holidays, namely New Year's Eve, the Fourth of July,
2 and Chinese New Year's Day.

3 This Act is not intended to prohibit licensed
4 professionals' use of display fireworks, articles pyrotechnic,
5 and aerial devices.

6 SECTION 2. Section 132D-2, Hawaii Revised Statutes, is
7 amended by amending the definitions of "consumer fireworks" and
8 "cultural" to read as follows:

9 ""Consumer fireworks" [~~means~~]:

10 (1) Means any fireworks designed primarily for retail sale
11 to the public [~~during authorized dates and times,~~]
12 that produces visible or audible effects by
13 combustion, and that is designed to remain on or near
14 the ground and, while stationary or spinning rapidly
15 on or near the ground, emits smoke, a shower of
16 colored sparks, whistling effects, flitter sparks, or
17 balls of colored sparks, and includes combination
18 items that contain one or more of these effects.

19 "Consumer fireworks" shall comply with the
20 construction, chemical composition, and labeling
21 regulations of the United States Consumer Product



1 Safety Commission as set forth in Title 16 Code of
2 Federal Regulations and fireworks classified as UN0336
3 and UN0337 by the United States Department of
4 Transportation as set forth in Title 49 Code of
5 Federal Regulations[. ~~"Consumer fireworks" include~~; ;
6 and

7 (2) Include firework items commonly known as firecrackers
8 that are single paper cylinders not exceeding one and
9 one-half inches in length excluding the fuse and
10 one-quarter of an inch in diameter and contain a
11 charge of not more than fifty milligrams of
12 pyrotechnic composition, snakes, sparklers, fountains,
13 and cylindrical or cone fountains that emit effects up
14 to a height not greater than twelve feet above the
15 ground, illuminating torches, bamboo cannons,
16 whistles, toy smoke devices, wheels, and ground
17 spinners that when ignited remain within a circle with
18 a radius of twelve feet as measured from the point
19 where the item was placed and ignited, novelty or
20 trick items, combination items, and other fireworks of



1 like construction that are designed to produce the
2 same or similar effects.

3 "Cultural" means relating to the arts, customs, traditions,
4 mores, and history of [all of] the various ethnic groups of
5 Hawaii[–] and includes religious events."

6 SECTION 3. Section 132D-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"S132D-3 [Permissible uses] Use of consumer fireworks[–];**
9 prohibition; exception for use at cultural events. [Consumer
10 fireworks may be] It shall be unlawful for any person to set
11 off, [ignited, discharged,] ignite, discharge or otherwise
12 [caused] cause to explode any consumer fireworks within the
13 State [only.]

14 (1) From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New
15 Year's Day; from 7:00 a.m. to 7:00 p.m. on Chinese New
16 Year's Day; and from 1:00 p.m. to 9:00 p.m. on the
17 Fourth of July; or

18 (2) From 9:00 a.m. to 9:00 p.m. as allowed by permit
19 pursuant to section 132D-10 if the proposed cultural
20 use is to occur at any time other than during the
21 periods prescribed in paragraph (1);]



1 except for cultural events from 9:00 a.m. to 9:00 p.m. as
2 allowed by permit pursuant to section 132D-10; provided that the
3 purchase of not more than five thousand individual consumer
4 fireworks commonly known as firecrackers shall be allowed under
5 each permit."

6 SECTION 4. Section 132D-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§132D-5 General prohibitions.** (a) [It] In addition to
9 the prohibition under section 132D-3, it shall be unlawful for
10 any person [without a permit issued under section 132D-10 by a
11 county fire department] to:

12 (1) Remove or extract the pyrotechnic contents from any
13 fireworks;

14 (2) Throw any ignited fireworks:

15 (A) From, at, or into a vehicle;

16 (B) At a person or an animal; and

17 (C) From above the first floor of any building; or

18 (3) Set off, ignite, discharge, or otherwise cause to
19 explode any fireworks:

20 (A) Above the first floor of any building;

21 (B) In any vehicle;



- 1 [+(C) ~~At any time not within the periods for use~~
2 ~~prescribed in section 132D-3,~~
3 (D)] (C) Within one thousand feet of any operating
4 hospital, licensed convalescent home, licensed
5 home for the elderly, zoo, licensed animal
6 shelter, or licensed animal hospital;
7 [+(E)] (D) In any school building, or on any school
8 grounds and yards without first obtaining
9 authorization from appropriate school officials;
10 [+(F)] (E) On any highway, alley, street, sidewalk, or
11 other public way; in any park; on any public
12 beach; in any officially designated forest or
13 wildlife preserve; within fifty feet of a
14 canefield; or within one thousand feet of any
15 building used for public worship during the
16 periods when services are held; and
17 [+(G)] (F) Within five hundred feet of any hotel.
18 (b) [It] Except for use at cultural events by permit
19 pursuant to section 132D-10, it shall be unlawful to purchase or
20 possess consumer fireworks [more than five calendar days before



1 ~~the time periods for permissible use under section 132D-3.]~~

2 within the State.

3 (c) ~~[It]~~ Except for use at cultural events by permit
4 pursuant to section 132D-10, it shall be unlawful to offer,
5 expose for sale, sell, or furnish consumer fireworks [after
6 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~
7 ~~Day, and 8:00 p.m. on the Fourth of July.] to any person within~~
8 the State."

9 SECTION 5. Section 132D-8, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) It shall be unlawful for any licensee, other than a
12 wholesaler who is selling or transferring fireworks or articles
13 pyrotechnic to a licensed retailer, to sell or offer to sell,
14 exchange for consideration, give, transfer, or donate any
15 fireworks or articles pyrotechnic at any time to any person who
16 does not present a permit duly issued as required by section
17 132D-10 or 132D-16. The permit shall be signed by the seller or
18 transferor at the time of sale or transfer of the fireworks or
19 articles pyrotechnic, and the seller or transferor shall
20 indicate on the permit the amount and type of fireworks or
21 articles pyrotechnic sold or transferred. No person shall sell



1 or deliver fireworks to any permittee in any amount in excess of
2 the amount specified in the permit, less the amount shown on the
3 permit to have been previously purchased; provided that no
4 fireworks shall be sold to a permittee holding a permit issued
5 for purposes of section 132D-3, more than five calendar days
6 before the applicable [time period under section 132D-3.]
7 cultural event."

8 SECTION 6. Section 132D-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**S132D-10 Permits[-] for the purchase and use of**
11 **fireworks.** A permit shall be required for the purchase and use
12 of:

13 (1) Any consumer fireworks [commonly known as firecrackers
14 upon payment of a fee of] for cultural events, the fee
15 for which shall be \$25[+] per permit; and
16 (2) Any aerial devices, display fireworks, or articles
17 pyrotechnic for the purposes of section 132D-16 [upon
18 payment of a fee of], the fee for which shall be
19 \$110[+] and
20 (3) Any consumer fireworks for the purposes of section
21 132D-5 or for cultural uses that occur at any time



1 ~~other than during the periods prescribed in section~~
2 ~~132D 3(1) upon a payment of a fee of \$25.] per~~
3 permit."

4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

10

INTRODUCED BY:



By Request



S.B. NO. 192

Report Title:

State Fire Council Package; Fireworks; Cultural Events; Prohibitions; Exceptions

Description:

Imposes a statewide limitation on consumer fireworks, except by permit for cultural events.

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



A BILL FOR AN ACT

RELATING TO EMERGENCY MANAGEMENT.

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

1 SECTION 1. Section 127A-1, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:
3 "(c) It is the intent of the legislature to provide for
4 and confer comprehensive powers for the purposes stated herein.
5 This chapter shall be liberally construed to effectuate its
6 purposes; provided that this chapter shall not be construed as
7 conferring any power or permitting any action [which] that is
8 inconsistent with the Constitution and laws of the United
9 States[~~r~~] or the Hawaii State Constitution, but, in so
10 construing this chapter, due consideration shall be given to the
11 circumstances as they exist from time to time. This chapter
12 shall not be deemed to have been amended by any act hereafter
13 enacted at the same or any other session of the legislature,
14 unless this chapter is amended by express reference."

15 SECTION 2. Section 127A-3, Hawaii Revised Statutes, is
16 amended by amending subsection (e) to read as follows:



1 "(e) The agency shall perform emergency management
2 functions within the territorial limits of the State. In
3 performing its duties, the agency shall:

- 4 (1) Prepare a state comprehensive emergency management
5 plan, which shall be integrated into and coordinated
6 with the emergency management plans of the federal
7 government. The plan shall be integrated by a
8 continuous, integrated comprehensive emergency
9 management program. The plan shall contain provisions
10 to ensure that the State [is prepared] prepares for,
11 mitigates against, responds to, and recovers from
12 emergencies and minor, major, and catastrophic
13 disasters. In preparing and maintaining the plan, the
14 agency shall work closely with agencies and
15 organizations with emergency management
16 responsibilities;
- 17 (2) Assign lead and support responsibilities to state
18 agencies and personnel for emergency management
19 functions~~[,]~~ and other support activities;
- 20 (3) Adopt standards and requirements for county emergency
21 management plans. The standards and requirements



- 1 shall ensure that county plans are coordinated and
2 consistent with the state comprehensive emergency
3 management plan;
- 4 (4) Make recommendations to the legislature, building code
5 organizations, and counties for zoning, building, and
6 other land use controls; and other preparedness,
7 prevention, and mitigation measures designed to
8 eliminate emergencies or reduce their impact;
- 9 (5) Anticipate trends and promote innovations that will
10 enhance the emergency management system;
- 11 (6) Institute statewide public awareness programs. This
12 shall include intensive public educational campaigns
13 on emergency preparedness issues, including but not
14 limited to the personal responsibility of individual
15 citizens to be self-sufficient for up to fourteen days
16 following a natural or human-caused disaster;
- 17 (7) Coordinate federal, state, and local emergency
18 management activities and take all other steps,
19 including the partial or full mobilization of
20 emergency management forces and organizations in
21 advance of an actual emergency, to ensure the



1 availability of adequately trained and equipped forces
2 of emergency management personnel before, during, and
3 after emergencies and disasters;

- 4 (8) Implement training programs to improve the ability of
5 state and local emergency management personnel to
6 prepare and implement emergency management plans and
7 programs. This shall include a continuous training
8 program for agencies and individuals that will be
9 called on to perform key roles in state and local
10 post-disaster response and recovery efforts and for
11 local government personnel on federal and state post-
12 disaster response and recovery strategies and
13 procedures;

- 14 (9) Adopt standards and requirements for state agency
15 emergency operating procedures and periodically review
16 emergency operating procedures of state agencies and
17 recommend revisions as needed to ensure consistency
18 with the state comprehensive emergency management plan
19 and program; and

- 20 (10) Coordinate, in advance whenever possible, such
21 executive orders, proclamations, and rules for



1 issuance by the governor as are necessary or
2 appropriate for coping with emergencies and
3 disasters."

4 SECTION 3. Section 127A-14, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§127A-14 State of emergency.** (a) The governor may
7 declare the existence of a state of emergency in the State by
8 proclamation if the governor finds that an emergency or a
9 disaster has occurred or that there is imminent danger or threat
10 of an emergency or a disaster in any portion of the State.

11 (b) A mayor may declare the existence of a local state of
12 emergency in the county by proclamation if the mayor finds that
13 an emergency or a disaster has occurred or that there is
14 imminent danger or threat of an emergency or a disaster in any
15 portion of the county.

16 (c) The governor or mayor shall be the sole judge of the
17 existence of the danger, threat, or circumstances giving rise to
18 a declaration, an extension, or a termination of a state of
19 emergency in the State or a local state of emergency in the
20 county, as applicable. This section shall not limit the power
21 and authority of the governor under section 127A-13(a)(5).



1 (d) A state of emergency and a local state of emergency
2 shall terminate automatically sixty days after the issuance of a
3 proclamation of a state of emergency or local state of
4 emergency, respectively, [or] unless extended or terminated by a
5 separate or supplementary proclamation of the governor or
6 mayor[~~, whichever occurs first~~]."

7 SECTION 4. Section 127A-16, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The administrator shall submit requests to the
10 legislature to appropriate from the general revenues of the
11 State sufficient moneys as may be necessary for expenditure by
12 or under the direction of the governor for immediate relief in
13 response to an emergency or disaster in any part of the State;
14 provided that:

- 15 (1) The governor has issued a proclamation of a state of
16 emergency;
- 17 (2) The governor shall not expend in excess of \$10,000,000
18 for immediate relief as a result of any single
19 emergency or disaster; and
- 20 (3) In addition to the funds in paragraph (2), an
21 additional ~~[\$5,000,000]~~ \$10,000,000 may be made



1 available solely for the purpose of matching federal
2 disaster relief funds when these funds become
3 available to the State following a [presidential]
4 federal disaster declaration.

5 In expending the moneys, the governor may allot any portion
6 thereof to any agency, office, or employee of the State or a
7 county for the most efficient relief for the population.

8 Notwithstanding this subsection, the only exception to
9 paragraphs (1), (2), and (3) is that the administrator may use
10 up to \$250,000 per year to support the emergency management
11 reserve corps. The funds identified in this subsection shall be
12 deemed to be trust moneys and shall be deposited into a trust
13 account with and under the control of the Hawaii emergency
14 management agency. These funds may be used for open federally
15 declared disasters that are being managed by the Hawaii
16 emergency management agency."

