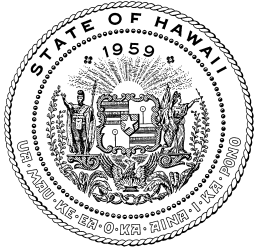


**Small Business Regulatory Review Board Meeting**

**January 18, 2024**

**10:00 a.m.**



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Building, 250 S. Hotel Street, Fifth Floor, Honolulu, HI 96813  
Mailing Address: P.O. Box 2359, Honolulu, HI 96804  
Email: [dbedt.sbrb.info@hawaii.gov](mailto:dbedt.sbrb.info@hawaii.gov)  
Website: [sbrb.hawaii.gov](http://sbrb.hawaii.gov)

Tel: 808 798-0737

### AGENDA

**Thursday, January 18, 2024 ★ 10:00 a.m.**

**Leiopapa A Kamehameha Building – State Office Tower  
235 S. Beretania Street, Conference Room 405  
Honolulu, HI 96813**

As authorized under Act 220, Session Laws of Hawaii 2021, and Chapter 92-3.7 Hawaii Revised Statutes (HRS), the public can participate in the meeting either:

**A. By attending the in-person meeting at:**

**Leiopapa A Kamehameha Building – State Office Tower 235 S. Beretania Street, Conference Room 405, Honolulu, HI 96813; or**

**B. Via Video-audio livestream or via Telephone - to join the Video-audio livestream meeting, go to:**

<https://us06web.zoom.us/j/88945374966?pwd=cDhqWEEzZGZHYmJLM05tMHU5Mm5HQ09>

**C. To Join via Telephone: Dial 1-669-900-6833 with Meeting ID 883 5814 0200 Passcode 066739**

When the Chairperson asks for public testimony during the meeting, you may indicate that you want to provide oral testimony by using the raise hand function or, if calling in by telephone, entering \* and 9 on your phone keypad. When recognized by the Chairperson, you will be unmuted. If calling in by phone, you can unmute and mute yourself by pressing \* and 6 on your keypad.

Members of the public may also submit written testimony via e-mail to:

[DBEDT.sbrb.info@hawaii.gov](mailto:DBEDT.sbrb.info@hawaii.gov) or mailed to SBRRB, No. 1 Capitol District Building, 250 S. Hotel Street, Room 508, Honolulu, HI 96813, or P.O. Box 2359, Honolulu, HI 96804. The Board requests that written testimony be received by Wednesday, January 17, 2024 so it may be distributed to Board members prior to the meeting. Testimony received after that time will be distributed to the Board members at the meeting.

Copies of the Board Packet will be available on-line for review at: [Agendas & Minutes – Small Business Regulatory Review Board \(hawaii.gov\)](#). An electronic draft of the minutes for this meeting will also be made available at the same location when completed.

The Board may go into Executive Session under Section 92-5 (a)(4), HRS to Consult with the Board's Attorney on Questions and Issues Concerning the Board's Powers, Duties, Immunities, Privileges and Liabilities.

**I. Call to Order**

**II. Approval of December 7, 2023 Meeting Minutes**

Josh Green, M.D.  
*Governor*

Sylvia Luke  
*Lt. Governor*

James Kunane  
Tokioka  
*DBEDT Director*

Dane K. Wicker  
*DBEDT Deputy Director*

**Members**

Mary Albitz  
*Chairperson Maui*

Robert Cundiff  
*Vice Chairperson O'ahu*

Jonathan Shick  
*2nd Vice Chairperson O'ahu*

Dr. Nancy  
Atmosfera-Walch  
*O'ahu*

William Lydgate  
*Kaua'i*

James (Kimo) Lee  
*Hawai'i*

Garth Yamanaka  
*Hawai'i*

Sanford Morioka  
*O'ahu*

Tessa Gomes  
*O'ahu*

Mark Ritchie for  
Director, DBEDT  
*Voting Ex Officio*

### III. Old Business

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules Title 17 Chapter 799, **Preschool Open Doors Program**, promulgated by Department of Human Services – **Discussion Leader – Sanford Morioka**
- B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to **BWS Rules and Regulations Chapter I – V, Section 54 – 26** for the **Adoption of New Water Rates and Charges**, promulgated by the Board of Water Supply, City and County of Honolulu – **Discussion Leader – Jonathan Shick**

### IV. Administrative Matters

- A. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Revised Statutes (HRS)
  - 1. Review of the Board’s current Membership and Expiration of Terms
  - 2. Discussion and Action on the Nomination of Ms. Nikki Ige for a seat on the Small Business Regulatory Review Board
  - 3. Update on Becker Communications Inc., regarding the Board’s Small Business Outreach
  - 4. Presentations to Industry Associations
  - 5. Staff’s Small Business Outreach

- V. **Next Meeting:** Thursday, February 15, 2024 at 10:00 a.m., held via Zoom and at Leiopapa A Kamehameha Building – State Office Tower, Conference Room 405, Honolulu, HI 96813

### VI. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, contact Jet’aime Ariola at 808 798-0737 and [jetaime.k.ariola@hawaii.gov](mailto:jetaime.k.ariola@hawaii.gov) as soon as possible, preferably at least three (3) working days prior to the meeting. Requests made as early as possible have a greater likelihood of being fulfilled.

Upon request, this notice is available in alternate/accessible formats.

## **II. Approval of December 7, 2023 Meeting Minutes**

## Small Business Regulatory Review Board

### MEETING MINUTES - **DRAFT** December 7, 2023

#### December 7, 2023 ZOOM RECORDING

I. **CALL TO ORDER:** Chair Albitz called the meeting to order at 10:03 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Mary Albitz, Chair
- Robert Cundiff, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- James (Kimo) Lee
- Garth Yamanaka
- William Lydgate
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atomspera-Walsh
- Sanford Morioka
- Tessa Gomes

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF November 16, 2023 MINUTES**

Mr. Ritchie motioned to accept the November 16, 2023 meeting minutes, as presented. Second Vice Chair Shick seconded the motion and the Board members unanimously agreed.

III. **OLD BUSINESS**

A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 95, Rules Regulating the Taking and Selling of Certain Marine Resources, promulgated by Department of Land and Natural Resources (DLNR)

Mr. David Sakuda, Program Manager at DLNR's Division of Aquatic Resources (DAR), provided a summary of the proposed rules and explained what occurred at the public hearings. The purpose of the rules is to maintain a sustainable harvest of marine species, which are important food sources that are good for fishing and good for the reefs, among other reasons.

Commercial fishers and dealers were notified of the statewide public hearings, which were held from August 1<sup>st</sup> through August 7<sup>th</sup> via Zoom and in-person. There were a total of 122 testimonies, 59 oral and 63 written from 103 individuals and/or organizations.

Mr. Sakuda reviewed the various testimonies which were analyzed and broken down by topics; most of the testimony leaned towards ecosystem health and expanded protections. All the testimonies were considered and weighed based on the topics in order to come up with a final rule proposal.

DAR provided a two-phased approach to assist with the proposed rules: 1) statewide regulations, and 2) island and place-based regulations, which were discussed at length. With regards to the final proposal, no changes were made to the Kona Crab, Manini, and Kole rules. For Kala, additional considerations were made that included increasing the non-commercial daily bag limit from 2 to 4 per person per day and requiring a commercial marine license for valid permitting. For Uhu, changes to the commercial rules are similar to the changes for the Kala.

Concern for the spawning times of the species as well as enforcement was questioned. Mr. Sakuda stated that spawning seasons, commercial harvesting, and fishing were analyzed, and it was found that there is no correlation between them. Thus, the commercial fishers are not targeting spawning aggregation species as it is based on market demand and weather conditions. Regarding enforcement, DAR is responsible for enforcing permits especially if there is an excess of required bag limits.

It was confirmed that these proposed rules will be brought to the Board of Land and Natural Resources (BLNR) for final rulemaking. If BLNR approves the rules as presented, they will go to the Governor for adoption; however, it is unknown whether BLNR will approve the rules for adoption or not. Mr. Yamanaka was concerned that although the commercial fishermen were contacted, DAR was not looking at the impact on small businesses from a broader spectrum.

Mr. Sakuda noted that depending on what changes, if any, might be made to the rules at the BLNR meeting, will depend on whether the rules would proceed to the Governor or not. If BLNR does not approve the final rules and wanted DAR to start over, the state-wide rules would not move forward; only the island-based rules would move forward. Mr. Yamanaka was also concerned that without more data, it was difficult to ascertain the rule's true business impact.

Mr. Lydgate made a motion to move the rule proposal onto the Governor for adoption with two concerns: 1) there may be potential impact to small businesses that goes beyond commercial fisheries where more data may be required and collected to fully understand these impacts, and 2) the Board of Land and Natural Resources has not made a post public hearing decision yet and may still alter the rules, in which case the SBRRB would like to review the amendments. Mr. Yamanaka seconded the motion and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 15 Chapter 23, Makai Area Rules, promulgated by Hawaii Community Development Authority (HCDA) / Department of Business, Economic Development and Tourism (DBEDT)

Discussion leader, Vice Chair Cundiff, noted that these rules are after public hearing, and that it was determined at the prior Board meeting that the subject rules did not appear to have a significant small business impact but instead would likely help small businesses.

Mr. Craig Nakamoto, Executive Director at HCDA, stated that 40 testimonies, written and verbal, were received, and all were in support of the proposal. He added that there was no opposition to the rules by small businesses at the public hearing or during the rule-making process.

Vice Chair Cundiff motioned to move the proposed amendments to the Governor for adoption. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

#### **IV. NEW BUSINESS**

A. Discussion and Action on Proposed Amendments to HAR Title 15 Chapter 215 Kalaeloa Community Development District Rules, promulgated by HCDA / DBEDT

HCDA Executive Director Mr. Nakamoto and Director of Planning and Development Mr. Ryan Tam, described the Kalaeloa Master Plan and Rules Update. Mr. Tam explained that around the year 2,000, HCDA was given authority to develop the Kalaeloa Development District, which equates to about 3,700 acres and was, at one time, Barbers Point.

Development of this area started in September 2023. In September 2021, the establishment of a permitted interaction group began with the Board. Since that time, several community meetings have been held to discuss the rule proposal. There is also a Kalaeloa stakeholders' group that is comprised of businesses, owners and other community members located in Kalaeloa that reviews the rules on a regular basis.

The amendment process reflects community needs which includes streamlining and facilitating development and promoting livable, walkable communities. The updated regulating plan consists of the community's vision, which consists of the Transect Zones in Kalaeloa. **1**

Mr. Tam noted that a public hearing is expected to be held in February 2024. In March 2024, the HCDA Board will have a decision-making hearing on the "final" proposed rules. The rules will then come back to this Board.

Vice Chair Cundiff motioned to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 16 Chapter 89, Nurses, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Testifier Ms. Paige Heckathorn Choy, Associate Vice President of Government Affairs at Healthcare Association of Hawaii (HAH), submitted written and oral testimony. HAH appreciated the work of Ms. Teshima and DCCA for getting the nurses quickly licensed since the pandemic and is also appreciative of this Board investigating the concerns of HAH. The following outlines a summary of HAH's concerns:

- 1) The updated rules would decouple the temporary license application from a full licensure application;
- 2) The license will only be valid for six months; and
- 3) Any proposed rules must contain a deadline by which a temporary process is approved

Chair Albitz explained that during the 2023 legislative session, DCCA tried to pass legislation to allow the issuance of six-month permits temporarily for out-of-state licensed practical nurses and registered nurses, but it did not make it through session. Alternatively, DCCA tried to come up with and expand temporary permits to nurses to assist with the nursing shortage.

Ms. Lee Ann Teshima, Executive Officer at DCCA, explained that while the Nurse's Board and HAH work together they do not necessarily agree all the time. The purpose of the proposed rules is to create a temporary, streamlined process for the Board of Nursing to issue temporary nurse permits to individuals to fill vacancies within Hawaii's health care system in a timelier manner. This is the result of the national worldwide and local nurse shortage that began during the COVID pandemic.

To allow the Board of Nurses to issue a temporary nurse's permit through a simple application, the following is required: 1) a nurse's verification that shows there are no disciplinary actions against them, and 2) license numbers. Temporary requirements entail fingerprinting, and the national practitioner's databank self-query report, which shows any prior disciplinary actions.

Ms. Teshima also explained that prior to the pandemic, and under the statute's endorsement application, a temporary permit was required. At that time, it required submitting an endorsement application and a temporary permit application which entailed two different fees, issued within 3 to 5 business days.

After the pandemic, Hawaii was extremely short-staffed, which was compounded by the fact that DCCA had volumes of nursing applications to process. As a result, the temporary permits could no longer be issued, and only permanent nursing applications were concentrated on.

Although the Administration's bill this past legislative session addressed temporary permits, it morphed into Senate Bill (SB) 63. This is the bill that DCCA and HAH have been working on to come to some common ground. It authorizes the Board of Nursing to issue temporary permits for six-month periods to out-of-state licensed practical nurses and registered nurses.



It was confirmed that it is not possible for a nurse who is on temporary status to become permanent because it could only be procured through verification. This is because permanent licensing, fingerprinting, and other requirements would be needed (as stated above). Ms. Teshima noted that nothing prevents an individual from applying for both a temporary and permanent nursing license at the same time.

Vice Chair Cundiff stressed and encouraged DCCA to continue to engage with the stakeholders, including HAH and others in the healthcare industry, and to involve them with disclosures of any potential business impacts.

Chair Albitz motioned to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

## **V. ADMINISTRATIVE MATTERS**

### **A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)**

#### **1. Follow-up on Discussion with Becker Communications, Inc., regarding the Board's Outreach Purposes**

Becker Communications will be contacting some of the Board members to schedule interviews for the YouTube video to be used for outreach purposes.

#### **2. Review of the Board's current membership and expiration of terms**

Deferred until next month.

#### **3. Presentations to Industry Associations**

Deferred until next month.

#### **4. Staff's Small Business Outreach**

Deferred until next month.

**VI. NEXT MEETING** - Thursday, January 18, 2024 at 10:00 a.m., in conference room 405 at Leiopapa A Kamehameha Building – State Office Tower – 235 S. Beretania Street, Honolulu, HI 96813.

**VII. ADJOURNMENT** – Chair Albitz motioned to adjourn the meeting and Vice Chair Cundiff seconded the motion; the meeting adjourned at 12:05 p.m.

### **III. OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 17 Chapter 799, **Preschool Open Doors Program**, promulgated by Department of Human Services

**SMALL BUSINESS STATEMENT**  
**“AFTER” PUBLIC HEARING TO THE**  
**SMALL BUSINESS REGULATORY REVIEW BOARD**  
(Hawaii Revised Statutes (HRS), §201M-3)

**Department or Agency:** Department of Human Services

**Administrative Rule Title and Chapter:** 17-799

**Chapter Name:** Preschool Open Doors Program

**Contact Person/Title:** Scott Nakasone / Assistant Division Administrator

**Phone Number:** 808-586-7054

**E-mail Address:** snakasone2@dhs.hawaii.gov      **Date:** 11/21/23

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor’s Website pursuant to HRS §92-7?

Yes       No

(If “Yes,” please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

**I. Rule Description:**     New     Repeal     Amendment     Compilation

**II. Will the proposed rule(s) affect small business?**

Yes       No (If “No,” no need to submit this form.)

\* “Affect small business” is defined as “any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.” HRS §201M-1

\* “Small business” is defined as a “for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii.” HRS §201M-1

**III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?**

Yes       No

(If “Yes” no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

**IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))**

Yes       No

(If “Yes” no need to submit this form.)

**V. Please explain how the agency involved small business in the development of the proposed rules.**

See attached.

**a. Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?**

See attached.

**VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:**

1. A description of how opinions or comments from affected small businesses were solicited.

See attached.

2. A summary of the public's and small businesses' comments.

See attached.

3. A summary of the agency's response to those comments.

See attached.

4. The number of persons who:

(i) Attended the public hearing: 28

(ii) Testified at the hearing: 9

(iii) Submitted written comments: 11

5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

Yes  No

(i) If "Yes," was the change adopted?  Yes  No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Small Business Regulatory Review Board / DBEDT  
Phone: (808) 586-2594 / Email: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)

This statement may be found on the SBRRB Website at:  
<http://dbedt.hawaii.gov/sbrrb-impact-statements- pre-and-post-public-hearing>

## Attachment 1

- A. The proposed amend and compiled chapter 17-799 will effectuate the expansion of the Preschool Open Doors (POD) Program that is established in Hawaii Revised Statutes, Chapter 346, Section 181 and further amended by Act 171, 2023 Session Laws of Hawaii.

Adoption of the amendment and compilation will allow for an increase in the number of children that can benefit from up to two years of preschool prior to their entry into Kindergarten, and make it more affordable for the families to have their children receive this child care service. The proposed rules are also needed to establish the requirements provided for in Act 46 (SLH 2020), Act 210 (SLH 2021), and Acts 169 and 171 (SLH 2023).

- V. The proposed rules in addressed concerns that the early child care community has expressed in various meetings and setting regarding the Preschool Open Doors program such as increasing the income eligibility levels, increase subsidy payment amounts, and reduce parent co-pay. These changes were presented to the LG's Ready Keiki working group that consisted of various representatives from the preschool community and businesses.
- V(a). Yes. The rules include changes/updates that the early child care community had requested for regarding the Preschool Open Doors program such as increasing the income eligibility levels, increase subsidy payment amounts, and reduce parent co-pay.
- VI(1). A Notice of Public Hearing was posted in the Honolulu Star Advertiser, the Maui News, Garden Island, West Hawaii Today, and the Hawaii Tribune Herald, and on the DHS website, on 10/20/23 that informed the public of the proposed amending and compilation of Chapter 17-799, Preschool Open Doors Program. The notice provided a brief description of the proposed rule amendments as well as the link to the proposed rules. The notice also advised that a virtual public hearing was scheduled for November 20, 2023 at 9:30 AM and provided instructions to those interested in attending the hearing on how to sign-up to attend. Instructions were also provided for those that wanted to submit written comments or testimony. The LG's office also emailed members of the Ready Keiki Working Group informing the members of the proposed rule amendments.
- VI(2). Testimonies received were positive and applauded the Department for listening to the concerns that were raised and for moving forward with changes that would greatly help income eligible families as well as the participating preschools. Some had suggested additional changes for consideration such as allowing caretakers what work in licensed child care settings be categorically eligible for Preschool Open Doors regardless of income and family co-pay, utilizing a true cost for care model to establish the child care subsidy rate, eliminating the tuition cap on payments, and recognizing additional accreditation organizations. These additional suggestions were made by testifiers with a caveat that they did not want their suggestions to delay adoption of the proposed amending and compilation as they were all in agreement that the changes already proposed were important and critical and need to be adopted timely.
- VI(3). Some suggested changes were not able to be made at this time, but have been noted by the department and will be further reviewed for consideration for possible amendments in the future. Other suggested comments can be addressed through programmatic procedures.

## Small Business Regulatory Review Board

### MEETING MINUTES

October 19, 2023

### ZOOM RECORDING

- I. **CALL TO ORDER:** Chair Albitz called the meeting to order at 10:03 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Mary Albitz, Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Dr. Nancy Atmospera-Walch
- James (Kimo) Lee
- Sanford Morioka
- Tessa Gomes
- Mark Ritchie

**ABSENT MEMBERS:**

- Robert Cundiff, Vice Chair
- Garth Yamanaka
- William Lydgate

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

John Cole

II. **APPROVAL OF September 21, 2023 MINUTES**

Mr. Lee motioned to accept the September 21, 2023 meeting minutes, as presented. Second Vice Chair Shick seconded the motion and the Board members unanimously agreed.

III. **OLD BUSINESS**

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 16 Chapter 39, Securities, promulgated by Department of Commerce and Consumer Affairs (DCCA)

Discussion Leader Ms. Gomes stated that the subject rules are post-public hearing and appear to have little impact on small businesses. Mr. Keola Fong, Securities Enforcement Attorney at DCCA explained that the amendments require an investment advisor representative who is registered in Hawaii to receive 12 credits of continuing education each year to maintain his/her registration. The changes will align Hawaii to be consistent with national requirements. In addition, non-substantive changes, such as formatting, are also being made to the rules.

At this Board's pre-public hearing meeting, thirteen other states had adopted these rule requirements; it is now up to sixteen with Hawaii being the seventeenth state to adopt these requirements.

Only positive feedback was received from the stakeholders during the rulemaking process, and at the public hearing, although no one showed up, one letter of support was received from the Financial Planning Association. As no issues were raised, no changes were made to the rules. Second Vice Chair Shick stated that given that the new fees are less than \$100 per year, the cost is reasonable.

Mr. Ritchie motioned to move the proposed amendments to the Governor for adoption. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 31, Molokini Shoal Marine Life Conservation District, Maui, promulgated by Department of Land and Natural Resources (DLNR)

Discussion leader and Second Vice Chair Shick stated that the following three rules are post public hearing, and that there appears to be no major issues with them. Mr. Kealii Sagum, Legal Research Specialist at DLNR's Division of Aquatic Resources (DAR), provided a short presentation on the three proposals.

Changes to Chapter 31 clarify that special activity permits will be allowed for a maximum duration of one year in length with allowable purposes to conform with special activity permit authority. Other changes include clarifying that DLNR may issue a marine life conservation district use permit for commercial activity within the Molokini Shoal marine life conservation district.

Changes also include updating the permit terms and conditions, which represent a new expiration/renewal date of December 31 every two years, updating the fee schedule from a flat rate to a tiered fee schedule, removing the requirement to demonstrate active commercial vessel operation for permit renewal and non-substantive changes.

Testimonies provided at the public hearing supported the enhanced enforcement and the proposed protections. Testimonies also supported the overall goal of the day-use mooring program; however, any of the proposed suggestions for this program were beyond the scope of the current rulemaking package.

Mr. Ritchie motioned to move the proposed amendments to the Governor for adoption. Second Vice Chair Shick seconded the motion, and the Board members unanimously agreed.

C. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 230, General Provisions, promulgated by DLNR

Mr. Kealii Sagum, Legal Research Specialist at DLNR's DAR, explained that the proposed amendments for Chapter 230 include adding and amending specific definitions for clarity which came from the direction of the Attorney General.

Second Vice Chair Shick motioned to move the proposed amendments to the Governor for adoption. Mr. Morioka seconded the motion, and the Board members unanimously agreed.

D. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13 Chapter 257 promulgated by DLNR

Mr. Kealii Sagum, Legal Research Specialist at DLNR's DAR, explained that amendments for Chapter 257 include housekeeping measures throughout the entire chapter for clarity and consistency with other chapters and making minor grammatical and stylistic changes. Another change will remove the time limit exception for when there are no boats waiting to use the day-use mooring buoy.

Additional changes involve day-use mooring buoy installation, locations, rafting prohibitions, and formatting changes for liability, safety, and enforcement. Also updated are the reference maps, boundary descriptions, the addition of commercial use restrictions, and a provision for providing exceptions for commercial users who are paying the ocean stewardship user fee.

The public hearing was hybrid via Zoom and in-person at the DAR Maui Office site; it was also live-streamed on YouTube for those viewers interested in only watching the hearing and not providing testimony. Six testimonies in support were received at the hearing.

Mr. Morioka motioned to move the proposed amendments to the Governor for adoption. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

**IV. NEW BUSINESS**

A. Discussion and Action on Proposed Amendments to HAR Title 17 Chapter 799, Preschool Open Doors Program, promulgated by Department of Human Services (DHS)

Mr. Scott Nakasone, Assistant Division Administrator at DHS, explained that the proposed rules will effectuate the expansion of the Preschool Open Doors (POD) Program. The changes include the addition of two new sections, Section 17-799-12.1 Accreditation requirements and Section 13.1 Method of computing family unit's co-payment.

