A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

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

SECTION 1. The legislature finds that the repair or restoration of Hawaiian loko i'a (fishponds) may require permits from the department of land and natural resources, department of health, office of planning, federal agencies, and county agencies. The legislature further finds that the permit process for repair or restoration of loko i'a may be time-consuming, complicated, confusing, and inconsistent across agencies. Burdensome regulations and permit requirements have historically prevented community organizations or native Hawaiian lawai'a (aquaculturalists) from initiating projects to restore, repair, or maintain loko i'a.

In practice, it has reportedly taken up to ten years to obtain the certifications and permits required for loko i'a restoration and repair by state and federal law, including the Clean Water Act and the Coastal Zone Management Act. For example, sections 401 and 404 of the Clean Water Act require first a water quality certification and permit from the
department of health and then a permit from the Army Corps of Engineers before loko i'a activities may proceed.

Government and community interests have demonstrated their willingness and ability to work together to streamline the permit process for Hawaiian loko i'a. Pursuant to Senate Resolution No. 86 (2012), the department of land and natural resources, office of planning, and department of health have led these efforts, including coordination with cultural practitioners, community groups, and affected federal and county agencies.

The department of land and natural resources is in the final stages of implementing a statewide programmatic general permit and programmatic agreement that would allow most applicants for loko i'a restoration and repair permits to submit a single permit application for review by an interagency advisory group and relevant resource agencies instead of a series of single-agency applications. Upon the appropriate findings by the advisory group, the department of land and natural resources would be able to issue the applicant an authorization to proceed. After a final thirty-day comment period, the permit would be issued and the applicant may conduct
restoration and repair activities in compliance with existing
environmental protection and other laws, including the Clean
Water Act.

The purpose of this Act is to ensure that the statewide
programmatic general permit and programmatic agreement function
as intended by specifying that a permit applicant that has
received notice of authorization to proceed from the department
of land and natural resources is not required to obtain
additional water quality certification from the department of
health. The legislature finds that the intent of this Act is to
improve state government efficiency and response time in the
administration of water pollution control. It is not the intent
of the legislature to limit or impede state environmental
controls on water pollution.

SECTION 2. Section 342D-6.5, Hawaii Revised Statutes, is
amended to read as follows:

"§342D-6.5 Hawaiian fishponds. (a) The
department shall process applications for permits and water
quality certifications for the reconstruction, restoration,
repair, or reuse of any loko i‘a, or Hawaiian fishpond as defined
in section 183B-1, before all other permits and certifications."
The director shall render a decision on the completeness of any application for that permit or water quality certification within thirty days of receipt. Applications for loko i'a reconstruction, restoration, or repair that are incomplete shall be denied without prejudice. The director shall render a decision on any complete application for a permit or water quality certification for any loko i'a within one hundred fifty days.

(b) The department shall waive the requirement to obtain water quality certification under this chapter for any person that has received notice of authorization to proceed from the department of land and natural resources office of conservation and coastal lands under the statewide programmatic general permit for the restoration, repair, maintenance, and operation of loko i'a.

(c) For purposes of this section:

"Water quality certification" means state certification pursuant to section 401 of the federal Clean Water Act."
Report Title:
Loko i‘a; Hawaiian Fishponds; Waiver; Water Quality Certification

Description:
Waives DOH water quality certification requirement for restoration, repair, and operation of Hawaiian loko i‘a (fishponds) that are permitted under the Statewide Programmatic General Permit process, administered by the DLNR. (SD2)

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