

JAN 24 2024

A BILL FOR AN ACT

RELATING TO WATER.

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

1 PART I

2 SECTION 1. The legislature finds that the United States
3 Navy's Red Hill Bulk Fuel Storage Facility consists of twenty
4 steel-lined underground storage tanks that were built from 1940
5 to 1943. Each tank can store 12.5 million gallons of fuel; in
6 total, the Red Hill Bulk Fuel Storage Facility can store up to
7 two hundred fifty million gallons. The tanks are located only
8 about one hundred feet above the United States Environmental
9 Protection Agency's designated sole-source groundwater aquifer
10 that provides drinking water to approximately four hundred
11 thousand residents of the island of Oahu. Over the past eighty
12 years, numerous spills have occurred at Red Hill. Specifically,
13 on November 20, 2021, about ninety-three thousand individuals
14 served by the Navy's potable water system for Joint Base Pearl
15 Harbor-Hickam were directly affected when the Navy's Red Hill
16 shaft was contaminated by the release of up to nineteen thousand
17 gallons of fuel, including JP-5 jet fuel, older fuels stored at



1 the Red Hill Bulk Fuel Storage Facility, and any additives used.
2 Over six thousand individuals sought medical attention, and one
3 thousand were forced to leave their homes due to the
4 contamination. Much of the fuel released from the Red Hill Bulk
5 Fuel Storage Facility remains in the environment, trapped within
6 the complex geological formations beneath and near the tanks.

7 The legislature further finds that on May 9, 2023,
8 officials from the State and city and county of Honolulu signed
9 a unified statement on Red Hill, recognizing the stewardship
10 responsibility to ensure that there is clean water on Oahu for
11 future generations. The Red Hill Water Alliance Initiative
12 (WAI), a working group, met regularly in 2023 since the signing
13 of the unified statement. The Red Hill WAI posed questions,
14 conducted research, listened to subject-matter experts, and
15 formulated recommended policies.

16 The legislature also finds that the Red Hill WAI's approach
17 of total stewardship responsibility required a stance of
18 extending beyond statutory roles, specific responsibilities,
19 tenure in those roles, and even personal lifetimes. Its inquiry
20 included the pursuit of critical questions for which there may



1 currently be no answers. Thus, the pursuit of those answers is
2 part of the ongoing work.

3 The legislature notes that besides its regulatory functions
4 under federal and state environmental laws, the State also has
5 unique public trust responsibilities set forth in the Hawaii
6 State Constitution, which establishes an affirmative duty of the
7 State to preserve and protect public trust resources, including
8 water resources.

9 The legislature additionally finds that the focus of the
10 Red Hill WAI's inquiry is the remediation needs after the
11 defueling of the tanks and removal of residual fuel and
12 contaminants from the Red Hill Bulk Fuel Storage Facility. In
13 particular, the Red Hill WAI is concerned with the unknowns
14 posed by fuel contaminants already in the ground, as well as the
15 residuals of the fuel plume in the aquifer as a result of the
16 spill that occurred on November 20, 2021. In fact, there may be
17 as many as 1,940,000 gallons of fuel constituents in the ground
18 that have leaked or spilled over eight decades. Pursuant to a
19 proactive approach, the Red Hill WAI seeks to describe the
20 remediation it believes necessary for the future well-being of
21 the aquifer in which there is a negligible risk to current and



1 future water sources, including the Halawa Shaft, Halawa wells,
2 and Aiea wells; the water distribution system; and the
3 ecosystem, including springs, streams, and nearshore waters.

4 After much diligent work, the Red Hill WAI issued a public
5 report in November 2023 that set forth its findings and
6 recommendations. Some of the recommendations can only be
7 addressed by the federal government, while other recommendations
8 can be undertaken by the State and city and county of Honolulu.
9 Moreover, the legislature finds that there must be no delay in
10 adopting the recommendations of the Red Hill WAI, especially
11 those that can be implemented at the state and county levels.

12 Therefore, the purpose of this Act is to:

- 13 (1) Establish within the department of land and natural
14 resources a policy lead and coordinator for Red Hill
15 WAI initiatives;
- 16 (2) Create the Red Hill remediation special fund; and
- 17 (3) Appropriate funds for these purposes.

18 PART II

19 SECTION 2. The Hawaii Revised Statutes is amended by
20 adding a new chapter to be appropriately designated and to read
21 as follows:



1 "CHAPTER

2 RED HILL WATER ALLIANCE INITIATIVE

3 § -1 Definitions. As used in this chapter, unless a
4 different meaning is plainly required by the context:

5 "Board" means the board of land and natural resources.

6 "Chairperson" means the chairperson of the board of land
7 and natural resources.

8 "Department" means the department of land and natural
9 resources.

10 "Red Hill Water Alliance Initiative" means the group of
11 individuals composed of the governor, speaker of the house of
12 representatives, president of the senate, chairperson of the
13 board of land and natural resources and commission on water
14 resource management, president of the University of Hawaii,
15 mayor of the city and county of Honolulu, chairperson of the
16 Honolulu city council, and manager and chief engineer of the
17 Honolulu board of water supply that issued a public report in
18 November 2023 concerning the remediation of Red Hill following
19 the defueling of the Red Hill Bulk Fuel Storage Facility.