The changes in these two sections will amend the purpose of the subchapter to reflect the potential number of years a child could receive POD childcare payments from up to one year to up to two years. Changes will also add, delete, and amend existing definitions, add three-year olds to the program and establish application priority ranking to this group.

Other changes will establish 300% of the federal poverty guidelines as program eligibility income limits and updates annually on January 1, increases the monthly childcare subsidy payments to \$1,200 maximum for unaccredited care and \$1,500 maximum care, and establishes family co-payment of childcare as 0 – 7% of the family's childcare cost.

Mr. Nakasone noted that the positive impacts to small business are that it will increase the family eligibility limit and annual adjustment which will result in more families becoming eligible for POD. The lowering of family co-payments will result in having to pay less out-of-pocket for childcare, and an increase to the monthly childcare subsidy amount will result in a greater amount of childcare to families. Several negative impacts to small business were discussed including all preschools that accept enrollment of a child eligible for POD must be



accredited within seven years. Existing preschools must start the accreditation process by July 1, 2029 and be accredited by July 1, 2034.

Second Vice Chair Shick motioned to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Title 15 Chapter 217 Mauka Area Rules, promulgated by Department of Business, Economic Development and Tourism (DBEDT)

Mr. Craig Nakamoto, Executive Director, and Mr. Ryan Tam, Director of Planning at DBEDT's Hawaii Community Development Corporation (HCDA), discussed the updates and proposed amended rule changes to the Kakaako Mauka Area Rules; this includes HCDA's community development districts, the statewide districts and projects, and transit-oriented development infrastructure and other projects.

The Mauka rules amendment objectives, which have been worked on for the past several years, are intended to reflect the needs of the community, reduce government red tape, promote livable, walkable communities, incentivize zoning to promote the development of community benefits, and increase reserve housing.

The changes will also clarify various definitions, update floor area definitions to include overhangs, canopies with more than 50%, address conflicts between window transparency requirements and energy code, add strategies to activate building frontage walls, and allow for preservation of significant properties that are no longer present. While the main change is streamlining the permitting process, the second main change has to do with parking reform as 25% to 30% of the parking stalls in Kakaako are under-utilized.

Regarding Second Vice Chair Shick's inquiry into the imposition of fees, Mr. Tam responded that there is a \$50 increase in the base-line fee. In response to Chair Albitz's question, HCDA has not received any negative feedback at the public meetings from small businesses largely due to the extensive community outreach; this includes the neighborhood board meetings and the Kakaako Association meetings.

Overall, HCDA is expecting to achieve community benefits through the rule changes by allowing for larger projects in exchange for public benefit.

Second Vice Chair Shick motioned to move the proposed amendments to public hearing. Mr. Ritchie seconded the motion, and the Board members unanimously agreed.

**V. ADMINISTRATIVE MATTERS**

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes (HRS)

1. Discussion with Becker Communications' Representative about creating a YouTube Video for the Board's Outreach Purposes

Department of Human Services

Amendment and Compilation of Chapter 17-799

Hawaii Administrative Rules

November 27, 2023

1. Chapter 17-799, Hawaii Administrative Rules, entitled "Preschool Open Doors Program" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 6

BENEFIT, EMPLOYMENT AND SUPPORT SERVICES DIVISION

CHAPTER 799

PRESCHOOL OPEN DOORS PROGRAM

Subchapter 1 General Provisions

§17-799-1	Purpose
§17-799-2	Definitions
§17-799-3	Confidentiality
§17-799-4	Scope
§17-799-5	Application period
§17-799-6	Application process
§17-799-7	Priority of applications
§17-799-8	Family unit eligibility requirements
§17-799-9	Income considered in eligibility determination
§17-799-10	Excluded monthly income
§17-799-11	Program enrollment
§17-799-12	Program qualifications for preschools
§17-799-12.1	Accreditation requirements
§17-799-13	Child care rates
§17-799-13.1	Method of computing family unit's co- payment
§17-799-14	Method of computing child care payment
§17-799-15	Child care payments
§17-799-16	Mandatory reporting
§17-799-17	Waitlisted applicants
§17-799-18	Denial, suspension, or termination of child care
§17-799-19	Notices
§17-799-20	Administrative appeal requests
§17-799-21	Underpayments and overpayments
§17-799-22	Termination for insufficient funds
§17-799-23 to §17-799-50	Reserved

Historical Note: Chapter 17-799 is based substantially upon chapter 17-798.2, Child Care Services, Subchapter 2, Preschool Open Doors [Eff 03/08/08; am 01/22/10; am and comp 12/31/17; R 08/06/21]

SUBCHAPTER 1

GENERAL PROVISIONS

**§17-799-1 Purpose.** Child care payments under this subchapter shall be for early childhood services to ~~[low and moderate income]~~ low- and moderate-income families that contributes to school readiness by providing up to ~~[a]~~ two school ~~[year]~~ years of experience in a preschool program chosen by the child's caretaker prior to the child entering kindergarten. The intent of the program is to provide child care payments to as many eligible families as possible through the ~~[limited]~~ funding that is appropriated and available for the State fiscal year. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-2 Definitions.** As used in this chapter: "Accredited" means a group child care center, or group child care home, that is certified to meet accreditation standards by the National Association for the Education of Young Children (NAEYC), ~~[or]~~ the National Early Childhood Program Accreditation (NECPA), the National Association of Family Child Care (NAFCC), or other accrediting organization approved by the director ~~[to meet accreditation standards]~~.

"Adequate notice" means a written notice that includes:

- (1) A statement of the action the agency has taken or intends to take;
- (2) The reason for the intended action;
- (3) The specific departmental rules supporting the intended action;

- (4) The name and telephone number of the person in the department to contact for additional information;
- (5) The family unit's right to request an informal review, an administrative appeal, or both; and
- (6) Information on the availability of free legal representation, if applicable.

~~["Adult abuse record check" means an examination of an individual's adult abuse confirmation history through:~~

- ~~(1) An initial name inquiry into State adult protective services files;~~
- ~~(2) Subsequent adult abuse confirmation history checks for new hires and re-hires; and~~
- ~~(3) An annual name inquiry into State adult protective services files.]~~

"Applicant" means the caretaker, including an emancipated minor pursuant to HRS §571-2 and HRS §577-25 and a teenage head of the household, who has the responsibility to provide care for the child, and needs child care. This does not include an unmarried minor who is a parent to the individual's own baby who together reside in the same household with the minor's adult caretaker.

"Application" means the action by which an individual indicates on a form prescribed by the department a request to receive assistance with child care costs and services.

"Applying program year" means the school year that the child will be attending child care.

"Approved priority applicant" means an applicant that has met program eligibility criteria and has their application income-ranked within their priority group, and within their geographical area designated by the department~~[, by dividing their monthly gross income by eighty-five of the State Median Income for a family of the same size].~~

"Background check" means [~~criminal history record checks, child and adult abuse and neglect checks, and other checks required by federal or State law, conducted by the department in order to determine eligibility for child care services~~] a review of a person's background information pursuant to chapter 17-801.

"Benefit month" means the calendar month for which the caretaker is eligible for a child care payment.

"Budget month" means the calendar month(s) for which the child care expense and income of a family unit are used to compute the payment amount that the family unit shall receive in the payment month.

"Caretaker" means an adult who resides with and is responsible for the care of a child, and who is a birth, hanai, foster, or adoptive parent, guardian, step-parent, or relative who is related to the child by blood, marriage, or adoption, or a person authorized by the caretaker through a power of attorney valid for a period not to exceed twelve months. The caretaker designation may remain even when the caretaker is temporarily absent from the home as long as the caretaker continues to maintain responsibility for the care, education, and financial support of the child. This includes a foster parent who may not be providing financial support to the child but may be receiving support for the child from a private or public agency. This also includes teen parents who are birth parents to the child.

"Child" means any person who has not reached the age of eighteen years, excluding emancipated minors.

~~["Child abuse record check" means an examination of an individual's child abuse confirmation history through:~~

- ~~(1) An initial name inquiry into the State child welfare record files;~~

- ~~(2) Subsequent child abuse confirmation history checks for new hires and re-hires; and~~
- ~~(3) An annual name inquiry into State child welfare record files.]~~

"Child care" means those situations in which a caregiver has agreed to assume the responsibility for the child's supervision, apart from and in the absence of the child's caretaker, for any part of a twenty-four-hour day. Child care, for the purposes of this chapter, is limited to care provided in a group child care home, or in a group child care center.

"Co-payment" means the family unit's share of the child care expense which is the difference between the maximum payment amount allowed for the type and amount of care up to the department's child care payment rate maximum, and the amount the family unit is determined to be eligible for by the department.

"Corrective payment" means a payment issued by the department in an amount equal to the difference between what a caretaker is entitled to receive by regulation and the amount they actually received.

"Department" means the department of human services or its designee.

"Eligibility period" means a period up to twelve months, established by the department, that shall not exceed the applicable State fiscal year, during which the household may be eligible for child care payments.

"Essential person" means a needy person designated by the caretaker to be included in the TANF household that receives a public-funded financial assistance payment, who is ineligible in the person's own right for TANF, who is designated by the caretaker as being essential to the caretaker's well-being, and who performs a service that would not otherwise be performed or that would otherwise have to be purchased if the person did not live in the TANF household

"Exempt" or "Exempt center-based provider" means a facility providing legally-exempt child care, in accordance with section 346-152, HRS, that is in

compliance with chapter 17-800. It also includes all staff employed at a child care facility, any volunteers who provide care for children for ten hours or more per week, substitutes, and any other individuals who have unsupervised access to children in exempt center-based care.

"Experiencing homelessness" means a family unit:

- (1) Lack a fixed, regular, and adequate nighttime residence;
- (2) Are sharing the housing of other persons due to a loss of housing, economic hardship, or a similar reason, are living in motels, hotels, or camping grounds due to the lack of alternative adequate accommodation, are in emergency or transitional shelters, are abandoned in hospitals;
- (3) Have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (4) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings;  
or
- (5) Are migratory children (as the term is defined in section 1309 of the Elementary and Secondary Education Act of 1965).

"Family unit" means the caretakers and their minor children who reside together in the same household.

"Federal fiscal year" means a period beginning October 1 and ending September 30.

"Federal Poverty Guidelines" or "FPG" means the poverty guidelines for Hawaii that are established in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. §9902(2) and cited in the Child Care and Development Fund Plan For State of Hawaii that is approved by the Administration for Children and Families, U.S.



Department of Health and Human Services, pursuant to C.F.R. §§98.14 to 98.18.

"Gross income" means all non-excluded earned and unearned income as specified in this chapter.

"Group child care center" or "GCC" means a facility, other than a private home, at which care is provided, as defined in [~~HRS §346-151.~~] section 346-151, HRS.

"Group child care home" or "GCCH" means a facility, which may be an extended or modified private home, at which care is provided to seven to twelve children, as defined in [~~HRS §346-151.~~] section 346-151, HRS.

"Hanai" means a child who is taken permanently to be reared, educated, and loved by someone other than the natural parents at the time of the child's birth or early childhood. The child is given outright and the natural parents renounce all claims to the child. The natural parents cannot reclaim the child except for the death or serious injury of the hanai parents.

"Hawaiian-medium center-based care" means a group child care center, as defined in section 346-151, HRS, with programs taught solely in the Hawaiian language that promote fluency in the Hawaiian language and that is licensed by the department in accordance with section 346-162, HRS.

~~["License exempt care" means group child care center care that is exempt from licensure or registration by the department under HRS §346-152.]~~

"Limited English proficiency" or "LEP" means limited ability in speaking, reading, writing, or understanding the English language by a person whose native language is a language other than English or by a person who lives in a family or community environment where a language other than English is the dominant language.

"Low-income" means gross income less than or equal to one hundred [~~eighty-five~~] eighty-five per cent of the Federal Poverty Guidelines.

"Minor" means a person under eighteen years old.

"Moderate-income" means gross income greater than one hundred ~~[eighty-five]~~ eighty-five per cent and less than or equal to ~~[two hundred fifty]~~ three hundred per cent of the Federal Poverty Guidelines.

"Monthly gross income limit" means ~~[eighty-five]~~ three hundred per cent of the ~~[State Median Income]~~ Federal Poverty Guidelines for a family of the same size.

"Non-recurring lump sum" means income that is not normally repeated or a cumulative amount received or available to be received by an individual. Educational loans, grants or scholarships shall not be considered as non-recurring lump sums.

"Overpayment" means the amount of payments issued to a caretaker for a benefit month that is in excess of the amount which the caretaker is eligible to receive. It also includes payments that are not used for their intended purpose.

"Payment month" means the calendar month in which a child care payment is issued.

"Power of attorney" means a legal instrument authorizing another to act as one's agent or attorney-in-fact.

"Preschool" means a Group Child Care Center (GCC) or Group Child Care Home (GCCH) that provides services for children ages two years to six years old.

~~["Presumptively eligible" means a family unit may be approved for child care payments upon submittal to the department of the completed and signed child care certificate and preschool confirmation form and consent forms for the department to conduct background checks on the employees of the selected preschool, pending the results of the required background checks.]~~

"Prospective budgeting" means computation of the child care payment based on the worker's best estimate of the child care expense and gross income that will exist in a calendar month. The best estimate shall be

based on the worker's reasonable projection of future circumstances based on the family unit's past and current month's circumstances.

"Relative" means a person related by blood, marriage, adoption, or hanai.

"Reside with" means an eligible child living in a home or family setting with the child's eligible caretaker.

"Self-employment" means an individual is not subject to discharge from his or her job by another person, reports income to the Internal Revenue Service and the State as a self-employed person and pays employer's and employee's share of social security taxes, ~~and~~ is not considered an employee of an agency or organization~~[-]~~, and generates income equivalent to twenty hours per week multiplied by 4.3333 weeks multiplied by the State minimum wage at the time of eligibility determination and redetermination.

"Special populations referral" means documentation to verify that a child does not qualify full-time for the state department of education (DOE) special education program services and:

- (1) Has a physical, developmental, behavioral or emotional health condition that is outside of the normal range;
- (2) Meets the state department of health criteria for environmental risk as defined in HRS §321-351;
- (3) Resides in a LEP household; or
- (4) Is ~~homeless.~~ experiencing homelessness and the family is participating in or enrolling in a program for homeless services.

"State fiscal year" means a period beginning July 1 and ending June 30.

"State Median Income" means the official guidelines issued yearly in the Federal Register

by the Secretary of Health and Human Services, Administration for Children and Families under the authority of 42 U.S.C. §8621, the Omnibus Budget Reconciliation Act of 1981.

"Temporarily absent" means a period of up to ninety days when the caretaker is not residing in the home with the child as a result of employment or job training commitments.

"Temporary Assistance for Needy Families" or "TANF" means the federal and state financial assistance and non-assistance programs administered by the department under 42 U.S.C. §§601-617 and HRS §346-29.

"Timely notice" means when the department mails a notice of adverse action at least ten calendar days prior to the effective date of the action.

"Underpayment" means the amount of payments issued to a caretaker for a benefit month that is less than the amount which the caretaker was eligible to receive. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-151, 346-181)

**§17-799-3 Confidentiality.** Requirements for confidentiality shall be as provided in chapter 17-601. [Eff 02/09/14; comp 12/31/17; comp ] (Auth: HRS §§346-10 and 346-14) (Imp: HRS §346-10)

**§17-799-4 Scope.** (a) Child care services shall include, but are not limited to:

- (1) Supervision to assure the child's safety, comfort, and health;

- (2) Personal care as appropriate to the child's age and developmental maturity;
  - (3) Activities appropriate to the child's age, developmental stage, and degree of physical or mental ability; and
  - (4) Health and nutritional services.
- (b) Child care services shall exclude:
- (1) Services provided to a child enrolled in or eligible for public education in kindergarten to twelfth grade during the regular school day;
  - (2) Services for which a child receives academic credit toward graduation;
  - (3) Any instructional services that supplants or duplicates the academic program of any public or private school which is established for the purpose of compliance with the school attendance law of Hawaii; or
  - (4) Services that provide specialized training or skill development to children, as indicated in HRS §346-152(a)(4).

(c) Child care payments shall only be used for services described in subsection (a).

~~[(d) This chapter shall be effective with the application period for child care payments for the State fiscal year 2015 program services.] [Eff 02/09/14; comp 12/31/17; am and comp ]~~  
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-5 Application period.** (a) The department shall establish an application period during the calendar year to accept applications for the preschool open doors program for the ensuing State fiscal year.

(b) Prior to the start of an application period, the department shall issue a public notice to the

general public announcing the availability to apply for the program. The public notice shall contain:

- (1) The beginning and ending dates of the application period;
- (2) Information about how to obtain an application; and
- (3) Contact information for additional information.

(c) Within thirty days from the end of the application period, applications received by the department shall be processed in accordance with [~~§17-799-7~~] section 17-799-6, and prioritized in accordance with [~~§17-799-8.~~] section 17-799-7.

(d) The department shall conduct at least one application period during the calendar year. [Eff 02/09/14; comp 12/31/17; am and comp ]  
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-6 Application process.** (a) A request for child care payments shall be submitted on an application form prescribed by the department.

(b) The form shall be dated and signed by the applicant under penalty of law that all the information needed to establish eligibility for child care payments, as stated on the form, is true and correct.

(c) The applicant shall be required to submit copies of documents for verification of the information provided to establish eligibility for the program.

(d) The date of application shall be the date the signed and dated application form is received by the department.

(e) An application received outside of an open application period shall be subject to 17-799-18(a)(2). [Eff 02/09/14; comp 12/31/17;

§17-799-6

comp ] (Auth: HRS §§346-14, 346-181)  
(Imp: HRS §§346-14, 346-181)

**§17-799-7 Priority of applications.** (a)

Approved applications shall be assigned to priority groups in the following order from the highest priority to lowest.

- (1) Children who turned or will turn four years old between August 1 of the prior year through December 31 of the prior year applying for the program for the designated school year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (2) Children who will turn four years old between January 1 through July 31 of the year applying for the program for the designated school year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool; and
- (3) Children who will turn four years old during the year applying for the program for the designated school year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool.

(b) Effective with the 2024-25 program year, approved applications shall be assigned to priority groups in the following order from the highest priority to lowest.

- (1) Children who are turning five years old between August 1 through December 31 of the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (2) Children who were served by the program the year prior to the applying program year, have a completed Special Populations Referral form prescribed by the department, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (3) Children who were served by the program the year prior to the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (4) Children who are four years old by July 31 of the applying program year, are eligible to enter kindergarten at the start of the following school year, and need child care assistance to attend preschool;
- (5) Children who will be three years old by July 31 of the applying program year, have a completed Special Populations Referral form prescribed by the department, and need child care assistance to attend preschool; and
- (6) Children who will be three years old by July 31 of the applying program year and need child care assistance to attend preschool.

~~[(b)]~~ (c) Approved applications shall be income-ranked within their priority group, and within their geographical area designated by the department, by dividing their monthly gross income by ~~[eighty-five]~~:

- (1) ~~Eighty-five~~ per cent of the State Median Income for a family of the same size~~[-]~~; or
- (2) Effective with the 2024-25 program year, three hundred per cent of the Federal Poverty Guidelines in effect for the program



year for a family of the same size, which shall be updated annually on January 1 pursuant to section 17-799-8.

~~[(e)]~~ (d) The department shall issue written notification to each applicant for services, pursuant to 17-799-19. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-8 Family unit eligibility requirements.**

(a) The department shall verify that the child and caretaker meet the eligibility requirements as described in this chapter.

(b) A child eligible for child care payments shall reside with the eligible caretaker and meet the priority application criteria in 17-799-7.

(c) A child receiving child care payments under this chapter shall not be eligible to receive child care payments under chapter ~~[17-798.2]~~ 17-798.3 for the same preschool provider or same type of care.

(d) A caretaker shall be eligible for child care payments provided the caretaker has monthly gross income verified through documentation that does not exceed ~~[eighty-five]~~:

- (1) Eighty-five per cent of the State Median Income for a family of the same size, using the Income Eligibility Limits as established in Exhibit I, dated November 1, 2013, attached at the end of this chapter~~[-]~~; or
- (2) Effective with the 2024-25 program year, three hundred per cent of the Federal Poverty Guidelines for a family of the same size, which shall be updated annually on January 1 to determine eligibility for the upcoming program year.

(e) A caretaker who is a foster parent licensed by the department, or by an organization under the authority of the department, shall not be subject to ~~[subsection (d).]~~ income limits for determining eligibility, and are not subject to the family unit's

co-payment requirement under sections 17-799-14(b) (3) and (4), for the applying foster child.

(f) A family unit who meets the eligibility conditions of this section, but is not selected to participate in the program due to lack of funds shall be placed on a waitlist and assigned a waitlist priority as established in 17-799-17. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-9 Income considered in eligibility determination.** (a) Monthly gross income shall be used to determine income eligibility of the family unit by using one of the following:

- (1) The average of the prior two months gross income for existing employment;
- (2) The monthly gross income received in the prior month for existing employment; or
- (3) The monthly gross income that is anticipated to be received by the family unit, such as, but not limited to, from prospective employment.
  - (A) Weekly gross income anticipated to be received shall be converted to a monthly gross income by multiplying the weekly income by 4.3333.
  - (B) Bi-weekly gross income anticipated to be received shall be converted to monthly income by multiplying the bi-weekly income by 2.1667.
  - (C) Semi-monthly income anticipated to be received shall be converted to monthly income by multiplying the semi-monthly income by 2.
- (4) Gross income from the caretakers' business or self-employment such as selling real estate, or engaging in fishing and farming, which provide irregular income over a period of six months, may be allowed to be averaged to determine the budget month amount.

