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# A BILL FOR AN ACT

RELATING TO INDEPENDENT LEGAL COUNSEL.

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

1           SECTION 1. Section 28-8.3, Hawaii Revised Statutes, is  
2 amended as follows:

3           (1) By amending subsection (a) to read as follows:

4           "(a) No department of the State other than the attorney  
5 general may employ or retain any attorney, by contract or  
6 otherwise, for the purpose of representing the State or the  
7 department in any litigation, rendering legal counsel to the  
8 department, or drafting legal documents for the department;  
9 provided that the foregoing provision shall not apply to the  
10 employment or retention of attorneys:

11           (1) By the public utilities commission, the labor and  
12 industrial relations appeals board, and the Hawaii  
13 labor relations board;

14           (2) By any court or judicial or legislative office of the  
15 State; provided that if the attorney general is  
16 requested to provide representation to a court or  
17 judicial office by the chief justice or the chief  
18 justice's designee, or to a legislative office by the

\_\_\_\_.B. NO.\_\_\_\_

- 1 speaker of the house of representatives and the  
2 president of the senate jointly, and the attorney  
3 general declines to provide such representation on the  
4 grounds of conflict of interest, the attorney general  
5 shall retain an attorney for the court, judicial, or  
6 legislative office, subject to approval by the court,  
7 judicial, or legislative office;
- 8 (3) By the legislative reference bureau;
- 9 (4) By any compilation commission that may be constituted  
10 from time to time;
- 11 (5) By the real estate commission for any action involving  
12 the real estate recovery fund;
- 13 (6) By the contractors license board for any action  
14 involving the contractors recovery fund;
- 15 (7) By the office of Hawaiian affairs;
- 16 (8) By the department of commerce and consumer affairs for  
17 the enforcement of violations of chapters 480 and  
18 485A;
- 19 (9) As grand jury counsel;
- 20 (10) By the Hawaii health systems corporation, or its  
21 regional system boards, or any of their facilities;
- 22 (11) By the auditor;

\_\_\_ .B. NO. \_\_\_

- 1 (12) By the office of ombudsman;
- 2 (13) By the insurance division;
- 3 (14) By the University of Hawaii;
- 4 (15) By the Kahoolawe island reserve commission;
- 5 (16) By the division of consumer advocacy;
- 6 (17) By the office of elections;
- 7 (18) By the campaign spending commission;
- 8 (19) By the Hawaii tourism authority, as provided in
- 9 section 201B-2.5;
- 10 (20) By the division of financial institutions;
- 11 (21) By the office of information practices; [~~e~~]
- 12 (22) By the department of Hawaiian home lands; provided
- 13 that:
- 14 (A) The department of Hawaiian home lands may use the
- 15 services of the attorney general as needed and
- 16 when the interests of the State and the
- 17 department of Hawaiian home lands are aligned;
- 18 and
- 19 (B) Legal fees owed to independent counsel shall be
- 20 paid by the State; or
- 21 [~~(22)~~] (23) By a department, if the attorney general, for
- 22 reasons deemed by the attorney general to be good and

\_\_\_\_.B. NO.\_\_\_\_

1 sufficient, declines to employ or retain an attorney  
2 for a department; provided that the governor waives  
3 the provision of this section."

4 (2) By amending subsection (c) to read as follows:

5 "(c) Every attorney employed by any department on a full-  
6 time basis, except an attorney employed by the public utilities  
7 commission, the labor and industrial relations appeals board,  
8 the Hawaii labor relations board, the office of Hawaiian  
9 affairs, the Hawaii health systems corporation or its regional  
10 system boards, the department of commerce and consumer affairs  
11 in prosecution of consumer complaints, insurance division, the  
12 division of consumer advocacy, the University of Hawaii, the  
13 Hawaii tourism authority as provided in section 201B-2.5, the  
14 office of information practices, the department of Hawaiian home  
15 lands, or as grand jury counsel, shall be a deputy attorney  
16 general."

17 SECTION 2. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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

20

21 INTRODUCED BY: \_\_\_\_\_

22

BY REQUEST

.B. NO.      

**Report Title:**

Department of Hawaiian Home Lands; Legal Counsel

**Description:**

Allows the Department of Hawaiian Home Lands to retain independent legal counsel as needed. Authorizes the Department of Hawaiian Home Lands to use the services of the Attorney General as needed and when the interests of the State and the Department of Hawaiian Home Lands are aligned. Provides that funds owed to independent legal counsel shall be paid by the State.

*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: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO INDEPENDENT LEGAL COUNSEL.

PURPOSE: Allows the Department of Hawaiian Home Lands to retain independent legal counsel to be paid by the State and also use the services of the Attorney General as needed when the interests of the State and the Department of Hawaiian Home Lands are aligned.

MEANS: Amend section 28-8.3(a) and (c), Hawaii Revised Statutes.

JUSTIFICATION: The department has a trust duty to its beneficiaries and in the fulfillment of its trust obligations, the department may at times be at odds with the interests of the State. It is at these times that the department must be assured that its counsel provides legal guidance strictly in the interest of its client. Independent counsel that is hired and retained by the department eliminates any cloud of uncertainty that there is a conflict of interest that the department is represented by the Attorney General's office that also represents the State of Hawaii.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the department to retain independent legal counsel.

Impact on the department and other agencies: This proposal could reduce the legal services provided by the Attorney General's office.

GENERAL FUND: \$500,000.

OTHER FUNDS:           None.

PPBS PROGRAM  
DESIGNATION:           HHL 625.

OTHER AFFECTED  
AGENCIES:           None.

EFFECTIVE DATE:       Upon approval.

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

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

1           SECTION 1. The legislature finds that the requirements of  
2 section 174C-101(a), Hawaii Revised Statutes, providing that  
3 adequate reserves of water for current and foreseeable  
4 development of Hawaiian home lands be incorporated and protected  
5 decisions of the commission on water resource management can be  
6 improved through representation on the commission on water  
7 resource management. The purpose of this Act is to add the  
8 chairman of the Hawaiian homes commission or the chairman's  
9 designated representative to the commission on water resource  
10 management similar to the director of health or the director's  
11 designee.

