
A BILL FOR AN ACT

RELATING TO PUBLIC TRUST USES OF WATER.

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

1 SECTION 1. The legislature finds that the Hawaii
2 constitution adopts the public trust doctrine as a fundamental
3 principle of constitutional law. Article XI, section 7 of the
4 Hawaii constitution emphasizes the State's obligation to
5 protect, control and regulate the use of Hawaii's water
6 resources for the benefit of its people. The legislature finds
7 that the public trust doctrine applies to all water resources in
8 the State and protects four categories of use: maintenance of
9 waters in their natural state; domestic water use, particularly
10 provision of adequate drinking water; water supporting the
11 exercise of native Hawaiian and traditional and customary
12 rights; and the use by and reservations of water for the
13 beneficiaries of the Hawaiian Homes Commission Act of 1920, as
14 amended.

15 The Hawaii Supreme Court has affirmed the counties'
16 affirmative duty, as political subdivisions of the State, to
17 examine public trust uses of water in the planning for and



1 allocation of water resources and to protect public trust uses
2 whenever feasible. *Kauai Springs, Inc. v. Planning Commission*
3 *of the County of Kauai*, 133 Haw. 141, 172-173 (Feb. 28, 2014).

4 The legislature finds that the four county boards and
5 departments of water supply are the largest water developers and
6 distributors in each respective county and are clearly bound to
7 make decisions in accordance with both constitutional and
8 judicial mandates that have outlined the duties of the State to
9 protect public trust uses of water. However, the legislature
10 further finds that the counties have responded inconsistently to
11 their public trust responsibilities.

12 The purpose of this Act is to require the auditor to
13 perform an audit of each county board or department of water
14 supply to determine how each is fulfilling its affirmative duty
15 to protect public trust uses of water in their planning and
16 decision making, especially with regard to water supporting the
17 exercise of native Hawaiian and traditional and customary rights
18 and the use by and reservations of water for the beneficiaries
19 of the Hawaiian Homes Commission Act.

20 SECTION 2. The auditor shall conduct a comprehensive
21 management audit of the county of Kauai department of water,



H.B. NO. 1431

1 city and county of Honolulu board of water supply, county of
 2 Maui department of water supply, and county of Hawaii department
 3 of water supply, for fiscal year 2014-2015. The audit shall
 4 focus on but not be limited to existing policies, administrative
 5 rules, and planning documents and whether they demonstrate the
 6 affirmative duty of the respective counties to protect the
 7 public trust uses of water especially with regard to water
 8 supporting the exercise of native Hawaiian and traditional and
 9 customary rights and the use by and reservations of water for
 10 the beneficiaries of the Hawaiian Homes Commission Act of 1920,
 11 as amended.

12 SECTION 3. The auditor shall submit a report with findings
 13 and recommendations, including any proposed legislation, to the
 14 legislature no later than twenty days prior to the convening of
 15 the regular session of 2016.

16 SECTION 4. This Act shall take effect upon its approval.
 17

INTRODUCED BY:

[Handwritten signatures: Royce Hahaione, Alan Hahaione, Gary Tachibana, Indochingma, Amy M.]

[Handwritten signatures: GSE, Richard Long, Mark H. Hashimoto, and others]

HB HMS 2015-1430



H.B. NO. 1431

Report Title:

Water; Public Trust Uses; Counties; Audit

Description:

Requires the auditor to conduct an audit to determine how each county board or department of water supply is fulfilling its duty to protect public trust uses of water in its planning and decision making.

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