(b) Monthly gross income means monthly sums of income received from sources such as but not limited to:

- (1) Gross income (before deductions are made for items such as, but not limited to, taxes, union dues, bonds, and pensions) from:
  - (A) Wages;
  - (B) Salary;
  - (C) Armed forces pay, excluding basic housing allowance;
  - (D) Commissions;
  - (E) Tips;
  - (F) Piece-rate payments; or
  - (G) Cash bonuses earned.
- (2) Social security pensions and survivors' benefits (prior to deductions for medical insurance) including:
  - (A) Railroad retirement insurance checks from the U.S. government; and
  - (B) Permanent disability insurance payments made by the Social Security Administration.
- (3) Unemployment insurance benefits such as:
  - (A) Compensation received from government unemployment insurance agencies or private insurance companies during periods of unemployment; and
  - (B) Any strike benefits received from union funds.
- (4) Worker's compensation benefits and temporary disability insurance benefits:
  - (A) Worker's compensation benefits include compensation received from private or public insurance companies for injuries incurred at work;
  - (B) Temporary disability insurance benefits include compensation received from private or public insurance companies for short-term disabilities resulting from off-the-job sickness or injury; and

- (C) The cost of the insurance shall have been paid by the employer and not by the employee, and the benefits are made to individuals who continue to be considered employees of the company;
- (5) Pensions and annuities, including pensions or retirement benefits paid to a retired person or the person's survivors by a former employer or by a union, either directly or by an insurance company;
- (6) Veteran's pensions and other benefits, which include:
  - (A) Money paid periodically by the Veteran's Administration to:
    - (i) Survivors of deceased veterans; or
    - (ii) Disabled members of the armed forces;
  - (B) Subsistence allowances paid to veterans for:
    - (i) Education; or
    - (ii) On-the-job training; and
  - (C) Refunds paid to former members of the armed forces as GI insurance premiums;
- (7) An allotment of a member of the armed forces;
- (8) Alimony;
- (9) Child support~~[+]~~, including support or maintenance for or on behalf of a son or daughter who is over eighteen years of age;
- (10) Public assistance payments from another state;
- (11) Hawaii public assistance payments;
- (12) Adoption assistance payments;
- (13) Dividends from stockholdings or memberships in associations;
- (14) Periodic interest on savings or bonds;
- (15) Income from estates or trust funds;
- (16) Income from rental of property after business expenses;
- (17) Royalties;

- (18) Income received from self-employment:
- (A) Income received from non-farm self-employment means the gross receipts minus expenses for an individual's own business, professional enterprise, or partnerships.
- (i) Gross receipts shall include the value of all goods sold and services rendered.
- (ii) Expenses shall include the costs of goods purchased, rent, heat, light, power, wages and salaries paid, business taxes, and other similar costs.
- (iii) The value of salable merchandise consumed by the proprietors of retail stores shall not be included as part of net income.
- (iv) Items such as depreciation, personal, business, and entertainment expenses, transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods shall not be deducted as business expenses. Personal expenses such as lunches and transportation to and from work shall not be deducted as business expenses.
- (B) Income received from farm self-employment means the gross receipts minus operating expenses from the operation of a farm by a person on the person's own account, as an owner, renter, or sharecropper.
- (i) Gross receipts shall include the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental

- receipts from the sale of wood, sand, gravel, and similar items.
- (ii) Operating expenses shall include the cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and other similar expenses.
- (iii) The value of fuel, foods, or other farm products used for family living shall not be included as part of net income.
- (iv) Items such as depreciation, personal, business, and entertainment expenses, transportation, purchase of capital equipment, and payments on the principal of loans for capital assets or durable goods, and state and federal taxes paid shall not be deducted as business expenses.  
[Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-10 Excluded monthly income.** The following types of income received in any given month shall be excluded from consideration in determining income eligibility for child care payments:

- (1) Money received from the sale of property such as stocks, bonds, a house, or a car unless the person was engaged in the business of selling the property, in which case, the net proceeds would be counted as self-employment income;

- (2) Withdrawals of bank deposits;
- (3) Loans;
- (4) Gifts, including in-kind gifts such as free room and board, when the gift is not a form of compensation in lieu of wages or salary;
- (5) Monies received in the form of a nonrecurring lump sum payment including, but not limited to, the following:
  - (A) Income tax refunds, rebates, or credits;
  - (B) Retroactive lump sum social security, SSI, public assistance, or unemployment compensation benefits;
  - (C) Retroactive annual adjustment payments in the veteran administration's (VA) disability pensions;
  - (D) Lump sum inheritances or insurance payments;
- (6) Refunds of security deposits on rental property or utilities;
- (7) Capital gains;
- (8) Earnings of minor children who are members of the household and are students at least half-time shall be excluded even during temporary interruptions in school attendance due to semester or vacation breaks, provided the minors' enrollment will resume following the break;
- (9) Loans, grants, and scholarships obtained and used under conditions that prohibit use for current living expenses;
- (10) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the United States Secretary of Education;
- (11) Home produce utilized for home consumption;
- (12) The value of an allotment under the Food Stamp Act of 1977, as amended, 7 U.S.C. §2017;
- (13) The value of USDA donated or surplus foods;

- (14) The value of supplemental food assistance under the Child Nutrition Act of 1966, 42 U.S.C. §§1771-1789, and the special food service program for children under the National School Lunch Act, as amended, 42 U.S.C. §§1751-1769;
- (15) Benefits received from the special supplemental food program for women, infants, and children (WIC), 42 U.S.C. §1771;
- (16) Allowances and payments to participants in programs, other than on-the-job training, under the Workforce Investment Act (WIA) of 1998, 20 U.S.C. §9201;
- (17) The earned income of individuals participating in on-the-job training programs under the Work Investment Act (WIA) of 1998, 20 U.S.C. §9201, who are between 18 and 19 years of age and under the parental control of another household member;
- (18) Earned income tax credit (EITC) payments received either as a lump sum or recurring payments under section 3507 of the Internal Revenue Code of 1986;
- (19) Financial assistance provided by a program funded in whole or in part under title IV of the Higher Education Act in accordance with Pub. L. No. 99-498;
- (20) Payments or allowances made under any federal, state, or local laws for the purpose of energy assistance;
- (21) Assistance payments received as a result of a declared federal major disaster or emergency from the federal emergency management agency (FEMA), and other comparable disaster assistance provided by any state or local government agency, and disaster assistance organizations;
- (22) Payments made from the Agent Orange Settlement Fund or any other fund established in connection with settling



- liability claims concerning the chemical Agent Orange, Pub. L. No. 101-201;
- (23) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §4636;
  - (24) Payments received under the Radiation Exposure Compensation Act, Pub. L. No. 101-426, to compensate individuals for injuries or deaths resulting from the exposure to radiation from nuclear testing or uranium mining;
  - (25) Payments to individuals participating in the Senior Community Service Employment Program (SCSEP) funded under title V of the Older Americans Act of 1965, 42 U.S.C. §3001; Pub. L. No. 100-175;
  - (26) Payments to volunteers derived from the volunteer's participation in the following programs authorized by the Domestic Volunteer Service Act of 1973, 42 U.S.C. §§5011, 4951-4958:
    - (A) Foster grandparent program;
    - (B) Senior companion program; and
    - (C) Volunteers in service to America (VISTA) and AmeriCorps programs;
  - (27) Military re-enlistment bonus;
  - (28) Foster board payments;
  - (29) All payments pursuant to chapter 17-656.2; and
  - (30) Any other payments made in accordance with state and federal laws that preclude the payments from being counted as income. [Eff 02/09/14; comp 12/31/17; comp ]  
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-11 Program enrollment.** (a) The department shall issue a designated form to as many approved priority applicants, as established in subsection [~~17-799-7(b)~~] 17-799-7(c), that can be

enrolled for child care payments within the available state fiscal year funding. The department shall also issue a designated form to waitlisted approved priority applicants who meet the condition of subsection 17-799-17(f).

(b) The approved priority applicants shall return the completed and signed designated form within twenty days from the date of issuance to provide the name and address of the preschool and verify the cost of the preschool.

(c) The caretaker shall choose a preschool that meets the program qualifications in 17-799-12.

(d) The caretaker shall ensure that a school readiness assessment conducted by the preschool is submitted to the department.

(e) Failure to comply with subsection (d) shall be subject to section 17-799-18. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-12 Program qualifications for preschools.** A preschool chosen by a caretaker shall:

- (1) Be limited for the purposes of this chapter to:
  - (A) A group child care center that is licensed by the department under chapter 17-892.1 [~~, or license exempt under HRS §346-152 and satisfies HRS §346-152.5; or~~];
  - (B) A group child care home that is licensed by the department under chapter 17-892.1; or
  - (C) An exempt center-based provider that is listed with the department in accordance with chapter 17-800;
- (2) Agree to conduct a readiness assessment for each eligible child who is enrolled and approved to receive child care payments under this chapter. The readiness assessment, assessment results reporting

- form, and reporting submittal deadline, shall be prescribed by the department; ~~[and]~~
- (3) Be accredited pursuant to section 17-799-12.1; and
- ~~[(3)]~~ (4) Cooperate with the department for overpayment resolution if the caretaker chose to have child care payments forwarded to the preschool's account pursuant to subsection 17-799-15(a). [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181, 346-184) (Imp: HRS §§346-14, 346-181, 346-184)

**§17-799-12.1 Accreditation requirements.** (a) A preschool that accepts enrollment of an eligible child approved to receive a subsidy under this chapter shall be accredited, or shall obtain accreditation within seven years of first accepting enrollment of an eligible child approved to receive child care payments under this chapter; provided that a preschool that existed prior to July 1, 2022, and is unaccredited as of July 1, 2022, shall commence the accreditation process no later than July 1, 2029, and shall obtain accreditation by July 1, 2034;

(b) Accreditation shall be obtained from one of the following national early learning accrediting organizations:

- (1) National Association for the Education of Young Children;
- (2) National Early Childhood Program Accreditation;
- (3) National Association for Family Child Care;  
or
- (4) An accrediting organization approved by the director of the department; provided that the accrediting organization has standards comparable to the organizations specified in paragraphs (1) through (3).

(c) An accrediting organization seeking approval for accreditation under paragraph (b) (4) shall:

- (1) Submit a request for approval to the department on a form prescribed by the department, along with documentation that shows the accrediting organization has standards that are comparable to the accrediting organizations listed in paragraphs (b) (1) through (3);
- (2) The department shall review the request, utilizing standards established by accrediting organizations in paragraphs (b) (1) through (3) for comparison and provide a written determination granting or denying the request; and
- (3) A decision denying a request for approval of an accrediting organization may be appealed by the accrediting organization requesting a review by the director. The review shall consider only the documentation provided with the request for approval and the department's written determination; provided that the director may request further information from the accrediting organization and the department at the director's sole discretion. A decision by the director under this subsection is final.

(d) The director may grant to any preschool one or more extensions to obtain accreditation on a case-by-case basis; provided that the preschool has applied for accreditation and made good faith efforts to become accredited before the applicable deadline.

- (1) A preschool requesting an extension shall submit to the department a request for an extension on a form prescribed by the department along with documentation that shows that the preschool has applied for accreditation and made good faith efforts to become accredited before the applicable deadline. If the request is received after the applicable deadline for the preschool to obtain accreditation specified in subsection

- (a), child care payments to the family shall not be authorized for that preschool;
- (2) The department shall review the request and provide a written determination granting or denying the request; and
- (3) A determination denying a request for extension under this subsection may be appealed by the preschool requesting a review by the director. The review shall consider only the documentation provided with the request for extension and the department's written determination; provided that the director may request further information from the preschool and the department at the director's sole discretion. A decision by the director under this subsection is final.

(e) Notwithstanding subsections (a) and (b), child care payments may continue to be paid to a family utilizing an unaccredited preschool after the applicable deadline if the preschool maintains a satisfactory performance rating under the Classroom Assessment Scoring System (CLASS) developed by the University of Virginia and the rating was evaluated in conformance with the U.S. Department of Health and Human Services guidelines; provided that:

- (1) A preschool shall provide to the department written verification of the satisfactory performance rating; and
- (2) Failure by the preschool to provide the written verification of the satisfactory performance rating shall result in a suspension of the child care payments to eligible families for services provided by the unaccredited preschool pursuant to sections 17-799-18 and 17-799-19. [Eff \_\_\_\_\_] (Auth: HRS §§346-14, 346-181, 346-184) (Imp: HRS §§346-14, 346-181, 346-184)

**§17-799-13 Child care rates.** (a) Child care payment rates shall be the following, effective September 1, 2017, based on types of care:

- (1) \$919 for accredited licensed and accredited license-exempt group child care center preschool; and
- (2) \$795 for non-accredited licensed and non-accredited license-exempt group child care center preschool, and group child care home.

(b) Child care payment rates shall be the following, effective with the 2024-25 program year, based on types of care:

- (1) \$1500 for accredited licensed group child care center preschool, an accredited exempt center-based provider operating a group child care center preschool and listed in accordance with chapter 17-800, or for Hawaiian medium center-based care, as defined under this chapter; and
- (2) \$1200 for non-accredited licensed group child care center preschool and group child care home, or for a non-accredited exempt center-based provider operating a group child care center preschool and listed in accordance with chapter 17-800. [Eff 02/09/14; am and comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-13.1 Method of computing family unit's co-payment.** Effective with the 2024-25 program year, the following steps shall be used to compute the family unit's co-payment:

- (1) Determine the monthly gross income for the family unit;
- (2) Identify the family unit size;
- (3) Determine the family unit's co-payment tier based on the co-payment tier established in Exhibit II, attached at the end of this chapter; and

§17-799-13.1

- (4) Multiply the family unit's co-payment tier by the monthly gross income for the family unit. [Eff \_\_\_\_\_] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-14 Method of computing child care**

**payment.** (a) Child care payment shall be computed based on:

- (1) Monthly gross income based on household size;
- (2) The preschool chosen by the family unit;
- (3) The actual cost of child care selected; and
- (4) The type of child care.

(b) The child care payment amount shall be determined by:

- (1) Identifying the type of child care selected and approved for each eligible child, and selecting the appropriate rate as established in section 17-799-13;
- (2) Comparing the child care allowance according to subsection (b)(1) and the actual child care cost, and choosing the lesser amount.
- (3) Determining the family unit's co-payment (conversely, the percentage of the department's maximum rate allowable) based on the family unit's monthly gross income, and using the co-payment rates established in Exhibit I, dated November 1, 2013, attached at the end of this chapter[-]; provided that, effective with the 2024-25 program year, the family unit's co-payment shall be determined pursuant to section 17-799-13.1.
- (4) Subtracting the family unit's co-payment from the amount determined in subsection (b)(2).

(c) The family unit shall be responsible for any child care costs in excess of the child care payment.

(d) The family unit shall be responsible to pay its share of the child care cost directly to the preschool.

(e) The department shall project the family unit's eligibility and monthly payments prospectively for the entire eligibility period.

(f) The initial payment shall be calculated from the first calendar day of the initial month of eligibility to the end of the month, and shall be considered the first month of the eligibility period. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-15 Child care payments.** (a) Payment for child care shall be issued one month at a time and paid to the caretaker; provided that a caretaker may choose to have the child care payment forwarded by the department as a direct deposit from the caretaker's account to the preschool, if the preschool agrees to accept the direct payment and registers an account with the department's payment system.

(b) Child care payments include:

- (1) A one-time only payment in a State fiscal year for registration, which may also include supply and activity fees, required by the facility, not to exceed \$125.00; and
- (2) Monthly cost of child care per child, as paid, but not to exceed the child care rates specified in section 17-799-13.

(c) The department shall:

~~[(1) Allow, at the department's option, for the presumptive eligibility of a license-exempt preschool selected by the caretaker upon receipt by the department of the completed and signed child care certificate and preschool confirmation forms and consent forms for conducting a background check, provided that the presumptive eligibility~~



~~shall end upon completion of the background check;~~

~~(2)]~~ (1) Authorize the initial and subsequent monthly child care payments based on sections 17-799-8, 17-799-9, 17-799-10, 17-799-11, 17-799-12, 17-799-13, 17-799-13.1, 17-799-14, 17-799-15, 17-799-16, 17-799-18, 17-799-19, 17-799-21, and 17-799-22;

~~[(3)]~~ (2) Provide notification of payment to the family unit pursuant to section 17-799-19; and

~~[(4)]~~ (3) Track and monitor appropriateness and utilization of child care and payments.

(d) The child care payment issued for a benefit month shall not be issued more than once except when the caretaker cannot continue to use the preschool due to the following:

- (1) Unanticipated closure of the preschool;
- (2) Child care had been paid for the month;
- (3) The caretaker enrolls the child in another preschool in the same month child care was issued for the preschool referenced in paragraph (d) (1);
- (4) The preschool referenced in paragraph (d) (1) refuses to refund the child care paid for the month; and
- (5) The new preschool enrollment requires a child care payment from the family unit for the month. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-16 Mandatory reporting.** (a) A recipient of child care payments shall be responsible to report the following changes to the department within ten calendar days of occurrence:

- (1) Preschool child is attending;
- (2) Cost of care;
- (3) Child care type; or
- (4) Child is no longer attending preschool.

(b) Changes may be reported in writing, in person, or by telephone, and shall be supported by verifying documentation.

(c) When changes are reported pursuant to this section, the department shall take action on the reported changes [~~that result in a lower payment and calculate payments for the balance of the eligibility period, after timely and adequate notice.~~] as follows:

- (1) Changes that result in a lower payment shall have payments recalculated for the balance of the eligibility period, after timely and adequate notice.
- (2) Changes that result in a higher payment shall have payments recalculated for the balance of the eligibility period and the increased payment issued starting in the first available full month.

(d) Changes that are reported shall be implemented in the first month following the month in which the change was reported, and the department shall recover any overpayments from the date of the occurrence. [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-17 Waitlisted applicants.** (a) If an application has been approved but all available funds have been obligated, the applicant shall be placed on a prioritized waitlist that shall follow the priority methodology established in section 17-799-7.

(b) Waitlisted applicants shall be provided written notification as referenced in subsection 17-799-19(b).

(c) While on the waitlist, the applicant may be required to update information contained in the application.

(d) Availability of funding shall be reevaluated periodically by the department during the State fiscal year to determine if funding is available to enroll waitlisted applicants.

(e) Upon determining funds are available, the department shall select waitlisted applicants by priority, and provide notification of program enrollment as established in section 17-799-19.

(f) Waitlisted applicants selected for program enrollment shall meet all eligibility requirements as established in section 17-799-8.

(g) Eligibility for the initial payment shall be the later of:

- (1) The month that requirements of section 17-799-11(b) are met; or
- (2) The eligible child's first month of preschool.

(h) If the waitlisted applicant is unable to meet requirements of subsections (f) and (g), the applicant will be notified of their application denial and the department shall refer to the next available waitlist applicant by priority.

(i) Assignment of applicants to the waitlist shall be final and conclusive. [Eff 02/09/14; comp 12/31/17; comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-18 Denial, reduction, suspension, or termination of child care.** (a) Child care payments may be denied, reduced, suspended, or terminated when:

- (1) The caretaker does not complete the process of application or determination of eligibility within the open application period, or withdraws the application;
- (2) The caretaker submits an application outside the open application period;
- (3) The caretaker does not sign and date the application form prescribed by the department;
- (4) The caretaker does not submit a completed application form prescribed by the department;
- (5) The caretaker does not submit verifying documentation requested by the department;

- (6) The child does not meet the eligibility requirements referenced in subsection 17-799-8(b) or (c);
  - (7) The caretaker does not meet the eligibility requirements referenced in subsection 17-799-8(d);
  - (8) The preschool does not meet program qualification requirements referenced in subsection 17-799-12;
  - (9) Conditions initially present in the family unit situation have changed and child care is no longer needed;
  - (10) The family unit has not used authorized care;
  - (11) The child has absences that are unexcused for more than five consecutive days;
  - (12) The caretaker voluntarily requests discontinuance of child care payments;
  - (13) The caretaker and the child are unable to use child care and another service must be planned for;
  - (14) The caretaker fails to comply with mandatory reporting requirements;
  - (15) The family unit is no longer eligible for child care payments;
  - (16) The family unit cannot be located;
  - (17) The family unit fails to utilize child care payments in accordance with subsection 17-799-4(c) and does not reconcile the resulting overpayments in accordance with section 17-799-21;
  - (18) The caretaker fails to comply with requirements referenced in subsection 17-799-11(b); or
  - (19) The department determines pursuant to section 17-799-22 that there are insufficient funds to maintain all children receiving care.
- (b) Child care payments may be suspended [~~for a period not to exceed one month~~] when:
- (1) The payment amount is determined to be zero; [~~or~~]

- (2) A natural disaster or emergency is declared by the federal, state, or county government;  
or  
[~~(2)~~] (3) The designated preschool does not meet the conditions set forth in section 17-799-12 and the family unit must find a different approved preschool. [Eff 02/09/14; comp 12/31/17; am and comp ]  
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-19 Notices.** (a) The department shall provide a written notice to applicants and recipients about their eligibility status that shall contain:

- (1) A statement of the action taken;
- (2) The reasons for the action;
- (3) The specific rules supporting the action; and
- (4) The right to appeal the action of the department through established administrative appeals procedures, when applicable.

(b) Applicants that are placed on a waitlist shall be provided written notification of this designation, and a separate notice if they are selected from the waitlist to enroll into the program.

(c) The department shall provide a caretaker with timely and adequate notice prior to taking adverse action to deny, reduce, suspend, or terminate any child care payments specified in this chapter.

(d) A caretaker can submit verifying documentation for consideration by the department to reverse the proposed department action prior to the effective date of the action.

(e) Only adequate notice is required when the following occurs:

- (1) A caretaker is deceased;
- (2) A caretaker left the State;
- (3) A caretaker requests discontinuance of child care payments;

- (4) A caretaker fails to comply with mandatory reporting requirements;
- (5) A caretaker's whereabouts are unknown; ~~[or]~~
- (6) A caretaker receives an increase in the amount of monthly child care payments; or
- ~~[(6)]~~ (7) The department determines pursuant to section 17-799-22 that there are insufficient funds to maintain all children receiving care. [Eff 02/09/14; comp 12/31/17; am and comp ]  
(Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-20 Administrative appeal requests.** (a)

A caretaker may file a written request for an administrative appeal, in accordance with the provisions set forth in chapter 17-602.1, when the family unit disagrees with the department's adverse action to deny, reduce, suspend, or terminate payment, or with the department's determination of an overpayment, except in the case of sections 17-799-17 or 17-799-18(a) (19).

(b) Child care payments shall not continue during the appeal process. [Eff 02/09/14; comp 12/31/17; comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)

**§17-799-21 Underpayments and overpayments.** (a)

Underpayments shall be processed as follows:

- (1) Prompt action shall be taken to correct any underpayment to a currently eligible caretaker who would have received a greater payment if an error by the department had not occurred.
- (2) If a caretaker has both an overpayment and an underpayment, the overpayment and underpayment shall be offset one against the other in correcting the payment.

- (b) Overpayments shall be processed as follows:
  - (1) Failure to provide information, as specified in sections 17-799-6, 17-799-7, 17-799-15, 17-799-16, and 17-799-17, or errors made by the department may affect the caretaker's eligibility and result in an overpayment.
  - (2) An overpayment made to a caretaker shall be recovered through:
    - (A) Repayment in cash, in full or in part, by the caretaker to the department; or
    - (B) A reduction of not less than ten percent in the child care payment amount payable to the caretaker in subsequent months until the entire amount of overpayment is recovered, provided the caretaker continues to receive such payments.
  - (3) A caretaker subject to recovery of an overpayment shall be provided adequate notice by the department including:
    - (A) The reasons, dates, and the amount of the alleged overpayment; and
    - (B) The proposed method by which the overpayment shall be recovered.
  - (4) Recovery of an overpayment to former recipients of child care payments shall be referred to the department's fiscal management office for collection action.
  - (5) If a caretaker for whom a collection action has been initiated fails to make a payment for any month in the calendar tax year, the department may refer debts exceeding twenty-five dollars to the comptroller of the State for tax setoff as specified in chapter 17-606. [Eff 02/09/14; comp 12/31/17; comp ] (Auth: HRS §§346-14, 346-44, 346-181, 2) (Imp: HRS §§346-35, 346-44, 346-181)

**§17-799-22 Termination for insufficient funds.**

(a) The department may, at its discretion, refuse to take new applications, refuse to enroll priority applicants who have been waitlisted, reduce payments, or terminate payments when there are insufficient funds to pay child care payments at current amounts through the end of the State fiscal year.

(b) Refusal to take new applications, refusal to enroll approved priority applicants who have been waitlisted, reducing payments, or terminating payments will first be accomplished in reverse priority from what is listed in section 17-799-7. Priority will further be determined within the categories set forth in section 17-799-7 by income, with higher income family units' payments reduced or terminated first.

(c) The department budget will be managed by reviewing monthly expenditures and evaluating whether the cumulative expenditures at the end of any given month are less than or equal to the number of months that have expired in the fiscal year times 1/12 of the budget appropriation for child care payments for the State fiscal year.

(d) When the department determines that the budget appropriation has or soon will be exceeded, notices of adverse action may be issued to limit the number of children receiving payments in any given month or to take other necessary action to operate within the child care budget appropriation and available funds. A decision under this subsection shall be final and conclusive." [Eff 02/09/14; comp 12/31/17; am and comp ] (Auth: HRS §§346-14, 346-181) (Imp: HRS §§346-14, 346-181)



2. Material, except source notes and other notes, to be repealed is bracketed and stricken. New material except source notes and other notes, is underscored.