12           SECTION 2. Section 174C-7, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14           "(a) There is established within the department a  
15 commission on water resource management consisting of [~~seven~~]  
16 eight members which shall have exclusive jurisdiction and final  
17 authority in all matters relating to implementation and



\_\_\_**.B. NO.**\_\_\_

1 administration of the state water code, except as otherwise  
2 specifically provided in this chapter.

3 (b) Five members shall be appointed by the governor  
4 subject to confirmation by the senate in the manner prescribed  
5 in subsection (d). Each [~~member~~] of these five members shall  
6 have substantial experience in the area of water resource  
7 management; provided that at least one member shall have  
8 substantial experience or expertise in traditional Hawaiian  
9 water resource management techniques and in traditional Hawaiian  
10 riparian usage such as those preserved by section 174C-101. The  
11 chairperson of the board of land and natural resources shall be  
12 the chairperson of the commission. The director of health or  
13 the director's designee shall serve as an ex officio[, ] voting  
14 member. The chairman of the Hawaiian homes commission or the  
15 chairman's designated representative shall also serve as an ex  
16 officio, voting member."

17 SECTION 3. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

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21 INTRODUCED BY: \_\_\_\_\_

22

BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Water Commission; Membership; Chairman of the Hawaiian Homes Commission or Designee

**Description:**

Adds the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to the Commission on Water Resource Management.

*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: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE COMMISSION ON WATER RESOURCE MANAGEMENT.

PURPOSE: Adds the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to the Commission on Water Resource Management.

MEANS: Amend section 174C-7(a) and (b), Hawaii Revised Statutes.

JUSTIFICATION: The Water Code requires that planning decisions of the Commission on Water Resource Management ensure that sufficient water remain available for current and foreseeable development and use of Hawaiian Home Lands. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative should serve as an ex officio voting member of the Commission on Water Resource Management.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the Chairman of the Hawaiian Homes Commission or the Chairman's designated representative to serve as an ex officio voting member of the Commission on Water Resource Management.

Impact on the department and other agencies: An additional member would now serve on the Commission on Water Resource Management.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM

DESIGNATION: HHL 625.

OTHER AFFECTED

AGENCIES: Commission on Water Resource Management.

EFFECTIVE DATE: Upon approval.

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A BILL FOR AN ACT

RELATING TO TAX EXEMPTION.

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

1 SECTION 1. The legislature finds that lands utilized by  
2 the department of Hawaiian home lands to provide homesteads for  
3 native Hawaiians are offered at affordable rates when compared  
4 to similar development available in Hawaii. The purpose of this  
5 Act is to exempt any homestead development for the department of  
6 Hawaiian home lands from general excise taxes.

7 SECTION 2. Chapter 237, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§237- Exemptions for any homestead development for the  
11 department of Hawaiian home lands. (a) There shall be exempted  
12 from the measure of the taxes imposed by this chapter, all gross  
13 proceeds arising from the planning, design, financing, or  
14 construction of any homestead development for the department of  
15 Hawaiian home lands as provided in this section.

16 (b) The exemption shall be approved by the department of  
17 Hawaiian home lands and shall apply to the gross income derived  
18 by any qualified person or firm from a newly constructed or a

.B. NO.                     

1 moderately or substantially rehabilitated project that is  
2 developed:

3 (1) For the department of Hawaiian home lands;

4 (2) Under a government assistance program approved by the  
5 department of Hawaiian home lands;

6 (3) Under the sponsorship of a nonprofit organization  
7 providing home rehabilitation or new homes for  
8 qualified families in need of decent, low-cost  
9 housing; or

10 (4) To provide affordable rental housing where at least  
11 fifty per cent of the available units are for  
12 households with incomes at or below eighty per cent of  
13 the area median family income as determined by the  
14 United States Department of Housing and Urban  
15 Development.

16 (c) The allowable general excise tax and use tax costs  
17 shall apply to contracting only and shall not exceed \$30,000,000  
18 per year in the aggregate for all projects approved and  
19 certified by the department of Hawaiian home lands; and

20 (d) All claims for exemption under this section shall be  
21 filed with and certified by the department of Hawaiian home  
22 lands and forwarded to the department of taxation by the

\_\_\_\_.B. NO.\_\_\_\_

1 claimant. Any claim for exemption that is filed and approved,  
2 shall not be considered a subsidy.

3 (e) The department of Hawaiian home lands may establish,  
4 revise, charge, and collect a reasonable service fee, as  
5 necessary, in connection with its approvals and certifications  
6 of the exemption under this section. The fees shall be  
7 deposited into the department of Hawaiian home lands  
8 administration account.

9 (f) For purposes of this section:

10 "Homestead development" means development of residential,  
11 agricultural, or pastoral lots to be awarded as homestead leases  
12 pursuant to the Hawaiian Homes Commission Act or 1920, as  
13 amended, including, but not limited to, on- and off-site  
14 infrastructure requirements, and dwelling units upon those lots.

15 "Moderately rehabilitated" means rehabilitation to upgrade  
16 a dwelling unit to a decent, safe, and sanitary condition, or to  
17 repair or replace major building systems or components in danger  
18 of failure.

19 "Substantially rehabilitated":

20 (1) Means the improvement of a property to a decent, safe,  
21 and sanitary condition that requires more than routine

\_\_\_\_.B. NO.\_\_\_\_

1           or minor repairs or improvements. It may include but  
2           shall not be limited to:

3           (A) The gutting and extensive reconstruction of a  
4           dwelling unit; or

5           (B) Cosmetic improvements coupled with the curing of  
6           a substantial accumulation of deferred  
7           maintenance; and

8           (2) Includes renovation, alteration, or remodeling to  
9           convert or adapt structurally sound property to the  
10           design and condition required for a specific use, such  
11           as conversion of a hotel to housing for elders."

12           SECTION 3. New statutory material is underscored.

13           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

17

BY REQUEST



\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Homestead Development; General Excise Tax Exemption

**Description:**

Exempts any homestead development for the Department of Hawaiian Home Lands from general excise taxes.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO TAX EXEMPTION.

PURPOSE: Exempts any homestead development for the Department of Hawaiian Home Lands from general excise taxes.

