
A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES PROGRAM ADMINISTRATION.

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

1 SECTION 1. The legislature reaffirms that the invasion of
2 Hawaii by insects, disease-bearing organisms, snakes, weeds, and
3 other pests is the single greatest threat to Hawaii's economy
4 and natural environment and to the health and lifestyle of
5 Hawaii's people. The legislature finds that action is needed to
6 improve the State's programs to mitigate the threats and impacts
7 of invasive species and to effectively implement the Hawaii
8 interagency biosecurity plan.

9 The legislature recognized invasive species as a multi-
10 agency issue following the issuance of the 2002 legislative
11 reference bureau report entitled, "Filling the Gaps in the Fight
12 Against Invasive Species," which recommended the creation of an
13 interagency coordinating body with dedicated staff and funding.
14 In 2003, the legislature created the Hawaii invasive species
15 council for coordination purposes, but did not establish
16 dedicated staff or provide funding. The council has been
17 administered by the department of land and natural resources and



1 has received appropriations with varying levels of general and
2 special funds to support interagency mitigation projects. In
3 2015, the legislative reference bureau released an additional
4 report entitled, "Can't See the Forest for the (Albizia) Trees:
5 An Invasive Species Update," which again recommended the
6 establishment of a coordinating body with adequate staff and
7 funding.

8 Improved biosecurity and invasive species management are
9 central goals of the governor's sustainable Hawaii initiative,
10 the department of agriculture's new Hawaii interagency
11 biosecurity plan, and the Aloha+ challenge adopted by the
12 legislature in 2014. Building on the model of the Hawaii
13 invasive species council by adding additional expertise, staff,
14 and funding resources would allow the State to effectively
15 implement and track outcomes of the Hawaii interagency
16 biosecurity plan, provide centralized data collection and
17 management for multi-agency invasive species programs, improve
18 emergency response coordination, and better engage industries
19 and the public in invasive species reporting and mitigation.

20 Accordingly, the purpose of this Act is to restructure the
21 Hawaii invasive species council into a new entity, the Hawaii



1 invasive species authority, attached administratively to the
2 department of agriculture. The establishment of the authority
3 will expand upon the existing council model by adding additional
4 expertise to the interagency board of directors, authorizing the
5 board to hire staff as necessary, and mandating new duties
6 relating to the coordination of interagency invasive species and
7 biosecurity efforts.

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 **"CHAPTER**

12 **INVASIVE SPECIES AUTHORITY**

13 **§ -1 Administration of chapter.** The Hawaii invasive
14 species authority shall administer this chapter.

15 **§ -2 Definitions.** As used in this chapter, unless the
16 context requires otherwise:

17 "Authority" means the Hawaii invasive species authority
18 established by section -3.

19 "Biosecurity" means the set of measures taken to manage the
20 risk from invasive species to the State's economy and



1 environment and the health and lifestyle of people in the
2 State.

3 "Department" means any entity that is a member of the
4 authority.

5 "Invasive species" means a species that is not native to
6 Hawaii and whose introduction causes or is likely to cause
7 economic or environmental harm or harm to human health.

8 **§ -3 Establishment of the Hawaii invasive species**
9 **authority; duties.** (a) There is established the Hawaii
10 invasive species authority for the special purpose of providing
11 policy level direction, coordination, and planning among state
12 departments, federal agencies, and international and local
13 initiatives for the control and eradication of harmful invasive
14 species infestations throughout the State and for preventing the
15 introduction of other invasive species that are potentially
16 harmful. The authority shall:

- 17 (1) Maintain a broad overview of the invasive species
18 problem in the State;
19 (2) Identify invasive species present in the State;



- 1 (3) Adopt criteria for the designation of certain invasive
2 species for control or eradication by rules adopted
3 pursuant to chapter 91;
- 4 (4) Adopt a list of invasive species designated pursuant
5 to paragraph (3);
- 6 (5) Advise, consult, and coordinate invasive
7 species-related efforts with and between the
8 department of agriculture; department of land and
9 natural resources; department of health; department of
10 transportation; department of business, economic
11 development, and tourism; and the University of
12 Hawaii, as well as other state, federal,
13 international, and privately organized entities and
14 programs;
- 15 (6) Designate lead agencies pursuant to section -4 and
16 identify and prioritize each lead agency's
17 organizational and resource shortfalls with respect to
18 invasive species;
- 19 (7) Coordinate with departments and stakeholders the
20 implementation of the Hawaii interagency biosecurity
21 plan developed by the department of agriculture, and