3. Additions to update source notes and other notes to reflect these amendments to sections are not bracketed, stricken, or underscored.

4. These amendments to and compilation of chapter 17-799, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on November 27, 2023 and filed with the Office of the Lieutenant Governor.




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CATHY BETTS

Director of Human Services

APPROVED AS TO FORM:



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Deputy Attorney General

**Child Care  
Gross Income Eligibility Limits and Sliding Fee Scale**

<b>Family Size</b>	<b>Income Eligibility Limit</b>	<b>0-100% FPG</b>	<b>100%-150% FPG</b>	<b>150%-175% FPG</b>	<b>175%-250% FPG</b>
		<b>0% co-pay</b>	<b>10% co-pay</b>	<b>20% co-pay</b>	<b>30% co-pay</b>
1	2,755	1,102	1,653	1,928	2,755
2	3,718	1,487	2,230	2,602	3,718
3	4,680	1,872	2,808	3,276	4,680
4	5,643	2,257	3,385	3,949	5,643
5	6,605	2,642	3,963	4,623	6,605
6	7,568	3,027	4,540	5,297	7,568
7	8,530	3,412	5,118	5,971	8,530
8	9,493	3,797	5,695	6,644	9,493
For each additional, add	963	385	577	673	963

**Instructions:**

1. Gross Income (GI) eligibility limit is at 250% of Federal Poverty Guidelines (FPG).
2. Compare GI with Income Eligibility Limit to determine income eligibility.
3. If GI is less than or equal to the Income Eligibility Limit, find the largest reimbursement rate for which the income limit is greater than or equal to GI.

Department of Human Services  
Benefit, Employment and Support Services Division  
November 1, 2013

EXHIBIT I

**Child Care  
Co-Payment Sliding Fee Scale**

<b>Per Cent of FPG</b>	0-160%	161-180%	181-200%	201-220%	221-240%	241-260%	261-280%	281-300%
<b>Co-Payment</b>	0% co-pay	1% co-pay	2% co-pay	3% co-pay	4% co-pay	5% co-pay	6% co-pay	7% co-pay

Federal Poverty Guidelines (FPG), based on household size, will be updated annually on January 1 for the upcoming program year.

Source: <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

Department of Human Services  
Benefit, Employment and Support Services Division

EXHIBIT II

### **III. OLD BUSINESS**

B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to **BWS Rules and Regulations Chapter I – V, Section 54 – 26** for the **Adoption of New Water Rates and Charges**, promulgated by the Board of Water Supply, City and County of Honolulu

**BOARD OF WATER SUPPLY  
KA 'OIHANA WAI  
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843  
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ERWIN KAWATA  
DEPUTY MANAGER  
HOPE MANAKIA



NĀ'ĀLEHU ANTHONY, Chair  
KAPUA SPROAT, Vice Chair  
BRYAN P. ANDAYA  
JONATHAN KANESHIRO  
EDWIN H. SNIFFEN, Ex-Officio  
GENE C. ALBANO, P.E., Ex-Officio

January 9, 2024

Ms. Mary Albitz, Chair  
Small Business Regulatory Review Board  
No. 1 Capitol District Building  
Honolulu, Hawaii 96813

Dear Chair Albitz:

Subject: Small Business Statement "After" Public Hearing for Chapters I – V, Board of Water Supply Rules and Regulations in Compliance with Section 54-26, Hawaii Revised Statutes

Enclosed is the Small Business Statement After Public Hearing for Chapters I – V, Board of Water Supply Rules and Regulations in Compliance with Section 54-26, Hawaii Revised Statutes. The Board of Water Supply (BWS) shared information about the proposed revisions to the schedule of rates and charges for the furnishing of water and water service with customers and through community and neighborhood board meetings. On November 27, 2023, the BWS Board held a public hearing and passed Resolution No. 976 (2023) adopting the revisions to the schedule of rates and charges for the furnishing of water and water service for Fiscal Years 2024 to 2029, and to remain in effect until superseded. The rate changes are scheduled to go into effect as of February 1, 2024.

The BWS will be happy to respond to any questions at the Small Business Regulatory Review Board Meeting on Thursday, January 18, 2024.

If you need additional information, please contact Kathy Mitchell, BWS Staff Officer at 748-5321.

Very truly yours,

ERNEST Y. W. LAU, P.E.  
Manager and Chief Engineer

Enclosures

**SMALL BUSINESS STATEMENT  
"AFTER" PUBLIC HEARING TO THE  
SMALL BUSINESS REGULATORY REVIEW BOARD**  
(Hawaii Revised Statutes (HRS), §201M-3)

**Department or Agency:** Board of Water Supply (BWS), City and County of Honolulu

**Administrative Rule Title and Chapter:** HRS § 54-26, Revised Charter of Honolulu Section 7-109, BWS Rules and Regulations, Chapters I-V

**Chapter Name:** \_\_\_\_\_

**Contact Person/Title:** Mr. Ernest Y. W. Lau, P.E. / Manager and Chief Engineer

**Phone Number:** (808) 748-5061

**E-mail Address:** elau@hbws.org      **Date:** January 9, 2024

A. To assist the SBRRB in complying with the meeting notice requirement in HRS §92-7, please attach a statement of the topic of the proposed rules or a general description of the subjects involved.

B. Are the draft rules available for viewing in person and on the Lieutenant Governor's Website pursuant to HRS §92-7?

Yes       No

(If "Yes," please provide webpage address and when and where rules may be viewed in person. Please keep the proposed rules on this webpage until after the SBRRB meeting.)

I. Rule Description:     New     Repeal     Amendment     Compilation

II. Will the proposed rule(s) affect small business?

Yes       No (If "No," no need to submit this form.)

\* "Affect small business" is defined as "any potential or actual requirement imposed upon a small business . . . that will cause a direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business." HRS §201M-1

\* "Small business" is defined as a "for-profit corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legal entity that: (1) Is domiciled and authorized to do business in Hawaii; (2) Is independently owned and operated; and (3) Employs fewer than one hundred full-time or part-time employees in Hawaii." HRS §201M-1

III. Is the proposed rule being adopted to implement a statute or ordinance that does not require the agency to interpret or describe the requirements of the statute or ordinance?

Yes       No

(If "Yes" no need to submit this form. E.g., a federally-mandated regulation that does not afford the agency the discretion to consider less restrictive alternatives. HRS §201M-2(d))

IV. Is the proposed rule being adopted pursuant to emergency rulemaking? (HRS §201M-2(a))

Yes       No

(If "Yes" no need to submit this form.)

**V. Please explain how the agency involved small business in the development of the proposed rules.**

See BWS Summary Attachment

- a. **Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?**

See BWS Summary Attachment

**VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:**

1. A description of how opinions or comments from affected small businesses were solicited.

See BWS Summary Attachment

2. A summary of the public's and small businesses' comments.

See BWS Summary Attachment

3. A summary of the agency's response to those comments.

See BWS Summary Attachment

4. The number of persons who:

(i) Attended the public hearing: BWS Summary Attachment

(ii) Testified at the hearing: See BWS Summary Attachment

(iii) Submitted written comments: See BWS Summary Attachment

5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

Yes  No

(i) If "Yes," was the change adopted?  Yes  No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

See BWS Summary Attachment

Small Business Regulatory Review Board / DBEDT  
Phone: (808) 586-2594 / Email: [DBEDT.sbrrb.info@hawaii.gov](mailto:DBEDT.sbrrb.info@hawaii.gov)  
This statement may be found on the SBRRB Website at:  
<http://dbedt.hawaii.gov/sbrrb-impact-statements-pre-and-post-public-hearing>

**BWS SUMMARY ATTACHMENT**  
(SMALL BUSINESS STATEMENT “AFTER” PUBLIC HEARING TO THE  
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**V. Please explain how the agency involved small business in the development of the proposed rules.**

Pursuant to the Revised Charter of Honolulu, Section 7-109, Hawaii Revised Statutes §54-26, the BWS Board has the power to fix and adjust reasonable water rates and charges for the furnishing of water and water services. At the January 23, 2023, Regular Meeting of the Board of Water Supply, Manager and Chief Engineer Ernest Lau stated that the BWS goes through a process before adjusting water rates and charges for the furnishing of water and water services. The first stakeholder outreach process started in October 2022 and included a review of the BWS Water Master Plan, 30-year Infrastructure Investment Plan, Long Range Financial Plan, an analysis of BWS Operating and Capital Improvement Program Budget, factors impacting the cost of service for BWS’s various customer classes, and consideration of potential impacts on BWS revenues and expenses. Subsequently, the BWS met with the community, Small Business Regulatory Review Board, the BWS Board, Stakeholders, followed by a Public Hearing and the Board’s subsequent adoption via a Board Resolution. *See Attachment 1*

At the June 26, 2023 BWS Regular Board Meeting, the Board established the Role of a Permitted Interaction Group composed of three BWS Board Members, who attended the community information meetings, listened to testimony and discussed in-depth the proposed upcoming 5-Year Rate Schedule (FY2024-2029). The Permitted Interaction Group submitted its Final Report, dated September 15, 2023, to the BWS Board at its Regular Board Meeting on September 25, 2023. The Permitted Interaction Group felt it was important not to delay the roll out of the new rates slated for February 1, 2024, and that the BWS should continue to move forward with that date in mind.

The BWS engaged a Stakeholder Advisory Group (SAG) and Commercial Stakeholder Advisory Group (CSAG) multiple times in 2023 to solicit feedback and gather input on the Proposed Revisions to the BWS Schedule of Rates and Charges for the Furnishing of Water and Water Service (“Proposed Revisions”).

All BWS customers were notified of the Proposed Revisions and opportunities to obtain additional information, along with instructions to submit comments, through mailed “Water Matters” billing inserts (170,000) and the Board of Water Supply website beginning September 2023. *See Attachment 2*

Seven Interest Group Presentations were held, with approximately 150 Attendees, which included both the SAG and CSAG, Chamber of Commerce Hawaii: Government Relations, House District 44 – Representative Darius Kila, Kukui Plaza, Green Business Conference and Stormwater SAG. *See Attachment 3*

Four community information meetings were held by the Board of Water Supply on August 14, 2023, August 15, 2023, August 16, 2023, and August 23, 2023, in Kāne’ohe, Mō’ili’ili, Kapolei and Mililani, respectively, for the purpose of informing the public of the proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service; and *See Attachment 4*



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Twenty-One Neighborhood Board (NHB) Presentations were conducted by BWS, with about 420 Attendees. General comments from NHBs were overall good. See *Attachment 5*

The BWS also briefed seven City Council members and the City’s Managing Director on the proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service. See *Attachment 6*

On November 27, 2023, pursuant to the Revised Charter of Honolulu Section 7-110, after publication of notice of Public Hearing on October 27 and 29, a Public Hearing was held by the Board of Water Supply for the purpose of considering proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service. Written and oral testimonies were presented at the foregoing meetings and the Public Hearing received in writing through November 27, 2023, on the Proposed Revisions and were given due consideration and incorporated as appropriate. After thorough consideration of the comments, testimonies, and presentation from all parties, the BWS Board voted in support of the adoption of Resolution No. 976, 2023, adopting the revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service for Fiscal Years 2024-2029, effective from and after February 1, 2024, and to remain in effect until superseded.

- a. **Were there any recommendations incorporated into the proposed rules? If yes, explain. If not, why not?** No. At the Public Hearing on November 27, 2023, there were four testifiers that submitted written testimony or oral comments to the Schedule of Rates and Charges for the Furnishing of Water and Water Service. The Mayor of the City and County of Honolulu asked the Board to re-examine any planned expenses to lessen the burden of a rate increase. The Mayor commented that it would take time to recover from unfortunate events of COVID-19, the contamination of Red Hill, and the impact of rising costs has had on the economy. House Representative Darius Kila spoke on behalf of his constituents via Zoom and opposed the rate increase; as did Melodie Aduja and Alan Burdick, co- chairs of the Environmental Caucus of the Democratic Party who submitted written testimony in opposition. Two Oahu residents: (1) opposed and (1) made comments regarding the process. Suggestions were made to defer the proposed water rate increases. Such a deferral would result in significant financial impact to the BWS, necessitating significant cuts to both operating and Capital Improvement Program budgets, impacting bond ratings, and resulting in decreased levels of service for our customers. Deferring the rate increase would require the BWS to cut the Fiscal Year 2024 and 2025 budgets significantly. See *BWS response to Question No. VI, item #5, Attachment 10*

**VI. If the proposed rule(s) affect small business, and are not exempt as noted above, please provide the following information:**

1. **A description of how opinions or comments from affected small businesses were solicited.**

The BWS used several methods to outreach to the public. In July 2023, BWS

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posted on its website rate proposal information, which received 3,444 views; used social media – 35 views *See Attachment 7*; posted a video of the rate proposal on the BWS website whereby 284 people viewed it; 4 community information meeting with 25 attendees; and aired the 4 community meetings via video on Olelo multiple times through late September; and mailed a Special Edition of Water Matters to 170,000 BWS account holders. The BWS provided at least a 30-day notice of public hearing in the Star Advertiser on October 27 and October 29, 2023, for its' public hearing on November 27, 2023.

### **2. A summary of the public's and small businesses' comments.**

BWS shared information about the proposed water rates with its customers, the community and neighborhood board meetings. The BWS received and responded to about 130 wide range of questions at the Neighborhood Board and other meetings.

Common questions at all the meetings include the following topics: desalination, Red Hill, tiered rates for non-residential (resorts should pay more), conservation initiatives, and sewer rates too high. This mirrors the questions heard at the community information meetings.

Community comments: Some individuals stated, "What is driving this increase in rates?" "It was unfair to raise the lowest rate . . . because no matter how much less water used, there is no cheaper rate." "Tier 3 is too broad and does not encourage smart water use or water conservation efforts." "Need to keep Agriculture rates as low as possible to allow food production to continue . . ." Non-Residential rates should be split out and a special category be established for facilities serving visitors . . ." Comments received in support of rate increase – "As a residential customer, I support the increase." "I have no problem with the increase rates for water usage." "I understand most of the reasoning behind the proposed water rate hikes except, why are homeowners going to be responsible for the Navy's mess created by the Red Hill crisis." *See Attachment 8*

On September 27, 2023, the BWS met with the Chamber of Commerce, Government Relations Committee to discuss the proposed water rates. The BWS responded to the Committees' questions and also referred Committee members to the BWS website to access additional information. Overall reception by the public and small businesses of the rate proposal has been positive. While the community is concerned about rates going up (along with inflation in the economy), they understood the reasons behind the proposed increases and support maintaining the integrity of the water system is critical.

### **3. A summary of the agency's response to those comments.**

BWS explained there are several factors that were considered during the rate development process: inflation, rising energy costs, construction costs, supply chain backlog, and bid costs are much higher than four years ago.

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This process concluded that water rate increases are necessary to continue to fund the operations and capital improvement program of the BWS at a level necessary to continue to provide safe and dependable and affordable water to its customers. The rates are structured to give customers the ability to manage their water bills by controlling the amount of water they use and BWS participates in assistant programs aimed at helping customer pay their utility bills. Finally, the rate development process also determined that deferring rates will cause BWS to make large cutbacks that will seriously impact the departments' ability to provide services to the community. See *Attachment 10*

#### 4. The number of persons who:

- (i) Attended the public hearing: November 27, 2023 (4)
- (ii) Testified at the hearing: November 27, 2023, In-person (2) and Virtual (2)
- (iii) Submitted written comments: November 27, 2023 (3)  
Prior to the November 27, 2023 public hearing, the BWS received approximately 117 written and oral comments (not including NHB comments) of which 102 opposed or have concerns about increases and 15 supported increases and felt they were needed. General comments from individuals included: people were upset about the burden of paying for costs associated with Red Hill and that the Navy should pay these costs (60); concerns about Kupuna on fixed incomes (23), concerns about planning, development, infrastructure, and waivers (80), increases too high (38), and the cost-of-living increases (32).

#### 5. Was a request made at the hearing to change the proposed rule in a way that affected small business?

Yes  No

(i) If "Yes," was the change adopted?  Yes  No

(ii) If No, please explain the reason the change was not adopted and the problems or negative result of the change.

Suggestions were made to defer the proposed increases to BWS's water rates. The BWS evaluated the financial impacts of such a deferral and presented the results of that analysis at the Public Hearing. Such a deferral would result in significant financial impact to the BWS, necessitating significant cuts to both operating and Capital Improvement Program budgets, impacting bond ratings, and resulting in decreased levels of service for our customers.

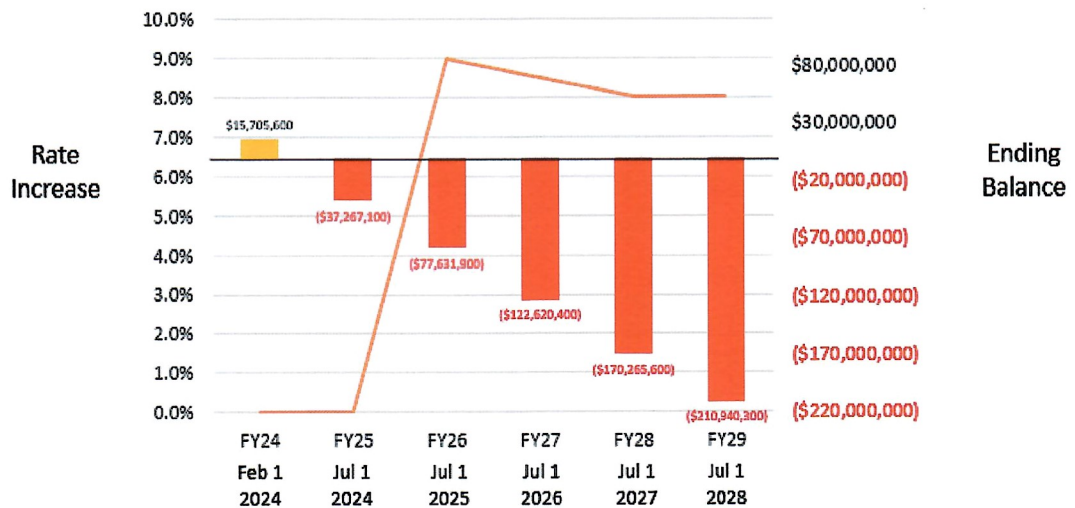
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Manager Lau shared that the process required the BWS to look at what it would cost to provide water service and project the operating cost and the future of the CIP. He shared that the BWS had to prioritize its CIP and balance providing safe and dependable water with maintaining affordable rates.

Mr. Ebersold added that an important factor that was considered during the process of the rate structure was the financial policy, maintaining at least 60 days of working capital with a target of 180 days, which the Board set. He explained that the purpose of the financial policy is to be able to respond to any emergency.

### CONSIDERATION OF HOLDING OFF THE 2024 INCREASES



Manager Lau explained that the yellow bar indicates the ending fund balance for Fiscal Year (FY) 2024, which is \$15M, translating to 26 days of working capital. The operating cost for the BWS water system island-wide is around \$450,000 per day in FY2022. He explained that the working capital fund is an emergency fund for response and recovery. An example of how the working capital fund works is if there were a major disaster, our customers may not have the ability to pay; therefore, the BWS would likely need to suspend billing but would still be required to provide service and operate daily. See Attachment 10

Ms. Raelynn Nakabayashi, Executive Assistant I, Executive Support Office, explained that the orange line indicates the rate increase percentage. If the BWS does not implement the rate increase on February 1, 2024, the BWS will have only \$15M unreserved and unencumbered money by June 30, 2024. Deferring the rate increase would require the BWS to cut the Fiscal Year 2024 and 2025

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budgets significantly, and the BWS would still be spending down any money in the bank to zero. She explained that the red bars represent the BWS's financial projections of its fund balance if the rate increase was delayed until July 1, 2025. The BWS would need to make significant budget cuts to the CIP and the operations and maintenance year over year.

Board Member Ed Sniffen inquired if deferring the rate increase would cause the BWS to go into the red within the first two months of deferral.

Ms. Nakabayashi confirmed the BWS would need to cut the operations and CIP budget by the amount equivalent to 60 to 70 days of operations.

Board Member Sniffen commented that the CIP includes repairing and replacing 41 miles of pipeline within the next five-and-a-half years. He asked if pipelines are not repaired or replaced and what the impacts are to the water system service and the public.

Manager Lau replied that the number of main breaks around the island would increase. The BWS uses metallic pipe; however, the BWS pipelines are affected by age, corrosion, and erosion. He stated that deferring the rate increase would affect the pipeline renewal and replacement program by up to \$425M. The BWS would have to prioritize, and source capacity projects would take precedence over pipeline replacement. If there was a main break, repairing or replacing could take an extended period and would ultimately cause greater inconvenience to the public.

Board Member Ed Sniffen commented that the proposed schedule includes one-third of pump renewal and replacement.

Manager Lau agreed with Board Member Sniffen's comment and stated that the rate increase would provide \$1.26 billion (B) for 132 CIP.

Chair Anthony stated that main breaks disrupt the water service, our roads, and the public. How critical is the BWS infrastructure?

Ms. Nakabayashi stated that the BWS operates 24 hours a day, seven days a week, 365 days a year. If the rate increase is deferred, the BWS would need to look at cutting the budget from each division to make up for 60 to 70 days each year to operate. If there were a crisis threatening public health, it would make it challenging to balance the budget and maintain operations. However, the BWS would be required to address any threat or crisis. Ms. Nakabayashi shared that the BWS held its operating budget flat by trimming 10% to 15% each year between 2018 and 2023 in the face of inflation.

Manager Lau added that if the Board decided to defer the rate proposal, the rate increase would become much greater than the 10% proposed in the later years, and the filling of vacancies could be suspended.

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Vice Chair Kapua Sproat expressed her appreciation for the leadership at the BWS, and shared that the BWS tightened its belt, considered the ratepayer's concerns, and extensively discussed the rate schedule. Vice Chair Sproat reassured the public that the BWS takes the contamination of Oahu's water seriously and will be pursuing full reimbursement from the Navy. However, the BWS must continue to provide safe and dependable water.

A motion was made and seconded to approve the Adoption of Resolution No. 976, 2023, Adopting the Revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service for Fiscal Years 2024-2029, Effective From and After February 1, 2024, and to Remain in Effect until Superseded.

A roll call vote was taken by the Board and the motion to approve the Adoption of Resolution No. 976, 2023, passed with five ayes and one abstention. See *Attachment 11*

## Small Business Regulatory Review Board

### MEETING MINUTES

August 17, 2023

### ZOOM RECORDING

- I. **CALL TO ORDER:** Chair Albitz called the meeting to order at 10:03 a.m., with a quorum present.

**MEMBERS PRESENT:**

- Mary Albitz, Chair
- Robert Cundiff, Vice Chair
- Jonathan Shick, 2<sup>nd</sup> Vice Chair
- Sanford Morioka
- Tessa Gomes
- Mark Ritchie

**ABSENT MEMBERS:**

- Dr. Nancy Atmospera-Walch
- Garth Yamanaka
- William Lydgate
- James (Kimo) Lee

**STAFF:** DBEDT

Dori Palcovich  
Jet'aime Ariola

Office of the Attorney General

Alison Kato

II. **APPROVAL OF JULY 20, 2023 MINUTES**

Mr. Mark Ritchie motioned to accept the July 20, 2023 meeting minutes, as presented. Mr. Jonathan Shick seconded the motion and the Board members unanimously agreed.