17 SECTION 5. Section 127A-30, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsections (a) to (c) to read:

20 "(a) Whenever the governor declares a state of emergency
21 for the entire State or any portion thereof, or a mayor declares



1 a local state of emergency for the county or any portion
2 thereof, or when the State, or any portion thereof, is the
3 subject of a severe [weather] warning:

4 (1) There shall be prohibited any increase in the selling
5 price of any commodity, whether at the retail or
6 wholesale level, in the area that is the subject of
7 the proclamation or [the] severe [weather] warning;
8 and

9 (2) No landlord shall terminate any tenancy for a
10 residential dwelling unit in the area that is the
11 subject of the proclamation or [the] severe [weather]
12 warning, except for a breach of a material term of a
13 rental agreement or lease, or if the unit is unfit for
14 occupancy as defined in this chapter; provided that:

15 (A) Nothing in this chapter shall be construed to
16 extend a fixed-term lease beyond its termination
17 date, except that a periodic tenancy for a
18 residential dwelling unit may be terminated by
19 the landlord upon forty-five days' written
20 notice:



- 1 (i) When the residential dwelling unit is sold
2 to a bona fide purchaser for value; or
3 (ii) When the landlord or an immediate family
4 member of the landlord will occupy the
5 residential dwelling unit; or
6 (B) Under a fixed-term lease or [a] periodic tenancy,
7 upon forty-five days' written notice, a landlord
8 may require a tenant or tenants to relocate
9 during the actual and continuous period of any
10 repair to render a residential dwelling unit fit
11 for occupancy; provided that:
12 (i) Reoccupancy shall first be offered to the
13 same tenant or tenants upon completion of
14 the repair;
15 (ii) The term of the fixed-term lease or periodic
16 tenancy shall be extended by a period of
17 time equal to the duration of the repair;
18 and
19 (iii) It shall be the responsibility of the tenant
20 or tenants to find other accommodations
21 during the period of repair.



1 (b) Notwithstanding this section, any additional operating
2 expenses incurred by the seller or landlord because of the
3 emergency ~~[or]~~, disaster, or ~~[the]~~ severe ~~[weather, and which]~~
4 warning that can be documented~~[,]~~ may be passed on to the
5 consumer. In the case of a residential dwelling unit, if rent
6 increases are contained in a written instrument that was signed
7 by the tenant ~~[prior to]~~ before the declaration or severe
8 ~~[weather]~~ warning, the increases may take place pursuant to the
9 written instrument.

10 (c) The prohibitions under subsection (a) shall remain in
11 effect until twenty-four hours after the severe ~~[weather]~~
12 warning is canceled by the ~~[National Weather Service,]~~ issuing
13 agency; or in the event of a declaration, ~~[the later of a date~~
14 ~~specified by the governor or mayor in the declaration or ninety-~~
15 ~~six]~~ seventy-two hours after the effective date and time of the
16 declaration, unless ~~[such]~~ the prohibition is identified and
17 continued ~~[by a supplementary declaration issued]~~ and the types
18 of commodities are identified by the governor or mayor~~[,]~~ in the
19 proclamation or any supplementary proclamation. Any
20 proclamation issued under this chapter that fails to state the



1 time at which it will take effect, shall take effect at [twelve]
2 noon [ef] on the day on which it takes effect."

3 2. By amending subsection (f) to read:

4 "(f) As used in this section:

5 "Breach of a material term" means the failure of a party to
6 perform an obligation under the rental agreement or lease, which
7 constitutes the consideration for entering into the contract and
8 includes the failure to make a timely payment of rent.

9 "Commodity" means any good or service necessary for the
10 health, safety, and welfare of the people of Hawaii; provided
11 that this term shall include[r] but not be limited to:
12 materials; merchandise; supplies; equipment; resources; and
13 other articles of commerce that shall include food; water; ice;
14 chemicals; petroleum products; construction materials; or
15 residential dwellings.

16 "Fixed-term lease" means a lease for real property that
17 specifies its beginning date and its termination date as
18 calendar dates, or contains a formula for determining the
19 beginning and termination dates; and the application of the
20 formula as of the date of the agreement will produce a calendar
21 date for the beginning and termination of the lease.



1 "Periodic tenancy" means a tenancy wherein real property is
2 leased for an indefinite time with monthly or other periodic
3 rent reserved. A periodic tenancy may be created by express
4 agreement of the parties, or by implication upon the expiration
5 of a fixed-term lease when neither landlord nor tenant provides
6 the other with written notice of termination and the tenant
7 retains possession of the premises for any period of time after
8 the expiration of the original term.

9 "Severe warning" means the issuance by the National Weather
10 Service, Pacific Tsunami Warning Center, United States
11 Geological Survey, or other public authority of a public
12 notification that a dangerous condition exists that could impact
13 the State, or any portion of it, within a specified period of
14 time. "Severe warning" includes but is not limited to warnings
15 of coastal inundation, high surf, flash flooding, volcano,
16 tsunami, or hurricane.

17 "Unfit for occupancy" means that a residential dwelling
18 unit has been damaged to the extent that the appropriate county
19 agency determines that the unit creates a dangerous or
20 unsanitary situation and is dangerous to the occupants or [to
21 the] neighborhood."



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on June 30, 3000.

4



Report Title:

Emergency Management Powers; State of Emergency; Price Control;
Severe Warning

Description:

Clarifies that the Governor's and mayors' emergency management powers shall be consistent with the state constitution. Clarifies the scope of the comprehensive emergency management plan. Clarifies the powers of the Governor and mayors to extend or terminate a state of emergency. Specifies the status and the allowable uses of Major Disaster Fund moneys, including increasing the amount of the additional funds that may be made available for the purpose of matching federal disaster relief fund from \$5,000,000 to \$10,000,000. Shortens the duration of price control periods from ninety-six hours to seventy-two hours. Defines the term "severe warning", clarifying that entities other than the National Weather Service issue warnings that may require the activation of the emergency management system. Effective 6/30/3000. (HD1)

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A BILL FOR AN ACT

RELATING TO THE STATE FIRE COUNCIL.

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

1 SECTION 1. The legislature finds that in 1979, the
2 legislature abolished the state fire marshal's office and
3 created the state fire council, which comprises the four county
4 fire chiefs and is administratively attached to the department
5 of labor and industrial relations. The goal of the state fire
6 council is to develop and maintain a comprehensive fire service
7 emergency management network for the protection of life,
8 property, and the environment throughout the State. The state
9 fire council is tasked with reviewing and adopting the state
10 fire code, providing administrative oversight of the reduced
11 ignition propensity cigarettes program, providing assistance
12 with the application for and administration of federal grants
13 for the fire service, assisting with and coordinating the
14 statewide delivery of fire training programs, coordinating the
15 collection of fire data, and supporting contingency planning
16 needs for fire fighters. The state fire council is required to
17 establish statewide qualifications for testing, certifying, and
18 credentialing individuals who perform maintenance and testing of



1 portable fire extinguishers, fire protection systems, and fire
2 alarm systems. The state fire council may also advise the
3 governor and the legislature on matters related to fire
4 prevention, fire protection, and life safety. The state fire
5 council is a voting member of the state building code council,
6 whose responsibilities are delineated in section 107-24, Hawaii
7 Revised Statutes.

8 The legislature further finds that the Hawaii state
9 aircraft rescue fire fighting unit and the division of forestry
10 and wildlife of the department of land and natural resources
11 communicate and collaborate with the county fire departments on
12 a regular basis during emergency incidents and non-emergency
13 administrative matters. The two agencies provide specialty
14 expertise and equipment in emergent and non-emergent
15 environments that the county fire departments do not possess due
16 to training, funding, or mission requirements. The Hawaii state
17 aircraft rescue fire fighting unit and the division of forestry
18 and wildlife of the department of land and natural resources
19 could provide unique perspectives to facilitate accomplishment
20 of the state fire council's functions as described in
21 section 132-16, Hawaii Revised Statutes. The potential results



1 are greater insight into Hawaii's fire risk and improvements
2 relating to the protection of persons and property against fire.

3 Accordingly, the purpose of this Act is to add to the
4 membership of the state fire council, and to the membership of
5 advisory committees that the council may appoint,
6 representatives from the Hawaii state aircraft rescue fire
7 fighting unit and the division of forestry and wildlife of the
8 department of land and natural resources to reflect all
9 non-federal fire fighting agencies in the State.

10 SECTION 2. Section 132-16, Hawaii Revised Statutes, is
11 amended as follows:

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

13 "(a) There is established a state fire council, which
14 shall be placed within the department of labor and industrial
15 relations for administrative purposes. The state fire council
16 shall consist of the fire chiefs of the counties[.], the fire
17 chief of the Hawaii state aircraft rescue fire fighting unit,
18 and a representative of the division of forestry and wildlife of
19 the department of land and natural resources. The state fire
20 council may appoint an advisory committee to assist it in
21 carrying out its functions under this chapter. The advisory



1 committee may include the heads of the various county building
2 departments, a licensed architect recommended by the Hawaii
3 Society of the American Institute of Architects, a licensed
4 electrical engineer and a licensed mechanical engineer
5 recommended by the Consulting Engineers Council of Hawaii, a
6 representative of the Hawaii Rating Bureau, a representative of
7 the Hawaii [firefighters association,] Fire Fighters
8 Association, representatives of the county fire departments, a
9 representative of the Hawaii state aircraft rescue fire fighting
10 unit, a representative of the division of forestry and wildlife
11 of the department of land and natural resources, and [such]
12 other members of the public as the state fire council may
13 determine can best assist it. The state fire council shall
14 elect a chairperson from among its members."

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

16 "(c) The state fire council may also:

17 (1) Appoint advisory committees [~~comprised of~~] comprising
18 representatives from each county fire department, a
19 representative of the Hawaii state aircraft rescue
20 fire fighting unit, and a representative of the
21 division of forestry and wildlife of the department of



- 1 land and natural resources to assist in drafting the
2 state fire code and coordinating statewide training,
3 data collection, and contingency planning needs for
4 firefighters;
- 5 (2) Advise and assist the county and state fire
6 departments where appropriate[7]; may prescribe
7 standard procedures and forms relating to inspections,
8 investigations, and reporting of fires[7]; may approve
9 plans for cooperation among the county and state fire
10 departments[7]; and may advise the governor and the
11 legislature with respect to fire prevention and
12 protection, life safety, and any other functions or
13 activities for which the various county and state fire
14 departments are generally responsible; and
- 15 (3) Establish, in conformance with the adopted state fire
16 code and nationally recognized standards, statewide
17 qualifications and procedures, to be administered by
18 the county fire departments, for testing, certifying,
19 and credentialing individuals who perform maintenance
20 and testing of portable fire extinguishers,
21 water-based fire protection systems, other fire



1 protection systems, private fire hydrants, and fire
2 alarm systems; provided that the county fire
3 departments may establish and charge reasonable
4 certification fees."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.



S.B. NO. 193
S.D. 1
H.D. 1
C.D. 1

Report Title:

State Fire Council Package; Composition; Members

Description:

Adds to the membership of the State Fire Council, and to the membership of advisory committees that the Council may appoint, representatives from the Hawaii State Aircraft Rescue Fire Fighting Unit and the Division of Forestry and Wildlife of the Department of Land and Natural Resources to reflect all non-federal fire fighting agencies in the State. (CD1)

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



A BILL FOR AN ACT

RELATING TO THE STATE FIRE COUNCIL.

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

1 SECTION 1. The legislature finds that in 1979, the
2 legislature abolished the state fire marshal's office and
3 created the state fire council, which comprises the four county
4 fire chiefs and is administratively attached to the department
5 of labor and industrial relations. The goal of the state fire
6 council is to develop and maintain a comprehensive fire service
7 emergency management network for the protection of life,
8 property, and the environment throughout the State. The state
9 fire council is tasked with reviewing and adopting the state
10 fire code, providing administrative oversight of the reduced
11 ignition propensity cigarettes program, providing assistance
12 with the application and administration of federal grants for
13 the fire service, assisting with and coordinating the statewide
14 delivery of fire training programs, coordinating the collection
15 of fire data, and supporting contingency planning needs for fire
16 fighters. The state fire council may establish statewide
17 qualifications for testing, certifying, and credentialing



1 individuals who perform maintenance and testing of portable fire
2 extinguishers, fire protection systems, and fire alarm systems.
3 The state fire council may also advise the governor and the
4 legislature on matters related to fire prevention, fire
5 protection, and life safety. The state fire council is a voting
6 member of the state building code council, whose
7 responsibilities are delineated in section 107-24, Hawaii
8 Revised Statutes.

9 The legislature further finds that the Hawaii state
10 aircraft rescue fire fighting unit and the division of forestry
11 and wildlife of the department of land and natural resources
12 communicate and collaborate with the county fire departments on
13 a regular basis during emergency incidents and non-emergency
14 administrative matters. The two agencies provide specialty
15 expertise and equipment in emergent and non-emergent
16 environments that the county fire departments do not possess due
17 to training, funding, or mission requirements. The Hawaii state
18 aircraft rescue fire fighting unit and the division of forestry
19 and wildlife of the department of land and natural resources
20 could provide unique perspectives to facilitate accomplishment
21 of the state fire council's functions as described in section



1 132-16, Hawaii Revised Statutes. The potential results are
2 greater insight into Hawaii's fire risk and improvements
3 relating to the protection of persons and property against fire.

4 Accordingly, the purpose of this Act is to add to the
5 membership of the state fire council, and to the membership of
6 advisory committees that the council may appoint,
7 representatives from the Hawaii state aircraft rescue fire
8 fighting unit and the division of forestry and wildlife of the
9 department of land and natural resources to reflect all
10 non-federal fire fighting agencies in the State.

11 SECTION 2. Section 132-16, Hawaii Revised Statutes, is
12 amended as follows:

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

14 "(a) There is established a state fire council which shall
15 be placed within the department of labor and industrial
16 relations for administrative purposes. The state fire council
17 shall consist of the fire chiefs of the counties[.], the fire
18 chief of the Hawaii state aircraft rescue fire fighting unit,
19 and a representative of the division of forestry and wildlife of
20 the department of land and natural resources. The state fire
21 council may appoint an advisory committee to assist it in



1 carrying out its functions under this chapter. The advisory
2 committee may include the heads of the various county building
3 departments, a licensed architect recommended by the Hawaii
4 Society of the American Institute of Architects, a licensed
5 electrical engineer and a licensed mechanical engineer
6 recommended by the Consulting Engineers Council of Hawaii, a
7 representative of the Hawaii Rating Bureau, a representative of
8 the Hawaii firefighters association, representatives of the
9 county fire departments, a representative of the Hawaii state
10 aircraft rescue fire fighting unit, a representative of the
11 division of forestry and wildlife of the department of land and
12 natural resources, and [such] other members of the public as the
13 state fire council may determine can best assist it. The state
14 fire council shall elect a chairperson from among its members."