- 1 track progress and outcomes related to implementation
2 of the plan;
- 3 (8) Serve as a multiagency coordinating system for
4 interagency emergency responses to invasive species
5 and, for a given response, designate roles and
6 responsibilities of individual departments;
- 7 (9) Advise the governor and legislature on budgetary and
8 other issues regarding invasive species;
- 9 (10) Suggest appropriate legislation to improve the State's
10 administration of invasive species programs and
11 policies;
- 12 (11) Incorporate and expand upon the Hawaii-Pacific weed
13 risk assessment protocol to the extent appropriate for
14 the authority's biosecurity efforts;
- 15 (12) Provide a central repository for the collection and
16 management of relevant summary data from invasive
17 species programs in the State;
- 18 (13) Develop and implement an online resource for public
19 reporting of invasive species and for the sharing of
20 information relating to the State's multi-agency
21 biosecurity and invasive species programs;



- 1 (14) Implement an interagency budget for projects that
2 address gaps between agency mandates or support
3 research related to invasive species;
- 4 (15) Coordinate and promote the State's position with
5 respect to federal issues, including:
- 6 (A) Quarantine preemption;
- 7 (B) International trade agreements that ignore the
8 problem of invasive species in Hawaii;
- 9 (C) First class mail inspection prohibitions;
- 10 (D) Coordinating efforts with federal agencies to
11 maximize resources and reduce or eliminate system
12 gaps and leaks, including deputizing the United
13 States Department of Agriculture's plant
14 protection and quarantine inspectors to enforce
15 Hawaii's laws;
- 16 (E) Promoting the amendment of federal laws as
17 necessary, including the Lacey Act Amendments of
18 1981, title 16 United States Code sections 3371
19 to 3378, Public Law 97-79, as amended, and laws
20 related to the inspection of domestic airline
21 passengers, baggage, and cargo; and



1 (F) Coordinating efforts and responses to issues with
2 the National Invasive Species Council and its
3 National Invasive Species Management Plan;

4 (16) Coordinate with the counties in the fight against
5 invasive species to increase resources and funding and
6 to address county-sponsored activities that involve
7 invasive species; and

8 (17) Perform any other function necessary to effectuate the
9 purposes of this chapter.

10 (b) The authority shall be placed within the department of
11 agriculture for administrative purposes only, as provided in
12 section 26-35. The authority shall be composed of nine members
13 as follows:

14 (1) The president of the University of Hawaii, or the
15 president's designee;

16 (2) The director of business, economic development, and
17 tourism, or the director's designee;

18 (3) The director of health, or the director's designee;

19 (4) The director of transportation, or the director's
20 designee;



1 (5) The chairperson of the board of agriculture, or the
2 chairperson's designee;

3 (6) The chairperson of the board of land and natural
4 resources, or the chairperson's designee; and

5 (7) Three members appointed by the governor pursuant to
6 section 26-34, including:

7 (A) An individual representing the interests of
8 natural resource conservation;

9 (B) An individual representing the interests of
10 agriculture or horticulture; and

11 (C) An individual with expertise in native Hawaiian
12 cultural practices.

13 (c) The chairpersons of the board of land and natural
14 resources and the board of agriculture shall act as
15 co-chairpersons of the authority.

16 (d) The members of the authority other than ex officio
17 members or their designees shall serve without pay, but shall be
18 reimbursed upon request for their actual and necessary expenses,
19 including travel expenses, incurred in carrying out their
20 duties.



1 (e) Representatives of federal agencies, the legislature,
2 and county agencies may be asked to participate in meetings of
3 the authority or be consulted for advice and assistance.

4 (f) The authority shall meet not less than twice annually.