20 "Special fund" means the Red Hill remediation special fund.

21 "WAI" means the Red Hill Water Alliance Initiative.



1 § -2 **Policy lead and coordination.** (a) The department
2 shall serve as the State's policy lead through the position of
3 the WAI policy coordinator, to be placed in the office of the
4 chairperson. The WAI policy coordinator shall work with
5 respective state and county agencies and other groups.

6 (b) The WAI policy coordinator shall:

7 (1) Facilitate implementation and monitoring and interface
8 with federal entities on WAI initiatives outlined in
9 the WAI's November 2023 report;

10 (2) Periodically and regularly review:

11 (A) The health status of the ecosystem; and

12 (B) The state of science and opportunities for
13 remediation and rehabilitation;

14 (3) Develop and maintain a public-facing test results
15 dashboard describing the significance of results from
16 the State and city and county of Honolulu, as part of
17 a broader public education program; and

18 (4) Coordinate the implementation of a thirty-six-month
19 public information and education program to describe,
20 inform, and educate the general public and
21 institutions on the post-defueling remediation phases



1 for Red Hill to restore public trust, secure public
2 support, and address health and environmental
3 concerns.

4 § -3 **Red Hill remediation special fund.** (a) There is
5 established in the state treasury the Red Hill remediation
6 special fund into which shall be deposited the following moneys:

- 7 (1) Appropriations by the legislature to the special fund;
- 8 (2) Gifts, donations, and grants from public agencies,
9 including the United States government, and private
10 persons; and
- 11 (3) All interest earned on or accrued to moneys deposited
12 in the special fund.

13 (b) The special fund shall be administered by the WAI
14 policy coordinator.

15 (c) The moneys in the special fund shall be used solely
16 for the remediation of contamination resulting from the Red Hill
17 Bulk Fuel Storage Facility, including monitoring, applied
18 research, remediation, public outreach and education, and
19 evaluation.

20 § -4 **Cooperation by state and county agencies.** All
21 state and county agencies shall provide all information and data



1 requested by the WAI policy coordinator within thirty calendar
2 days; provided that the WAI policy coordinator may, in the
3 coordinator's discretion, set a longer deadline.

4 § -7 Report. The WAI policy coordinator shall submit a
5 report of the coordinator's activities and expenditures to the
6 legislature, governor, and mayor and city council of the city
7 and county of Honolulu no later than December 1 of each year,
8 beginning in 2024."

9 PART III

10 SECTION 3. The following positions, which shall be exempt
11 from chapter 76, Hawaii Revised Statutes, are established in the
12 office of the chairperson of the board of land and natural
13 resources for the purposes of Red Hill WAI policy coordination:

- 14 (1) One full-time equivalent (1.0 FTE) policy coordinator;
- 15 (2) One full-time equivalent (1.0 FTE) outreach
16 coordinator; and
- 17 (3) One full-time equivalent (1.0 FTE) administrative
18 assistant.

19 SECTION 4. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so
21 much thereof as may be necessary for fiscal year 2024-2025 for



1 the positions identified in section 3 of this Act for Red Hill
2 WAI policy coordination.

3 The sum appropriated shall be expended by the department of
4 land and natural resources for the purposes of this Act.

5 SECTION 5. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2024-2025 for
8 ecosystem monitoring of the area surrounding the Red Hill Bulk
9 Fuel Storage Facility by the department of land and natural
10 resources.

11 The sum appropriated shall be expended by the department of
12 land and natural resources for the purposes of this Act.

13 PART IV

14 SECTION 6. In accordance with section 9 of article VII of
15 the Hawaii State Constitution and sections 37-91 and 37-93,
16 Hawaii Revised Statutes, the legislature has determined that the
17 appropriations contained in H.B. No. , will cause the state
18 general fund expenditure ceiling for fiscal year 2024-2025 to be
19 exceeded by \$ or per cent. In addition, the
20 appropriations contained in this Act will cause the general fund
21 expenditure ceiling for fiscal year 2024-2025 to be further



1 exceeded by \$ or per cent. The combined total
2 amount of general fund appropriations contained in only these
3 two Acts will cause the state general fund expenditure ceiling
4 for fiscal year 2024-2025 to be exceeded by
5 \$ or per cent. The reasons for exceeding the
6 general fund expenditure ceiling are that:

- 7 (1) The appropriations made in this Act are necessary to
8 serve the public interest; and
9 (2) The appropriations made in this Act meet the needs
10 addressed by this Act.

11 SECTION 7. This Act shall take effect upon its approval;
12 provided that sections 3, 4, and 5 of this Act shall take effect
13 on July 1, 2024.

14

INTRODUCED BY:  _____

S.B. NO. 3338

Report Title:

Red Hill WAI; Policy Lead and Coordination; Red Hill Remediation Special Fund; Appropriation; Expenditure Ceiling

Description:

Establishes a WAI policy coordinator and other positions within the Department of Land and Natural Resources for coordination of Red Hill WAI initiatives. Creates the Red Hill remediation special fund. Appropriates funds.

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