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

16 "(c) The state fire council may also:

17 (1) Appoint advisory committees comprised of
18 representatives from each county fire department, a
19 representative of the Hawaii state aircraft rescue
20 fire fighting unit, and a representative of the
21 division of forestry and wildlife of the department of



1 land and natural resources to assist in drafting the
2 state fire code and coordinating statewide training,
3 data collection, and contingency planning needs for
4 firefighters;

5 (2) Advise and assist the county and state fire
6 departments where appropriate, may prescribe standard
7 procedures and forms relating to inspections,
8 investigations, and reporting of fires, may approve
9 plans for cooperation among the county fire
10 departments, and may advise the governor and the
11 legislature with respect to fire prevention and
12 protection, life safety, and any other functions or
13 activities for which the various county fire
14 departments are generally responsible; and

15 (3) Establish, in conformance with the adopted state fire
16 code and nationally recognized standards, statewide
17 qualifications and procedures, to be administered by
18 the county fire departments, for testing, certifying,
19 and credentialing individuals who perform maintenance
20 and testing of portable fire extinguishers,
21 water-based fire protection systems, other fire



1 protection systems, private fire hydrants, and fire
2 alarm systems; provided that the county fire
3 departments may establish and charge reasonable
4 certification fees."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on June 30, 3000.

8



H.B. NO.

146
H.D. 1

Report Title:

State Fire Council Package; Composition; Members

Description:

Adds to the membership of the state fire council, and to the membership of advisory committees that the council may appoint, representatives from the Hawaii state aircraft rescue fire fighting unit and the division of forestry and wildlife of the department of land and natural resources to reflect all non-federal fire fighting agencies in the State. Effective 6/30/3000. (HD1)

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A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE.

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

1 SECTION 1. The legislature finds that Hawaii is
2 experiencing a climate emergency. Climate change impacts are
3 being felt statewide and have long-term threats to the State's
4 economy, sustainability, environment, security, culture, and way
5 of life. Successful mitigation and adaptation of climate change
6 requires comprehensive study and action to address the impacts
7 of climate change.

8 The 2017 Hawai'i Sea Level Rise Vulnerability and Adaptation
9 Report estimated the lost value of flooded structures and land
10 at over \$19,000,000,000. The legislature further finds that
11 Hawaii needs to invest in climate action now to address these
12 and other costs of climate change as soon as possible. Climate
13 change action may include looking at the resiliency of the power
14 grid, renewable energy resources, sustainable transportation
15 systems, land use planning, sea level rise, health, natural and
16 cultural resources, sustainable tourism, hazard vulnerability
17 and mitigation, social vulnerability, economic resilience, and



1 climate equity and justice. The breadth of the impact of
2 climate change is such that comprehensive and coordinated
3 efforts need to be undertaken.

4 The purpose of this Act is to establish the climate impact
5 special fund and appropriate funds to address the impacts of
6 climate change and mitigate further impacts on the State through
7 education, carbon sequestration, and resiliency planning and
8 implementation.

9 SECTION 2. Chapter 225P, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "S225P- Climate impact special fund. (a) There is
13 established in the state treasury the climate impact special
14 fund, to be administered by the commission, into which shall be
15 deposited:

16 (1) Appropriations made by the legislature to the fund;
17 (2) Fees collected under this chapter or any rule adopted
18 pursuant to this chapter;
19 (3) Grants provided by governmental agencies or any other
20 source;



- 1 (4) Donations made by private individuals or organizations
2 for deposit into the fund; and
3 (5) Earnings on moneys in the fund.
4 (b) Moneys in the climate impact special fund shall
5 be used for:
6 (1) The operations of the commission; and
7 (2) Activities carried out by the State to address the
8 impact, mitigation, and adaptation of climate change,
9 including but not limited to nature-based solutions;
10 climate smart agriculture; vehicle miles traveled
11 reduction; sea level rise modeling, mapping, planning,
12 adaption, and mitigation; managed retreat; carbon
13 sequestration technologies; electrification of homes,
14 vehicles, and appliances; clean renewable energy
15 technologies; climate change education and outreach;
16 and other activities deemed appropriate by the
17 commission.
18 (c) The commission may transfer moneys to other state
19 departments and agencies to carry out the purposes of the
20 commission and to fund efforts to mitigate and adapt to climate
21 change.



1 (d) The commission shall submit an annual report to the
2 legislature no later than twenty days prior to the convening of
3 each regular session on the sources of moneys deposited into the
4 climate impact special fund and expenditures of moneys from the
5 special fund."

6 SECTION 3. Section 243-3.5, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) In addition to any other taxes provided by law,
9 subject to the exemptions set forth in section 243-7, there is
10 hereby imposed a state environmental response, energy, and food
11 security tax on each barrel or fractional part of a barrel of
12 petroleum product sold by a distributor to any retail dealer or
13 end user of petroleum product, other than a refiner. The tax
14 shall be \$1.05 on each barrel or fractional part of a barrel of
15 petroleum product that is not aviation fuel; provided that of
16 the tax collected pursuant to this subsection:

17 (1) 5 cents of the tax on each barrel shall be deposited
18 into the environmental response revolving fund
19 established under section 128D-2;



- 1 (2) 4 cents of the tax on each barrel shall be deposited
2 into the energy security special fund established
3 under section 201-12.8;
- 4 (3) 5 cents of the tax on each barrel shall be deposited
5 into the energy systems development special fund
6 established under section 304A-2169.1;
- 7 (4) 3 cents of the tax on each barrel shall be deposited
8 into the electric vehicle charging system subaccount
9 established pursuant to section 269-33(e); [and]
- 10 (5) 3 cents of the tax on each barrel shall be deposited
11 into the hydrogen fueling system subaccount
12 established pursuant to section 269-33(f) [–]; and
- 13 (6) 5 cents of the tax on each barrel shall be deposited
14 into the climate impact special fund established
15 pursuant to section 225P-.

16 The tax imposed by this subsection shall be paid by the
17 distributor of the petroleum product."

18 SECTION 4. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$100,000,000 or so
20 much thereof as may be necessary for fiscal year 2023-2024 to be
21 deposited into the climate impact special fund.



1 SECTION 5. There is appropriated out of the climate impact
2 special fund the sum of \$80,000,000 or so much thereof as may be
3 necessary for fiscal year 2023-2024 for the purposes of carrying
4 out the operations of the Hawaii climate change mitigation and
5 adaptation commission.

6 The sum appropriated shall be expended by the department of
7 land and natural resources for the purposes of this Act.

8 SECTION 6. There is appropriated out of the climate impact
9 special fund the sum of \$20,000,000 or so much thereof as may be
10 necessary for fiscal year 2023-2024 to transfer moneys to the
11 sea level rise voluntary relocation fund to carry out the
12 purposes of the Hawaii climate change mitigation and adaptation
13 commission and to fund efforts to mitigate and adapt to climate
14 change.

15 The sum appropriated shall be expended by the department of
16 land and natural resources for the purposes of this Act.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on June 30, 3000.



Report Title:

Climate Change Special Fund; Appropriation

Description:

Establishes the Climate Impact Special Fund. Allocates five cents from the Environmental Response, Energy, and Food Security Tax to the Climate Impact Special Fund. Appropriates funds to the Hawaii Climate Change Mitigation and Adaptation Commission to address impacts of climate change and to mitigate further impacts on the State through carbon sequestration and resiliency planning. Allocates funds to the Sea Level Rise Voluntary Relocation Fund. Effective 6/30/3000. (HD1)

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



A BILL FOR AN ACT

RELATING TO CLIMATE ADAPTATION.

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

1 SECTION 1. The legislature finds that climate change is
2 real. Rising sea levels throughout the State will increasingly
3 erode beaches, damage habitats, and be an existential threat to
4 residential development and associated infrastructure in many
5 shoreline and low-lying areas as described in the 2017 Hawaii
6 Sea Level Rise Vulnerability and Adaptation Report and companion
7 State of Hawaii Sea Level Rise Viewer. These impacts are being
8 observed on our shorelines today throughout the State as
9 exemplified by recent highly publicized erosion threats to
10 development in West Maui, on the North Shore of Oahu, and
11 elsewhere. The legislature finds that managed retreat will be
12 an essential policy and programmatic approach for voluntarily
13 relocating development and associated public infrastructure from
14 areas that are critically impacted by coastal hazards including
15 coastal erosion and flooding with sea level rise, particularly
16 from areas with high natural ecosystem, cultural, and

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1 recreational public resource value and to reduce hazard to life
2 and property from coastal hazards.

3 The purpose of this Act is to expand the authority of the
4 State and the counties and develop funding to begin to utilize
5 managed retreat as a climate adaptation and hazard avoidance
6 option for voluntarily moving residential development and
7 associated infrastructure away from critically vulnerable areas
8 to locations outside of sea level rise and coastal flooding
9 exposure areas.

10 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 read as follows:

13 **"PART . VOLUNTARY RELOCATION OF RESIDENTIAL DEVELOPMENT FROM
14 SEA LEVEL RISE EXPOSURE AREAS INVOLVING STATE LANDS**

15 **§171- Definitions.** For the purposes of this part:

16 "Land exchanges" means mechanisms to secure lands while
17 compensating property owners in-kind through providing land or
18 development rights. Land exchanges can provide a partial or
19 full replacement alternative to financial compensation.

20 "Leaseback" means a transaction in which a property owner
21 willingly sells the real property to the government or third
22 party and leases the property back from that new owner until

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1 such time that the land is deemed unsafe due to increasing
2 erosion or flooding hazards.

3 "Receiving area" means areas where additional growth and
4 development can be accommodated from a sending area.

5 "Sending area" means areas where development is no longer
6 encouraged due to exposure to increasing hazards with climate
7 change and sea level rise.

8 "Transfer of development rights" means programs allowing
9 land owners to transfer development rights from property in
10 areas where development is no longer desirable or sustainable to
11 areas that are. Transfer of development right programs may also
12 allow developers to purchase development rights from property
13 owners in areas where development is no longer desirable or
14 sustainable and transfer those development rights to their own
15 property.

16 **§171- General powers.** (a) In carrying out its functions
17 under this part, the board and department may do all things
18 necessary, useful, and convenient in connection with voluntary
19 relocation of residential development and associated public
20 utilities and infrastructure from locations that are or will be
21 critically threatened by impacts related to climate change and

1 sea level rise and have high natural resource value, including
2 transfer of development rights, leasebacks, land exchanges, and
3 restoration of coastal lands, subject to all applicable laws, so
4 long as the public interest is served.

5 **§171- Sea level rise voluntary relocation plan.** The
6 department, in cooperation with appropriate state and county
7 agencies, shall prepare and, from time to time, revise plans for
8 the implementation of a program to facilitate voluntary
9 relocation of private residential development and associated
10 public infrastructure from areas that are critically threatened
11 by coastal erosion and flooding with sea level rise and that
12 have high natural resource value to areas outside of the sea
13 level rise exposure area as designated by the Hawaii climate
14 change adaptation commission and special flood hazard areas.
15 These plans shall guide the department with appropriate state
16 and county agencies in identifying and prioritizing coastal
17 lands that are critically threatened by coastal erosion and sea
18 level rise and have high natural and community resource value,
19 and in identifying and prioritizing potential sending and
20 receiving areas for relocation of residential development and
21 associated public utilities and infrastructure. In preparing
22 these plans, the department may institute studies pertaining to

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1 the need for restoration of such lands to natural conditions and
2 for public purposes and shall consider any plan relating to the
3 restoration of such lands that has been prepared by any federal,
4 state, county, or private agency or entity. The department may
5 also institute other studies as necessary to support the
6 development of voluntary relocation projects, including the
7 development of environmental studies pertaining to relocation of
8 development, cost-benefit analysis for project viability, and
9 engineering studies.

10 **§171- Sea level rise voluntary relocation fund. (a)**

11 There is established in the state treasury a special fund to be
12 designated as the "sea level rise voluntary relocation fund" to
13 carry out the purposes of this part. The following moneys shall
14 be deposited into the sea level rise voluntary relocation
15 special fund:

16 (1) Appropriations made by the legislature for deposit
17 into this fund;

18 (2) Appropriations made out of the climate change special
19 fund;

20 (3) Donations and contributions made by private
21 individuals or organizations for deposit into this
22 fund;

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- 1 (4) Grants provided by government agencies or any other
2 source;
- 3 (5) Proceeds from transfer of development rights,
4 leasebacks, and land exchanges; and
- 5 (6) Proceeds from lawsuits holding industries accountable
6 for climate change impacts that threaten Hawaii.

7 (b) The sea level rise voluntary relocation special fund
8 may be used by the department for one or more of the following
9 purposes:

- 10 (1) Planning, designing, developing, or implementing of
11 climate change and sea level rise adaptation projects
12 pursuant to this part including voluntary relocation
13 of residential development and associated
14 infrastructure through mechanisms, including but not
15 limited to transfer of development rights, leasebacks,
16 land exchanges, and restoration of coastal lands; and
- 17 (2) Acquiring, through eminent domain, private development
18 at risk of exposure to sea level rise and flooding."

