



# University of Hawaii at Manoa

Environmental Center  
A Unit of Water Resources Research Center  
Crawford 317 • 2550 Campus Road  
Honolulu, Hawaii 96822  
Telephone (808) 956-7361

RL:0932

## HB 40 RELATING TO WATER RESOURCES

Statement for  
House Committee on  
Water, Land Use and Hawaiian Affairs  
Public Hearing - February 4, 1991

By  
Jacquelin Miller, Environmental Center  
Ed Murabayashi, Water Resources Research Center

HB 40 would modify the fine for violations of the State Water Code from \$1,000 to \$5,000.

Our statement on this bill does not represent an institutional position of the University of Hawaii.

HRS Chapter 174C-2 clearly sets forth the policy and purposes of the state water code and emphasizes that the code be liberally interpreted to obtain maximum beneficial uses of the waters of the state, to protect and improve the quality of the state's waters, and to conform with county land use planning. Given the importance of water to the state, it is appropriate that maximum efforts be made to ensure that the provisions of the state water code are diligently followed.

It seems likely that the existing fine is inconsequential to some of the larger land owners. Hence we assume that the increase in the maximum fine to \$5,000 would give the commission greater flexibility in setting fines commensurate with the magnitude of the violation and the threat to the resource. For example, largescale violations by major landowners versus minor infractions by the small, subsistence farmer.

We note a possible legal loophole in the present language. Line 5 clearly states that, "the fine shall not exceed [\$1,000] \$5,000." The next sentence indicates that for a continuing offense, each day is a separate violation. We assume that the intent is to permit the commission to impose a fine of up to \$5,000 per day for a continuing offense. Should line 5 be amended to read, "the fine shall not exceed {\$1,000} \$5,000[.] for each violation?"