5 (g) No later than twenty days prior to the convening of
6 each regular legislative session, the authority shall submit a
7 report to the governor and legislature detailing its activities
8 as well as budgetary and other issues relating to invasive
9 species.

10 (h) Without regard to the requirements of chapters 76 and
11 89, the authority may hire employees necessary to perform its
12 duties, including but not limited to an executive director.
13 The executive director shall serve at the pleasure of the
14 authority and the salary of the executive director shall be set
15 by the authority. Through its executive director, the
16 authority may appoint officers, agents, and employees, prescribe
17 their duties and qualifications, and set their salaries, without
18 regard to chapters 76 and 89. Notwithstanding section 26-35,
19 the executive director may represent the authority in
20 communications with the governor and the legislature.



1 (i) The authority may delegate to its employees, by formal
2 action, power and authority vested in the authority by this
3 chapter as the authority deems reasonable and proper for the
4 effective administration of this chapter.

5 **§ -4 Lead agencies; designation; accountability.** The
6 authority may designate a state department as a lead agency for
7 a particular interagency response effort under section -3(a)(6),
8 with respect to a particular function of invasive species
9 control. A lead agency shall have administrative responsibility
10 and accountability for that designated function of invasive
11 species control. The lead agency shall coordinate with other
12 departments and federal and private agencies to control or
13 eradicate the designated invasive species.

14 **§ -5 Relation of chapter to other laws.** Notwithstanding
15 any other law to the contrary, and in addition to any other
16 authority provided by law that is not inconsistent with the
17 purposes of this chapter, a department is authorized to examine,
18 control, and eradicate all instances of invasive species
19 identified by the authority for control or eradication and found
20 on any public or private premises or in any aircraft or vessel
21 landed or docked in waters of the State.



1 **§ -6 Entry; private property.** (a) Whenever any
2 invasive species identified by the authority for control or
3 eradication is found on private property, a state department or
4 its authorized agent may enter those premises to control or
5 eradicate the invasive species after reasonable notice is given
6 to the owner of the property and, if entry is refused, pursuant
7 to a court order as provided in subsection (d).

8 (b) A copy of the notice given under subsection (a) shall
9 be left with one or more of the tenants or occupants of the
10 premises, if applicable. If the premises are unoccupied,
11 notice shall be mailed to the last known place of residence of
12 the owner, if residing in the State. If the owner does not
13 reside in this State or notice cannot be expeditiously provided,
14 notice left at or posted on the premises shall be sufficient.

15 (c) A state department may cause notice to be given and
16 order a property owner to control or eradicate an invasive
17 species at the owner's expense within a reasonable time as the
18 department may deem proper, pursuant to the notice
19 requirements of this section, if that species was
20 intentionally and knowingly established by the owner on the



1 owner's property and not naturally dispersed from neighboring
2 properties.

3 (d) If a property owner notified pursuant to subsection
4 (c) fails to comply with the order of the state department
5 within the time specified by the department, or if entry is
6 refused after notice is given pursuant to subsection (a) and,
7 if applicable, subsection (b), the department may apply to
8 the district court of the circuit in which the property is
9 situated for a warrant, directed to any police officer of the
10 circuit, commanding the police officer to take sufficient aid
11 and to assist the department member or its agent in gaining
12 entry onto the premises, and executing measures to control or
13 eradicate the invasive species.

14 (e) A state department may recover by appropriate
15 proceedings the expenses incurred from any owner who, after
16 proper notice, has failed to comply with the department's
17 order.

18 (f) In no case shall a state department or any officer or
19 agent thereof be liable for costs in any action or proceeding
20 that may be commenced pursuant to this chapter.



1 **§ -7 Entry; public property.** (a) Whenever any invasive
2 species is found on state or county property or on a public
3 highway, street, lane, alley, or other public place
4 controlled by the State or a county, notice shall be given by
5 a state department or its agent, as the case may be, to the
6 person officially in charge thereof, and the person shall
7 immediately control or eradicate the invasive species as
8 directed by the department.

9 (b) In case of a failure to control or eradicate the
10 invasive species to the satisfaction of the department, the
11 procedure shall be the same as provided in section -6.