MEANS: Adds a new section to Chapter 237, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Hawaiian Home Lands provides homesteads for native Hawaiians at affordable rates when compared to similar development available in Hawaii. In order to further the interest of beneficiaries of the Hawaiian Homes Commission Act, any homestead development for the Department of Hawaiian Home Lands should be exempt from general excise taxes.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by exempting any homestead development for the Department of Hawaiian Home Lands from general excise taxes.

Impact on the department and other agencies: More funding could be allocated toward the development of homesteads instead of taxes.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

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# A BILL FOR AN ACT

RELATING TO CESSPOOLS.

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

1           SECTION 1. The legislature finds that the State's streams,  
2 groundwater, and ocean are being harmed by nonpoint  
3 contamination sources that flow directly off the land, rather  
4 than through pipes or ditches. Cesspools are a nonpoint  
5 contamination source of great concern. These substandard  
6 systems are essentially holes in the ground that do not treat  
7 wastewater but merely dispose of it.

8           The legislature further finds that there are approximately  
9 88,000 cesspools in the State, with nearly 50,000 on Hawaii  
10 island, approximately 14,000 on Kauai, over 12,000 on Maui, over  
11 11,000 on Oahu, and approximately 1,400 on Molokai.

12 Collectively, the State's cesspools release more than 53,000,000  
13 gallons of untreated sewage into the ground each day. Hawaii  
14 relies on groundwater for ninety per cent of its drinking water.

15           In response to the State's cesspool pollution problem,  
16 legislation was enacted in 2017 that requires all cesspools not  
17 excluded by the director of health to be upgraded or converted  
18 to septic systems or aerobic treatment unit systems, or

\_\_\_\_.B. NO.\_\_\_\_

1 connected to sewage systems by January 1, 2050. In order to  
2 work toward meeting this deadline, cesspools on Hawaiian home  
3 lands could be a good place to start.

4 The purpose of this Act is to establish a low interest loan  
5 program to offer financial assistance for lessees on Hawaiian  
6 home lands with cesspools to be upgraded or converted to septic  
7 systems or aerobic treatment unit systems, or connected to  
8 existing sewer systems or any other wastewater treatment systems  
9 approved by the department of health.

10 SECTION 2. Chapter 342D, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13 "§342D- Cesspool remediation and conversion loan  
14 program. (a) There is established the cesspool remediation and  
15 conversion loan program to be administered by the department in  
16 coordination with each county water and sewage department. The  
17 program may provide low interest loans to lessees of the  
18 department of Hawaiian home lands who:

19 (1) Upgrade or convert a cesspool to:

20 (A) A septic system; or

\_\_\_\_.B. NO.\_\_\_\_

1           (B) An aerobic treatment unit system, as defined in  
2           section 342D-72 and approved by the department;

3           or

4           (2) Connect a cesspool to:

5           (A) An existing sewer system; or

6           (B) Any wastewater treatment system approved by the  
7           department

8           (b) The loan program may include an on-bill financing  
9           option supported by the water pollution control revolving fund  
10           established in section 342D-83."

11           SECTION 3. Section 342D-83, Hawaii Revised Statutes, is  
12           amended by amending subsection (b) to read as follows:

13           "(b) The purpose of the revolving fund is to provide  
14           financial assistance to eligible parties for projects or  
15           activities to:

16           (1) Enable counties and state agencies to plan, design,  
17           and construct publicly owned wastewater treatment  
18           works in accordance with title 33 United States Code  
19           sections 1381 to 1387;

20           (2) Enable eligible parties to implement management  
21           programs established under title 33 United States Code  
22           section 1329;

\_\_\_\_.B. NO.\_\_\_\_

- 1           (3) Enable eligible parties to implement conservation and  
2                   management plans established under title 33 United  
3                   States Code section 1330;
- 4           (4) Enable eligible parties to construct, repair, or  
5                   replace a privately owned decentralized wastewater  
6                   treatment system and individual wastewater system that  
7                   treats municipal wastewater or domestic sewage under  
8                   title 33 United States Code section 1383;
- 9           (5) Enable eligible nonprofit entities to provide  
10                   assistance to small and medium sized publicly owned  
11                   treatment works for training activities, planning,  
12                   design, and associated preconstruction activities  
13                   under title 33 United States Code section 1383;
- 14           (6) Enable eligible parties to manage, reduce, treat, or  
15                   recapture stormwater or subsurface drainage water  
16                   under title 33 United States Code section 1383;
- 17           (7) Enable eligible parties to develop and implement  
18                   watershed projects meeting the criteria under title 33  
19                   United States Code section 1274;
- 20           (8) Enable counties and state agencies to reduce the  
21                   demand for publicly owned treatment works capacity

.B. NO.          

1           through water conservation, efficiency, or reuse under  
2           title 33 United States Code section 1383;

3           (9) Enable counties and state agencies to reduce the  
4           energy consumption needs for publicly owned treatment  
5           works under title 33 United States Code section 1383;

6           (10) Enable eligible parties to reuse or recycle  
7           wastewater, stormwater, or subsurface drainage water  
8           under title 33 United States Code section 1383; [~~and~~]

9           (11) Enable eligible parties to increase the security of  
10          publicly owned treatment works under title 33 United  
11          States Code section 1383[~~-~~]; and

12          (12) Enable the department to coordinate with each county  
13          agency responsible for wastewater to establish a low  
14          interest loan program to upgrade or convert cesspools  
15          for lessees on Hawaiian home lands to septic systems  
16          or aerobic treatment unit systems, or to connect  
17          cesspools to existing sewer systems or any other  
18          wastewater treatment systems approved by the  
19          department. "

20          SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22

\_\_\_\_.B. NO.\_\_\_\_

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

4

BY REQUEST



\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Cesspools; Upgrade and Conversion; Low Interest Loan Program

**Description:**

Authorizes the Department of Health to coordinate with each county wastewater agency to establish a low interest loan program for lessees on Hawaiian Home Lands to upgrade or convert cesspools to septic systems or aerobic treatment unit systems, or to connect cesspools to existing sewer systems or other wastewater treatment systems approved by the department.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO CESSPOOLS.

PURPOSE: Establishes a low interest loan program to offer financial assistance for lessees on Hawaiian Home Lands with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to existing sewer systems or any other wastewater treatment systems approved by the Department of Health.