III. **NEW BUSINESS**

- A. Discussion and Action on Proposed Amendments to BWS Rules and Regulations Chapter I – V, Section 54 – 26 for the Adoption of New Water Rates and Charges, promulgated by the Board of Water Supply, City and County of Honolulu

Mr. Ernie Lau, Manager and Chief Engineer at the City and County of Honolulu Board of Water Supply (BWS), explained that all small businesses receiving water service from the BWS will be affected by the proposed water rate adjustments for all its customer classes – Single-Family and Multi-Unit Residential, Non-Residential, Agricultural, Non-Potable, and Recycled Water. These rate adjustments are part of a 5-year rate proposal. Community presentations and briefings on the rate proposal will be held in August 2023. Proposed rate changes would begin January 1, 2024

Mr. Lau provided the members with a presentation of the proposed updates to BWS Water-Rates and Charges. He discussed the history of BWS, which was created in 1929, stating that it is semi-autonomous and has a separate board that governs the policies and water rates of the department. As BWS is financially self-sufficient due to incoming water fees, it operates essentially as a utility. BWS services approximately 145 million gallons of water per day to one million customers on Oahu with 170,000 active services, 13 treatment facilities, and water sources all over the island.

A rate study was done in 2017 and BWS did not foresee a pandemic in its future projections. In 2023, inflation went up a much higher rate and has decreased BWS purchasing power. BWS has about 8% less purchasing power than projected. Power costs have also trended upward driven by fuel costs and the energy cost factor is 20% over budget than what was projected in the 2017 rate study.

Mr. Lau explained that the 2021 Red Hill response requires large investments in new BWS facilities. Monitoring wells for information on how the contamination is moving and exploratory wells to find new sources outside of its path. As a precaution, BWS had to shut down 3 wells and this caused BWS to lose source capacity.

BWS is proposing rates for 5 ½ - year period beginning January 1, 2024 through June 30, 2029. BWS considered alternative rate structures for non-residential (including small business) customers and determined the uniform rate per 1,000 gallons, regardless of usage, to be the most equitable, easiest to understand, and least expensive to implement. It was also decided to continue to provide substantially discounted rates (60% of cost of service) to agricultural customers.

Increases in the dollar amounts of direct costs experienced by small business customers will vary depending on the size of their water meter and actual water use. The percentage increases are as follows: January 1, 2024, 10%; July 1, 2024, 10%; July 1, 2025, 9%; July 1, 2026, 8.5%; July 1, 2027, 8%; July 1, 2028, 8%. There are no indirect costs to any customers as a result of these proposed changes.

Mr. Lau stated that these increases are necessary to continue to fund the operations and capital improvement program of the BWS at a level necessary to continue to provide safe and dependable water to its customers. The BWS is a self-supporting, semi-autonomous agency that receives no tax revenues. Nearly all of the revenue is from water sales to customers.

BWS considered alternative rate structures for non-residential (including small business) customers and determined the uniform rate per 1,000 gallons, regardless of usage, to be the most equitable, easiest to understand, and least expensive to implement. It was also decided to continue to provide substantially discounted rates (60% of cost of service) to agricultural customers.



Second Vice Chair Jonathan Shick motioned to move the proposed amended rules to the Mayor for public hearing. Mark Ritchie seconded the motion, and the Board members unanimously agreed.

B. Discussion and Action on Proposed Amendments to HAR Chapter 13-31, Molokini Shoal Marine Life Conservation District, Maui, promulgated by Department of Land and Natural Resources (DLNR)

Discussion Leader and Second Vice Chair Shick noted that agenda items III. New Business B., C., and D. will be presented together. Mr. David Sakuda, DAR Fisheries Program Manager confirms and acknowledges that all three rules will be presented together by Mr. Russel Sparks, DAR Maui District Aquatic Biologist.

Mr. Sparks explained that the proposed rule changes would increase permit fees by \$725/year for smaller vessels (<25 passengers), \$1,475/year for mid-sized vessels (25-74 passengers) and \$2,975/year for larger vessels (>75 passengers). There are forty four boats (Snorkel, Dive, or Scuba dive operations) that are currently permitted to take passengers into the Molokini Marine Life Conservation District will be affected by these rule amendments.

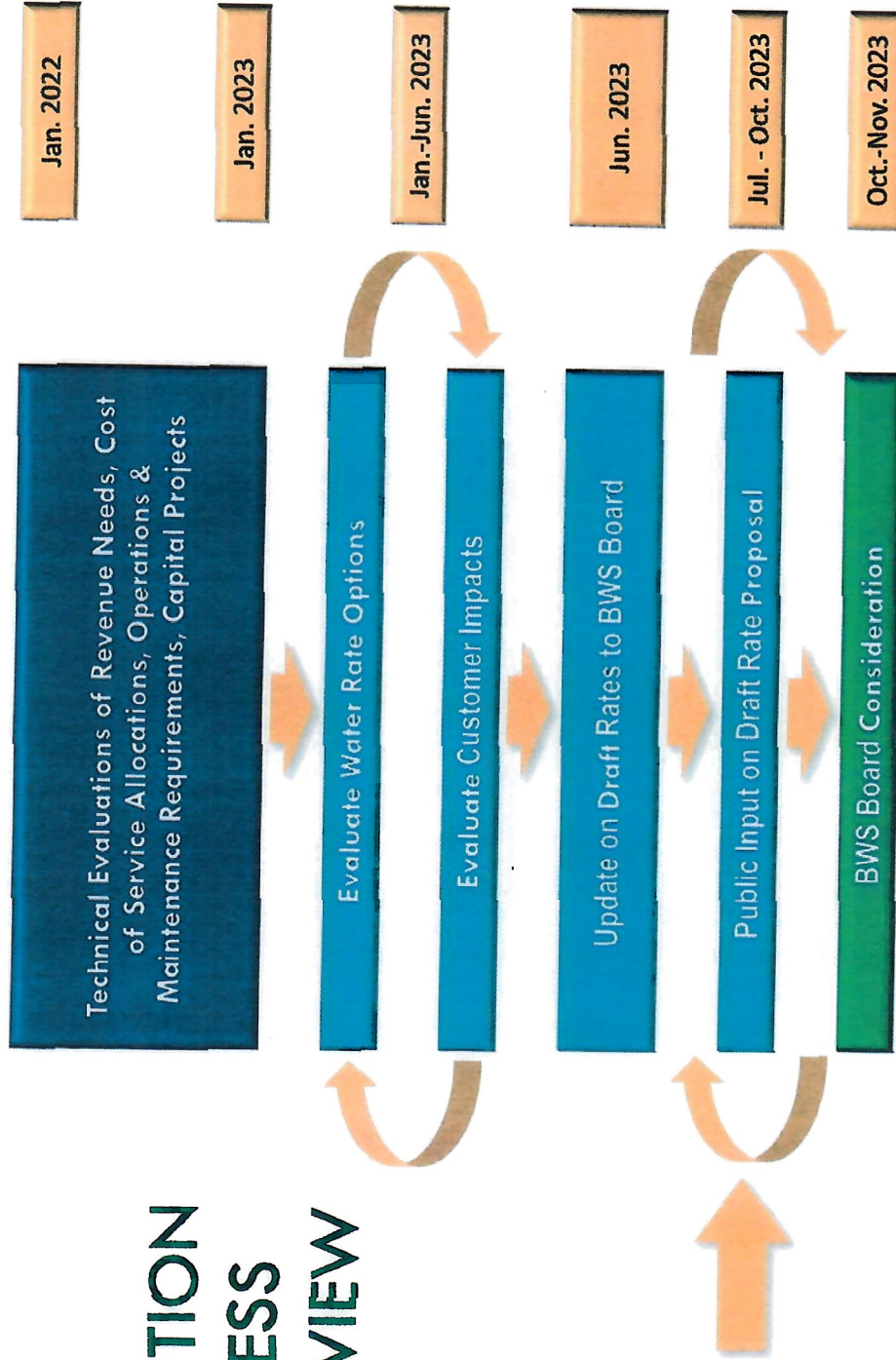
These permit fee increases will amount to approximately \$61,500 dollars being collected by the Department per year. Of this sum, \$12,000 will be paid to OHA as revenue from submerged ceded lands, with the additional \$49,500 being used to administer the permits, correspond with and ensure compliance of the permit holders, operate a remote live web camera system within the MLCD, provide for stepped up enforcement of rules in the area, conduct routine resource monitoring and continue to work with permit holders to reduce crowding and potential impacts to marine ecosystem within the MLCD.

Mr. Sparks presented DAR's proposal of development and a timeline of significant events. The proposals moving forward are to reduce crowding, improve user experience and reduce impacts to the Molokini Shoal Ecosystem. DAR worked through various options for regulating the use of Molokini by the commercial tour operators and made significant changes to the day use mooring rules allowing for more flexibility in use of the area, strengthened language that allowed for only permitted operators to take tours to Molokini, and changed early plans on fees from per person to based on passenger capacity to reduce fee amounts and the administrative burden on the companies, etc.

DAR conducted extensive planning and scoping with all permit holders. DAR gathered input and adjusted the fee plan several times over a 3-year planning process. Fees were reduced and changed to a set fee rather than a per person fee to reduce record keeping and compliance requirements on the operators and agreed to reduce fees given other funding options to help cover the maintenance and upkeep of the day use mooring infrastructure within the MLCD.



# RATE ADOPTION PROCESS OVERVIEW



# PROCESS

- Started technical process in 2022
- First stakeholder outreach in October 2022
- Have been discussing rates with the public since July 2023
- Provided at least 30-days notice of public hearing
  - Ran ad in Star Advertiser as required on Friday, October 27 and Sunday, October 29
- Public hearing with full consideration of all written and oral submissions  
(November 27, 2023)
- Board votes on Rates Proposal or a modified version of Proposal
- Submit post-hearing Small Business Impact Statement (due by December 7)
- Becomes effective 10 days after filing with City Clerk, or later as specified



# SPECIAL EDITION OF WATER MATTERS MAILED TO 170,000 ACCOUNT HOLDERS



**WATER MATTERS**  
Safe, dependable, and affordable water, now and into the future

Vol. 10 - Issue 2

Special Water Rates Issue

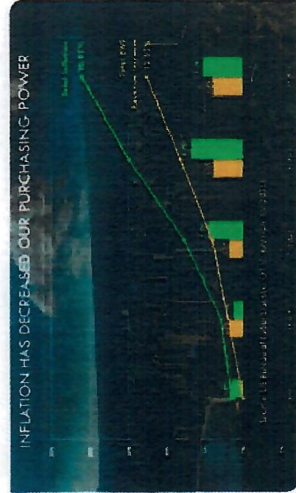
Fall 2023

## BWS Seeks Comments on Proposed Water Rate Hikes

The Honolulu Board of Water Supply (BWS) is proposing rate adjustments so we can continue to provide safe and dependable water to the one million people we serve on Oahu, now and in the future.

As a semi-autonomous City agency, the BWS is financially self-sufficient; no tax revenues are used to finance BWS operations. Investments, improvements and operations are funded mostly by rate revenues.

Since 2020, we have all been impacted by the global pandemic and the many associated stressors, financial and otherwise, that have come from it. During this time, the BWS has gone to great lengths to minimize the impacts to our customers. In addition to our extensive customer assistance program, we will have a "Fix Operations and Maintenance Budget for 2024," and are offering purchases of replacement vehicles and other equipment. We are also exploring ways to reduce our energy cost increases to our customers. Unfortunately, our water supply is under unprecedented threat from the Red Hill fuel crisis. The as-yet undetermined risk of Per- and Polyfluorinated Substances (PFAS), also known as "forever chemicals," in widespread use in common household products since the 1940s and 1950s, poses uncertainty about what will be our highest project priorities in the future. What we do know with certainty is that over the next few years the BWS will continue to invest in infrastructure improvements, including establishing new wells to replace our water supply by Red Hill and building our first desalination plant in Kalaheo, and expand our water conservation programs while contributing to invest in watershed protection.



BWS's revenues will need to increase to meet anticipated operating and infrastructure improvement expenses.

The proposed draft rate adjustments shown on the following pages are needed to accomplish the following objectives:

- Focus on water quality, source protection, and replacement and/or treatment of impacted sources
- Focus on maintaining and replacing our most critical infrastructure
- Begin update of the Water Master Plan in 2024
- Adjust the number of days of working capital to address trends and risks

Proposed draft rate adjustments may be implemented starting January 1, 2024. Please note, these are proposed WATER rates, NOT sewer rates.



# 7 INTEREST GROUP PRESENTATIONS ABOUT 150 ATTENDEES

- Stakeholder Advisory Group
- Commercial Stakeholder Advisory Group
- Chamber of Commerce Hawaii: Government Relations
- House District 44 – Representative Darius Kila
- Kukui Plaza
- Green Business Conference
- Stormwater Stakeholder Advisory Group



# 4 COMMUNITY INFORMATION MEETINGS 25 ATTENDEES

<b>All Meetings: 6:00 – 8:30 PM</b>	
<b>Kaneohe</b>	<b>Monday, August 14</b> <b>Benjamin Parker Elementary School Cafeteria</b> 45-259 Waikalua Road, Kaneohe 96744
<b>Honolulu</b>	<b>Tuesday, August 15</b> <b>Japanese Cultural Center of Hawaii</b> 2454 S Beretania St., Honolulu 96826
<b>Kapolei</b>	<b>Wednesday, August 16</b> <b>Kapolei Hale, Conference Rooms A/B/C</b> 1000 Uluohia Street, Kapolei 96707
<b>Mililani</b>	<b>Wednesday, August 23</b> <b>Mililani High School</b> 95-1200 Meheula Parkway, Mililani 96789

# 21 NEIGHBORHOOD BOARD PRESENTATIONS ABOUT 420 ATTENDEES

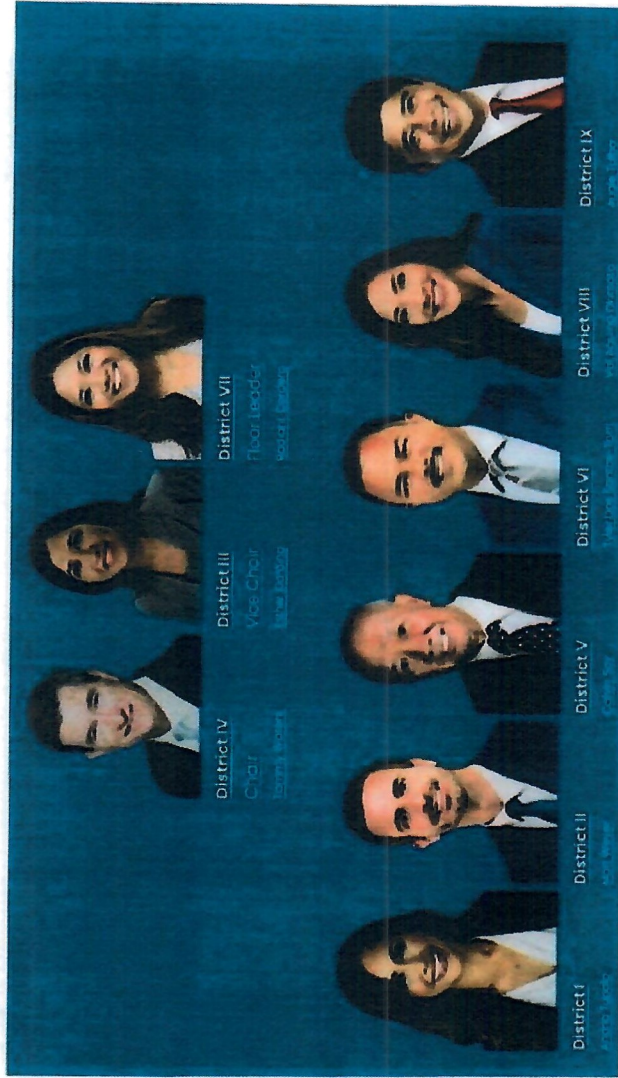
North Shore #27	Waimanalo #32
Kuliouou-Kalani Iki #2	Wahiawa #26
Kahaluu #29	Kaimuiki #4
Diamond Head-Kapahulu- St. Louis Hts #5	Liliha / Puunui / Alewa / Kamehameha Heights #14
Mililani-Waipio #25	Makakilo-Kapolei #34
Waipahu #22	Kailua #31
Pearl City #21	Nuuuanu / Punchbowl #12
Liliha-Kapalama #14	McCully #8



# HONOLULU CITY COUNCIL

*Ke Kanihela o ke Kalana o Honolulu*

- 7 City Council Member Briefings
- Briefing to Managing Director  
on July 25, 2023





# MEDIA

- Interview with Catherine Cruz, HPR
- Answered questions for Kokua Line in the Star Advertiser
- The Big Q in the Star Advertiser
- Civil Beat article September 18, 2023

## Struggling To Get By Oahu Homeowners And Businesses May Soon See Higher Water Bills

BWS says additional spending required because of Red Hill-related problems and inflation is forcing it to charge higher rates  28

By Ben Angarone  / September 18, 2023  
 Reading time: 6 minutes.

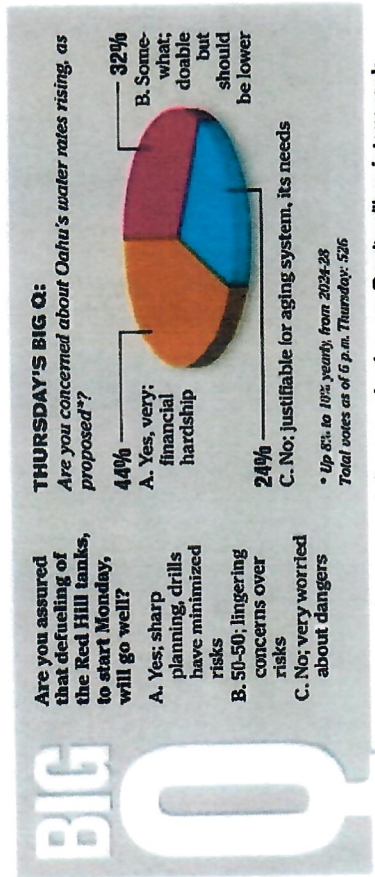


Water prices may be increasing more than 50% over the next five years for most Oahu customers, if new rates proposed by the Honolulu Board of Water Supply are approved this fall.

BWS blamed inflation, the need to invest in new facilities because of fallout from the Navy's Red Hill water crisis, rising electricity costs and pandemic effects for the new rate proposals.

The proposed increases for water rates and water meter charges are 10% on Jan. 1, 2024; 10% on July 1, 2024; 9% on July 1, 2025; 8.5% on July 1, 2026; 8% on July 1, 2027, and 8% on July 1, 2028.

Some variation exists for single family residential customers, who are priced based on tier of water usage in order to encourage conservation. Residents who use less water would see a smaller rate increase.



Vote by 6 p.m. today on our website at staradvertiser.com. Results will run in tomorrow's edition and online. This is not a scientific poll; results reflect the opinions of only those voting.

# VIDEOS OF COMMUNITY INFORMATION MEETINGS

- 75 Views on BWS Website
- All 4 meetings aired on Olelo TV at least 4 times each through late September
- All 4 meetings available on Olelo Video on Demand



# COMMUNITY COMMENTS

- Received 117 written and oral comments (not including Neighborhood Boards and Community Meetings)
  - 102 opposed or have concerns about increases
  - 15 supported increases and felt they were needed
- Received and responded to about 130 questions at the 21 Neighborhood Board and other meetings
  - After presentation and discussion, in general, board and community understood the why for the increase
- Topics of concern
  - Red Hill 60
  - Increases too High 38
  - Cost of Living 32
  - Impact to Kupuna/Fixed Income 23
  - Sewer 17
  - Development/Planning/Infrastructure/Conservation/Non-Residential/Waivers 80



## COMMUNITY COMMENTS (CONT.)

- **Red Hill:**
  - "...writing in opposition to any rate increase related to Red Hill...costs in response to Red Hill must be paid by the US Navy and not passed on to ratepayers."
  - "The US Navy must pay all costs associated with shutdown and replacement of Halawa Shaft."
  - "Now, we are having to pay for the mistakes of tohers such as the Navy and thier cover up of polluting the water for years?"
- **Impact to Kupuna/Fixed Income:**
  - "The increase will greatly affect financially the retirees or middle class senior primary homeowners."
  - "...proposed rate increases are a cause for alarm, concern of living in Hawaii and destructive to those on a budget and where those who rely on Social Security."
  - "This proposed increase should definitely make it very difficult for retired seniors on "fixed income" to continue with keeping their household."
- **Cost of Living:**
  - "Please don't raise your rates, they're too high already."
  - "Hawaii residents can barely afford to live here on a good day."
  - "I do not support any rate hikes at this time. It is difficult for many locals to cope with rising costs..."



## COMMUNITY COMMENTS (CONT.)

- Increases too High:
  - "...very unfair for you to raise the lowest rate...because no matter how much less water we use, there's no cheaper rate."
  - "Proposed rate increase is ridiculous."
  - "I am opposed to a rate hike of 53.5% over 5 years. This is too steep for the average wage earner in Hawaii..."
- Sewer:
  - "I oppose rate hike, ask Sewer to lower their take as they have fixed their issues and no longer need that amount to support the infrastructure."
  - "...my water bill has been increasing for over a decade with no significant change in water usage due to the increase in sewer charges..."
- Development/Planning/Infrastructure/Conservation/Non-Residential/Waivers:
  - "...tier 3 is too broad and does not encourage smart water use or water conservation efforts."
  - "I may be willing to pay the water increases if condominiums were individually metered."
  - "Please keep Ag rates as low as possible to allow food production to continue as I am retired and all costs come out of retirement savings."
  - "Non-Residential Rates should be split out and a special category be established for facilities serving visitors..."
  - "...moratorium on building permits."



## COMMUNITY COMMENTS (CONT.)

- Support rate increase:
  - "As a residential customer, I support the increase."
  - "I have no problem with the increased rates for water usage."
  - I approve of the proposed water rates starting 1/1/24."
  - "I understand most of the reasoning behind the proposed water rate hikes except, why are homeowners going to be responsible for the Navy's mess created by the Red Hill crisis? The Navy should be responsible, not the public. Please let me know if BWS has made attempts to recover costs from the Navy?"



**Proposed Water Rate Questions and Answers**  
**Neighborhood Board Meetings (2023)**

**North Shore Neighborhood Board – July 25, 2023**

**Q: Why don't hotels pay a higher rate? It is absurd that they get a break and long-term residents pay more.**

- Hotels, and all other non-residential customers, pay more than their cost of service (117% or over \$11 million), and subsidize our single-family customers. Using our tiered water rates, bills are actually lower for over 2/3 of our single-family customers, all but our higher water users.
- In fact, it is businesses like hotels that subsidize rates for our single-family, agricultural, recycled water, and non-potable customers. Single-family customers receive the largest subsidy of any of our customer classes, about \$5.5 million per year.

**Q: How many gallons are used by say the 2000-gallon users**

- 2,000 gallons per month divided by 30 is about 66 gallons per day.

**Q: Does the military pay? And are they on our system?**

- With the exception of MCB Kaneohe, military facilities have their own water systems. BWS provides water to MCB Kaneohe, which then manages the distribution and use of that water on base.

**Q: How much water does the average person use in a day?**

- The BWS's per capita water use (total water use divided by population served) is about 155 gallons per capita per day.

**Q: Water System Facility Charge and new developments in who pays? Examples of who pays for what?**

- The entity who applies for the building permit, e.g. the developer, is required to pay the WSFC prior to permit issuance.
- For larger developments, the developer may actually construct all of the water system to BWS standards in lieu of paying the WSFC.