19 SECTION 3. Chapter 171, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and read as follows:

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1 "§171- Public lands suitable and available for transfer
2 of development rights or land exchanges; inventory. The
3 department shall complete and maintain a current inventory of
4 all public lands and other high-priority private lands,
5 regardless of zoning, which are located outside of the sea level
6 rise exposure area as designated by the Hawaii climate change
7 mitigation and adaptation commission and special flood hazard
8 areas and are or may be suitable for relocation of residential
9 development from areas that are critically threatened by coastal
10 erosion and flooding with sea level rise and from areas that
11 have high natural and community resource value according to the
12 objectives and policies set forth in chapter 205A. This
13 inventory shall be updated annually and contain the following
14 information: the island and areas in which the land is situated,
15 the acreage, development potential including but not limited to,
16 nearest access to county or state roads, nearest access to
17 public utilities including electrical and water, and such other
18 information which the department determines may be necessary to
19 identify and inventory the land for those purposes. The
20 department shall submit a report detailing this initial
21 inventory to the governor, legislature, and Hawaii climate
22 change mitigation and adaptation commission no later than twenty

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1 days prior to the convening of the 2024 regular legislative
2 session and every year thereafter."

3 SECTION 4. Section 171-50, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Purpose. No exchange of public land for private land
6 shall be made except for public purposes, including but not
7 limited to (1) consolidation of holdings of public lands; (2)
8 straightening of boundaries of public lands; (3) acquisition of
9 adequate access for landlocked public lands [which] that have
10 development potential; [or] (4) acquisition of lands suitable
11 for residential use[.]; or (5) relocation of private development
12 away from high risk areas of coastal hazards, sea level rise,
13 and flooding exposure, and expansion of public coastal areas and
14 access. Exchanges shall be effected without public auction.

15 Public notice of any proposed exchange shall be given in
16 accordance with the applicable provisions set forth in section
17 171-16(d). All private lands conveyed to the State by way of
18 exchanges shall thereafter become public lands."

19 SECTION 5. Section 226-109, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[§] 226-109[] Climate change adaptation priority
22 guidelines. Priority guidelines to prepare the State to address

1 the impacts of climate change, including impacts to the areas of
2 agriculture; conservation lands; coastal and nearshore marine
3 areas; natural and cultural resources; education; energy; higher
4 education; health; historic preservation; water resources; the
5 built environment, such as housing, recreation, transportation;
6 and the economy shall:

- 7 (1) Ensure that Hawaii's people are educated, informed,
8 and aware of the impacts climate change may have on
9 their communities;
- 10 (2) Encourage community stewardship groups and local
11 stakeholders to participate in planning and
12 implementation of climate change policies;
- 13 (3) Invest in continued monitoring and research of
14 Hawaii's climate and the impacts of climate change on
15 the State;
- 16 (4) Consider native Hawaiian traditional knowledge and
17 practices in planning for the impacts of climate
18 change;
- 19 (5) Encourage the preservation and restoration of natural
20 landscape features, such as coral reefs, beaches and
21 dunes, forests, streams, floodplains, and wetlands,

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- 1 that have the inherent capacity to avoid, minimize, or
2 mitigate the impacts of climate change;
- 3 (6) Explore adaptation strategies that moderate harm or
4 exploit beneficial opportunities in response to actual
5 or expected climate change impacts to the natural and
6 built environments;
- 7 (7) Promote sector resilience in areas such as water,
8 roads, airports, and public health, by encouraging the
9 identification of climate change threats, assessment
10 of potential consequences, and evaluation of
11 adaptation options;
- 12 (8) Foster cross-jurisdictional collaboration between
13 county, state, and federal agencies and partnerships
14 between government and private entities and other
15 nongovernmental entities, including nonprofit
16 entities;
- 17 (9) Use management and implementation approaches that
18 encourage the continual collection, evaluation, and
19 integration of new information and strategies into new
20 and existing practices, policies, and plans; [and]
- 21 (10) Encourage planning and management of the natural and

1 built environments that effectively integrate climate
2 change policy[–]; and

3 (11) Identify and prioritize climate change and sea level
4 rise adaptation sending areas facing the greatest
5 threats from increasing impacts from coastal erosion
6 and flooding, and identify and prioritize potential
7 receiving areas for relocation of residential
8 development and public infrastructure from locations
9 that are or will be critically threatened by those
10 impacts."

11 SECTION 6. There is appropriated out of the sea level rise
12 voluntary relocation fund the sum of \$20,000,000, or so much
13 thereof as may be necessary for fiscal year 2023-2024, to carry
14 out the purpose of this Act. The sum appropriated shall be
15 expended by the department of land and natural resources.

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 9. This Act shall take effect upon its approval.

22

H.B. NO. 1092

1

INTRODUCED BY: Ram

2

BY REQUEST

3

JAN 23 2023

H.B. NO. 1092

Report Title:

Managed Retreat; Voluntary Relocation of Beachfront Residential Shoreline Development; Sea Level Rise Exposure Area

Description:

Expands the authority of the State and the counties and develops funding to begin utilizing managed retreat as an option for voluntarily moving residential development and associated infrastructure away from critically vulnerable areas to locations outside of sea level rise and coastal flooding exposure areas, including through a pilot program on the North Shore of Oahu.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO CLIMATE ADAPTATION.

PURPOSE: To expand the authority of the State and the counties and develop funding to begin utilizing managed retreat as an option for voluntarily moving residential development and associated infrastructure away from critically vulnerable areas to locations outside of sea level rise and coastal flooding exposure areas.

MEANS: Add a new part and section to chapter 171 and amend sections 171-50(a) and 226-109, Hawaii Revised Statutes (HRS). Appropriate out of the sea level rise voluntary relocation fund the sum of \$20,000,000.

JUSTIFICATION: A 2012 study by University of Hawaii Researchers for the United States Geological Survey found that over 13 miles of public beaches have already been lost to beach erosion and construction of coastal armoring including seawalls and revetments. Beach loss and threats to shorefront development will increase exponentially in coming decades with expected accelerating sea level rise if managed retreat is not implemented proactively, especially in high-value natural resource areas where beach protection is prioritized. These impacts are being observed on our shorelines today throughout the State as exemplified by recent highly publicized erosion threats to development in West Maui, on the North Shore of Oahu, and elsewhere.

The State of Hawaii, through the Office of Planning and Sustainable Development, has studied the feasibility and implications of managed retreat and identified next steps and recommendations for the State to develop

a managed retreat plan and program for Hawaii.

Through Act 223, Session Laws of Hawaii 2022 (Act 223), the State recognized the existential threat of sea level rise to real property and that transferring development rights and land exchanges are useful techniques to achieve community objectives of voluntarily shifting development away from areas that are critically threatened by sea level rise.

This proposal would further expand on Act 223 and act on recommendations from the Office of Planning and Sustainable Development toward making managed retreat a viable option for improving community resilience and conserving beaches and coastal ecosystems.

Impact on the public: The bill would improve resilience of shorefront communities and conserve public trust beaches and coastal ecosystems and public shoreline access.

Impact on the department and other agencies: This bill is an effort to provide alternatives to temporary and permanent shoreline armoring. As such, it will reduce the enforcement burden for unauthorized shoreline erosion control structures on both the Department's Office of Conservation and Coastal Lands, Division of Conservation and Resources Enforcement, and the Board of Land and Natural Resources. The bill will require development and administration of plans and programs for voluntary relocation of residential development from vulnerable shoreline areas in cooperation with other relevant state and county agencies.

GENERAL FUND: None.

OTHER FUNDS: \$20,000,000.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: Department of Business, Economic
Development, and Tourism - Office of
Planning and Sustainable Development, county
planning and permitting departments.

EFFECTIVE DATE: Upon approval.

H.B. NO. 1041

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that illegal use of
2 fireworks in Hawaii has caused brush fires, structural fires,
3 injuries, and even death despite the various local, state, and
4 federal laws governing the manufacture, transportation,
5 distribution, sale, and use of fireworks that continue to be
6 violated at what appears to be an increasing rate. While law
7 enforcement efforts to control illegal fireworks in Hawaii have
8 had limited results, the legislature finds that a concerted
9 multi-jurisdictional approach is needed to address the illegal
10 fireworks problem in Hawaii.

11 The purpose of this Act is to establish an illegal
12 fireworks task force to plan, coordinate, and engage in law
13 enforcement operations to interdict illegal fireworks, develop a
14 comprehensive strategic plan to stop the importation of illegal
15 fireworks and explosives into Hawaii, promote compliance with
16 the state fireworks control laws, and ensure the safety and
17 security of the airports, harbors, and other facilities and

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1 institutions in the State against the discharge of illegal
2 fireworks and explosives.

3 SECTION 2. (a) There shall be established within the
4 department of law enforcement for administrative purposes the
5 illegal fireworks task force. The task force shall use the
6 findings from the legislative reference bureau's 2019 report,
7 "Blast from the Past: An Update to the Report of the Illegal
8 Fireworks Task Force to the Legislature for the Regular Session
9 of 2011", as the basis for developing a comprehensive strategic
10 plan to stop the importation of illegal fireworks and explosives
11 into Hawaii, promote compliance with the state fireworks control
12 laws, and ensure the safety and security of the airports,
13 harbors, and other facilities and institutions in the State
14 against the discharge of illegal fireworks and explosives.

15 (b) The director of law enforcement or the director's
16 designee shall be the chair of the task force.

17 (c) The following individuals or their designees shall
18 serve as members of the task force:

- 19 (1) Attorney general;
20 (2) Deputy director of the harbors division of the
21 department of transportation;
22 (3) Chief of police of each county police department; and

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- 1 (4) Prosecuting attorney of each county.
- 2 (d) The chair shall invite representatives of the
- 3 following federal entities to serve as members of the task
- 4 force:
- 5 (1) United States Attorney's Office, District of Hawaii;
- 6 (2) United States Department of Homeland Security;
- 7 (3) Federal Bureau of Alcohol, Tobacco, Firearms, and
- 8 Explosives;
- 9 (4) Federal Bureau of Investigation;
- 10 (5) United States Coast Guard;
- 11 (6) United States Customs and Border Protection; and
- 12 (7) United States Drug Enforcement Administration.
- 13 (e) The task force and their represented agencies may
- 14 plan, coordinate, and engage in law enforcement operations to
- 15 interdict illegal fireworks and the task force shall develop a
- 16 comprehensive strategic plan to stop the importation of illegal
- 17 fireworks and explosives into Hawaii, promote compliance with
- 18 the state fireworks control laws, and ensure the safety and
- 19 security of the airports, harbors, and other facilities and
- 20 institutions in the State against the discharge of illegal
- 21 fireworks and explosives.

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1 (f) The task force shall submit a report of its
2 comprehensive strategic plan, including findings,
3 recommendations, and any proposed legislation, to the
4 legislature no later than twenty days prior to the convening of
5 the regular session of 2024 and no later than twenty days prior
6 to the convening of the regular session of 2025.

7 SECTION 3. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ _____ or so
9 much thereof as may be necessary for fiscal year 2023-2024 and
10 the same sum or so much thereof as may be necessary for fiscal
11 year 2024-2025 to carry out the purposes of this Act, including
12 the hiring of necessary administrative support staff for the
13 task force, operation of the task force, and reimbursement of
14 funds to law enforcement agencies for task-force-related law
15 enforcement operations, including law enforcement personnel,
16 overtime and other salary-related payments, charges for fuel,
17 equipment, and storage and disposal of confiscated fireworks.

18 The sums appropriated shall be expended by the department
19 of law enforcement.

20

H.B. NO. 1041

1 SECTION 4. This Act shall, upon its approval, take effect
2 on July 1, 2023, and shall be repealed on June 30, 2025.

3

4 INTRODUCED BY: *PBM*

5

BY REQUEST

JAN 23 2023

H.B. NO. 1041

Report Title:

Illegal Fireworks Task Force; Law Enforcement; Fireworks

Description:

Establishes the Illegal Fireworks Task Force within the Department of Law Enforcement to plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks, develop a comprehensive strategic plan to stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control laws, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State against the discharge of illegal fireworks and explosives. Requires a report to the Legislature. Appropriates funds.

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

AB NO 1041

JUSTIFICATION SHEET

DEPARTMENT: Law Enforcement

TITLE: A BILL FOR AN ACT RELATING TO FIREWORKS.

PURPOSE: To establish the Illegal Fireworks Task Force within the Department of Law Enforcement to plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks, develop a comprehensive strategic plan to stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control law, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State against the discharge of illegal fireworks and explosives. The bill also requires a report to the legislature and appropriates funds.

MEANS: Establishes the Illegal Fireworks Task Force within the Department of Law Enforcement.

JUSTIFICATION: Despite existing county, state, and federal laws prohibiting the importation, distribution, possession, or use of illegal fireworks, the communities in Hawaii continue to see an increase in illegal fireworks. The Illegal Fireworks Task Force is needed to undertake a comprehensive collaborative review of the problem, plan, coordinate, and engage in law enforcement operations to interdict illegal fireworks.

Impact on the public: There will be a positive impact to the public as the task force develops the required strategic plan that will help stop the importation of illegal fireworks and explosives into the State, promote compliance with the fireworks control law, and ensure the safety and security of airports, harbors, and other facilities and institutions in the State

HB NO 1041

against the discharge of illegal fireworks and explosives.

Impact on the department and other agencies:

The proposed measure will bring state, county, and federal partners together to develop a successful solution to the fireworks problems in Hawaii.

GENERAL FUND: _____.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION:

OTHER AFFECTED

AGENCIES:

Department of Transportation, Department of the Attorney General, county police departments, county prosecutor offices, and various federal agencies upon invitation.

EFFECTIVE DATE: Upon approval.

A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE.

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

1 SECTION 1. The legislature finds that climate change and
2 sea level rise pose significant, dangerous, and imminent threats
3 to the State's social and economic well-being, public safety,
4 nature and environment, cultural resources, property,
5 infrastructure, and government functions and will likely have a
6 disproportionate impact on low-income and otherwise vulnerable
7 communities. A 2017 report by the National Oceanic and
8 Atmospheric Administration projected that 3.2 feet of global
9 mean sea level rise will occur by 2100 in an intermediate
10 scenario and could occur as early as the 2060s in an extreme
11 scenario.