MEANS: Adds a new section to Chapter 342D, Hawaii Revised Statutes.

JUSTIFICATION: Cesspools are a nonpoint contamination source of great concern. Collectively, the State's cesspools release more than 53 million gallons of untreated sewage into the ground each day. In response to the State's cesspool pollution problem, legislation was enacted in 2017 that requires all cesspools not excluded by the Director of Health to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to sewage systems by January 1, 2050. In order to work toward meeting this deadline, cesspools on Hawaiian Home Lands could be a good place to start.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by establishing a low interest loan program to offer financial assistance for lessees on Hawaiian Home Lands with cesspools to be upgraded or converted to septic systems or aerobic treatment unit systems, or connected to existing sewer systems or any other wastewater treatment systems approved by the Department of Health.

Impact on the department and other agencies:  
Reduce the number of cesspools across the  
State.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HHL 625.

OTHER AFFECTED  
AGENCIES: Department of Health.

EFFECTIVE DATE: Upon approval.

\_\_\_\_.B. NO. \_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1           SECTION 1. The legislature finds that lands utilized by  
2 the department of Hawaiian home lands to provide housing for  
3 native Hawaiians are offered at affordable rates when compared  
4 to similar housing available in Hawaii. The purpose of this Act  
5 is to require counties to provide for the maintenance of  
6 infrastructure for any housing development for the department of  
7 Hawaiian home lands within a specified time and under certain  
8 conditions.

9           SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended  
10 by adding to Part I a new section to be appropriately designated  
11 and to read as follows:

12           "§46-    Infrastructure maintenance; housing development  
13 for the department of hawaiian home lands. (a) Notwithstanding  
14 any other provision to the contrary, infrastructure for any  
15 housing development for the department of Hawaiian home lands  
16 shall be maintained by the county in which the housing  
17 development is located commencing sixty days after the receipt

\_\_\_\_.B. NO.\_\_\_\_

1 by the appropriate county council of a completed application for  
2 maintenance request; provided that:

3 (1) Applicable meter and connection fees and utility costs  
4 relating to the infrastructure have been paid;

5 (2) The infrastructure conforms to applicable county  
6 standards in effect at the time of construction; and

7 (3) The completion of the improvements of the  
8 infrastructure is granted approval by the county.

9 (b) For the purposes of this section:

10 "Infrastructure" includes waterlines and appurtenances,  
11 storm drainage, including catch basins, sewerlines and  
12 appurtenances, waste disposal and waste treatment systems,  
13 roadway improvements including pavement, gutters, curbing,  
14 sidewalks, street trees, and street lighting that connect to  
15 county infrastructure."

16 SECTION 3. New statutory material is underscored.

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

18

19 INTRODUCED BY: \_\_\_\_\_

20 BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Counties; Department of Hawaiian Home Lands; Infrastructure

**Description:**

Requires counties within sixty days to maintain infrastructure, under specified conditions, as part of any housing development for the Department of Hawaiian Home Lands.

*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: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO COUNTIES.

PURPOSE: Requires the counties within 60 days to maintain infrastructure, under specified conditions, as part of any housing development for the Department of Hawaiian Home Lands.

MEANS: Add a new section to part I of chapter 46, Hawaii Revised Statutes.

JUSTIFICATION: The Department of Hawaiian Home Lands complies with County requirements when developing subdivisions, yet the maintenance of infrastructure is often still the responsibility of the Department.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by requiring the Counties to maintain infrastructure as part of any housing development for the Department of Hawaiian Home Lands.

Impact on the department and other agencies: More funding could be allocated toward the development of housing instead of maintenance of infrastructure.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

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# A BILL FOR AN ACT

RELATING TO HISTORIC PRESERVATION REVIEWS.

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

1           SECTION 1. The legislature finds that section 6E-8, Hawaii  
2 Revised Statutes, plays an important role in the protection and  
3 management of the State's historic properties and burial sites.  
4 Section 6E-8(b) requires the department of Hawaiian home lands,  
5 prior to any proposed project relating to lands under its  
6 jurisdiction, to consult with the department of land and natural  
7 resources regarding the effect of the project upon historic  
8 property or a burial site. The purpose of this Act is to allow  
9 the department of Hawaiian home lands to assume review of the  
10 effect of any proposed project on historic properties or burial  
11 sites for lands under its jurisdiction.

12           SECTION 2. Section 6E-8, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14           "(b) The department of Hawaiian home lands [ ~~, prior to~~]  
15 may assume review of any proposed project relating to lands  
16 under its jurisdiction [ ~~, shall consult with the department~~]  
17 regarding the effect of the project upon historic property or a  
18 burial site."



\_\_\_\_.B. NO.\_\_\_\_

1 SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect upon its approval.

4

5

INTRODUCED BY: \_\_\_\_\_

6

BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

DHHL; Project Reviews of Proposed State Projects

**Description:**

Allows the Department of Hawaiian Home Lands to assume review of the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO HISTORIC PRESERVATION REVIEWS.

PURPOSE: Allow the Department of Hawaiian Home Lands to assume review of the effect of any proposed project on historic properties or burial sites for lands under its jurisdiction.

MEANS: Amend section 6E-8(b), Hawaii Revised Statutes.

JUSTIFICATION: Instead of requiring the Department of Hawaiian Home Lands to consult with the Department of Land and Natural Resources regarding the effect of a project upon historic properties or burial sites, this proposal would streamline the process by allowing the Department of Hawaiian Home Lands to assume this review.

Impact on the public: This proposal advances the interest of beneficiaries of the Hawaiian Homes Commission Act by streamlining the review process for any proposed project on Hawaiian Home Lands.

Impact on the department and other agencies: The Department of Hawaiian Home Lands would assume this function for lands under its jurisdiction freeing up those resources for the Department of Land and Natural Resources to service other agencies.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED  
AGENCIES:

Department of Land and Natural Resources.

EFFECTIVE DATE:

Upon approval.

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# A BILL FOR AN ACT

RELATING TO GAMBLING.

