HB 3283
RELATING TO THE WATER CODE

House Committee on Water and Land Use

Public Hearing - February 17, 1998
9:00A.M., Room 312 State Capitol

By
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HB 3283 would amend Chapter 174C, HRS, to make all instream flow standards established by the Commission on Water Resources Management (CWRM) subject to the approval of the governor.

Our statement on this measure does not constitute an institutional position of the University of Hawaii.

HB 3283 seeks to reposition the balance between economic consumptive use of Hawaii’s surface waters and maintenance of ecologic sustainability. In so doing, the measure expounds a number of inherent mischaracterizations that bear a closer examination.

Foremost is the implication that past actions of the CWRM have failed to conform with legally articulated State policies and priorities. While certain parties may disagree with a particular decision of the Commission and express a belief that more water should be allocated to consumptive uses at the expense of stream ecosystem integrity, the law, in fact is quite explicit in terms of a policy of maintenance and enhancement of environmental resources. We draw the Committee’s attention specifically to the State Constitution, Article XI, Sections 1, 7, and 9; to Sections 341-1, 343-1, HRS; to Chapter 344, HRS; to the federal Water Pollution Control Act; to the federal Endangered Species Act; and to the federal Wild and Scenic Rivers Act. The guiding principles of antidegradation and the maintenance of a balanced indigenous population in the waters of our state and the nation are fundamental legal policies and priorities.

The implication of lines 3-5 on page 2 that the CWRM does not, as presently constituted, provide for “full public review and analysis” is completely unwarranted. In its consideration of the Waiahole case, the Commission conducted public hearings and factfinding for over two years. These fully public deliberative processes can hardly be characterized as less than a “full public review”.

In the past 10 years, only one instream flow standard has been established at a level different from the prevailing standards incorporated into the 1988 interim instream flow standards, and that action by the CWRM now is under appeal to the Supreme Court. This measure inappropriately characterizes a nonexistent problem.

Finally, with regard to the requirement for the Governor’s approval, it should be noted that under present law, the standards established by the Commission must be signed by the Lieutenant Governor.

For these reasons, we cannot support the intent of HB 3283.