

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO DAM AND RESERVOIR SAFETY.

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

1           SECTION 1. Section 179D-6, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) The board shall administer the dam and reservoir  
4 safety program established by this chapter. In carrying out  
5 this chapter, the board shall cooperate, advise, consult,  
6 contract, and enter into cooperative agreements with the United  
7 States government or any of its agencies, other state agencies,  
8 and the county governments or any of their agencies. In the  
9 performance of its duties, the board shall:

10           (1) Establish by rules adopted under chapter 91, policies,  
11 requirements, or standards governing the design,  
12 construction, operation, maintenance, enlargement,  
13 alteration, repair, removal, and inspection of dams,  
14 reservoirs, and appurtenant works for the protection  
15 of life and property from structural failure of dams  
16 and reservoirs;



- 1           (2) Conduct investigations and collect data, including  
2           technological advances made in dam and reservoir  
3           safety practices elsewhere, as may be needed for the  
4           proper review and study of the various features of the  
5           design, construction, repair, removal, inspection,  
6           operation, maintenance, alteration, and enlargement of  
7           dams, reservoirs, and appurtenant works. The board  
8           may require submittal of reports of investigations  
9           from all owners;
- 10          (3) Conduct investigations and require reports from all  
11          owners to be made from time to time, including  
12          watershed investigations and studies, as may be  
13          necessary to keep abreast of developments affecting  
14          stream runoff and as required to facilitate its  
15          decisions;
- 16          (4) Be authorized to enter upon such private property of  
17          the dam or reservoir as may be necessary in making, at  
18          the owner's expense, any investigation or inspection  
19          required or authorized by this chapter. The entry  
20          shall not constitute a cause of action in favor of the



1 owner of the land, except for damages resulting from  
2 wilful acts or negligence by the board or its agents;  
3 (5) Require the owners to apply for, and obtain from the  
4 board written approval of plans and specifications on  
5 the construction of any new dam or reservoir or the  
6 enlargement of any dam or reservoir prior to  
7 commencement of any work;  
8 (6) Require the owners to file an application and secure  
9 the written approval of the board before commencing  
10 the repair, alteration, or removal of a dam or  
11 reservoir, including the alteration or removal of a  
12 dam or reservoir so that it no longer constitutes a  
13 dam or reservoir as defined in this chapter[-];  
14 provided that for a homeowner association or owner of  
15 a single-family home on whose property a dam or  
16 reservoir was situated at the time the association was  
17 established or at the time of conveyance to the  
18 homeowner, respectively, upon request to the board by  
19 the homeowner association or the homeowner, the board  
20 shall prepare all studies required to determine the  
21 safe removal or retirement of the dam or reservoir.



- 1 Repairs shall not be deemed to apply to routine  
2 maintenance not affecting the safety of the structure;
- 3 (7) Require owners to secure the written approval of the  
4 board to impound water;
- 5 (8) Require fees to cover a portion of the board's costs  
6 in carrying out the administration of dam and  
7 reservoir safety;
- 8 (9) Cooperate with all public and private agencies created  
9 for the purpose of enhancing dam and reservoir safety  
10 activities and training, assist these organizations  
11 and agencies in coordinating the use of their  
12 facilities, and participate in the exchange of ideas,  
13 knowledge, and data with these organizations and  
14 agencies;
- 15 (10) Consider dams and reservoirs as important water  
16 resources for the State that provide significant  
17 benefits to the general public, including irrigation  
18 for agriculture and other important uses, and  
19 acknowledge the need for dams and reservoirs to be  
20 consistently maintained and operated in a safe and  
21 feasible manner that sustains their roles as important



- 1 water resources; provided that public safety concerns  
2 are addressed;
- 3 (11) Prepare, publish, and issue printed pamphlets,  
4 bulletins, or advisories, or conduct training as the  
5 board deems necessary for the dissemination of  
6 information to the public;
- 7 (12) Appoint and remove agents and employees, including  
8 hearing officers, specialists, and consultants, as  
9 necessary to carry out the purposes of this chapter,  
10 who may be engaged by the board without regard to the  
11 requirements of chapter 76;
- 12 (13) Catalog and maintain an inventory of all regulated  
13 dams and reservoirs in the State pursuant to this  
14 chapter without regard to chapter 91;
- 15 (14) Establish similar or consistent hazard potential  
16 classifications in conjunction with [~~ether~~] applicable  
17 state or federal guidelines for all regulated dams and  
18 reservoirs in the State pursuant to this chapter  
19 without regard to chapter 91;
- 20 (15) Examine and approve or disapprove applications for  
21 approval of the construction, enlargement, repair,



1 alteration, or removal of a dam or reservoir and  
2 applications for certificates of approval to impound;  
3 (16) Order the suspension, revocation, or both, of any  
4 application approval or certificate of approval to  
5 impound for any act or failure to comply with this  
6 chapter or with any rules or orders adopted pursuant  
7 to this chapter, or with any of the conditions  
8 contained in or attached to the application approval  
9 or certificate of approval to impound;

10 (17) Issue orders requiring the adoption by an owner of  
11 remedial measures necessary for the safety of life or  
12 public or private property, or for carrying out this  
13 chapter or rules issued under this chapter;

14 (18) Order the immediate cessation of any act that is  
15 started or continued without an application approval  
16 or certificate of approval to impound as required by  
17 this chapter;

18 (19) Enter private property and immediately take actions  
19 necessary to provide protection to life or property at  
20 the owner's expense, including removal of the dam or  
21 reservoir. The entry shall not constitute a cause of



1           action in favor of the owner of the land, except for  
2           damages resulting from wilful acts or gross negligence  
3           by the board or its agents;

4           (20) Recover from the owner, in the name of the State, the  
5           expenses incurred in taking any action required by the  
6           owner of the dam or reservoir in the same manner that  
7           debts are recoverable by law;

8           (21) Assess civil penalties for violation of this chapter  
9           or any rule or standard adopted or order issued by the  
10          board pursuant to this chapter;

11          (22) Place liens, as needed, on the owner's property, to be  
12          collected as delinquent taxes against the lands and  
13          property, if the owner neglects to pay any costs,  
14          expenses, or penalties chargeable to the owner under  
15          this chapter or any rule, order, or condition adopted,  
16          issued, or required under this chapter;

17          (23) With the assistance of the attorney general, institute  
18          and prosecute all court actions that may be necessary  
19          to obtain the enforcement of any order issued by the  
20          board in carrying out this chapter; and



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1 (24) Take any and all other actions as may be necessary to  
2 carry out this chapter."

3 SECTION 2. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8 SECTION 4. This Act shall take effect upon its approval.  
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INTRODUCED BY: ~~SEN. RICHARDSON~~ S.C. Richardson

*Amarie D. Anouye*

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# S.B. NO. 469

**Report Title:**

Dam and Reservoir Removal; Studies; Board of Land and Natural Resources

**Description:**

Requires the board of land and natural resources to prepare all studies to determine the safe removal or retirement of a dam or reservoir upon the request of a homeowner association or homeowner of property on which a dam or reservoir is situated.

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