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

1           SECTION 1. The legislature finds that gambling is now  
2 legal in 48 out of 50 states. For the people of Hawaii,  
3 gambling is as popular as it is in the rest of the country, but  
4 it remains illegal within its borders. With no local venues or  
5 tax for gambling, Hawaii is a target market for a growing number  
6 of jurisdictions where gambling is legal. Hawaii generates  
7 hundreds of millions of dollars, perhaps billions, in economic  
8 activity for other jurisdictions and in return, receives no  
9 benefit. Hawaii residents take a total of about 500,000 total  
10 trips to Las Vegas, and other gambling destinations each year  
11 with many taking multiple trips per year. In 2011, it was  
12 reported that Boyd Gaming, a Nevada-based gaming corporation,  
13 earns about \$600 million from Hawaii annually. In 2021, the CEO  
14 of Boyd Gaming disclosed on an investor call that the company  
15 relies heavily on gamblers coming from Hawaii. Gaming revenues  
16 for Boyd Gaming from downtown Las Vegas, where locals often  
17 visit, declined 63 percent to \$257.7 million as a result of  
18 COVID travel restrictions. A longtime lobbyist for gambling

\_\_\_\_.B. NO.\_\_\_\_

1 interests in Hawaii testified to the Committee on Tourism in  
2 2012 that the "prohibition of that which is legal nearly  
3 everywhere else costs Hawaii \$1 billion each year in outgoing  
4 dollars and returns none."

5 Even with prohibition, Hawaii also carries an economic  
6 burden from gambling. A 2009 study by the National Council on  
7 Problem Gambling estimated that the social costs of gambling  
8 addiction in Hawaii from twenty thousand problem gamblers and  
9 ten thousand pathological gamblers was \$26.3 million; however,  
10 no public funding was provided for gambling treatment and  
11 prevention. Although the Honolulu Police Department only  
12 reported fifty-one arrests in 2020 and thirty-four arrests in  
13 2019 for gambling offense, there are believed to be  
14 approximately seventy to one hundred illegal gambling rooms in  
15 Oahu alone.

16 Legislation introduced last year proposed to authorize  
17 limited casino gaming in the form of a single integrated resort  
18 property on Hawaiian home lands designated for commercial use on  
19 the island of Oahu excluding lands west of Ko Olina in order to  
20 address historic funding shortfalls to the department of  
21 Hawaiian home lands. With over twenty-eight thousand native  
22 Hawaiians awaiting homestead leases, the department of Hawaiian

\_\_\_\_.B. NO.\_\_\_\_

1 home lands struggles to develop land and lots. Current costs  
2 for infrastructure development, borne by the department, are in  
3 excess of \$150,000 per lot. In order to fulfill the needs of  
4 the current waitlist, the department requires over \$6 billion  
5 for infrastructure costs alone to serve its beneficiaries. This  
6 significant sum is separate and apart from costs for maintenance  
7 of existing lessee communities housing nearly ten thousand  
8 beneficiaries, upkeep of several utility systems, and other  
9 costs. Over the last decade, the legislature has funded the  
10 department at levels higher than in years past, which has  
11 provided increased opportunity for the department of Hawaiian  
12 home lands to increase its reach. However, by conservative  
13 estimates, it will take the department at least another hundred  
14 years to meet the needs of its beneficiaries at current funding  
15 levels.

16 In response to this legislation, the Hawaii state  
17 commission on the status of women released a gender impact  
18 statement titled "Gambling With Women's Safety: A Feminist  
19 Assessment of Proposed Resort-Casino" essentially concluding  
20 that gambling is a public health issue that is tied to  
21 significant community harm and linked to sex trafficking and  
22 other gender-based violence.

.B. NO.          

1           The purpose of this Act is to require the department of  
2 Hawaiian home lands to study the feasibility and revenue to be  
3 generated by limited casino gaming, address the public health  
4 concerns, and determine ideal factors for the siting of an  
5 integrated resort property that would minimize the social impact  
6 or even provide a mechanism for host communities to bid for such  
7 a resort.

8           SECTION 2. The department of Hawaiian home lands shall  
9 conduct a study on the feasibility and revenue to be generated  
10 by limited gaming, address the public health concerns, and  
11 determine ideal factors for the siting of an integrated resort  
12 property that would minimize the social impact or even provide a  
13 mechanism for host communities to bid for such a resort.

14           The department shall submit a report of its findings and  
15 recommendations, including any proposed legislation, to the  
16 legislature no later than twenty days prior to the convening of  
17 the regular session of 2023.

18           SECTION 3. There is appropriated out of the general  
19 revenues the sum of \$500,000 or so much thereof as may be  
20 necessary for fiscal year 2022-2023 for the purpose of funding  
21 this study.



.B. NO.          

1           The sum appropriated shall be expended by the department of  
2 Hawaiian home lands for the purposes of this Act.

3           SECTION 4. This Act shall take effect upon its approval.

4

5                                 INTRODUCED BY: \_\_\_\_\_

6

BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_\_

**Report Title:**

Gambling; Study; Appropriation

**Description:**

Appropriates funding for the Department of Hawaiian Home Lands to study the feasibility and revenue to be generated by limited casino gaming, address the public health concerns, and determine ideal factors for the siting of an integrated resort property that would minimize the social impact or even provide a mechanism for host communities to bid for such a resort.

*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: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO GAMBLING.

PURPOSE: Appropriates funding for the Department of Hawaiian Home Lands to study the feasibility and revenue to be generated by limited casino gaming, address the public health concerns, and determine ideal factors for the siting of an integrated resort property that would minimize the social impact or even provide a mechanism for host communities to bid for such a resort.

MEANS: Amend section 28-8.3(a) and (c), Hawaii Revised Statutes.

JUSTIFICATION: The department has a trust duty to its beneficiaries and in the fulfillment of its trust obligations, the department may at times be at odds with the interests of the State. It is at these times that the department must be assured that its counsel provides legal guidance strictly in the interest of its client. Independent counsel that is hired and retained by the department eliminates any cloud of uncertainty that there is a conflict of interest that the department is represented by the Attorney General's office that also represents the State of Hawaii.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the department to retain independent legal counsel.

Impact on the department and other agencies: This proposal could reduce the legal services provided by the Attorney General's office.

Page 2

GENERAL FUND: \$500,000.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HHL 625.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.

\_\_\_\_.B. NO.\_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO INTERIM RULES.