**Downtown Neighborhood Board – August 3, 2023**

**Q: Do city and state lawmakers pay water bills?**

- Yes

**Q: What about rates for monster family homes?**

- Through the building permit process, the applicant indicates the type of structure they intend to build. BWS relies on the DPP-approved permit to determine which rate category (single family, multi-family, non-residential) is applicable. BWS does not know or have any jurisdiction over how the property/dwelling is used.

**Q: When will BWS proposed water rates be adopted?**

- We will take the information from the community and share it with the BWS board for adoption in October.

**Q: What is the fire meter stand by charge?**

- It is for fire protection readiness.
- It could be a fire sprinkler system or an onsite private hydrant (non-BWS)
- Allows the property to draw lots of water to fight a fire.
- The BWS doesn't charge for the water used.
- We charge for the maintenance of the fire meter or replacement.

**Q: Which is the greater factor in the price increases – is it the number of dwelling units per residential facility or the meter size?**

- For Kukui Plaza, it's probably the quantity rates – how many dwelling units and how much water is used.
- The customer charge increases with the larger meters - it's not tied to consumption.
- The BWS works with AOAOs across the island to help promote water conservation.

**Q: With respect that non-residential customers are being charged a higher rate than residential customers, short-term vacation rentals must register with the state. Is there any contemplation or application of non-residential charge for short-term vacation rentals?**

- The Board of Water Supply has not contemplated a charge for short-term vacation rentals. We appreciate your feedback and will take a look into this for our next rate study. Unfortunately, we would not be able to implement such a change at this time without sufficient review.

**Q: Hawaii's water rates are double the rates than in states like Nevada and New Mexico. These states have far less access to fresh clean drinking water. Why are Oahu's rates so high?**

- Please note that states, cities, counties don't have uniform water rates. Each water utility charges based on the cost to serve their customers which can vary widely based on system size and water availability. Many factors come into play.
- Our team went back and did a quick check for a 2,000-gallon monthly residential user, and based on the BWS's proposed water rates, we found the following examples:
  - In Albuquerque, New Mexico, the bill would be lower than what BWS is proposing



- In Las Vegas, Nevada, the bill would be higher than what BWS is proposing
- Hawaii's geography is different than those states.
- We don't have the ability to go to one location to get 145 million gallons of water.
- We have over 200 wells around Oahu.
- Many of our customers live at higher elevations, from the lowlands to the coastal areas to the top of the ridges – we have to pump that water.
- Cost of electricity is higher in Hawaii than in states like Nevada and New Mexico.
- Construction bids are more expensive (materials must be shipped to Hawaii).

### **Makiki Neighborhood Board – August 17, 2023**

**Q: Please provide clarity on the non-residential tier category - does that include military bases as well as the 40 golf courses on Oahu, as to which most of them are using recycled water.**

- The non-residential is a flat rate (no tier)
- Such a large variation (it could be an office building, warehouse, etc)
- The rates are increasing at the same percentage – the larger properties, like shopping centers, use a lot of water. The more water you use, the more you got to pay.
- Customers can take advantage of the BWS's conservation incentives – BWS's Commercial Rebate Program. Ways for businesses to use less water and be more efficient.
- Military bases that use BWS water:
  - KBAY is the largest BWS customer (200 mgd).
  - The BWS also serves smaller military installations like Bellows and Fort DeRussy.

**Q: What is driving this increase in rates?**

- The economy – inflation
- BWS rates have gone up 12% over the last five years.
- Rising energy costs
- Construction cost
- Supply chain backlog
- Bids are coming in over 100% than what they came in four years ago

**Q: Are the BWS rate increases made to catch up with previous inflation or is this anticipation of future inflation rates?**

- A little bit of both.
- The BWS is trying to catch up with our capital improvements that have slowed down.
- We've adjusted the rates to recapture those dollars that we expect to spend.

**Q: One of the slides suggested that single-family homeowners pay 95% of their costs and are therefore subsidized. The presenter indicated that it was part of the policy to subsidize single-family homeowners or residential users. At the same time, multifamily residential residents pay 100%. So, they are not subsidized. Will that policy continue, or are you planning to eliminate that?**

- In 2018 the BWS adopted a rate schedule for five years.
- We looked at the cost-of-service recovery for each of these customer classes. At that time, multi-unit residential customers were paying over 100%. They help to subsidize others.
- Single-family residential customers are paying less than 95%.

**Q: How are you factoring inflation over the next five years?**

- We start with the projection of our revenues. (our cost over the next five years).
- Operating budget: we project what our CIP might look like - trying to adjust those costs for inflation.

#### **Pearl City Neighborhood Board – August 22, 2023**

**Q: What type of mitigation is being implemented by the city or BWS, specific to rates from HECO? Or do you guys have a special municipal rate? Or you're looking at working with KS in Waiawa to do solar?**

- The BWS has decreased its energy supply use. We changed a lot of our light fixtures to low energy light fixtures, and we also installed three megawatts worth of PV (photovoltaic) panels at various facilities in our system. But even with that, HECO's rates continue to increase, resulting in higher energy costs for us.

**Q: There are going to be a lot of upset people when you tell them that, in aggregate over five years, their rate is going to increase by 50% from what it is right now.**

- Yes, unfortunately, our previous rates didn't keep up with inflation. The BWS's previous rate increases ran about 12.5% additional revenue, where inflation ended up being almost 21%. We lost purchasing power there.
- We always look at ways to minimize our costs. We're able to keep our operational costs pretty much the same over the past two years by cutting back on expenses, deferring equipment purchases, such as deferring vehicle purchases, unless we really needed them.

**Q: Are there opportunities for customers, such as the 10% of customers whose water use is 2,000kgals or less a month, to further reduce their water usage and mitigate the rate increase impacts?**

- The water rate structure is designed to promote conservation.
- The less water you use, the less you're billed.

- The rate increases will most affect the highest water users. For example, the essential needs tier from 0-to-2,000 gallons saw a 2.5% rate increase.
- And the high tier of 30,000-and-above actually saw a higher-than-average rate increase. The higher water users are subsidizing everybody else.
- We also have rebate programs to help our *kupuna* (senior citizens). There are programs that the BWS is developing to help our customers in need.
- Additionally, we have identified our top water users and are calling and talking to these people

### **Kuli'ou'ou-Kalani Iki Neighborhood Board - September 7, 2023**

**Q: Regarding the Direct install for Kupuna, are Kupuna living with others in a single family home eligible?**

- Currently the program is geared toward kupuna living independently.

**Q: If a housing project has a mix of affordable and higher cost units, do developers get fee waivers for their entire project?**

- A: The Water Systems Facilities Charge fee waivers apply to affordable housing units only, not the entire project. The waivers are based on the building permit so that the waived amount won't change if the scope of the project changes over time.

**Q: Are rate increases connected with the BWS's watershed management plans?**

- A: No, watershed management plans are separate.

**COMMENT:** The Board previously a presentation on the BWS's watershed management plans and were told that conservation was a way to keep costs down, yet rates are still increasing. The rate increase was poorly timed because rates are going up while people are trying to conserve water to support the watershed management plan. They support the BWS's work to advocate for protecting our water source, but they are disappointed that rates are going up.

**Q: Will the BWS be reimbursed for expenses related to Red Hill? If not, how much of the rate increase is related to Red Hill?**

- The BWS has asked the Navy about reimbursement for costs related to Red Hill. However, the BWS received a letter from the Navy saying that they are not authorized to do so. BWS continues to explore other federal funding to offset Red Hill expenses but will also pursue all open and available options for reimbursement.
- In terms of the amount for reimbursement, the BWS is just starting to look at new wells. Once found, BWS will need to develop them and put in infrastructure, which is when the costs are realized. These costs will realize over a long period of time and BWS will pursue reimbursement down the line.

**Q: Are rates being increased because of those costs coming down the road?**

- The rate increase is to address the rising cost of operating the water system right now. The rate increase is to enable BWS to continue to provide customers with the current level of service customers expect.

**COMMENT:** Regarding seeking reimbursement from the Navy, U.S. Representative Ed Case's office asked to be kept informed so they can follow up on the Federal level as needed.

### **Kailua Neighborhood Board – September 7, 2023**

**Q: The Federal Reserve is proposing getting the current rate of inflation to 3% or 2%, and in five years, you have the water rates almost doubling. Is the Board of Water Supply being too aggressive in raising rates, especially for seniors or those living on fixed incomes?**

- We are sensitive to that and try to make our rates as affordable as possible. Part of the issue is by keeping our rates lower now, our infrastructure will suffer, and we'll have to pay more to fix that infrastructure later. That's the balancing act we need to manage.

**Q: You stuck with the 5-year plan for the last five years. It fell short of inflation. Your rate has fallen 8% behind your cost increase. You've fallen below 1% pipe replacement per year, which will probably lead to more urgent repairs down the line. You've got Red Hill – extraordinary costs. So, you're being more aggressive on the rate increases. Even so, it might take two years of your proposed rate increases before BWS is even with 2018 in terms of getting back what was lost to recent inflation. If the Fed and federal policy keeps inflation significantly lower than your rate of increases, is it possible to amend these rate increases later in the five-year cycle so that they're less aggressive if the rate of inflation doesn't require it to be that aggressive? There should be a budget provision to re-evaluate the final two years of increases for potential reductions.**

- Yes, we are trying to catch up, in addition to just the normal operations and maintenance. Many of our contracts, awards or budgets have come in considerably higher than the original price, and we are dealing with a lot of other unanticipated costs. Even if inflation drops, there will be a lag in pricing, and it will continue to cost more to do basic business.
- Should inflation drop below 4%, there will still be a lag in pricing, meaning it will continue to cost more to do basic business as things settle.
- Ultimately, it will be up to our Board of Directors to make that decision to amend the rate increases. This is something the board has done in the past.

**Q: What's your Plan B if Hawaiian Electric goes bankrupt because of the lawsuits and our cost of a kilowatt goes entirely insane?**

- We don't have a Plan B yet. We'll have to see how things go and plan accordingly. When PG&E went bankrupt a few years ago because of the catastrophic fires they had in California, they were still able to continue to provide power because it was an essential service. Their rates did increase. So, that is a scenario we could see here.
- One thing we haven't done is pass on the increased energy costs to our customers.

- Our tiered rate structure and proposed rate increases are designed to encourage customers to use less water. So, power use related to water use will go down because of conservation and efficiency.

**Q: How old are your pumping motors? Motors are way more efficient than they were 25, 30, 40 years ago.**

- Motors last about 7 to 10 years. So, every time we replace one, it's more efficient. The proposed rate increases will help us to pay for the facility maintenance and upgrades, like pumping motors, that we need to keep the water system operating.

**Q: Are your water rate equations unfair to some people? With the first 2,000 gallons of water that a household uses – if I have two people in the house, that's 1,000 gallons per person. If I have a household of 5 to 10 people because my adult children can't afford to move anywhere, shouldn't we get 5 to 10 people times the 2,000 gallons?**

- The rate structure we implemented five years ago are designed to encourage households to control their bill based on water use. All households benefit from the Essential Needs tier, and as their water use reaches the next tier, their rates adjust accordingly. With multi-generational households, we encourage them to take advantage of tools that help them use less water and apply for our Water Sensible rebates. Install water-efficient toilets, shower heads, and clothes washers. For outdoor water use, consider installing a rain catchment system.

**Q: Across the U.S., are all utility providers fully funded by rate payers? Or has BWS looked at other sources – like taxes or subsidies – for covering costs?**

- There's not a set model across the country for how water agencies are funded. BWS is semi-autonomous; we don't get any help from the City and County of Honolulu. And, I think that structure tends to be more true of water agencies than not, but it's not 100%.

**Q: The earlier monthly report from the BWS noted the number of broken water mains in our area for the last month. Those mains were made or installed in the '40s and '50s. That would make them 70 and 80 years old. So, based on what you said about a 100-year life span, isn't that all our water lines on island?**

- Right now, we are only replacing a couple of miles a year now because the emphasis has shifted; our focus is on developing new sources to make up for Red Hill. And while we have slowed down on main replacements, prices are still going sky high. So, it's going to take us time to catch up.
- One of the things we're doing is using satellite leak detection technology to help us identify a leak before it leads to a break. We're doing about maybe 10 to 15 of those per year. But our main breaks are still in the 340 range.
- Our Field Operations works to repair these mains as quickly and safely as possible, usually within a day, but sometimes it takes more depending on how deep it is and other conditions. It's a continuous challenge.

**Q: Can you give us an example of how water use patterns have changed due to COVID-19? Because you really didn't address how it changed.**

- With COVID, what happened starting in 2020 was a lot of tourists stopped coming. Waikiki's water demand went down, and it shifted to people staying at home, working from home. This meant the demand shifted from non-residential use to residential. And, non-residential customers pay more than their cost of service, which meant a loss of income for the BWS during the pandemic. That's the imbalance we face.
- There still are economic impacts across the board because of COVID. We still have supply chain issues. And, with the influx of federal funding, the inflation rate increased. Everything across the board got more expensive, meaning we were able to do less with the current funding. You see this with commodities like the price of milk and eggs, and even mortgages. They're trying to get the inflation down by raising mortgage rates.

**Liliha - Pu'unui - 'Ālewa – Kamehameha Heights Neighborhood Board - September 11, 2023**

**Q: Are there other water systems on island that are not operated by the Board of Water Supply (BWS)?**

- There are other private water systems on island, notably in Laie and on most military bases (excluding the Kaneohe Marine Corps Base, which is a BWS customer). BWS customers pay for water delivery services, not for the water itself.

**Q: Why are water and sewer combined on the same bill? Is this common in the U.S.?**

- This was a past decision by a previous City administration. BWS is open to separating these charges so that BWS water bills contain water charges only.

**Q: Will the BWS be reimbursed for costs to develop new water sources related to Red Hill?**

- The source development process must begin now so these sources will be online in five to seven years. BWS cannot wait for reimbursement before starting these projects, but we will continue to pursue funds from the Navy.

**Q: After alternative revenue sources are found, will rates go down?**

- The rate structure is designed to cover costs of providing water service. Future rates will depend on future operations cost projections.

**Q: Is the BWS's budget independent from the City & County's budget?**

- Yes, the BWS is semi-autonomous and has its own budget.

**Q: Is the BWS transparent about its budget? Do you inform the public of your spending and if there's a budget surplus?**

- The BWS budget is posted on its website and is vetted by its Board of Directors in public meetings. In the current rates powerpoint, there is a pie chart showing how BWS' spending is allocated.

**Q: How much water can I use to pay a flat water rate?**

- For residential customers, the key quantities are 2,000 and 6,000 gallons per month. 2,000 gallons of water use falls within the Essential Needs tier, which is the lowest rate and is provided at lower than cost to serve.

**Comment: Regarding Nuuanu Reservoir No. 4, the BWS lowered the water level and now there's no public cat fishing. BWS is now raising the water level for a hydropower project. It was a waste to "throw away" this water, then ask for rate increases.**

- Open reservoirs such as Nuuanu No. 4 are not used for drinking. The water level was lowered for crews to make necessary repairs to the dam structure. The hydropower project requires the water level to be raised so there is sufficient elevation to generate electricity which would offset electricity costs. The water will be injected back into the ground, replenishing the aquifer. BWS will take options for catfishing at the site under advisement and will consult with elected officials

**Q: How close to fruition is this hydropower project?**

- BWS is in the process of dam safety repairs at Nuuanu No. 4 then will start repairs at Nuuanu No. 1. There is no timeframe available, but BWS will keep the neighborhood board informed.

**Comment: Thanks to the BWS for what it's doing in regards to Red Hill.**

**Waimanalo Neighborhood Board – September 11, 2023**

**Q: Are golf courses/country clubs considered agricultural, and if not, what are they classified as?**

- Golf courses are considered nonresidential, not agriculture.
- Agriculture is for food-producing farmers.
- They don't get the same break that agricultural operators get.

**Q: I live in a townhouse – how is that calculated when it comes to billing?**

- Townhouses are charged a multiunit rate.
- They usually have one master meter that serves the entire property.
- The BWS takes the total usage in that one meter, divides it by the number of dwelling units in the property, and then applies the tiered structure to calculate the bill.

**Q: You shared that agriculture customers get a slightly different rate. This goes for those growing flowers, food, and trees, correct?**

- Yes
- The agricultural water rate, which is the discounted water rate per 1000 gallons, is about 40% lower than what it would typically cost to serve agricultural customers.

**Comment:** The Waimanalo community is diverse in agriculture. Many in the community think it's unfair that someone growing flowers gets the same rate as someone growing food. The BWS needs to prioritize food sustainability over ornamentals.

- BWS is proposing a new program for new farmers to help support food sustainability. This would waive:
  - The installation fee and Water System Facilities Charge for new ¾-inch and 1-inch meters connecting to the BWS system for the first time.

**Q: Is there any concern for the vegetative aspect of the upland water capture (it's all orographic condensation) as we have invasive species like hale koa and albizia coming in?**

- Yes, there's a concern. The orographic rainfall patterns are adjusting with climate change. When the temperature increases, rainfall decreases. This has been a consistent pattern over the past ten years.
- In terms of forest health, it's absolutely essential. We have created partnerships (see the list below) where we provide the funds for them to conduct on-the-ground improvements, invasive species control, replanting vegetative firebreaks for wildland fire protection, and others. The partnerships include:
  - the Ko'olau Mountain Watershed Partnership
  - Invasive Species Committee deal in our Division of Forestry and Wildlife.
  - We have a partnership in Waianae as well, Iron Mountain.
- Albizia removal, certainly miconia, has overtaken the forest. We are doing what we can.

### **Nuuanu Neighborhood Board Meeting – September 19, 2023**

**Q: Will you be making this presentation available online so others can see it?**

- Yes, it will be available online at the Board of Water Supply website.

**Q: What is the name of fund that our fees go into? And who can use the funds besides the Board of Water Supply?**



- The revenue is generated from charges to BWS customers. All the revenue goes into the Board of Water Supply's General Fund. No other city agency can tap into these funds.

**Q: Is it true that rail has tapped into this fund in the past?**

- No. Rail is separate from the Board of Water Supply.

**Q: Can we expect an increase from the sewer side as well?**

- The BWS cannot answer that. Sewer fees are set by the City Department of Environmental Services. They have their own needs and requirements that we are not privy to.

**Comment:** My wife really wanted me to push this. I hope you're pushing for the Navy to provide the funding for the problems that their activities have created for all of us. I wish you luck with that and hope it turns out successfully.

#### **Kaimuki Neighborhood Board – September 20, 2023**

**Q: Aren't you connected with the sewer bill? The bill says it's for both water and sewer.**

- The monthly bill represents services provided by two separate City agencies, one the Board of Water Supply for the municipal water system, and the other the Department of Environmental Services (ENV) for the municipal sewer system. While BWS provides billing support for ENV, BWS is semi-autonomous and fully financially separate from the City. As such, the proposed rate increases only applies to the drinking water portion of the bill.

**Q: Rather than relying on ratepayers to bear the burden, has there been any movement to get the state or military to subsidize some of these infrastructure costs based on their negligence?**

- BWS made an initial request to the military about a year ago and did not get a favorable response. Even so, we are keeping our options open on recovering costs associated with Red Hill.

**Q: At this point, from proposal to action, what needs to happen?**

- Currently, we are going out and presenting the proposed rates to neighborhood boards around the island and soliciting public comment from the community. We are scheduled to make these presentations into mid-October. All the feedback we receive as of October 15, 2023, will be shared with our Board of Directors. That seven-member board will then determine if we may proceed with a public hearing in November. Following that public hearing, our board will then decide whether to adopt the rates as proposed or to make

modifications. At this point, the proposed rates would take effect no earlier than February 2024.

**Q: Are your accountants keeping track of what costs could be attributed to Red Hill and the military so that you can get reimbursed if the opportunity to do so arises?**

- Yes, we are tracking those costs related to Red Hill. We are keeping all options open for cost recovery.

**Q: You closed wells because of Red Hill. What is the outlook for the water supply getting back to what it used to be?**

- The closure of our wells near Red Hill was a difficult decision because we knew we would lose about 17 million gallons a day of capacity, and a good portion of that regularly served Honolulu from Halawa to Hawaii Kai. It ultimately was the right decision because we want to avoid sending even the slightest potential of fuel-contaminated water into our water system. A lot of people depend on that water, and the risk is too high.
- If we determine that we won't be pumping contaminated water into our system, we might be able to turn the wells back on, but we need to be confident that the field-collected data and information is enough to say that the risk is really low or non-existent. That will take time.
- In parallel with the investigation into how far the fuel contamination has spread in the aquifer, though, we are looking at developing new sources. The process to develop a new well can take 5 to 7 years. You have to determine a site where you can drill a well and test pump to check quantity and quality of water from the underground aquifer at that location. Then you get into planning, designing, permitting, and then constructing a permanent production well facility.

**Q: In terms of conserving water and reducing household water use, is there any movement toward breaking down some of the barriers in Hawaii to better greywater systems?**

- We are getting closer. Changes in the plumbing code are now much more supportive of greywater reuse.
- And because of the Red Hill situation and having a tiered rate structure designed to encourage water conservation, BWS has reached out to developers and government agencies to encourage on-site reuse, rainwater and stormwater capture, and water efficient landscaping.

#### **Mililani Mauka Neighborhood Board – September 19, 2023**

**Q: Please explain the cost recovery from the Navy regarding the Red Hill crisis?**

- The BWS has received no compensation from the military or federal government.
  - We have been talking with our congressional delegation.
- As of now, we have received funding from the city and state.
  - We have already received funds from the Cares Act, Build Better Act, etc.

- The BWS will continue to actively pursue funding from the military and federal government.

**Q: Is there any possibility that the closed water sources will be brought back into service?**

- We really do not know.
- The BWS continues to drill monitoring wells in the impacted area. This will help to assess the situation and see where the plume is going.
- We don't have little data outside of what the Navy has on their facilities.

**Q: Does the BWS keep a list of freshwater springs on private property?**

No, that falls under the State's Department of Land and Natural Resources Commission on Water Resources Management.

### **Kalihi Palama Neighborhood Board – September 20, 2023**

**Comment:** Please have ENV (wastewater) take back some of what they are collecting and allow the BWS to pick up the slack - that way, it evens out the billing. The BWS needs to talk to the folks at ENV – you share the same bill, envelope, so, share the burden.

**Q: Can the BWS address its customer's concerns through a possible subsidy program?**

- One of the things we do is keep our customer service or monthly charge low, which is based on meter size.
  - Most of the meters in our system are single-family. The larger the meter, the more the customer pays.
- The BWS gives waivers for affordable and homeless housing - we've given \$2.5 million in waivers over the last five years.
- We have a new direct install program for the elderly.
  - We've been working with our consultant to do direct installations to help lower water usage at affordable and senior housing.
  - We want to reach seniors who live independently and may not know they have leaks (or a running toilet) in their home.

The BWS does not do direct subsidies – it's done through conservation.

**Q: Can this be done with a resolution from the Honolulu City Council?**

- The BWS is semi-autonomous.
- The City Council could certainly do a resolution and ask us to look into it. That's something we can definitely take back to our board.

**Q: What will the Board of Water Supply contribute to the many families, children, and future generations to come that will be suffering from the fallout of the Red Hill crisis?**

- There is no evidence of contaminants/petroleum in the Board of Water Supply's system. Please note that the Navy has a separate system from the BWS.

- We have just posted a whole slew of new tests, which can be found on our website.
- A number of military families have already filed lawsuits against the Navy. We are watching this very closely.
  - The BWS continues to work with our federal delegation, the state, and city to find grants and funding. We have received funds from the Cares Act and the Build Better Act.