12 The climate change adaptation priority guidelines of the
13 Hawaii State Planning Act, codified under chapter 226, Hawaii
14 Revised Statutes, direct the State to prepare for the impacts of
15 climate change. Additionally, section 226-109(8), Hawaii
16 Revised Statutes, fosters cross-jurisdictional collaboration
17 between county, state, and federal agencies and partnerships



1 between government and private entities and other
2 nongovernmental entities, including nonprofit entities, to
3 address climate change. Also, section 225M-9, Hawaii Revised
4 Statutes, requires the office of planning and sustainable
5 development to work with state agencies to identify existing and
6 planned facilities, including critical infrastructure, that are
7 vulnerable to sea level rise, flooding impacts, and natural
8 hazards, utilizing projections and map data from the most recent
9 update of the Hawaii sea level rise vulnerability and adaptation
10 report, the state hazard mitigation plan, and other pertinent
11 data and scientific reports to aid in this planning.

12 The legislature recognizes that the Hawaii community
13 development authority plans, coordinates, and implements new
14 infrastructure and development projects in the Kaka'ako and
15 Kalaeloa community development districts on Oahu. Additionally,
16 the Kaka'ako community development district will be threatened by
17 the effects of climate change, including sea level rise, king
18 tides, and heavy rainfall, and the lack of drainage
19 infrastructure in the Kalaeloa community development district
20 makes it vulnerable to heavy rainfall and other effects of
21 climate change. As such, the legislature further finds that it



1 is in the State's long-term interest and would serve the highest
2 needs and aspirations of Hawaii's people to ensure that
3 development in the Kaka'ako and Kalaeloa community development
4 districts accounts and plans for the impacts of climate change.

5 Furthermore, it is in the long-term interest of the State
6 to also consider climate resiliency in the development of these
7 communities, which considers strategies to reduce vulnerability
8 from climate-related shocks, such as hurricanes and drought, and
9 improves the ability of the State to recover from these
10 disasters.

11 The purpose of this Act is to require the Hawaii community
12 development authority to consider the impacts of climate change,
13 sea level rise, and climate-resilient development in the design
14 and siting of buildings in the Kaka'ako and Kalaeloa community
15 development districts.

16 SECTION 2. Section 206E-33, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§206E-33 Kakaako community development district;**
19 **development guidance policies.** The following shall be the
20 development guidance policies generally governing the



1 authority's action in the Kakaako community development
2 district:

3 (1) Development shall result in a community [which] that
4 permits an appropriate land mixture of residential,
5 commercial, industrial, and other uses. In view of
6 the innovative nature of the mixed use approach, urban
7 design policies should be established to provide
8 guidelines for the public and private sectors in the
9 proper development of this district; while the
10 authority's development responsibilities apply only to
11 the area within the district, the authority may engage
12 in any studies or coordinative activities permitted in
13 this chapter [which] that affect areas lying outside
14 the district, where the authority in its discretion
15 decides that those activities are necessary to
16 implement the intent of this chapter. The studies or
17 coordinative activities shall be limited to facility
18 systems, resident and industrial relocation, and other
19 activities with the counties and appropriate state
20 agencies. The authority may engage in construction
21 activities outside of the district; provided that such



1 construction relates to infrastructure development or
2 residential or business relocation activities;
3 provided further, notwithstanding section 206E-7, that
4 such construction shall comply with the general plan,
5 development plan, ordinances, and rules of the county
6 in which the district is located;

7 (2) Existing and future industrial uses shall be permitted
8 and encouraged in appropriate locations within the
9 district. No plan or implementation strategy shall
10 prevent continued activity or redevelopment of
11 industrial and commercial uses [which] that meet
12 reasonable performance standards;

13 (3) Activities shall be located so as to provide primary
14 reliance on public transportation and pedestrian
15 facilities for internal circulation within the
16 district or designated subareas;

17 (4) Major view planes, view corridors, and other
18 environmental elements such as natural light and
19 prevailing winds, shall be preserved through necessary
20 regulation and design review; provided that no portion



- 1 of any building or structure in the Kakaako Mauka area
2 shall exceed four hundred eighteen feet in height;
- 3 (5) Redevelopment of the district shall be compatible with
4 plans and special districts established for the Hawaii
5 Capital District, and other areas surrounding the
6 Kakaako district;
- 7 (6) Historic sites and culturally significant facilities,
8 settings, or locations shall be preserved;
- 9 (7) Land use activities within the district, where
10 compatible, shall to the greatest possible extent be
11 mixed horizontally, that is, within blocks or other
12 land areas, and vertically, as integral units of
13 multi-purpose structures;
- 14 (8) Residential development may require a mixture of
15 densities, building types, and configurations in
16 accordance with appropriate urban design guidelines;
17 integration both vertically and horizontally of
18 residents of varying incomes, ages, and family groups;
19 and an increased supply of housing for residents of
20 low- or moderate-income may be required as a condition
21 of redevelopment in residential use. Residential



1 development shall provide necessary community
2 facilities, such as open space, parks, community
3 meeting places, child care centers, and other
4 services, within and adjacent to residential
5 development; [and]

6 (9) Public facilities within the district shall be
7 planned, located, and developed so as to support the
8 redevelopment policies for the district established by
9 this chapter and plans and rules adopted pursuant to
10 it[.]; and

11 (10) Development shall consider the impacts of climate
12 change, sea level rise, and climate-resilient
13 development in the design and siting of buildings."

14 SECTION 3. Section 206E-194, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**[f]S206E-194[f]** **Kalaeloa community development district;**
17 **development guidance policies.** The following development
18 guidance policies shall generally govern the authority's actions
19 in the Kalaeloa community development district:

20 (1) Development shall be in accordance with the community
21 reuse plan, except as it conflicts with the Hawaii



- 1 State Constitution and [the] Hawaii Revised Statutes,
2 as they relate to the department of Hawaiian home
3 lands;
- 4 (2) With the approval of the governor and concurrence of
5 the Navy, and in accordance with state law governing
6 lands owned by the department of Hawaiian home lands,
7 the authority, upon the concurrence of a majority of
8 its voting members, may modify and make changes to the
9 reuse plan to respond to changing conditions; provided
10 that [prior to] before amending the reuse plan, the
11 authority shall conduct a public hearing to inform the
12 public of the proposed changes and receive public
13 input;
- 14 (3) Development shall seek to promote economic development
15 and employment opportunities by fostering diverse land
16 uses and encouraging private sector investments that
17 utilize the opportunities presented by the receipt of
18 property from the base closure consistent with the
19 needs of the public;
- 20 (4) The authority may engage in planning, design, and
21 construction activities within and outside of the



1 district; provided that activities outside of the
2 district shall relate to infrastructure development,
3 area-wide drainage improvements, roadways realignments
4 and improvements, business and industrial relocation,
5 and other activities the authority deems necessary to
6 carry out redevelopment of the district and implement
7 this chapter. Studies or coordinating activities may
8 be undertaken by the authority in conjunction with the
9 county and appropriate state agencies and may address
10 facility systems, industrial relocation, and other
11 activities;

12 (5) Planning, replanning, rehabilitation, development,
13 redevelopment, and other preparation for reuse of
14 Barbers Point Naval Air Station under this chapter are
15 public uses and purposes for which public money may be
16 spent and private property acquired;

17 (6) Hawaiian archaeological, historic, and cultural sites
18 shall be preserved and protected. Endangered species
19 of flora and fauna and significant military facilities
20 shall be preserved to the extent feasible;



- 1 (7) Land use and redevelopment activities within the
2 district shall be coordinated with and to the extent
3 possible complement existing county and state
4 policies, plans, and programs affecting the district;
5 [and]
6 (8) Public facilities within the district shall be
7 planned, located, and developed to support the
8 redevelopment policies established by this chapter for
9 the district, the reuse plan approved by the governor,
10 and rules adopted pursuant to this chapter[-]; and
11 (9) Development shall consider the impacts of climate
12 change, sea level rise, and climate-resilient
13 development in the design and siting of buildings."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect upon its approval.

17



Report Title:

Climate Change; Sea Level Rise; Climate-resilient Development;
Hawaii Community Development Authority; Kakaako; Kalaeloa;
Guidance

Description:

Requires the Hawaii community development authority to consider
the impacts of climate change, sea level rise, and climate-
resilient development in the design and siting of buildings in
the Kaka'ako and Kalaeloa community development districts. (HD2)

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



A BILL FOR AN ACT

RELATING TO CLIMATE CHANGE.

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

1 SECTION 1. The legislature finds that Hawaii is
2 experiencing a climate emergency. Climate change impacts are
3 being felt statewide and have long-term threats to the State's
4 economy, sustainability, environment, security, culture, and way
5 of life. Successful mitigation and adaptation of climate change
6 requires both comprehensive study and action to address the
7 impacts of climate change.

8 The 2017 Hawai'i Sea Level Rise Vulnerability and Adaptation
9 Report estimated the lost value of flooded structures and land
10 at over \$19 billion. The legislature finds that Hawaii needs to
11 invest in climate action now to address these and other costs of
12 climate change as soon as possible. Climate change action may
13 include looking at the resiliency of the power grid, renewable
14 energy resources, sustainable transportation systems, land use
15 planning, sea level rise, health, natural and cultural
16 resources, sustainable tourism, hazard vulnerability and
17 mitigation, social vulnerability, economic resilience, and



1 climate equity and justice. The breadth of the impact of
2 climate change is such that comprehensive and coordinated
3 efforts need to be undertaken.

4 The purpose of this Act is to appropriate funds to address
5 the impacts of climate change and mitigate further impacts on
6 the State through education, carbon sequestration, and
7 resiliency planning and implementation.

8 SECTION 2. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$80,000,000 or so
10 much thereof as may be necessary for fiscal year 2023-2024 for
11 the purposes of carrying out the operations of the Hawaii
12 climate change mitigation and adaptation commission.

13 The sum appropriated shall be expended by the department of
14 land and natural resources for the purposes of this Act.

15 SECTION 3. There is appropriated out of the general
16 revenues of the State of Hawaii the sum of \$20,000,000 or so
17 much thereof as may be necessary for fiscal year 2023-2024 to
18 transfer moneys to the sea level rise voluntary relocation fund
19 to carry out the purposes of the Hawaii climate change
20 mitigation and adaptation commission.



- 1 The sum appropriated shall be expended by the department of
- 2 land and natural resources for the purposes of this Act.
- 3 SECTION 4. This Act shall take effect on July 1, 2023.



Report Title:

Climate Change; Appropriation

Description:

Appropriates funds to the Hawaii Climate Change Mitigation and Adaptation Commission to address impacts of climate change and to mitigate further impacts on the State through carbon sequestration and resiliency planning. Allocates funds to the sea level rise voluntary relocation fund. (SD1)

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



S.B. NO. 1390

JAN 25 2023

A BILL FOR AN ACT

RELATING TO CLIMATE ADAPTATION.

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

1 SECTION 1. The legislature finds that climate change is
2 real. Rising sea levels throughout the State will increasingly
3 erode beaches, damage habitats, and be an existential threat to
4 residential development and associated infrastructure in many
5 shorefront and low-lying areas as described in the 2017 Hawaii
6 Sea Level Rise Vulnerability and Adaptation Report and companion
7 State of Hawaii Sea Level Rise Viewer. These impacts are being
8 observed on our shorelines today throughout the State as
9 exemplified by recent highly publicized erosion threats to
10 development in West Maui, on the North Shore of Oahu, and
11 elsewhere. The legislature finds that managed retreat will be
12 an essential policy and programmatic approach for voluntarily
13 relocating development and associated public infrastructure from
14 areas that are critically impacted by coastal hazards including
15 coastal erosion and flooding with sea level rise, particularly
16 from areas with high natural ecosystem, cultural, and

1 recreational public resource value and to reduce hazard to life
2 and property from coastal hazards.

3 The purpose of this Act is to expand the authority of the
4 State and the counties and develop funding to begin to utilize
5 managed retreat as a climate adaptation and hazard avoidance
6 option for voluntarily moving residential development and
7 associated infrastructure away from critically vulnerable areas
8 to locations outside of sea level rise and coastal flooding
9 exposure areas.

10 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
11 amended by adding a new part to be appropriately designated and
12 read as follows:

13 "PART . VOLUNTARY RELOCATION OF RESIDENTIAL DEVELOPMENT FROM
14 SEA LEVEL RISE EXPOSURE AREAS INVOLVING STATE LANDS

15 §171- Definitions. For the purposes of this part:
16 "Land exchanges" means mechanisms to secure lands while
17 compensating property owners in-kind through providing land or
18 development rights. Land exchanges can provide a partial or
19 full replacement alternative to financial compensation.

20 "Leaseback" means a transaction in which a property owner
21 willingly sells the real property to the government or third
22 party and leases the property back from that new owner until

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1 such time that the land is deemed unsafe due to increasing
2 erosion or flooding hazards.

3 "Receiving area" means areas where additional growth and
4 development can be accommodated from a sending area.

5 "Sending area" means areas where development is no longer
6 encouraged due to exposure to increasing hazards with climate
7 change and sea level rise.

8 "Transfer of development rights" means programs allowing
9 land owners to transfer development rights from property in
10 areas where development is no longer desirable or sustainable to
11 areas that are. Transfer of development right programs may also
12 allow developers to purchase development rights from property
13 owners in areas where development is no longer desirable or
14 sustainable and transfer those development rights to their own
15 property.

16 **§171- General powers.** (a) In carrying out its functions
17 under this part, the board and department may do all things
18 necessary, useful, and convenient in connection with voluntary
19 relocation of residential development and associated public
20 utilities and infrastructure from locations that are or will be
21 critically threatened by impacts related to climate change and

1 sea level rise and have high natural resource value, including
2 transfer of development rights, leasebacks, land exchanges, and
3 restoration of coastal lands, subject to all applicable laws, so
4 long as the public interest is served.