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

1           SECTION 1. Chapter 91, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§91- Interim rules; department of Hawaiian home lands.

5 Notwithstanding any other law to the contrary, the department of  
6 hawaiian home lands may issue interim rules after beneficiary  
7 consultation as provided for in administrative rules and upon  
8 approval by the hawaiian homes commission. The interim rules  
9 shall be effective for not more than eighteen months and shall  
10 be exempt from the public notice, public hearing, and  
11 gubernatorial approval requirements of chapter 91."

12           SECTION 3. New statutory material is underscored.

13           SECTION 4. This Act shall take effect upon its approval.

14

15

INTRODUCED BY: \_\_\_\_\_

16

BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Interim rules; Department of Hawaiian Home Lands

**Description:**

Allows the Department of Hawaiian Home Lands after beneficiary consultation and upon approval by the Hawaiian Homes Commission to issue interim rules that shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91, Hawaii Revised Statutes, as long as the interim rules shall be effective for not more than eighteen months.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO INTERIM RULES.

PURPOSE: Allows the Department of Hawaiian Home Lands after beneficiary consultation and upon approval by the Hawaiian Homes Commission to issue interim rules which shall be exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91, Hawaii Revised Statutes (HRS), as long as the interim rules shall be effective for not more than eighteen months.

MEANS: Add a new section to chapter 91, HRS.

JUSTIFICATION: The Department of Hawaiian Home Lands is currently authorized to adopt rules in accordance with chapter 91, HRS, which can be a lengthy and time-consuming process when the Department conducts beneficiary consultation prior to initiating the rule making process. This amendment will enable the Department to move quickly in issuing interim rules after beneficiary consultation and upon approval by the Hawaiian Homes Commission on important programs and services. The eighteen-month limitation on the life of the interim rules will further ensure that the Department has adequate time to adopt permanent rules through formal rulemaking procedures.

Impact on the public: This proposal advances the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing the Department to issue interim rules on important programs and services that can be implemented soon after beneficiary consultation and upon approval by the Hawaiian Homes Commission.

Impact on the department and other agencies:  
Interim rules will allow the Department to better serve its beneficiaries.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HHL 625.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.



\_\_\_\_.B. NO.\_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO COMPLIANCE AND ENFORCEMENT ON HAWAIIAN HOME LANDS.

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

1           SECTION 1. The legislature finds that illegal activity  
2 occurring on Hawaiian home lands threatens the health and safety  
3 of the community. The purpose of this Act is to establish a  
4 compliance and enforcement program within the department of  
5 Hawaiian home lands to investigate complaints, conduct  
6 investigations, and cooperate with enforcement authorities to  
7 ensure compliance with the Hawaiian Homes Commission Act, 1920,  
8 as amended and the rules adopted thereunder.

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

12                                   "CHAPTER

13                                   COMPLIANCE AND ENFORCEMENT ON HAWAIIAN HOME LANDS

14           § -1 Compliance and enforcement program on Hawaiian  
15 home lands; established. The department of Hawaiian home lands  
16 shall establish a compliance and enforcement program on Hawaiian  
17 home lands to enforce the Hawaiian Homes Commission Act, 1920,  
18 as amended and rules adopted thereunder, and shall employ or

\_\_\_\_.B. NO.\_\_\_\_

1 appoint, and remove, the following persons, subject to chapter  
2 76 and section 78-1, who shall be provided with suitable badges  
3 or insignia of office by the department of Hawaiian home lands:

4 (1) An enforcement chief of the department of Hawaiian  
5 home lands, who shall be the head of the compliance  
6 and enforcement program and shall have charge,  
7 direction, and control, subject to the direction and  
8 control of the chairman, of all matters relating to  
9 the enforcement of the Hawaiian Homes Commission Act,  
10 1920, as amended and rules adopted thereunder and such  
11 other matters as the chairman may from time to time  
12 direct. The enforcement chief shall be an  
13 administrator experienced in law enforcement and  
14 management; and

15 (2) Personnel and enforcement officers of the conservation  
16 and resources enforcement program, including but not  
17 limited to enforcement officers on a voluntary basis  
18 and without pay.

19 § -2 Compliance and enforcement program on Hawaiian  
20 home lands special fund; established. (a) There is hereby  
21 established in the state treasury a special fund known as the  
22 compliance and enforcement program on Hawaiian home lands

\_\_\_\_.B. NO.\_\_\_\_

1 special fund, which shall be administered by the department of  
2 Hawaiian home lands.

3 (b) The following shall be deposited into the compliance  
4 and enforcement program on Hawaiian home lands special fund:

5 (1) Grants, awards, donations, gifts, transfers or moneys  
6 derived from public or private sources for the  
7 purposes of enforcing the provisions of the Hawaiian  
8 Homes Commission Act, 1920, as amended or any rule  
9 adopted thereunder;

10 (2) Fees, reimbursements, administrative charges, and  
11 penalties collected for activities related to the  
12 enforcement of the Hawaiian Homes Commission Act,  
13 1920, as amended and rules, except as otherwise  
14 provided by law that provides for deposits into other  
15 special funds administered by the department of  
16 Hawaiian home lands;

17 (3) Moneys derived from interest, dividends, or other  
18 income from the above-mentioned sources; and

19 (4) Appropriations by the legislature to the special fund.

20 (c) The compliance and enforcement program on Hawaiian  
21 home lands special fund shall be used for expenditures,  
22 including but not limited to:

\_\_\_\_.B. NO.\_\_\_\_

- 1 (1) Training;
- 2 (2) Research;
- 3 (3) Equipment;
- 4 (4) Preparation and dissemination of information to the
- 5 public;
- 6 (5) Data collection and development;
- 7 (6) Information technology;
- 8 (7) Safety;
- 9 (8) Wireless communication;
- 10 (9) Management;
- 11 (10) Travel;
- 12 (11) Equipment rental;
- 13 (12) Maintenance and repairs;
- 14 (13) Planning;
- 15 (14) Information;
- 16 (15) Education;
- 17 (16) Operations;
- 18 (17) Maintenance functions authorized and deemed necessary
- 19 by the department of Hawaiian home lands;
- 20 (18) Funding for consultants or contractual hires related
- 21 to the enforcement of:

\_\_\_**.B. NO.**\_\_\_

1           (A) The Hawaiian Homes Commission Act, 1920, as  
2 amended;

3           (B) Any rule adopted thereunder; and

4           (19) Work performed in cooperation with enforcement  
5 authorities of the State, the counties, and the federal  
6 government.