**Q: What is the Board of Water Supply's and each taxpayer's responsibility in ensuring that the Red Hill crisis and what happened in Lahaina do not occur again?**

- The BWS cannot speak on behalf of Lahaina since it's on a different island and is served by a separate water utility.
- We suggest talking to your elected officials. It is always good to support the affected Navy families in any way possible.
- The BWS only receives its funding from ratepayers. The BWS is semi-autonomous.

**Q: Will the Red Hill crisis impact the BWS's cost and operations over the next five years?**

- Since we have several wells shut down due to the Red Hill crisis, we must find new water sources, which impacts our operations.
- The BWS seeks federal grant money to pay for any new wells rather than putting it on the ratepayer.

**Q: Also, what is the timeline for the defueling the Red Hill tanks?**

- The Navy plans to start defueling their tanks on October 16<sup>th</sup>, which will continue through February of next year.
- We are still monitoring our wells because there's still contamination. Several BWS wells have been shut down to protect the municipal water system.

**Q: Is the BWS basically trying to go after federal grants or funding opportunities to support its operations?**

- Correct. There are different kinds of federal grants or funding opportunities, where some will be applied to BWS operations and others won't. We will apply for grants when we believe we have an opportunity to receive funding.
- This past legislature gave the BWS \$10 million for exploratory wells and to drill monitoring wells.
  - Monitoring wells (test wells) are used to study the subsurface geology and research where the contamination could be going and what could be happening with it.
    - The contamination is underground – we can't see underground – so we need to collect information, which takes time and effort.

**Q:** I believe ENV has more departments in terms of what they could qualify for from the Federal Register standpoint. But is that something BWS and ENV can work together on, or perhaps you are already - the BWS does have the grant writing capacity right now.

- The BWS is going for grants that relate to water. ENV will go for the wastewater ones.

**Q:** I saw that desalination was being proposed – desalination uses a lot of electricity, which is costly, and then you have to deal with the excess salt.

- The BWS has its first desalination project in Kalaeloa.
- It will generate 1.7 million gallons daily, expandable to about five million gallons per day. We are currently working with our contractor to begin the design and construction of the facility.
- The desal water will serve the Campbell Industrial area.
- The goal is to get those customers off the BWS's potable water system and have them use desal water.
- The facility will be powered by solar.

**Q:** If and when the BWS gets its funding from the Department of Defense, will you give the ratepayers some rollbacks or refunds?

- That's something we will need to look at because we need to consider the cost of operating the water system. If the cost goes down, we'll take it to the board.

**Q:** Are the rate increases compounding, and if so, is the overall compound 66%?

Correct

**Comment:** The BWS has asked the legislature for funding, but the BWS must understand the funding and surpluses are all gone. It's going to be very difficult to be able to find any extra funds. There's no such thing as free money because the pie and the tax collection are only so large. The taxpayers will pay for all of this somewhere along the line. We're going to have to collect more taxes. The city is going to have to raise property taxes if they're going to get any kind of subsidies along the way.

In regard to Hawaiian Electric and all of the lawsuits going on, our electric bills are definitely going to go up as well. This is very daunting. I just hope the BWS looks at all the efficiencies that it can to cut waste because the ratepayers just cannot afford all of these increases.

**Comment:** As a Native Hawaiian, the reality of having to move is so real. It is sad because this is where I was born and raised. I can't even afford to live here, even with what I have in terms of real estate – it is all being eaten up by taxes. Say goodbye to my grandchildren's college fund that I started for them.

**Q:** Please clarify who counts as non-residential? Why do non-residential customers pay a flat rate regardless of their business type and water usage?

- Non-residential does not include single-family, multifamily, and agriculture customers. It instead includes government, hotels, businesses, and restaurants and other types of businesses.
- Non-residential customers pay 117% of their cost of service. Single family pays 95%. We deliberately didn't raise single-family to 100% because it would have been too expensive.

**Q: Are the larger farms in the Kunia area paying the same as the smaller farmers?**

- Most of the larger farms have their own wells, as it's easier and overall less expensive. They must receive permits from the State's Commission on Water Resource Management to dig their own wells.
- A lot of smaller farmers also have their own wells, which are irrigation systems from the old sugar companies.
- For example, Dole just transferred their Wahiawa ditch system to the State of Hawaii. There are a lot of farmers that use this water.

**Q: Who sets the non-residential rates? Is it our elected officials?**

- It is not our elected officials.
- The BWS does a cost-of-service study.
- We go through what it costs to serve, the impacts to our system, etc. Our financial team does this, and we use a contractor, CDM Smith.
- CDM Smith did our financial rate study this year. We literally ran 20 to 30 scenarios on what it's going to cost. This is an incredibly complicated process.

**McCully Neighborhood Board – October 5, 2023**

**Q: Is there a way that the community can view the presentation and handout?**

- We can provide hard copies of the handout and presentation to the community upon request.
- The handout, which is our Water Matters newsletter, has been distributed to all our customers. This newsletter comes out quarterly.
- The presentation and handouts are available on the BWS's website at [www.boardofwatersupply.com/proposedrates](http://www.boardofwatersupply.com/proposedrates)

**Q: Do these changes affect everyone across the entire state?**

- No, it only impacts residents on Oahu that the Board of Water Supply services.

**Q: What's going on as far as trying to get some of the money back from the military?**

- As of now, the BWS has not received any funds from the military. We have let them know we are incurring costs.
- We have considered getting federal appropriations to help cover some of our costs, especially in the area of replacement wells.
- We do not know what the final bill will look like; however, we will pursue all options available to us for recovery.

**Q: What's the overall approval process for the rate increase?**

- Our board asked us to go out with this rate proposal and seek input from our customers. And that's what we've been doing since July.
- We will hold a public hearing during our regular board meeting in November.
- The BWS welcomes input from the community – you can come in person, appear virtually, or provide it in writing ahead of the meeting.
- After the public hearing, the BWS Board of Directors will decide about adopting the rates. They may ask that the rates be modified.
- We have presented to more than 20 neighborhood boards, various condo associations, and held four community meetings.

**Q: On one of the PowerPoint slides, you noted lower rates for agriculture - I wasn't sure if that included all agricultural customers or was it only for those agricultural businesses that use recycled water? Also, what qualifies under the agriculture category?**

- The ag water rates are about 40% less than the cost of service to provide water to those customers – that's a considerable discount. The purpose is to support food sustainability and security. Please note that it only applies to the potable water portion.
- For the non-potable rates and the recycled water rates, which is recycled wastewater on the Ewa plain, we are not aware of any customers currently using it for agriculture. It is used to irrigate golf courses, parks, and on highway greenbelts.

**Q: Who does the agriculture group consist of**

- Customers must submit a written application to the Board of Water Supply and furnish satisfactory proof that they are engaged in agriculture on a commercial basis. We check if they have a general excise tax license and are actually doing farming.
- When a farmer connects to our system, they need to have a backflow prevention device because they may be doing things like applying fertilizer through their irrigation system. We don't want that to go back into the BWS system and affect the community.

**Q: Are people allowed to have their own wells?**

- Anybody can drill a well on their property to get fresh groundwater. It is usually hundreds of feet deep and can be expensive.
- You would need to apply for a well permit with the State of Hawaii Commission on Water Resource Management and get their approval before a contractor is hired to begin drilling.

**Q: Is the Board of Water Supply or the city working with any various groups, like the Albizia project, to get rid of invasive plants, like in Manoa Valley, as a means to save the watersheds?**

- Yes, we are a member and provide funds for the following:
  - Koolau Mountains Watershed Partnership
  - Waianae Mountain Watershed Partnerships
- And we work with the Oahu Invasive Species Committee.
- It is essential we manage and care for the watershed to ensure a healthy water cycle.

### **Koolauloa Neighborhood Board – October 12, 2023**

**Q: What's your average water use for single-family residents?**

- The average is 9,000 gallons per month.

**Q: Are the proposed water rate increases just for usage – are there anticipated increases/service fees and other fees that are included?**

- The only other fee we have is a customer charge, and that's based on the size of your meter. And yes, that will be going up as well.

**Q: How much is the BWS spending on the Red Hill crisis?**

- We're pulling numbers together and hope to have a figure by the end of November.

**Q: When will construction begin on the new monitoring and exploratory wells?**

- The first one will begin at the end of November/early December. We are looking at two additional exploratory wells and three more monitoring wells.

**Q: What are you doing about restoration and recharge of the watersheds – any goals, data?**

- Watershed management / restoration is one of the best ways to recharge the aquifer and where we have focused much of our attention both past and present.
- We are a member of and provide funds for the Koolau Mountains Watershed Partnership and Waianae Mountain Watershed Partnership. The funding helps provide fencing to keep out invasive animals and remove invasive plants. Both interfere with the natural water cycle and recharge of the aquifer. We also help with replanting to restore the native forests.
- Longer range – we are looking at a hydro-electricity project involving Nuuanu Dams 1 and 4. Water will then be re-injected back into the aquifer as recharge. There is no timeline for this project.



- Attached is an excerpt from our October 2021 board meeting discussing water conservation and watershed management metrics. Also included is our August 2023 pumpage report.
- If there are specific issues, ideas that the board is looking at or would like additional information on, please let us know.

**Previous question:** At a previous board meeting there was a question about fire hydrants – could we get the location in question? Generally, requests for hydrants come from HFD's Chief to our Manager. The request would include the rationale for the new hydrant.

### **Wahiawa Neighborhood Board – October 16, 2023**

**Q: Comment: Please don't refer to the increase as a 66% increase.**

The BWS wants to be as transparent as possible with all their data.

**Q: Are there plans for a desalination plant?**

- Yes, it already started in the Campbell Industrial area at the end of Kalaeloa Blvd.
- The water will be used for the businesses in that area. It will take them off of potable water.
- We're starting at 1.7 million gallons per day. But it is scalable of up to 5 million gallons per day.
- It's power intensive, so we'll be adding solar panels.
- There are concerns about environmental issues, which we are addressing. As it is over the caprock, it is in the pass zone and injection of the briny water back into the ocean is possible. However, we will be monitoring the near shore environment to ensure all is stable.

**Q: I read in your BWS conservation booklet that toilets can use a lot of water, especially when there is a leak. Do you know if there are any homes that have a different system where they are not using fresh drinking water?**

- No, but we are working with DOH for the use of greywater. This is usually relatively clean wastewater from baths, sinks, washing machines, and other appliances. We are in support of this.
- We also have a new toilet rebate on models that use 1.28 gpf or less. More information is on our website at [www.boardofwatersupply.com/reabtes](http://www.boardofwatersupply.com/reabtes).

**Special Meeting hosted by Rep. Darius Kila – September 12, 2023**

**Q: Are golf courses/country clubs considered agricultural, and if not, what are they classified as?**

- Golf courses are considered nonresidential, not agriculture.
- Agriculture is for food-producing farmers.
- They don't get the same break that agricultural operators get.

**Q: I live in a townhouse – how is that calculated when it comes to billing?**

- Townhouses are charged a multiunit rate.
- They usually have one master meter that serves the entire property.
- The BWS takes the total usage in that one meter, divides it by the number of dwelling units in the property, and then applies the tiered structure to calculate the bill.

**Q: You shared that agriculture customers get a slightly different rate. This goes for those growing flowers, food, and trees, correct?**

- Yes
- The agricultural water rate, which is the discounted water rate per 1000 gallons, is about 40% lower than what it would typically cost to serve agricultural customers.

**Comment: The Waimanalo community is diverse in agriculture. Many in the community think it's unfair that someone growing flowers gets the same rate as someone growing food. The BWS needs to prioritize food sustainability over ornamentals.**

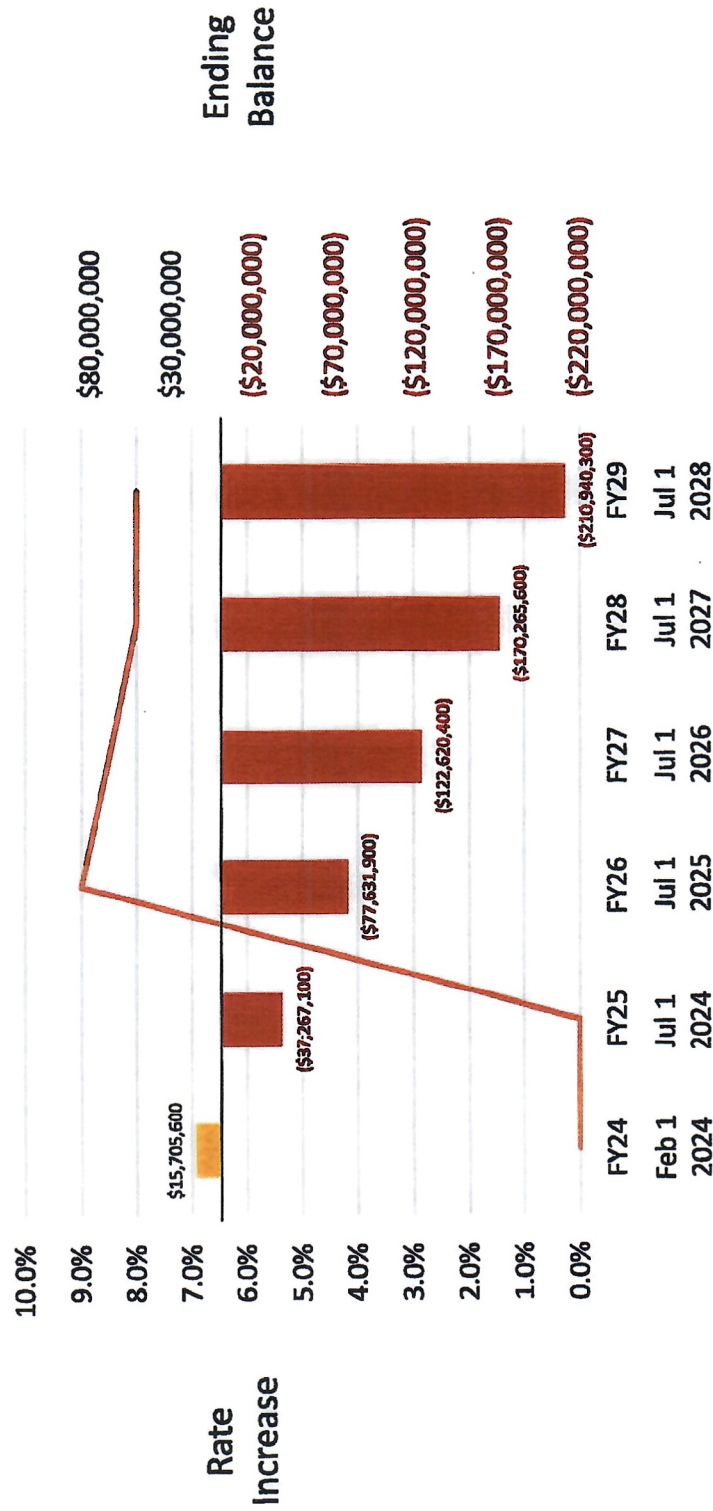
- BWS is proposing a new program for new farmers to help support food sustainability. This would waive:
  - The installation fee and Water System Facilities Charge for new ¾-inch and 1-inch meters connecting to the BWS system for the first time.

**Q: Is there any concern for the vegetative aspect of the upland water capture (it's all orographic condensation) as we have invasive species like hale koa and albizia coming in?**

- Yes, there's a concern. The orographic rainfall patterns are adjusting with climate change. When the temperature increases, rainfall decreases. This has been a consistent pattern over the past ten years.
- In terms of forest health, it's absolutely essential. We have created partnerships (see the list below) where we provide the funds for them to conduct on-the-ground improvements, invasive species control, replanting vegetative firebreaks for wildland fire protection, and others. The partnerships include:
  - the Ko'olau Mountain Watershed Partnership
  - Invasive Species Committee deal in our Division of Forestry and Wildlife.
  - We have a partnership in Waianae as well, Iron Mountain.



# CONSIDERATION OF HOLDING OFF THE 2024 INCREASES



**BOARD OF WATER SUPPLY  
CITY AND COUNTY OF HONOLULU**

**RESOLUTION NO. 976, 2023**

**ADOPTING THE REVISIONS TO THE SCHEDULE OF RATES AND CHARGES  
FOR THE FURNISHING OF WATER AND WATER SERVICE FOR  
FISCAL YEARS 2024 – 2029, EFFECTIVE FROM AND AFTER FEBRUARY 1, 2024, AND  
TO REMAIN IN EFFECT UNTIL SUPERSEDED**

**WHEREAS, the mission of the Board of Water Supply is to provide safe, dependable, and affordable water now and into the future; and**

**WHEREAS, pursuant to the Revised Charter of Honolulu Section 7-109, the Board has the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services; and**

**WHEREAS, a five-year cost of service and rate study was completed to determine the necessary revenue adjustments to support the operations of the Board of Water Supply; and**

**WHEREAS, inflation and the cost of capital improvements have increased more rapidly than the revenues generated by the Board of Water Supply's previous Schedule of Rates and Charges for the Furnishing of Water and Water Service, necessitating an increase in rates and charges; and**

**WHEREAS, the Board of Water Supply needs to increase monitoring and develop new water sources in the light of the fuel leak at the Red Hill Bulk Fuel Storage Facility; and**

**WHEREAS, the Board of Water Supply seeks to increase its annual replacement of pipeline to 21 miles per year to adequately maintain its distribution system; and**

**WHEREAS, the Board of Water Supply recognizes the importance of affordable water to meet essential household needs; and**

**WHEREAS, the Board of Water Supply recognizes the benefits of a viable local agricultural industry on Oahu and the importance of an affordable supply of water for that industry; and**

**WHEREAS, the Board of Water Supply recognizes the benefit of encouraging the use of recycled and non-potable water resources as a way to manage and sustain the potable water resources on Oahu;**

**WHEREAS, the foregoing issues and priorities culminated in proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service ("Proposed Revisions");**

**WHEREAS, all customers were notified of the Proposed Revisions and opportunities to obtain additional information, along with instructions to submit comments, through mailed**

"Water Matters" billing inserts and the Board of Water Supply website beginning in September 2023;

WHEREAS, four community information meetings were held by the Board of Water Supply on August 14, 2023, August 15, 2023, August 16, 2023, and August 23, 2023 in Kāneʻohe, Mōʻiliʻili, Kapolei and Mililani, respectively, the purpose of informing the public of the proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service; and

WHEREAS, on November 27, 2023, pursuant to the Revised Charter of Honolulu Section 7-110, after publication of notice of Public Hearing on October 27 and 29, a Public Hearing was held by the Board of Water Supply for the purpose of considering proposed revisions to the Schedule of Rates and Charges for the Furnishing of Water and Water Service; and

WHEREAS, testimonies (i) presented at the foregoing meetings and Public Hearing and (ii) received in writing through November 27, 2023 on the Proposed Revisions were given due consideration and incorporated as appropriate; and

WHEREAS, the Board of Water Supply met with a Stakeholder Advisory Group and a Commercial Stakeholder Advisory Group multiple times in 2023 to solicit feedback and gather input on the Proposed Revisions; now, therefore,

BE IT RESOLVED that the Board of Water Supply understands and acknowledges that adoption of the Proposed Revisions may result in the temporary deviation from the financial policies adopted by Resolution 873, 2017, establishing a target minimum of 60 days working capital cash on hand. The Board of Water Supply nonetheless recognizes that the reserve of working capital was designated for the purpose of addressing economic and revenue downturns and emergency situations, such that the reserve of working capital would be accessed when required to ensure continued operations and capital expenditures; and

BE IT FINALLY RESOLVED by the Board of Water Supply, City and County of Honolulu, that in support of these objectives and the mission of the Board of Water Supply, the Revised Schedule of Rates and Charges for Fiscal Years 2024 – 2029 is adopted as attached hereto, and that said rates and charges shall become effective from and after February 1, 2024, and shall remain in effect until superseded.

ADOPTED:

  
NĀʻĀLEHU ANTHONY  
Chair

Honolulu, Hawaiʻi  
November 27, 2023

ADOPTION OF RESOLUTION NO. 976, 2023, ADOPTING THE REVISION TO THE SCHEDULE OF RATES AND CHARGES FOR THE FURNISHING OF WATER AND WATER SERVICE FOR FISCAL YEARS 2024-2029, EFFECTIVE FEBRUARY 1, 2024, THROUGH JUNE 30, 2029, AND TO REMAIN IN EFFECT UNTIL SUPERSEDED WAS ADOPTED ON NOVEMBER 27, 2023

	AYE	NO	COMMENT
NA'ALEHU ANTHONY	X		
KAPUA SPROAT	X		
BRYAN P. ANDAYA	X		
JONATHAN KANESHIRO	X		
EDWIN H. SNIFFEN	X		
GENE C. ALBANO			ABSTAIN

## Revision to the Schedule of Rates and Charges for the Furnishing of Water and Water Service

Amended by Resolution No. 976,2023, effective from and after February 1, 2024, and to remain in effect until superseded.

### Customer Charge

There is a customer charge for each month service is provided based on the meter size, effective as follows:

Meter Size	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
5/8" or 3/4"	13.30	14.63	15.95	17.30	18.68	20.18
1"	16.81	18.49	20.15	21.87	23.62	25.50
1.5"	19.15	21.07	22.96	24.91	26.91	29.06
2"	47.80	52.57	57.31	62.18	67.15	72.52
3"	58.91	64.80	70.63	76.63	82.76	89.38
4"	112.11	123.32	134.42	145.85	157.52	170.12
6"	199.80	219.78	239.56	259.93	280.72	303.18
8"	304.46	334.90	365.05	396.07	427.76	461.98
12"	658.38	724.22	789.40	856.50	925.02	999.02

### Quantity Charge

In addition to the Customer Charge, there is a charge for all water used, rounded down to the nearest 1,000 gallons (k-gal), effective as follows:

Single-Family Residential (Monthly per dwelling unit)	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
Tier 1: Essential Needs First 2,000 gallons	\$4.57	\$4.69	\$4.80	\$4.92	\$5.05	\$5.17
Tier 2 2,001 – 6,000 gallons	\$5.78	\$6.35	\$6.92	\$7.51	\$8.11	\$8.76
Tier 3 6,001 – 30,000 gallons	\$6.53	\$7.34	\$8.15	\$8.98	\$9.82	\$10.74
Tier 4 Over 30,000 gallons	\$10.95	\$12.32	\$13.67	\$15.06	\$16.48	\$18.02
Multi-Unit Residential (Monthly per dwelling unit)	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
Tier 1: Essential Needs First 2,000 gallons	\$3.86	\$3.96	\$4.06	\$4.16	\$4.27	\$4.37
Tier 2 2,001 – 4,000 gallons	\$4.87	\$5.36	\$5.84	\$6.34	\$6.85	\$7.39
Tier 3 4,001 – 10,000 gallons	\$5.70	\$6.52	\$7.33	\$8.16	\$9.01	\$9.93
Tier 4 Over 10,000 gallons	\$7.21	\$8.25	\$9.27	\$10.33	\$11.40	\$12.57

Non-Residential	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>All Usage</b>	<b>\$5.80</b>	<b>\$6.38</b>	<b>\$6.95</b>	<b>\$7.54</b>	<b>\$8.14</b>	<b>\$8.80</b>
Agricultural (Monthly per account)	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>Tier 1: Essential Needs First 2,000 gallons</b>	<b>\$4.57</b>	<b>\$4.69</b>	<b>\$4.80</b>	<b>\$4.92</b>	<b>\$5.05</b>	<b>\$5.17</b>
<b>Tier 2 2,001 – 6,000 gallons</b>	<b>\$5.78</b>	<b>\$6.35</b>	<b>\$6.92</b>	<b>\$7.51</b>	<b>\$8.11</b>	<b>\$8.76</b>
<b>Tier 3 Over 6,000 gallons</b>	<b>\$2.33</b>	<b>\$2.57</b>	<b>\$2.81</b>	<b>\$3.05</b>	<b>\$3.29</b>	<b>\$3.56</b>
Non-Potable/Brackish	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>All Usage</b>	<b>\$3.19</b>	<b>\$3.51</b>	<b>\$3.82</b>	<b>\$4.15</b>	<b>\$4.48</b>	<b>\$4.84</b>
Recycled Water						
R-1 Golf	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>All Usage</b>	<b>\$0.72</b>	<b>\$0.79</b>	<b>\$0.86</b>	<b>\$0.93</b>	<b>\$1.00</b>	<b>\$1.08</b>
R-1 Other	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>All Usage</b>	<b>\$2.16</b>	<b>\$2.37</b>	<b>\$2.59</b>	<b>\$2.80</b>	<b>\$3.03</b>	<b>\$3.27</b>
Reverse Osmosis (RO)	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
<b>All Usage</b>	<b>\$7.00</b>	<b>\$7.70</b>	<b>\$8.39</b>	<b>\$9.10</b>	<b>\$9.83</b>	<b>\$10.62</b>

### Fire Meter Standby Charge

For those receiving private fire service, there is an additional fire meter standby charge billed monthly based on the size of the fire meter effective as follows:

Fire Meter Size	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
2" and smaller	\$8.79	\$9.67	\$10.54	\$11.43	\$12.35	\$13.34
3"	\$11.32	\$12.45	\$13.57	\$14.73	\$15.90	\$17.18
4"	\$15.65	\$17.22	\$18.77	\$20.36	\$21.99	\$23.75
6"	\$31.28	\$34.41	\$37.51	\$40.70	\$43.95	\$47.47
8"	\$58.23	\$64.06	\$69.82	\$75.76	\$81.82	\$88.36

### Customer Class Definitions

**Potable Water** means all water that meets State Department of Health Drinking Water Standards. For all customers, all potable water used for irrigation will be billed in accordance with the primary usage of the property. Potable water customers are divided into the following classes:

#### Residential

Single-family residential refers to single-family and duplex residences.