5 **§171- Sea level rise voluntary relocation plan.** The
6 department, in cooperation with appropriate state and county
7 agencies, shall prepare and, from time to time, revise plans for
8 the implementation of a program to facilitate voluntary
9 relocation of private residential development and associated
10 public infrastructure from areas that are critically threatened
11 by coastal erosion and flooding with sea level rise and that
12 have high natural resource value to areas outside of the sea
13 level rise exposure area as designated by the Hawaii climate
14 change adaptation commission and special flood hazard areas.
15 These plans shall guide the department with appropriate state
16 and county agencies in identifying and prioritizing coastal
17 lands that are critically threatened by coastal erosion and sea
18 level rise and have high natural and community resource value,
19 and in identifying and prioritizing potential sending and
20 receiving areas for relocation of residential development and
21 associated public utilities and infrastructure. In preparing
22 these plans, the department may institute studies pertaining to

1 the need for restoration of such lands to natural conditions and
2 for public purposes and shall consider any plan relating to the
3 restoration of such lands that has been prepared by any federal,
4 state, county, or private agency or entity. The department may
5 also institute other studies as necessary to support the
6 development of voluntary relocation projects, including the
7 development of environmental studies pertaining to relocation of
8 development, cost-benefit analysis for project viability, and
9 engineering studies.

10 **§171- Sea level rise voluntary relocation fund.** (a)
11 There is established in the state treasury a special fund to be
12 designated as the "sea level rise voluntary relocation fund" to
13 carry out the purposes of this part. The following moneys shall
14 be deposited into the sea level rise voluntary relocation
15 special fund:

- 16 (1) Appropriations made by the legislature for deposit
17 into this fund;
- 18 (2) Appropriations made out of the climate change special
19 fund;
- 20 (3) Donations and contributions made by private
21 individuals or organizations for deposit into this
22 fund;

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- 1 (4) Grants provided by government agencies or any other
2 source;
- 3 (5) Proceeds from transfer of development rights,
4 leasebacks, and land exchanges; and
- 5 (6) Proceeds from lawsuits holding industries accountable
6 for climate change impacts that threaten Hawaii.

7 (b) The sea level rise voluntary relocation special fund

8 may be used by the department for one or more of the following
9 purposes:

- 10 (1) Planning, designing, developing, or implementing of
11 climate change and sea level rise adaptation projects
12 pursuant to this part including voluntary relocation
13 of residential development and associated
14 infrastructure through mechanisms, including but not
15 limited to transfer of development rights, leasebacks,
16 land exchanges, and restoration of coastal lands; and
- 17 (2) Acquiring, through eminent domain, private development
18 at risk of exposure to sea level rise and flooding."

19 SECTION 3. Chapter 171, Hawaii Revised Statutes, is

20 amended by adding a new section to be appropriately designated
21 and read as follows:

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1 "§171- Public lands suitable and available for transfer
2 of development rights or land exchanges; inventory. The
3 department shall complete and maintain a current inventory of
4 all public lands and other high-priority private lands,
5 regardless of zoning, which are located outside of the sea level
6 rise exposure area as designated by the Hawaii climate change
7 mitigation and adaptation commission and special flood hazard
8 areas and are or may be suitable for relocation of residential
9 development from areas that are critically threatened by coastal
10 erosion and flooding with sea level rise and from areas that
11 have high natural and community resource value according to the
12 objectives and policies set forth in chapter 205A. This
13 inventory shall be updated annually and contain the following
14 information: the island and areas in which the land is situated,
15 the acreage, development potential including but not limited to,
16 nearest access to county or state roads, nearest access to
17 public utilities including electrical and water, and such other
18 information which the department determines may be necessary to
19 identify and inventory the land for those purposes. The
20 department shall submit a report detailing this initial
21 inventory to the governor, legislature, and Hawaii climate
22 change mitigation and adaptation commission no later than twenty

1 days prior to the convening of the 2024 regular legislative
2 session and every year thereafter."

3 SECTION 4. Section 171-50, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Purpose. No exchange of public land for private land
6 shall be made except for public purposes, including but not
7 limited to (1) consolidation of holdings of public lands; (2)
8 straightening of boundaries of public lands; (3) acquisition of
9 adequate access for landlocked public lands [~~which~~] that have
10 development potential; [~~or~~] (4) acquisition of lands suitable
11 for residential use[.]; or (5) relocation of private development
12 away from high risk areas of coastal hazards, sea level rise,
13 and flooding exposure, and expansion of public coastal areas and
14 access. Exchanges shall be effected without public auction.

15 Public notice of any proposed exchange shall be given in
16 accordance with the applicable provisions set forth in section
17 171-16(d). All private lands conveyed to the State by way of
18 exchanges shall thereafter become public lands."

19 SECTION 5. Section 226-109, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[f] §226-109 [f] Climate change adaptation priority
22 guidelines. Priority guidelines to prepare the State to address

1 the impacts of climate change, including impacts to the areas of
2 agriculture; conservation lands; coastal and nearshore marine
3 areas; natural and cultural resources; education; energy; higher
4 education; health; historic preservation; water resources; the
5 built environment, such as housing, recreation, transportation;
6 and the economy shall:

- 7 (1) Ensure that Hawaii's people are educated, informed,
8 and aware of the impacts climate change may have on
9 their communities;
- 10 (2) Encourage community stewardship groups and local
11 stakeholders to participate in planning and
12 implementation of climate change policies;
- 13 (3) Invest in continued monitoring and research of
14 Hawaii's climate and the impacts of climate change on
15 the State;
- 16 (4) Consider native Hawaiian traditional knowledge and
17 practices in planning for the impacts of climate
18 change;
- 19 (5) Encourage the preservation and restoration of natural
20 landscape features, such as coral reefs, beaches and
21 dunes, forests, streams, floodplains, and wetlands,

- 1 that have the inherent capacity to avoid, minimize, or
2 mitigate the impacts of climate change;
- 3 (6) Explore adaptation strategies that moderate harm or
4 exploit beneficial opportunities in response to actual
5 or expected climate change impacts to the natural and
6 built environments;
- 7 (7) Promote sector resilience in areas such as water,
8 roads, airports, and public health, by encouraging the
9 identification of climate change threats, assessment
10 of potential consequences, and evaluation of
11 adaptation options;
- 12 (8) Foster cross-jurisdictional collaboration between
13 county, state, and federal agencies and partnerships
14 between government and private entities and other
15 nongovernmental entities, including nonprofit
16 entities;
- 17 (9) Use management and implementation approaches that
18 encourage the continual collection, evaluation, and
19 integration of new information and strategies into new
20 and existing practices, policies, and plans; [and]
- 21 (10) Encourage planning and management of the natural and

1 built environments that effectively integrate climate
2 change policy[.]; and

3 (11) Identify and prioritize climate change and sea level
4 rise adaptation sending areas facing the greatest
5 threats from increasing impacts from coastal erosion
6 and flooding, and identify and prioritize potential
7 receiving areas for relocation of residential
8 development and public infrastructure from locations
9 that are or will be critically threatened by those
10 impacts."

11 SECTION 6. There is appropriated out of the sea level rise
12 voluntary relocation fund the sum of \$20,000,000, or so much
13 thereof as may be necessary for fiscal year 2023-2024, to carry
14 out the purpose of this Act. The sum appropriated shall be
15 expended by the department of land and natural resources.

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 9. This Act shall take effect upon its approval.

22

S.B. NO. 1390

1

INTRODUCED BY: Mu N. M.

2

BY REQUEST

3

S.B. NO. 1390

Report Title:

Managed Retreat; Voluntary Relocation of Beachfront Residential Shoreline Development; Sea Level Rise Exposure Area

Description:

Expands the authority of the State and the counties and develops funding to begin utilizing managed retreat as an option for voluntarily moving residential development and associated infrastructure away from critically vulnerable areas to locations outside of sea level rise and coastal flooding exposure areas, including through a pilot program on the North Shore of Oahu.

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JUSTIFICATION SHEET

SB. NO. 1390

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO CLIMATE ADAPTATION.

PURPOSE: To expand the authority of the State and the counties and develop funding to begin utilizing managed retreat as an option for voluntarily moving residential development and associated infrastructure away from critically vulnerable areas to locations outside of sea level rise and coastal flooding exposure areas.

MEANS: Add a new part and section to chapter 171 and amend sections 171-50(a) and 226-109, Hawaii Revised Statutes (HRS). Appropriate out of the sea level rise voluntary relocation fund the sum of \$20,000,000.

JUSTIFICATION: A 2012 study by University of Hawaii Researchers for the United States Geological Survey found that over 13 miles of public beaches have already been lost to beach erosion and construction of coastal armoring including seawalls and revetments. Beach loss and threats to shorefront development will increase exponentially in coming decades with expected accelerating sea level rise if managed retreat is not implemented proactively, especially in high-value natural resource areas where beach protection is prioritized. These impacts are being observed on our shorelines today throughout the State as exemplified by recent highly publicized erosion threats to development in West Maui, on the North Shore of Oahu, and elsewhere.

The State of Hawaii, through the Office of Planning and Sustainable Development, has studied the feasibility and implications of managed retreat and identified next steps and recommendations for the State to develop

a managed retreat plan and program for Hawaii.

Through Act 223, Session Laws of Hawaii 2022 (Act 223), the State recognized the existential threat of sea level rise to real property and that transferring development rights and land exchanges are useful techniques to achieve community objectives of voluntarily shifting development away from areas that are critically threatened by sea level rise.

This proposal would further expand on Act 223 and act on recommendations from the Office of Planning and Sustainable Development toward making managed retreat a viable option for improving community resilience and conserving beaches and coastal ecosystems.

Impact on the public: The bill would improve resilience of shorefront communities and conserve public trust beaches and coastal ecosystems and public shoreline access.

Impact on the department and other agencies: This bill is an effort to provide alternatives to temporary and permanent shoreline armoring. As such, it will reduce the enforcement burden for unauthorized shoreline erosion control structures on both the Department's Office of Conservation and Coastal Lands, Division of Conservation and Resources Enforcement, and the Board of Land and Natural Resources. The bill will require development and administration of plans and programs for voluntary relocation of residential development from vulnerable shoreline areas in cooperation with other relevant state and county agencies.

GENERAL FUND: None.

OTHER FUNDS: \$20,000,000.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: Department of Business, Economic
Development, and Tourism - Office of
Planning and Sustainable Development, county
planning and permitting departments.

EFFECTIVE DATE: Upon approval.

A BILL FOR AN ACT

RELATING TO FIREWORKS.

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

1 SECTION 1. The legislature finds that the use of consumer
2 fireworks causes fires and burn injuries, mostly to children.
3 Fireworks produce excessive smoke that makes breathing
4 difficult. Noise from loud fireworks traumatizes many
5 residents, including war veterans, as well as pets. With the
6 increase in fireworks-related calls, public safety agencies are
7 strained to maintain adequate response levels for other critical
8 emergencies. The legislature further finds that people in the
9 State and its communities deserve to live in peace and security
10 without the public safety risk and disruptive impact of consumer
11 fireworks.

12 The purpose of this Act is to limit the use of consumer
13 fireworks by:

14 (1) Authorizing the sale and use of consumer fireworks
15 only for cultural purposes; and
16 (2) Discontinuing the authorization of the noncultural use
17 of consumer fireworks on the three designated



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1 holidays, namely New Year's Eve, the Fourth of July,
2 and Chinese New Year's Day.

3 This Act is not intended to prohibit licensed
4 professionals' use of display fireworks, articles pyrotechnic,
5 and aerial devices.

6 SECTION 2. Section 132D-2, Hawaii Revised Statutes, is
7 amended by amending the definitions of "consumer fireworks" and
8 "cultural" to read as follows:

9 " "Consumer fireworks" [~~means~~] :

10 (1) Means any fireworks designed primarily for retail sale
11 to the public [~~during authorized dates and times,~~]
12 that produces visible or audible effects by
13 combustion, and that is designed to remain on or near
14 the ground and, while stationary or spinning rapidly
15 on or near the ground, emits smoke, a shower of
16 colored sparks, whistling effects, flitter sparks, or
17 balls of colored sparks, and includes combination
18 items that contain one or more of these effects.

19 "Consumer fireworks" shall comply with the
20 construction, chemical composition, and labeling
21 regulations of the United States Consumer Product



1 Safety Commission as set forth in Title 16 Code of
2 Federal Regulations and fireworks classified as UN0336
3 and UN0337 by the United States Department of
4 Transportation as set forth in Title 49 Code of
5 Federal Regulations [~~- "Consumer fireworks" include~~];
6 and

7 (2) Include firework items commonly known as firecrackers
8 that are single paper cylinders not exceeding one and
9 one-half inches in length excluding the fuse and
10 one-quarter of an inch in diameter and contain a
11 charge of not more than fifty milligrams of
12 pyrotechnic composition, snakes, sparklers, fountains,
13 and cylindrical or cone fountains that emit effects up
14 to a height not greater than twelve feet above the
15 ground, illuminating torches, bamboo cannons,
16 whistles, toy smoke devices, wheels, and ground
17 spinners that when ignited remain within a circle with
18 a radius of twelve feet as measured from the point
19 where the item was placed and ignited, novelty or
20 trick items, combination items, and other fireworks of



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1 like construction that are designed to produce the
2 same or similar effects.

3 "Cultural" means relating to the arts, customs, traditions,
4 mores, and history of [all of] the various ethnic groups of
5 Hawaii[–] and includes religious events."

6 SECTION 3. Section 132D-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§132D-3 [Permissible uses]~~ Use of consumer fireworks[–];
9 prohibition; exception for use at cultural events. [Consumer
10 ~~fireworks may be~~] It shall be unlawful for any person to set
11 ~~off, [ignited, discharged,]~~ ignite, discharge or otherwise
12 ~~caused~~ cause to explode any consumer fireworks within the
13 State [~~only~~].