7           (d) The fund shall be held separate and apart from all  
8 other moneys, funds, and accounts in the department of Hawaiian  
9 home lands, except that any monies received from the federal  
10 government or from private contributions shall be deposited and  
11 accounted for in accordance with conditions established by the  
12 department of Hawaiian home lands or persons from whom the  
13 moneys are received. Any balance remaining in the fund at the  
14 end of any fiscal year shall be carried forward in the fund for  
15 the next fiscal year.

16           § -3   **Compliance and enforcement program on Hawaiian**  
17 **home lands enforcement officers; other law enforcement officers.**

18           (a) The compliance and enforcement program on Hawaiian home  
19 lands enforcement officers, with respect to all Hawaiian home  
20 lands shall:

21           (1) Enforce the Hawaiian Homes Commission Act, 1920, as  
22 amended and rules adopted thereunder;

\_\_\_**B. NO.**\_\_\_

- 1           (2) Investigate complaints, gather evidence, conduct  
2                    investigations, and conduct field observations and  
3                    inspections as required or assigned;
- 4           (3) Cooperate with enforcement authorities of the State,  
5                    counties, and federal government in development of  
6                    programs and mutual aid agreements for compliance  
7                    enforcement activities within the State;
- 8           (4) Check and verify all homestead leases, general leases,  
9                    permits, and licenses and all other land dispositions  
10                  issued by the department of Hawaiian home lands;
- 11          (5) Enforce the laws relating to firearms, ammunition, and  
12                  dangerous weapons contained in chapter 134; and
- 13          (6) Carry out other duties and responsibilities as the  
14                  department of Hawaiian home lands from time to time  
15                  may direct.

16           (b) Every state and county officer charged with the  
17 enforcement of laws and ordinances shall enforce and assist in  
18 the enforcement of the Hawaiian Homes Commission Act, 1920, as  
19 amended and rules adopted thereunder.

20           § -4    **Department of Hawaiian home lands; police powers.**

21           (a) The department of Hawaiian home lands shall have police  
22 powers and may appoint and commission enforcement officers

.B. NO.                     

1 within the compliance and enforcement program on Hawaiian home  
2 lands. Persons appointed and commissioned under this section  
3 shall have and may exercise all of the powers and authority of a  
4 police officer, including the power of arrest, and in addition  
5 to enforcing the Hawaiian Homes Commission Act, 1920, as amended  
6 and rules adopted thereunder, may enforce all other state laws  
7 and rules, and county ordinances within Hawaiian home lands;  
8 provided that such powers shall remain in force and effect only  
9 while in actual performance of their duties, which shall include  
10 off-duty employment when such employment is for other state  
11 departments or agencies. These enforcement officers shall  
12 consist of personnel whose primary duty will be the enforcement  
13 of the Hawaiian Homes Commission Act, 1920, as amended and the  
14 rules adopted thereunder within the areas under the jurisdiction  
15 of the department of Hawaiian home lands.

16 (b) An enforcement officer, upon arresting any person for  
17 violation of the Hawaiian Homes Commission Act, 1920, as amended  
18 or any rule thereunder, may immediately take the person arrested  
19 to a police station or before a district judge, or take the name  
20 and address and note the violation of the law or rule by the  
21 person, and issue the person a summons or citation, printed in  
22 the form described in section -5, warning the person to appear

\_\_\_\_.B. NO.\_\_\_\_

1 and to answer the charge against the person at a certain place  
2 and time within seven days after the arrest.

3       § -5   **Summons or citation.** There shall be a form of  
4 summons or citation for use in citing violators of the Hawaiian  
5 Homes Commission Act, 1920, as amended and rules adopted  
6 thereunder, which do not mandate the physical arrest of the  
7 violators. The summons or citation shall be printed in a form  
8 commensurate with form or other summons or citation used in  
9 modern methods of arrest and shall be so designed to include all  
10 necessary information to make it valid and legal within the laws  
11 and rules of the State. The form and content of the summons or  
12 citation shall be adopted or prescribed by the district courts.

13       In every case where a summons or citation is issued, the  
14 original of the same shall be given to the violator; provided  
15 that the district courts may prescribe the issuance to the  
16 violator of a carbon copy of the summons or citation and provide  
17 for the disposition of the original and any other copies. Every  
18 summons or citation shall be consecutively numbered and each  
19 carbon copy shall bear the number of its respective original.

20       § -6   **Search.** Any police officer or agent of the  
21 department of Hawaiian home lands that has been conferred powers



\_\_\_\_.B. NO.\_\_\_\_

1 of police officers, shall have the authority to conduct searches  
2 on probable cause as provided by law.

3 § -7 Alternative dispute resolution. Any violation of  
4 the Hawaiian Homes Commission Act, 1920, as amended and rules  
5 adopted thereunder may allow for alternative dispute resolution  
6 such as mediation, arbitration, or a culturally appropriate  
7 mechanism for dispute resolution to be deployed."

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

9

10 INTRODUCED BY: \_\_\_\_\_

11 BY REQUEST

\_\_\_\_.B. NO. \_\_\_\_\_

**Report Title:**

Compliance and Enforcement; Hawaiian Home Lands

**Description:**

Establishes a compliance and enforcement program within the department of Hawaiian home lands to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with the Hawaiian Homes Commission Act, 1920, as amended and rules adopted thereunder.

*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: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO THE COMPLIANCE AND ENFORCEMENT PROGRAM.

PURPOSE: Establishes a compliance and enforcement program within the Department of Hawaiian Home Lands to investigate complaints, conduct investigations, and cooperate with enforcement authorities to ensure compliance with the Hawaiian Homes Commission Act, 1920, as amended and rules adopted thereunder.

MEANS: Adds a new chapter to the Hawaii Revised Statutes.

JUSTIFICATION: Criminal activity that is threatening the health and safety of the community must be addressed.

Impact on the public: This proposal protects the health and safety of communities.

