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March 19, 1987

Dear Friends:

RE: HAWAII WATER CODE

On Tuesday, March 24, 1987, at 8:30 a.m., the House Committee on Water, Land Use, Development and Hawaiian Affairs will consider revisions to the proposed Hawaii Water Code (S.B. 1307, S.D. 1; Stand. Comm. Rep. 701).

Enclosed for your review are changes suggested in testimony before the House Finance Committee on H.B. 35, H.D. 1, which appear to be both thoughtful and constructive.

Please consider these amendments to H.B. 35, H.D. 1. Your feedback at the March 24 hearing would be welcomed.

Very truly yours,

ANDREW LEVIN
State Representative
First District of Hawaii

AL:sr

Enclosure

†Minority Leader

††Minority Floor Leader

Proposed changes to H.B. 35, H.D.1

- Page 4, line 8 add: "Authorized use means the existing or projected use of water by a development that has received the proper state land use designation and county development plan/community plan approvals."
- Page 8, lines 7 substitute "county" for "local"
and 13
- line 12 add: "Nothing in this chapter to the contrary shall restrict the power of any county to plan or zone as provided in HRS chapter 46."
- Page 12, line 18 add: "The consent of the property owner shall first be obtained or, if that is not possible, reasonable prior notice shall be given."
- Page 13, line 15 after "county," insert "mayors and"
 line 19 add at beginning of new sentence: "Except for consistency determinations decisions under the coastal zone management act . . ."
- Page 16, line 13 change "shall" to "may"
- Page 17, lines delete subsection (b). Re-letter subsections
10-15 (c) and (d) on lines 16 and 20, respectively.
- Page 18, line 10 add new sentence: "Such reporting requirements shall take into account complex water systems and shall not be unduly burdensome."
- Page 19, line 1 after "all", add: "newly proposed and".

 Delete "in nondesignated areas."

 line 8 after "ordinance" add: "shall set forth the allocation of water to the land use in that county;"
- Page 19, line 16 after "plan", add: "and the state water projects plan"
- line 17 after "with", add: "the respective"
 lines
 23-24 delete both lines

Page 20, line 0 delete: "shall decide which shall prevail."
 line 15 create new paragraph:
 "The water resource protection plan
 shall include but not be limited to:
 "
 line 24 add new sentence: "Each county water use and
 development plan shall include but not be
 limited to: _____"
 Page 21, line 5 after "proper", add: "conservation and"
 lines
 16 & 17 change "hydrologically controllable areas" to
 "hydrologic units"
 line 23 change "hydrological area" to "hydrologic
 unit"
 Page 22, lines
 2-5 delete sentence
 Page 23, line 12 after "plans," add comma.
 delete "for". After "country" add: "and"
 Page 24, lines
 0-7 delete subsection (n)
 add: "Each county shall update and modify
 its water use and development plans as
 necessary to maintain consistency with its
 zoning and land use policies."
 Page 25, line 2 after "future", add comma
 delete "that the conditions
 line 21 before "Serious" add: "After reasonable
 opportunities to mediate"
 Page 26, line 20 after "director" add: "after consultation *w. 74*
~~with~~
 the appropriate county agency and water
 board,"

Page 27, line 8 delete "interested"

After "person" add "with proper standing."

Page 29, line 8 delete "Mandatory"; after "use" add: "in Designated Areas"

lines 21-22 change "this chapter" to "part IV"
delete "as defined in section -3"

Page 30, line 5 change -49 to -47

line 17 after "with" add: "the then existing"

line 18 change "policies" to "zoning, as determined in subsection (b) below."

line 19 change "source" to "supply"

line 20 add new "(b) Within 30 days after receipt of notice of a permit application, the county shall inform the board if the proposed use is inconsistent with the county land use plans and policies."

reletter (b) to (c)

Page 31, line 6 change (c) to (d)

line 14 change "with" to "for"

line 21 change -51(b) to -51

line 22 change -40 to -50

Page 32, line 13 delete "minimum streamflow" and insert in its place "instream flow standards established pursuant to part IV"

line 16 change (b) to (a)

Page 33, line 8 change "an existing use" to "a use existing"

after "area" add: "at the time of the designation"

line 16 after "sent" add: "the affected county and"

Page 35, line 15 start new paragraph at beginning of (d)

 line 21 after "shall" add:

 "first, seek to allocate water in such a manner as to accommodate both applications if possible; second, if mutual sharing is not possible then the board shall"

 line 24 after "county" add: "; third, if the county has not clearly established a priority between the competing applications the board shall approve that application which best serves the public interest."

Page 43, line 4 change "the" to "a"

 after "plan" add: "for all existing and potential sources of drinking water and that plan"

 delete "that"

Page 46, line 5 delete "without the necessity of" add: "after"

Page 48, line 9 after "question", add comma

Page 48, line 19 after "service" add: "the mayor of the county in which the stream is located"

 delete same phrase as above on lines 20-22.

Page 52, lines 1-14 delete last sentence

 add: "The board shall not allow either new or expanded diversions of water from a stream or new or increased withdrawal of ground water which is the source of a stream's discharge until the board has first established either interim or permanent instream flow standards for that stream. The board shall implement its instream flow standards when regulating use of lands and waters within the conservation district."

Page 53, lines
13-15

after "excavation" delete "constructed . . .
ground."

add "or opening into the ground or an
artificial enlargement of a natural opening
by which ground water is drawn or is or may
be useful to supply reasonable and beneficial
uses within the state."

Page 63, line 6

insert a new SECTION 7

"All areas designated by the Board of Land
and Natural Resources as groundwater control
areas under HRS chapter 177 as of the
effective date of this act shall be water
management areas under section 41 of this
chapter."

lines 6,
12, and
16

renumber SECTIONS 7, 8, and 9