14 (1) ~~From 9:00 p.m. on New Year's Eve to 1:00 a.m. on New~~

15 ~~Year's Day, from 7:00 a.m. to 7:00 p.m. on Chinese New~~

16 ~~Year's Day, and from 1:00 p.m. to 9:00 p.m. on the~~

17 ~~Fourth of July; or~~

18 (2) ~~From 9:00 a.m. to 9:00 p.m. as allowed by permit~~

19 ~~pursuant to section 132D-10 if the proposed cultural~~

20 ~~use is to occur at any time other than during the~~

21 ~~periods prescribed in paragraph (1),]~~



1 except for cultural events from 9:00 a.m. to 9:00 p.m. as
2 allowed by permit pursuant to section 132D-10; provided that the
3 purchase of not more than five thousand individual consumer
4 fireworks commonly known as firecrackers shall be allowed under
5 each permit."

6 SECTION 4. Section 132D-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§132D-5 General prohibitions.** (a) [It] In addition to
9 the prohibition under section 132D-3, it shall be unlawful for
10 any person [~~without a permit issued under section 132D-10 by a~~
11 ~~county fire department~~] to:

12 (1) Remove or extract the pyrotechnic contents from any
13 fireworks;

14 (2) Throw any ignited fireworks:

15 (A) From, at, or into a vehicle;

16 (B) At a person or an animal; and

17 (C) From above the first floor of any building; or

18 (3) Set off, ignite, discharge, or otherwise cause to
19 explode any fireworks:

20 (A) Above the first floor of any building;

21 (B) In any vehicle;



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- 1 [~~(C)~~ At any time not within the periods for use
2 prescribed in section 132D-3;
3 [~~(D)~~] (C) Within one thousand feet of any operating
4 hospital, licensed convalescent home, licensed
5 home for the elderly, zoo, licensed animal
6 shelter, or licensed animal hospital;
7 [~~(E)~~] (D) In any school building, or on any school
8 grounds and yards without first obtaining
9 authorization from appropriate school officials;
10 [~~(F)~~] (E) On any highway, alley, street, sidewalk, or
11 other public way; in any park; on any public
12 beach; in any officially designated forest or
13 wildlife preserve; within fifty feet of a
14 canefield; or within one thousand feet of any
15 building used for public worship during the
16 periods when services are held; and
17 [~~(G)~~] (F) Within five hundred feet of any hotel.

18 (b) [~~It~~] Except for use at cultural events by permit
19 pursuant to section 132D-10, it shall be unlawful to purchase or
20 possess consumer fireworks [more than five calendar days before



1 ~~the time periods for permissible use under section 132D-3.]~~
2 within the State.

3 (c) ~~[It]~~ Except for use at cultural events by permit
4 pursuant to section 132D-10, it shall be unlawful to offer,
5 expose for sale, sell, or furnish consumer fireworks [after
6 ~~12:01 a.m. on New Year's Day, 6:00 p.m. on Chinese New Year's~~
7 ~~Day, and 8:00 p.m. on the Fourth of July.] to any person within~~
8 the State.]

9 SECTION 5. Section 132D-8, Hawaii Revised Statutes, is
10 amended by amending subsection (d) to read as follows:

11 "(d) It shall be unlawful for any licensee, other than a
12 wholesaler who is selling or transferring fireworks or articles
13 pyrotechnic to a licensed retailer, to sell or offer to sell,
14 exchange for consideration, give, transfer, or donate any
15 fireworks or articles pyrotechnic at any time to any person who
16 does not present a permit duly issued as required by section
17 132D-10 or 132D-16. The permit shall be signed by the seller or
18 transferor at the time of sale or transfer of the fireworks or
19 articles pyrotechnic, and the seller or transferor shall
20 indicate on the permit the amount and type of fireworks or
21 articles pyrotechnic sold or transferred. No person shall sell



1 or deliver fireworks to any permittee in any amount in excess of
2 the amount specified in the permit, less the amount shown on the
3 permit to have been previously purchased; provided that no
4 fireworks shall be sold to a permittee holding a permit issued
5 for purposes of section 132D-3, more than five calendar days
6 before the applicable [time period under section 132D-3.]
7 cultural event."

8 SECTION 6. Section 132D-10, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§132D-10 Permits[.] for the purchase and use of**
11 **fireworks.** A permit shall be required for the purchase and use
12 of:

- 13 (1) Any consumer fireworks [~~commonly known as firecrackers~~
14 ~~upon payment of a fee of~~] for cultural events, the fee
15 for which shall be \$25[+] per permit; and
16 (2) Any aerial devices, display fireworks, or articles
17 pyrotechnic for the purposes of section 132D-16 [~~upon~~
18 ~~payment of a fee of~~], the fee for which shall be
19 \$110[+] and
20 (3) ~~Any consumer fireworks for the purposes of section~~
21 ~~132D-5 or for cultural uses that occur at any time~~



H.B. NO. 145

1 other than during the periods prescribed in section
2 132D-3(1) upon a payment of a fee of \$25.] per
3 permit."

4 SECTION 7. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun before its effective date.

7 SECTION 8. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 9. This Act shall take effect upon its approval.

10

INTRODUCED BY:

Ram

By Request

JAN 17 2023



H.B. NO. 145

Report Title:

State Fire Council Package; Fireworks; Cultural Events; Prohibitions; Exceptions

Description:

Imposes a statewide limitation on consumer fireworks, except by permit for cultural events.

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



A BILL FOR AN ACT

RELATING TO NATURAL RESOURCES MANAGEMENT.

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

1 SECTION 1. The legislature finds that Hawaii's natural
2 resources, including reefs, oceans, forests, streams, estuaries,
3 shorelines, and beaches, provide irreplaceable and invaluable
4 benefits to visitors, residents, and the global community at
5 large.

6 The Hawai'i State Constitution makes clear that Hawaii's
7 natural and cultural resources are the essence of the public
8 trust, and therefore must be managed and protected for the
9 benefit of present and future generations. The Hawai'i State
10 Constitution also recognizes the importance of a clean and
11 healthful environment and requires the State and its agencies to
12 protect traditional and customary rights, which are dependent
13 upon carefully managed and abundant natural resources. This Act
14 should be construed as a means for fulfilling these
15 constitutional mandates.

16 The legislature further finds that Hawaii's natural
17 environment and relationship to those resources face significant

H.B. NO. 651

1 environmental pressure from the heavy usage they receive from
2 persons traveling to enjoy the State's natural resources.
3 Underinvestment in Hawaii's natural resources poses a
4 significant liability to its visitor industry and the stability
5 of its natural systems, including its food systems and water
6 quality, ecosystem services, fisheries, economic resilience, and
7 health and safety of the citizens of the State.

8 The legislature also finds that Hawai'i residents contribute
9 to the protection and management of the State's natural
10 resources through taxes, environmental care, subsistence and
11 cultural practices, and the values and practices embodied in the
12 Hawai'i State Constitution. With escalating visitor impacts and
13 the increasing global threat to the State's island ecosystem,
14 there is an immediate need to fairly allocate the burden to
15 protect, restore, sustain, manage, and conserve Hawaii's natural
16 resources. Furthermore, a regenerative tourism fee has been
17 suggested as a solution by the Hawaii tourism authority. It is
18 timely to ask visitors who enjoy and reap the benefits of
19 Hawaii's natural resources to contribute to the protection,
20 care, and restoration of these resources.

21 The legislature believes that a license requirement for
22 visitors who enjoy Hawaii's unique, world-class public beaches,

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1 trails, parks, and ecosystems could generate necessary funding
2 each year to offset the adverse impacts of visitors and conserve
3 Hawaii's irreplaceable green infrastructure.

4 The legislature further finds that environmental protection
5 fees, commonly referred to as green fees, have been successfully
6 implemented at visitor destinations around the world, including
7 the Galapagos Islands, New Zealand, and Palau, and demonstrate
8 compounding benefits for visitors, residents, and the land and
9 seascapes.

10 The legislature believes that establishing a visitor green
11 fee in the State is a significant and effective way to raise
12 additional revenues to offset visitor impacts and ensure a
13 healthy and functioning environment for present and future
14 generations.

15 The purpose of this Act is to establish a visitor green fee
16 program, administered by the board of land and natural
17 resources, that includes a license and assessment of a visitor
18 green fee on visitors for the usage of Hawaii's state-owned
19 designated public beaches, parks, trails, and coastlines, to:

20 (1) Provide sustained funding for the protection,
21 restoration, regeneration, enhancement, and care of

H.B. NO. 1051

1 Hawaii's natural and cultural recreational resources;
2 and

3 (2) Build resilience of these resources to the impacts of
4 increased visitor use.

5 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
6 amended by adding a new part to be appropriately designated and
7 to read as follows:

8 **"PART . VISITOR GREEN FEE PROGRAM**

9 **§171-A Definitions.** For purposes of this part:

10 "Board" means the board of land and natural resources.

11 "Commission" means the environmental legacy commission.

12 "Department" means the department of land and natural
13 resources.

14 "License" means a license issued pursuant to this part.

15 "Licensee" means a person who is issued a license pursuant
16 to this part.

17 "Nonprofit organization" means a private, nonprofit
18 organization, with nonprofit status acknowledged by the United
19 States Internal Revenue Service, that qualifies under section
20 501(c)(3) of the Internal Revenue Code of 1986, as amended, and
21 has among its charitable purposes the preservation, restoration,
22 management, or interpretation of natural or cultural resources

H.B. NO. 1051

1 for scientific, historic, educational, recreational, scenic,
2 wildlife, or open-space purposes; protection of the natural
3 environment or biological resources, or both; preservation or
4 enhancement of wildlife, or both; and protection or
5 interpretation, or both, of Native Hawaiian cultural resources
6 and practices related thereto.

7 "Program" means the visitor green fee program.

8 "Resident of Hawaii" means an individual who has:

9 (1) Filed or paid state income taxes for the previous tax
10 year; or

11 (2) Established domicile in the State, as evidenced by
12 documentation showing the individual's address,
13 including any of the following:

14 (A) A valid Hawaii driver's license;

15 (B) A valid Hawaii state identification card;

16 (C) A valid school identification card; or

17 (D) Any other official document issued to the
18 individual within the last thirty days by a
19 government agency, financial institution,
20 insurance company, or utility company in the
21 State.

H.B. NO. 1031

1 "Special fund" means the visitor green fee special fund
2 established pursuant to section 171-G.

3 "Visitor" means a person in Hawaii who is not a resident of
4 Hawaii.

5 **§171-B Visitor green fee program; establishment.** (a)
6 There is established within the department the visitor green fee
7 program, to be administered by the board, to collect a fee from
8 visitors through an environmental license and allocate that
9 revenue to protect, restore, and manage natural and cultural
10 resources impacted by visitors.

11 (b) Beginning on a date established by the board by rule,
12 each visitor who is fifteen years of age or older and visits a
13 state-owned park, beach, forest, trail, or other state-owned
14 recreational natural area, as designated by rule by the board,
15 shall first pay a visitor green fee to obtain a license pursuant
16 to this part.

17 (c) The department shall place signs at designated state-
18 owned parks, beaches, forests, trail heads, and other state-
19 owned recreational natural areas, that inform visitors of the
20 requirement to pay a visitor green fee and obtain a license
21 pursuant to this section.

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1 **§171-C License; purchase.** (a) The board shall establish
2 convenient opportunities, including through a mobile application
3 or internet website, for visitors to pay a visitor green fee. A
4 visitor shall be issued a license by the department; provided
5 that the visitor meets the requirements pursuant to this part
6 for obtaining a license.

7 (b) The board may authorize retail establishments and
8 nonprofit organizations to accept payment of a visitor green fee
9 and issue a license.

10 (c) The amount of the visitor green fee shall be \$50.

11 (d) The board may adjust the fee no more than once every
12 five years if the board finds that the current fee is
13 insufficient to offset visitor impacts to Hawaii's natural and
14 cultural resources.

15 (e) Each license shall be effective for one year from the
16 date of purchase, including the date of issuance.

17 **§171-D Penalties.** (a) Any visitor who enters a state-
18 owned park, beach, forest, trail, or other state-owned
19 recreational natural areas, designated pursuant to section 171-
20 B(b) as an area requiring a license, without first paying a
21 visitor green fee and obtaining a license in violation of
22 section 171-B(b) shall be liable for a civil fine not to exceed

H.B. NO. 1051

1 \$. Penalties may be assessed no sooner than July 1,
2 2028, in the interest of effective implementation, public
3 education, and enforcement.

4 (b) Any civil fine provided under this section may be
5 imposed by the circuit court or by the board after an
6 opportunity for a hearing under chapter 91. Imposition of a
7 civil fine shall not be a prerequisite to any civil fine or
8 other injunctive relief ordered by the circuit court.

9 **§171-E Environmental legacy commission; establishment;**
10 **powers; duties; members.** (a) There is established within the
11 department the environmental legacy commission. The commission
12 shall:

- 13 (1) Determine the appropriate term limits, rules, and
14 regulations for the commission;
- 15 (2) Recommend to the board the disbursement of revenues
16 collected pursuant to this part;
- 17 (3) Monitor the program and advise the department and the
18 board on all matters concerning the program; and
- 19 (4) Recommend to the board for adoption of rules relating
20 to the criteria the commission applies in advising the
21 department and the board and recommending
22 disbursements of revenue.