Impact on the department and other agencies: Additional resources will be needed to implement this program.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: HHL 625.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.

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# A BILL FOR AN ACT

RELATING TO ADOPTION

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

1           SECTION 1. The legislature finds that the effect of  
2 adoption as provided for under state law impacts the ability for  
3 an adopted individual or the individual's natural family to  
4 succeed to a homestead lease or application on the department of  
5 Hawaiian home lands applicant waiting list. The purpose of this  
6 Act is to allow an adopted individual to benefit both by  
7 relationship through a natural parent and through an adoptive  
8 parent while also allowing the adopted individual and member of  
9 the individual's natural family to continue to have the same  
10 familial relationship. This Act does not affect the other  
11 requirements under the Hawaiian Homes Commission Act, 1920, as  
12 amended or administrative rules beyond relationship between  
13 individuals.

14           SECTION 2. Section 578-16, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "§578-16 Effect of adoption. (a) A legally adopted  
17 individual shall be considered to be a natural child of the

\_\_\_\_.B. NO.\_\_\_\_\_

1 whole blood of the adopting parent or parents as provided in the  
2 Uniform Probate Code, relating to the descent of property.

3 (b) The former legal parent or parents of an adopted  
4 individual and any other former legal kindred shall not be  
5 considered to be related to the individual as provided in the  
6 Uniform Probate Code except as provided in this section.

7 (c) An adopted individual and the individual's adopting  
8 parent or parents shall sustain towards each other the legal  
9 relationship of parents and child and shall have all the rights  
10 and be subject to all the duties of that relationship, including  
11 the rights of inheritance from and through each other and the  
12 legal kindred of the adoptive parent or parents, the same as if  
13 the individual were the natural child of the adopting parent or  
14 parents.

15 (d) Except as provided in subsection (e), all legal duties  
16 and rights between the individual and the individual's former  
17 legal parent or parents shall cease from the time of the  
18 adoption; provided that if the individual is adopted by a person  
19 married to a legal parent of the individual, the full reciprocal  
20 rights and duties which theretofore existed between the legal  
21 parent and the individual, and the rights of inheritance as  
22 between the individual and the legal parent and the legal

\_\_\_\_.B. NO.\_\_\_\_

1 relatives of the parent, as provided in chapter 560, shall  
2 continue, notwithstanding the adoption, subject only to the  
3 rights acquired by and the duties imposed upon the adoptive  
4 parents by reason of the adoption.

5 (e) Notwithstanding subsections (b) and (d), if an  
6 individual is adopted before that individual attains the age of  
7 majority and:

8 (1) The individual is adopted by a spouse of a natural  
9 parent of the individual; or

10 (2) The individual is adopted by a natural grandparent,  
11 aunt, uncle, or sibling of the individual or the spouse of a  
12 natural grandparent, aunt, uncle, or sibling;

13 then for the purposes of interpretation or construction of a  
14 disposition in any will, trust, or other lifetime instrument,  
15 whether executed before or after the order of adoption, and for  
16 purposes of determining heirs at law, the rights of the adopted  
17 individual and the individual's descendants with respect to the  
18 individual's natural family shall not be affected by the  
19 adoption, and they shall be included in any determination of  
20 heirs or members of any class, unless specifically excluded by  
21 name or class.

\_\_\_\_.B. NO.\_\_\_\_

1 (f) An adopted individual, who by reason of subsection (e)  
2 would be a member of two or more designation or classes pursuant  
3 to a single instrument, both by relationship through a natural  
4 parent and through an adoptive parent, shall be entitled to  
5 benefit by membership in only one of these designations or  
6 classes, which shall be the larger share.

7 (g) Notwithstanding any other provision of law in this  
8 section, the effect of adoption for the purposes of  
9 interpretation or construction of a disposition or other  
10 designation provided for in accordance with the Hawaiian Homes  
11 Commission Act, 1920, as amended or administrative rules and for  
12 the purposes of determining heirs at law, shall allow any  
13 adopted individual to benefit both by relationship through a  
14 natural parent and through an adoptive parent while also  
15 allowing for the adopted individual and member of the  
16 individual's natural family to continue to have the same  
17 familial relationship.

18 [~~g~~] (h) For purposes of this section, if a person has been  
19 adopted more than once, the term "natural parent" includes an  
20 adopting parent by an earlier adoption.

21 [~~h~~] (i) An individual legally adopted under the laws of any  
22 state or territory of the United States or under the laws of any

\_\_\_\_.B. NO.\_\_\_\_

1 nation shall be accorded the same rights and benefits in all  
2 respects as an individual adopted under this chapter."

3 SECTION 3. New statutory material is underscored.

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

5

6

INTRODUCED BY: \_\_\_\_\_

7

BY REQUEST



\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**  
Adoption

**Description:**

Allows an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent in a disposition or other designation provided for in accordance with the Hawaiian Homes Commission Act, 1920, as amended or administrative rules while also allowing the adopted individual and individual's natural family to continue to have the same familial relationship.

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JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO ADOPTION.

PURPOSE: Allows an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent in a disposition or other designation provided for in accordance with the Hawaiian Homes Commission Act, 1920, as amended or administrative rules while also allowing the adopted individual and individual's natural family to continue to have the same familial relationship.

MEANS: Amend section 578-16, Hawaii Revised Statutes.

JUSTIFICATION: The effect of adoption could impact the ability for an adoptive individual to succeed to a homestead lease or to the applicant's application rights on the waiting list. This proposal allows an adopted individual to benefit both by relationship through a natural parent and an adoptive parent while also allowing for the adopted individual and member of the individual's natural family to continue to have the same familial relationship.

Impact on the public: This proposal further protects the interest of beneficiaries of the Hawaiian Homes Commission Act by allowing an adopted individual to benefit both by relationship through a natural parent and through an adoptive parent.

Impact on the department and other agencies: This proposal could minimize any amendments that could have a detrimental impact to the general public while addressing the nuances specific to the Department.

GENERAL FUND: None.

OTHER FUNDS:           None.

PPBS PROGRAM  
DESIGNATION:         HHL 625.

OTHER AFFECTED  
AGENCIES:           None.

EFFECTIVE DATE:      Upon approval.