12 **§ -8 Rules.** The authority may adopt rules pursuant to
13 chapter 91 to effectuate this chapter."

14 SECTION 3. Section 26-35, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§26-35 Administrative supervision of boards and**
17 **commissions.** (a) Whenever any board or commission is
18 established or placed within or transferred to a principal
19 department for administrative purposes or subject to the
20 administrative control or supervision of the head of the



1 department, the following provisions shall apply except as
2 otherwise specifically provided by this chapter:

3 (1) The head of the department shall represent the board
4 or commission in communications with the governor and
5 with the legislature; unless the legislature or a
6 legislative committee requests to communicate directly
7 with the board or commission;

8 (2) The financial requirements from state funds of the
9 board or commission shall be submitted through the
10 head of the department and included in the budget for
11 the department;

12 (3) All rules adopted by the board or commission shall be
13 subject to the approval of the governor;

14 (4) The employment, appointment, promotion, transfer,
15 demotion, discharge, and job descriptions of all
16 officers and employees of or under the jurisdiction of
17 the board or commission shall be determined by the
18 board or commission subject to the approval of the
19 head of the department and to applicable personnel
20 laws;



1 (5) All purchases of supplies, equipment, or furniture by
2 the board or commission shall be subject to the
3 approval of the head of the department;

4 (6) The head of the department shall have the power to
5 allocate the space or spaces available to the
6 department and which are to be occupied by the board
7 or commission;

8 (7) Any quasi-judicial functions of the board or
9 commission shall not be subject to the approval,
10 review, or control of the head of the department; and

11 (8) Except as set forth hereinabove, the head of the
12 department shall not have the power to supervise or
13 control the board or commission in the exercise of its
14 functions, duties, and powers.

15 (b) Every board or commission established or placed within
16 a principal department for administrative purposes or subject to
17 the administrative control or supervision of the head of the
18 department shall be considered an arm of the State and shall
19 enjoy the same sovereign immunity available to the State.

20 (c) As used in this section, "board or commission" shall
21 include the Hawaii invasive species authority established under



1 section -3, in addition to any board or commission of the
2 State."

3 SECTION 4. Any ongoing actions or obligations of the
4 Hawaii invasive species council shall be transferred to the
5 Hawaii invasive species authority upon the effective date of
6 this Act.

7 SECTION 5. All appropriations, records, equipment,
8 machines, files, supplies, contracts, books, papers, documents,
9 maps, and other personal property heretofore made, used,
10 acquired, or held by the Hawaii invasive species council
11 relating to the functions transferred to the Hawaii invasive
12 species authority shall be transferred with the functions to
13 which they relate.

14 SECTION 6. Chapter 194, Hawaii Revised Statutes, is
15 repealed.

16 SECTION 7. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$ or so much
18 thereof as may be necessary for fiscal year 2017-2018 and the
19 same sum or so much thereof as may be necessary for fiscal year
20 2018-2019 for the hiring of necessary staff and other expenses
21 of the Hawaii invasive species authority.



1 The sums appropriated shall be expended by the department
2 of agriculture for the purposes of this Act.

3 SECTION 8. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$ or so much
5 thereof as may be necessary for fiscal year 2017-2018 and the
6 same sum or so much thereof as may be necessary for fiscal year
7 2018-2019 for interagency projects and research related to
8 invasive species, as described in section -3(a)(14), Hawaii
9 Revised Statutes, in section 2 of this Act and as directed by the
10 Hawaii invasive species authority.

11 The sums appropriated shall be expended by the department
12 of agriculture for the purposes of this Act; provided that
13 portions of this appropriation may be transferred to other
14 departments to implement the directions of the Hawaii invasive
15 species authority.

16 SECTION 9. New statutory material is underscored.

17 SECTION 10. This Act shall take effect on July 31, 2150.



Report Title:

Hawaii Invasive Species Authority; Established; Hawaii Invasive Species Council; Abolished; Appropriations

Description:

Restructures the Hawaii Invasive Species Council as the Hawaii Invasive Species Authority to coordinate implementation of the Hawaii Interagency Biosecurity Plan and related duties. Appropriates funds. (HB1339 HD1)

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

