

# S .B. NO. 2904

JAN 27 2016

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## A BILL FOR AN ACT

RELATING TO AQUATIC MITIGATION BANKS.

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

1           SECTION 1. The legislature finds that aquatic mitigation  
2 banks restore, create, enhance, or preserve aquatic habitats or  
3 resources to recover the ecological functions, services, and  
4 values of aquatic resources lost by adverse impacts to other  
5 similar aquatic habitats. The federal government and at least  
6 twenty-eight states have developed successful mitigation bank  
7 guidelines and programs. Mitigation banks would serve as a  
8 mechanism to restore or replace aquatic resources and ecological  
9 functions of aquatic habitats either prospectively, or after  
10 they have been damaged.

11           The purpose of this Act is to authorize the department of  
12 land and natural resources to establish and operate aquatic  
13 mitigation banks to restore, create, enhance, or preserve  
14 aquatic habitats or resources as compensatory mitigation where a  
15 person is required to provide compensatory mitigation  
16 prospectively and the use of banked mitigation is approved by  
17 the agency requiring mitigation, or for past damages to aquatic  
18 habitats or resources.

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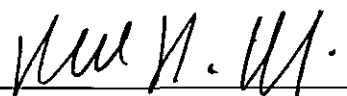
1 SECTION 2. Chapter 187A, Hawaii Revised Statutes, is  
 2 amended by adding a new part to be appropriately designated and  
 3 to read as follows:

4 "PART . AQUATIC MITIGATION BANKS

5 §187A- Aquatic mitigation banking. The department is  
 6 authorized to establish and operate aquatic mitigation banks,  
 7 the purpose of which shall be to restore, create, enhance, or  
 8 preserve aquatic habitats or resources as compensatory  
 9 mitigation where a person is required to provide compensatory  
 10 mitigation prospectively and the use of banked mitigation is  
 11 approved by the agency requiring mitigation, or for past damages  
 12 to aquatic habitats or resources.

13 §187A- Rules. The department may adopt rules pursuant  
 14 to chapter 91 necessary for the purposes of this part."

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

16  
 17 INTRODUCED BY: 

18 BY REQUEST

**Report Title:**

Aquatic Mitigation Bank

**Description:**

Authorizes the Department of Land and Natural Resources to establish and operate aquatic mitigation banks to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation.

*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 AQUATIC MITIGATION BANKS.

PURPOSE: To authorize the Department to establish and operate aquatic mitigation banks to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation.

MEANS: Add a new part to chapter 187A, Hawaii Revised Statutes.

JUSTIFICATION: Aquatic mitigation banks restore, create, enhance, or preserve aquatic habitats or resources to recover the ecological functions, services, and values of aquatic resources lost by adverse impacts to other similar aquatic habitats. The federal government and at least twenty eight states have developed successful mitigation bank guidelines and programs. The benefits of mitigation banks include: (1) increased potential for successful offset of impacts to aquatic habitats and resources and (2) potential protection and preservation of the State's highest value and highest functioning aquatic habitats.

Mitigation banks would serve as a mechanism for the Department to restore or replace aquatic resources and ecological functions of aquatic habitats either prospectively, or after they have been damaged. This bill authorizes the Department to establish and operate aquatic mitigation banks to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation.

Impact on the public: The benefits of aquatic mitigation banks include the potential protection and preservation of the

State's highest value and highest functioning aquatic habitats.

Impact on the department and other agencies:

This bill proposes to provide a mechanism for the Department to improve its management responsibilities to protect and conserve public trust resources.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: LNR 401.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.