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- 1 (b) The commission shall comprise:
- 2 (1) The following ex officio members:
- 3 (A) The chairperson of the board or the chairperson's
4 designee, who shall serve as the chairperson of
5 the commission;
- 6 (B) The director of the office of planning and
7 sustainable development or the director's
8 designee; and
- 9 (C) The chief executive officer of the Hawaii tourism
10 authority or the chief executive officer's
11 designee; and
- 12 (2) The following members, who shall be recommended by the
13 department and appointed by the governor as provided
14 in section 26-34:
- 15 (A) One representative of a nonprofit environmental
16 organization having expertise on the protection,
17 restoration, and care of terrestrial natural
18 resources;
- 19 (B) One representative of a nonprofit environmental
20 organization having expertise on the protection,
21 restoration, and care of marine and coastal
22 natural resources;

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- 1 (C) One representative of a nonprofit environmental
2 organization having expertise on climate change
3 mitigation, adaptation, and resiliency;
- 4 (D) One representative of the agency working on State
5 climate change mitigation, adaptation, and
6 resiliency;
- 7 (E) Two representatives who have expertise in the
8 protection, restoration, care, and interpretation
9 of Native Hawaiian cultural resources;
- 10 (F) One representative between eighteen and twenty-
11 five years, inclusive, who works or has worked in
12 the field of environmental sustainability or
13 restoration, or both; and
- 14 (G) One representative from the private sector
15 working to advance environmental solutions in the
16 State as a green business that is locally owned
17 and operated.
- 18 (c) A simple majority of the members shall establish a
19 quorum.
- 20 (d) The members shall serve without compensation but shall
21 be reimbursed for expenses, including travel expenses, necessary
22 for the performance of their duties.

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1 §171-F Visitor green fee special fund; established. (a)
2 There is established within the state treasury the visitor green
3 fee special fund, to be administered by the board.

4 (b) The following moneys shall be deposited into the
5 special fund:

6 (1) All revenue from licenses issued pursuant to section
7 171-B;
8 (2) All fines collected pursuant to section 171-D;
9 (3) Appropriations made by the legislature;
10 (4) Earnings on moneys in the special fund.

11 (c) Moneys in the special fund shall be used for the
12 following purposes:

13 (1) The operations of the program, including hiring
14 employees, specialists, and consultants to evaluate
15 and further projects related to the purposes of the
16 program; and
17 (2) The administration of the program pursuant to section
18 171-B.

19 (d) With the permission of the governor, the board may
20 transfer moneys from the special fund to other state departments
21 and agencies to carry out the purposes of the program.

H.B. NO. 1251

1 §171-G Visitor green fee special fund; purpose;
2 priorities. (a) The special fund shall be administered by the
3 board as follows:

4 (1) With transparency and accountability; and
5 (2) In a manner that maximizes the effectiveness of the
6 program.

7 (b) The board shall allocate moneys in the special fund to
8 be expended directly by state agencies for projects that are
9 intended to offset adverse environmental impacts caused by
10 licensees and ensure that the State's natural resources are
11 maintained for continued use by licensees, such as projects that
12 directly restore, enhance, and protect natural resources and the
13 State's unique and fragile ecological status, including projects
14 that:

15 (1) Protect, restore, or enhance terrestrial and marine
16 natural resources impacted by heavy usage of
17 licensees;
18 (2) Increase the resilience and adaptation of Hawaii's
19 natural resources with environmentally beneficial
20 strategies to reduce the adverse impacts of climate
21 change, including coastal erosion, sea level rise,
22 damage to reefs, ocean acidification, coral bleaching,

H.B. NO. 1051

- 1 damage to land resources, and other impacts
2 exacerbated by licensees; or
3 (3) Remove and control invasive species and propagate and
4 plant native species in state-owned recreational areas
5 utilized by licensees.
6 (c) The board may allocate moneys in the special fund to
7 be expended directly by the department for administration of the
8 program including the:
9 (1) Establishment of the commission pursuant to section
10 171-E; and
11 (2) Creation and implementation of a visitor green fee
12 strategic plan.
13 (d) The board shall allocate moneys to provide grants to
14 nonprofit organizations not exceeding fifty per cent of fee
15 revenue annually pursuant to this section. In awarding grants,
16 the board shall only approve projects that offset the impact to
17 natural and cultural resources caused by the licensees.
18 In approving projects, the board may prioritize projects
19 that:
20 (1) Implement nature-based solutions to environmental and
21 climate issues exacerbated by licensees;

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- 1 (2) Provide significant protection, restoration, and
- 2 enhancement of Hawaii's natural resources in areas
- 3 impacted by licensees; or
- 4 (3) Increase the resilience of state-owned natural
- 5 resources impacted by licensees.
- 6 (e) The board may allocate moneys to provide grants to
- 7 local governments for projects approved by the board that offset
- 8 the impact to natural and cultural resources caused by the
- 9 licenses.
- 10 In approving projects, the board may prioritize projects
- 11 that:
- 12 (1) Implement nature-based solutions to environmental and
- 13 climate issues exacerbated by licensees;
- 14 (2) Provide significant protection, restoration, and
- 15 enhancement of Hawaii's natural resources in areas
- 16 impacted by licensees; or
- 17 (3) Increase the resilience of state-owned natural
- 18 resources impacted by licensees.
- 19 (f) The board may allocate moneys to provide cost-matching
- 20 funding for federal grants for projects approved by the board
- 21 that offset the impact to natural and cultural resources caused

1 by the licensees. In approving projects, the board may
2 prioritize projects that:

- 3 (1) Implement nature-based solutions to environmental and
4 climate issues exacerbated by licensees;
- 5 (2) Provide significant protection, restoration, and
6 enhancement of Hawaii's natural resources in areas
7 impacted by licensees; or
- 8 (3) Increase the resilience of state-owned natural
9 resources impacted by licensees.

10 **§171-H Grants; qualifications and conditions.** (a) For
11 purposes of grants awarded pursuant to section 171-G, any
12 organization requesting a grant shall:

- 13 (1) Be licensed and accredited, as applicable, under the
14 laws of the State;
- 15 (2) Have been determined and designated to be a section
16 501(c)(3) nonprofit organization by the Internal
17 Revenue Service;
- 18 (3) Have at least one year's experience with the project
19 or in the program area for which the request or
20 proposal is being made; and

H.B. NO. 1051

- 1 (4) Employ or have under contract persons who are
2 qualified to engage in the program or activity to be
3 funded by the State.
- 4 (b) Recipients of grants shall be subject to the following
5 conditions:
- 6 (1) Any organization requesting a grant shall submit its
7 request together with the information required by the
8 board on an application form provided by the
9 department;
- 10 (2) The recipient of a grant shall not use public funds
11 for purposes of entertainment or perquisites;
- 12 (3) The recipient of a grant shall comply with applicable
13 federal, state, and county laws;
- 14 (4) The recipient of a grant shall comply with any other
15 requirements the board may prescribe;
- 16 (5) The recipient of a grant shall allow the department,
17 legislature, and the legislative auditor full access
18 to records, reports, files, and other related
19 documents so that the program, management, and fiscal
20 practices of the grant recipient may be monitored and
21 evaluated to assure the proper and effective
22 expenditure of public funds;

H.B. NO. 1051

1 (6) Every grant shall be monitored pursuant to rules or
2 policies established by the board to ensure compliance
3 with this part; and

4 (7) Any recipient of a grant under this section who
5 withholds or omits any material fact or deliberately
6 misrepresents facts to the board or who violates the
7 terms of the recipient's contract shall be in
8 violation of this section and, in addition to any
9 other penalties provided by law, shall be prohibited
10 from applying for a grant under this section for a
11 period of five years from the date of termination.

12 (c) The department shall provide grant recipients with
13 access to any state-owned lands or natural resources necessary
14 to effectuate the project for which the grant is awarded.

15 **\$171-I Report to legislature.** (a) No later than twenty
16 days prior to the convening of the regular session of 2025 and
17 each year thereafter, the board shall submit a report to the
18 legislature.

19 (b) The report shall contain information on:
20 (1) Ways that the special fund restored, enhanced, and
21 protected Hawaii's state-owned natural resources and

H.B. NO. 1051

1 its unique and vulnerable ecosystem during the
2 previous fiscal year; and

3 (2) The benefits that accrue or will accrue from those
4 expenditures to the benefit of the State's natural
5 resources.

6 **§171-J Rules.** (a) The board shall adopt rules pursuant
7 to chapter 91 necessary for the purposes of this part."

8 SECTION 3. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$3,000,000 or so much
10 thereof as may be necessary for fiscal year 2023-2024 for
11 deposit into the visitor green fee special fund."

12 SECTION 4. There is appropriated out of the visitor green
13 fee special fund the sum of \$3,000,000 or so much thereof as may
14 be necessary for fiscal year 2023-2024 for the establishment of
15 the environmental legacy commission under this Act and a visitor
16 green fee strategic plan, including a timetable that indicates
17 how the established objectives and policies will be pursued and
18 implemented pursuant to this Act.

19 The sum appropriated shall be expended by the department of
20 land and natural resources for the purposes of this Act.

21 SECTION 5. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$250,000 or so much

H.B. NO. 1051

1 thereof as may be necessary for fiscal year 2023-2024 and the
2 same sum or so much thereof as may be necessary for fiscal year
3 2024-2025 for the establishment of the following positions:

4	Position	Twelve-Month Salary
5	1.00 FTE green fee coordinator, (SR)	\$90,000
6	1.00 FTE office assistant IV (SR10),	\$70,000
7	1.00 FTE accountant IV (SR22);	\$90,000
8	to support the establishment of the green fee and the	
9	environmental legacy commission.	

10 The sums appropriated shall be expended by the department
11 of land and natural resources for the purposes of this Act.

12 SECTION 6. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 and referring to the new sections in this Act.

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. Every provision in this Act and every
20 application of each provision in this Act is severable from each
21 other. If any application of any provision in this Act to any
22 person or group of persons or circumstances is determined by any

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1 court to be invalid, the remainder of this Act and the
2 application of the Act's provisions to all other persons and
3 circumstances shall not be affected. All constitutionally valid
4 applications of this Act shall be severed from any applications
5 that a court determines to be invalid or unenforceable, leaving
6 the valid applications in force, because it is the legislature's
7 intent that all valid applications shall remain in force.

8 SECTION 9. This Act shall take effect upon its approval;
9 provided that sections 4 and 5 shall take effect on July 1,
10 2023.

11

12 INTRODUCED BY: John

13 BY REQUEST
JAN 23 2023

H.B. NO. 1051

Report Title:

Board of Land and Natural Resources; Department of Land and Natural Resources; Visitor Green Fee Program; Visitor Green Fee Special Fund; Environmental Legacy Commission; Appropriation

Description:

Establishes within the Department of Land and Natural Resources the visitor green fee program to collect a fee from visitors through an environmental license and allocate the revenue to protect, restore, and manage natural and cultural resources. Establishes the visitor green fee special fund. Establishes the Environmental Legacy Commission to make recommendations to the Board of Land and Natural Resources regarding the use of revenues in the special fund. Requires a report to the legislature, including a visitor green fee strategic plan. Appropriates funds.

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

H.B.NO. 1-51

JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO NATURAL RESOURCES MANAGEMENT.

PURPOSE: To establish within the Department of Land and Natural Resources (Department) the visitor green fee program to collect a fee from visitors through an environmental license and allocate the revenue to protect, restore, and manage natural and cultural resources. Establishes the visitor green fee special fund. Establishes the Environmental Legacy Commission to make recommendations to the Board of Land and Natural Resources regarding the use of revenues in the special fund. The bill also requires a report to the legislature, including a visitor green fee strategic plan, and appropriates funds.

MEANS: Add a new part to chapter 171, Hawaii Revised Statutes.

JUSTIFICATION: The Hawai'i State Constitution makes clear that Hawaii's natural and cultural resources are the essence of the public trust, and therefore must be managed and protected for the benefit of present and future generations. The Hawai'i State Constitution also recognizes the importance of a clean and healthful environment and requires the State and its agencies to protect traditional and customary rights, which are dependent upon carefully managed and abundant natural resources.

Hawaii's natural environment and relationship to those resources face significant environmental pressure from the heavy usage they receive from persons traveling to enjoy the State's natural resources. Underinvestment in Hawaii's natural resources poses a significant

HB NO. 1781

liability to its visitor industry, and the stability of its natural systems, including its food systems and water quality, ecosystem services, fisheries, economic resilience, and health and safety of the citizens of the State.

Hawai'i residents contribute to the protection and management of the State's natural resources through taxes, environmental care, subsistence and cultural practices, and the values and practices embodied in the Hawai'i State Constitution. With escalating visitor impacts and the increasing global threat to the State's island ecosystem, there is an immediate need to fairly allocate the burden to protect, restore, sustain, manage, and conserve Hawaii's natural resources. Furthermore, a regenerative tourism fee has been suggested as a solution by the Hawaii tourism authority. It is timely to ask visitors who enjoy and reap the benefits of Hawaii's natural resources to contribute to the protection, care, and restoration of these resources.

A license requirement for visitors who enjoy Hawaii's unique, world-class public beaches, trails, parks, and ecosystems could generate necessary funding each year to offset the adverse impacts of visitors and conserve Hawaii's irreplaceable green infrastructure.

Environmental protection fees, commonly referred to as green fees, have been successfully implemented at visitor destinations around the world, including the Galapagos Islands, New Zealand, and Palau, and demonstrate compounding benefits for visitors, residents, and the land and seascapes.

Establishing a visitor green fee in the State is a significant and effective way to raise additional revenues to offset visitor

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impacts and ensure a healthy and functioning environment for future generations.

Impact on the public: Offset visitor environmental pressure from the heavy usage the State's natural resources receive from persons traveling to enjoy the natural resources.

Impact on the department and other agencies: The Department will require additional staffing to stand up and manage the program.

GENERAL FUND: \$3,250,000.

OTHER FUNDS: \$3,000,000 from the visitor green fee special fund.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: Department of Health, Department of Education, Office of Hawaiian Affairs, Hawaii Tourism Authority, Department of Business, Economic and Tourism.

EFFECTIVE DATE: Upon approval, provided that sections 4 and 5 of this Act shall take effect on July 1, 2023.