HB 1332 H.D.1
RELATING TO THE STATE WATER CODE

House Committee on Finance

Public Hearing - February 25, 1998
2:00 P.M., Room 308, State Capitol

By
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HB 1332 H.D.1 would amend Chapter 174C, HRS to add definitions of “agricultural use” and “existing agricultural use”; to require the Department of Agriculture to prepare a state agricultural water use and development plan; to add the chairperson of the Board of Agriculture (BOA) as a voting member of the Commission on Water Resources Management (CWRM); and to establish prior appropriation as an underlying condition of water rights allocation by permit.

Our statement on this measure is compiled from voluntarily submitted opinions of the listed academic reviewers and does not constitute an institutional position of the University of Hawaii.

We have a number of concerns with this measure. First, regarding addition of the Chairperson of the BOA to the CWRM, we suggest that such an appointment would create the potential for a conflict of interest. A general rule of public policy is that the functions of resource protection and regulation should be separated from functions involving development of those same resources for economic or consumptive utilization. The mandate of the BOA to promote agricultural development thus directly conflicts with the mandate of the CWRM to protect water resources.

Secondly, we note prior testimony of the CWRM that agrees on the need for a state agricultural water plan, but points out that planning efforts in this area are underway, and additional funds have been requested by the Commission to complete this endeavor. Hence, inauguration of a similar effort by the Department of Agriculture would be duplicative.

Finally, the amendments of Section 4 establish a doctrine of prior appropriation which conflicts directly with the provisions of the State Constitution, Article XI Section 7.

For these reasons, we cannot support the intent of this measure.