Multi-Unit refers to multi-unit residences including apartments, condominiums and townhouses. Low-rise constitutes up to three stories in height. High-rise refers to higher than three living stories.

Agricultural

Agricultural refers to a parcel devoted to agricultural activities. To qualify for Agricultural Quantity Charges, a customer must submit a written application to the Board of Water Supply and furnish satisfactory proof that they are engaged in agriculture on a commercial basis. Only one dwelling unit will be allowed on a meter qualifying for the agricultural quantity charges. To continue to qualify, the application must be renewed each fiscal year.

Non-Residential

Non-residential refers to any property not used for residential or agricultural purposes. To determine appropriate quantity charges, combinations of residential and non-residential may require separate meters for each use; e.g. separate residential and non-residential meters.

**Non-Potable Water** means all water that does not meet State Department of Health Drinking Water Standards. It is divided into the following classes:

Non-Potable/ Brackish

Customers that receive non-potable/ brackish water.

R-1 Recycled Water

R-1 recycled water is recycled wastewater that meets State Department of Health Reuse Guidelines.

R-1 Golf are those customers that receive R-1 water used primarily for golf course irrigation.

R-1 Other are those customers that receive R-1 recycled water for uses other than golf course irrigation

Reverse Osmosis (RO) Demineralized Water

RO water is recycled wastewater that has been demineralized through reverse osmosis.

The R-1 Golf, R-1 Other and RO Customer and Quantity Charges shall not supersede existing or individually negotiated charges unless expressly identified in the contract.

**Fire Meter Standby Charge**

The Fire Meter Standby Charge, for readiness to serve, applies to services used exclusively for private fire protection purposes, including automatic fire sprinkler services connected to the alarm systems, fire hydrants, and wet standpipes. These must be protected against theft and leakage or waste of water. No connections or usage of water for other than fire-fighting and system testing purposes is allowed. In addition, for any misuse or non-fire protection related water use, such usage will be billed at twice the highest quantity charge in effect at that time. For any such misuse or leakage, the Customer shall be subject to penalty pursuant to Chapter 1, Article 3, Section 1-3.1 of the Revised Ordinances of Honolulu. Except for misuse and non-fire protection related use as described above, there are no quantity charges associated with these services.

**Standby Charge:** A Standby Charge will be negotiated by the Manager and Chief Engineer with each private water system contracting for interconnection service. Such service shall be provided only during emergency or temporary service outages with the intent to protect against interrupted water service supporting normal private system requirements. Water used shall be charged at the applicable quantity rate for each thousand gallons. Approval of activation and duration is contingent upon impacts to BWS customers' level of service and BWS's ability to meet Water System Standards requirements. Activation of service will require a written request submitted to the Manager and Chief Engineer at least 48 hours before service is required, unless waived by the Manager and Chief Engineer.



Water service shall be provided in accordance with Board of Water Supply Rules and Regulations Section 1-101 Availability of Water which requires that "the Department have sufficient pressure and water supply available for domestic use and fire protection and can assume new or additional service without detriment to those presently being served."

**Power Cost Adjustment:** When total power, or electricity, costs to the Board of Water Supply exceed the amount used in calculating the annual Schedule of Rates and Charges, then the Quantity Charge may be increased \$0.01 per 1,000 gallons for every \$500,000 incremental power cost overage in the following fiscal year.

**Environmental Regulations Compliance Fee Cost Adjustment:** The Quantity Charge may be increased \$0.01 per 1,000 gallons for each \$500,000 of additional costs that the Board of Water Supply is required to incur in order to comply with any Federal or State environmental laws or regulations.

**Waiver of Water System Facilities Charge for Qualified Affordable and Homeless Dwelling Units**

The Board of Water Supply may waive the Water Systems Facilities Charges and new meter cost for qualified on-site affordable and homeless dwelling units, up to 500 dwelling units per year. The waivers will be granted when the building permit is submitted for approval. To qualify, the dwelling units must be certified as either affordable or homeless dwelling units by the appropriate agency of the City and County of Honolulu. Waiver of the Water System Facilities Charge will apply only to fixture units associated with the certified dwelling units. The amount of the meter waiver shall be calculated as a percentage of the number of certified dwelling units to the total number of dwelling units in the project. If the annual cap of 500 dwelling units has not been reached and a project is proposed that would qualify for more than the remaining number of dwelling units in that year, the Manager and Chief Engineer has the discretion to increase that year's limit.

**Waiver of Meter Charges for Residential Fire Sprinkler Retrofits**

The Board of Water Supply may waive the new meter charges for high rise multi-unit residential fire sprinkler retrofits.

**Waiver of Water System Facilities Charge for New Farmers**

The Board of Water Supply may waive the Water Systems Facilities Charges and new meter cost for qualified new farmers needing a ¾- or 1-inch water meter and connecting to the BWS system for the first time. A new farmer is defined as any entity starting up a new agricultural enterprise that will be actively growing crops and/or raising livestock for food purposes, or dairy farming on a commercial basis, that does not already have a meter on the BWS system for the purpose of farming. Existing farming operations and expansion of existing operations do not qualify. The BWS will have full discretion whether what is being grown or raised is for food or other purposes. The new water meter serving the agricultural operation shall only serve the farm and up to one residence / dwelling. The entity must be a registered Hawai'i farm business and have GET license. The entity must provide a written farm irrigation plan and install a BWS-approved backflow preventer at its own cost. This program will expire when the waivers granted by BWS have reached \$1 million, unless otherwise extended prior to that time. The waiver will be revoked and the installation fee and Water System Facilities Charge will become immediately due and payable if: (a) commercial agricultural operations are not maintained for at least 5 years, or (b) other violations are identified and not rectified within a specified timeline mandated by the BWS.

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF  
NOTICE OF PUBLIC HEARING

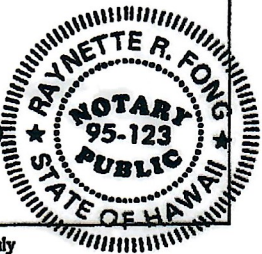
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STATE OF HAWAII

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City and County of Honolulu

Doc. Date: <u>undated</u>	# Pages: <u>-2-</u>
Notary Name: <u>Raynette R. Fong</u>	<u>First</u> Circuit
Doc. Description: <u>Affidavit of Publication</u>	
<u>Raynette R. Fong</u> 10/31/23	Date



Kimberly Masu being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser, MidWeek, The Garden Island, West Hawaii Today, and Hawaii Tribune-Herald, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the

Honolulu Star-Advertiser      2 times on:  
 10/27, 10/29/2023

MidWeek      0 times on:

The Garden Island      0 times on:

Hawaii Tribune-Herald      0 times on:

West Hawaii Today      0 times on:

Other Publications:      0 times on:

And that affiant is not a party to or in any way interested in the above entitled matter.

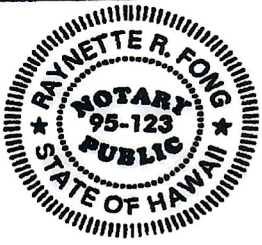
Kimberly Masu  
Kimberly Masu

Subscribed to and sworn before me this 31<sup>st</sup> day of October A.D. 2023

Raynette R. Fong  
Notary Public of the First Judicial Circuit, State of Hawaii  
My commission expires:

Ad # 0001430661

**Raynette R. Fong**  
Notary Public, State of Hawaii  
My Commission Expires: 03/24/2027



ICSP.NO.: \_\_\_\_\_

# NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU, will hold a PUBLIC HEARING in the Board Room, Public Service Building, 630 South Berendse Street, Honolulu, HI 96808, on **MONDAY, NOVEMBER 27, 2023, at 2:00 p.m.**, to hear testimony, where all interested persons shall be afforded the opportunity of being heard on the adoption of the Proposed Amendment to the Schedule of Rates and Charges of the Board of Water Supply for Fiscal Years 2024 through 2026, Effective February 1, 2024 through June 30, 2026 to Amend in Effect Ordinance Deemed by a Resolution to the Schedule of Rates and Charges.

United seating will be available in the Board Room for testifiers or those wishing to attend the meeting in person. The public may also view the live broadcast of the meeting online at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu).

### TESTIMONY WILL BE SUBMITTED AS FOLLOWS:

Witness testimony should include the witness's address, email address, and phone number. Testimony must be received by Monday, November 27, 2023, at noon. Submit written testimony by:

- Email to [board@bws.org](mailto:board@bws.org)
- Office at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu)
- Mail or hand deliver to Board of Water Supply, 630 S. Berendse Street, Honolulu, HI 96808
- Fax to (808) 748-5079

Oral testimony will be accepted verbally and in person during the meeting. The opportunity is extended to facilitate an in-person testimony as reasonably possible during the time allotted. Testifiers should consider submitting a written version of their oral testimony. Testimony is limited to two (2) minutes and shall be presented by the registered speaker only. Testimony submitted in writing or orally, electronically or in person, for use in the meeting process is public information. All testimony will be included as part of the approved meeting minutes at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu).

- To testify remotely using the Zoom videoconferencing platform, please submit your request by email to [board@bws.org](mailto:board@bws.org) or online at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu). Zoom registration instructions, as well as participant guidelines, will be sent to the contact information provided. Once confirmed as registered, testifiers will receive an email containing the links and instructions to join the Zoom session. Submit your request to testify remotely by Friday, November 24, 2023, at noon.
- To testify in person at the meeting, please pre-register by submitting your request by Monday, November 27, 2023, by email to [board@bws.org](mailto:board@bws.org) or online at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu).
- In-person testifiers should check in with building security and then with testimony staff located in the lobby. Testifiers will be escorted to and from the Board Room. On-site registration will be available for walk-in requests.

### ADDITIONAL MATERIAL FOR INFORMATION

Meeting materials ("Board packet" under HRS Section 20-7.2) are available at [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu).

### VIEWING THE MEETING

The meeting will be live-streamed on the BWS website [www.boardwatersupply.com/honolulu](http://www.boardwatersupply.com/honolulu). Video will appear on screen. You may have to click the screen video to start it. You may have to make some minor adjustments to be able to view the stream.

### SPECIAL REQUESTS AND ACCOMMODATIONS

If you require special assistance, an auxiliary aid or service, or other an accommodation due to a disability to participate in this meeting (i.e., sign language interpreter, interpreter for language other than English, or wheelchair accessibility), please call (808) 748-5072 or email your request to [board@bws.org](mailto:board@bws.org) at least three business days prior to the meeting date. If a response is received less than three business days before the meeting date deadline, we will try to obtain the auxiliary aid or accommodation, but we cannot guarantee that request will be filled.

Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

## BOARD OF WATER SUPPLY, CITY AND COUNTY OF HONOLULU SCHEDULE OF RATES AND CHARGES FOR THE FURNISHING OF WATER AND WATER SERVICE

Customer Charge	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
Water Meter Charge	\$13.30	\$14.63	\$16.02	\$17.46	\$18.95	\$20.49
1"	\$18.41	\$19.49	\$20.65	\$21.87	\$23.14	\$24.45
1.5"	\$19.15	\$20.07	\$21.03	\$22.01	\$23.01	\$24.03
2"	\$24.80	\$25.57	\$26.31	\$27.04	\$27.78	\$28.52
3"	\$28.01	\$28.83	\$29.63	\$30.43	\$31.24	\$32.06
4"	\$112.11	\$113.32	\$114.54	\$115.77	\$117.01	\$118.26
6"	\$139.85	\$141.28	\$142.72	\$144.17	\$145.62	\$147.07
8"	\$164.48	\$166.01	\$167.55	\$169.10	\$170.64	\$172.19
12"	\$258.30	\$261.22	\$264.15	\$267.08	\$270.02	\$272.97
Quantity Charge: There is a charge for each month service is provided based on the meter size, effective as follows:						
Single-Family Residential (Monthly per dwelling unit)						
Tier 1 Essential Needs: First 2,000 gallons	\$4.97	\$4.89	\$4.80	\$4.72	\$4.63	\$4.54
Tier 2 2,001 - 5,000 gallons	\$3.78	\$4.25	\$4.69	\$5.11	\$5.53	\$5.95
Tier 3 5,001 - 10,000 gallons	\$1.05	\$1.34	\$1.70	\$2.05	\$2.39	\$2.74
Tier 4 Over 10,000 gallons	\$10.55	\$12.52	\$15.07	\$17.05	\$19.48	\$21.92
Non-Residential Residential (Monthly per dwelling unit)						
Tier 1 Essential Needs: First 2,000 gallons	\$5.85	\$5.99	\$6.14	\$6.28	\$6.42	\$6.57
Tier 2 2,001 - 4,000 gallons	\$4.97	\$5.36	\$5.84	\$6.34	\$6.85	\$7.36
Tier 3 4,001 - 10,000 gallons	\$6.10	\$6.52	\$7.03	\$7.54	\$8.05	\$8.56
Tier 4 Over 10,000 gallons	\$7.21	\$8.25	\$9.27	\$10.28	\$11.28	\$12.27
Non-Residential (Monthly per account)						
Tier 1 Essential Needs: First 2,000 gallons	\$4.97	\$4.89	\$4.80	\$4.72	\$4.63	\$4.54
Tier 2 2,001 - 5,000 gallons	\$3.78	\$4.25	\$4.69	\$5.11	\$5.53	\$5.95
Tier 3 Over 5,000 gallons	\$1.05	\$1.34	\$1.70	\$2.05	\$2.39	\$2.74
Non-Residential (Monthly per account)						
AD Usage	\$3.10	\$3.01	\$2.92	\$2.83	\$2.74	\$2.65
Recycled Water (R1) GWF	\$0.72	\$0.70	\$0.68	\$0.65	\$0.63	\$0.61
AD Usage	\$0.72	\$0.70	\$0.68	\$0.65	\$0.63	\$0.61
Recycled Water (R1) Other	\$2.16	\$2.13	\$2.09	\$2.05	\$2.01	\$1.97
AD Usage	\$2.16	\$2.13	\$2.09	\$2.05	\$2.01	\$1.97
Reverse Osmosis (RO)	\$7.00	\$7.21	\$7.42	\$7.63	\$7.84	\$8.05
AD Usage	\$7.00	\$7.21	\$7.42	\$7.63	\$7.84	\$8.05

**Fire Water Standby Charge:** For those meeting private fire service, there is an additional meter standby charge billed monthly based on the size of the fire meter effective as follows:

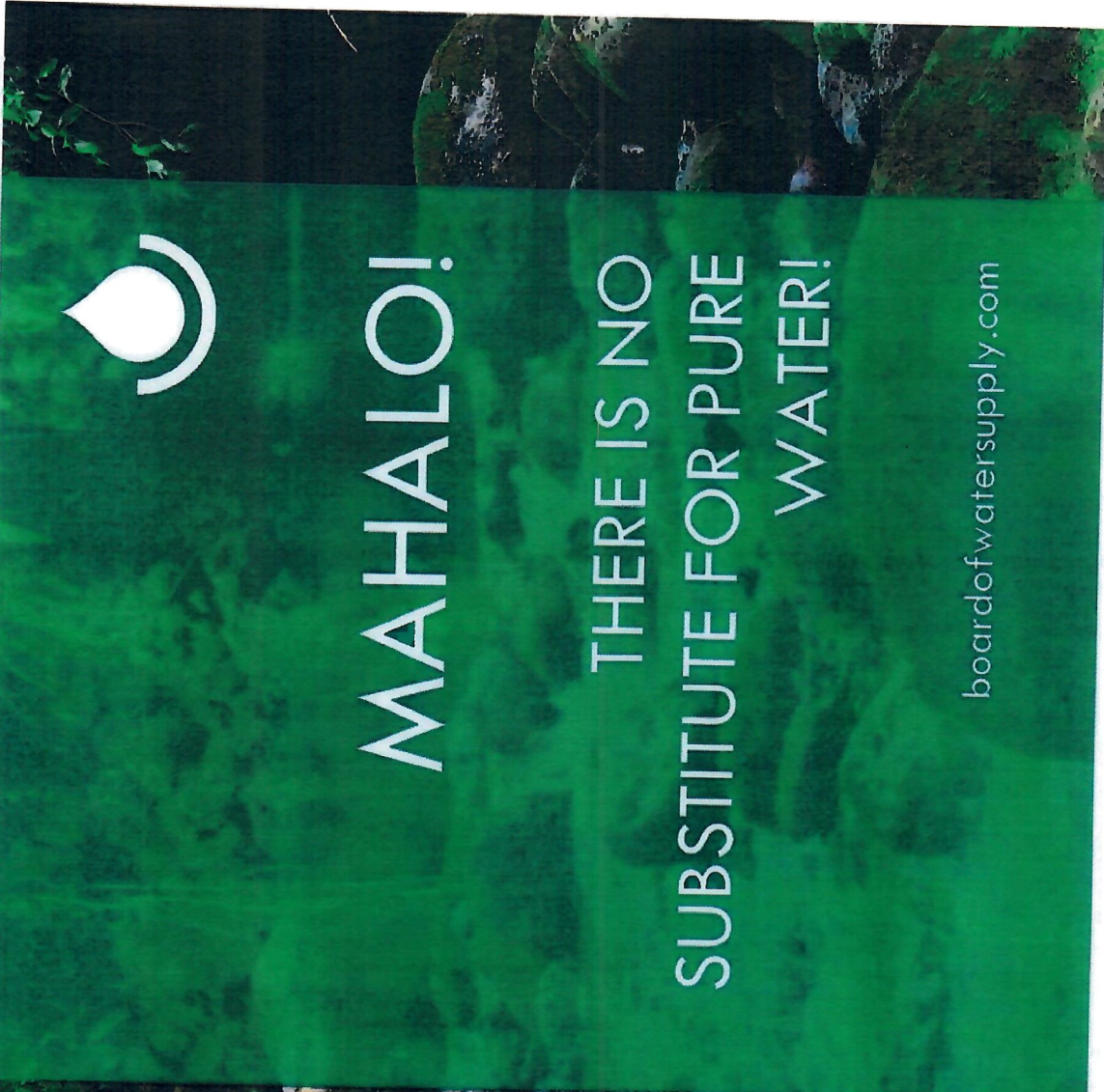
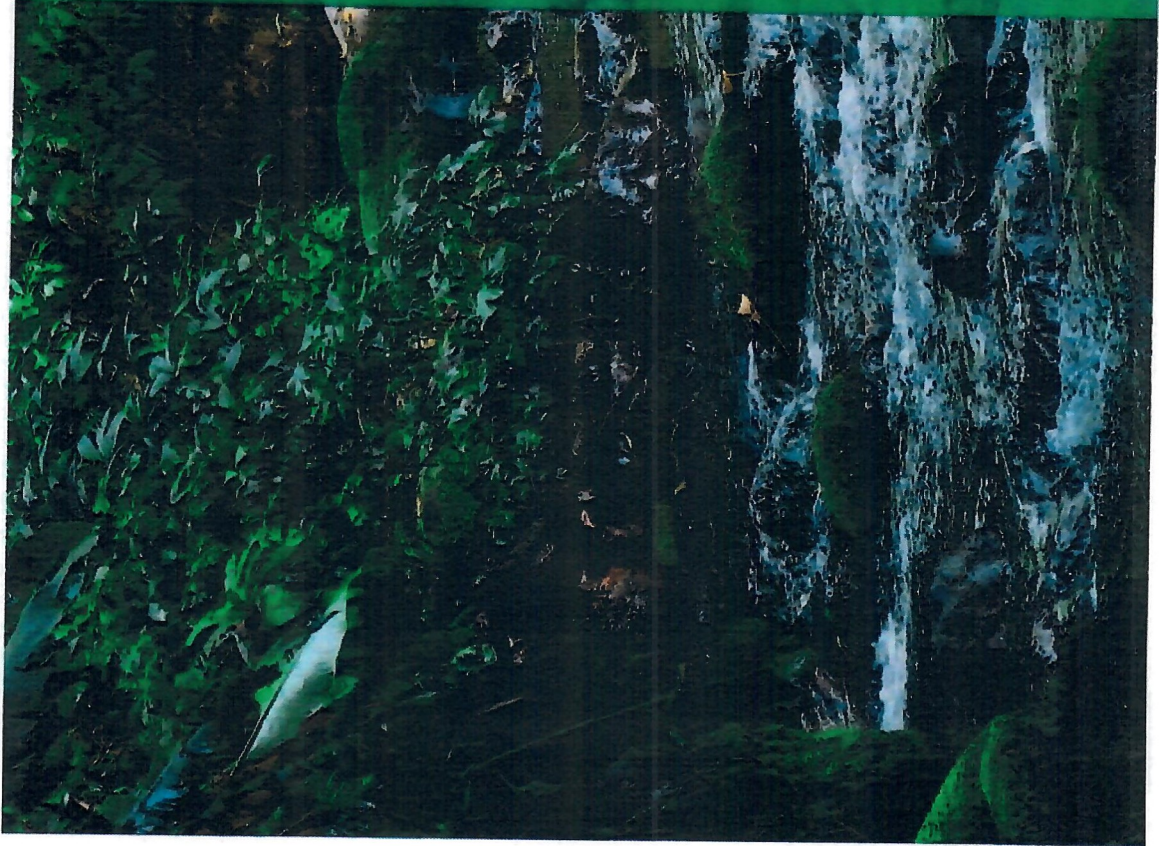
Fire Meter Size	February 1, 2024	July 1, 2024	July 1, 2025	July 1, 2026	July 1, 2027	July 1, 2028
2" and smaller	\$9.79	\$10.67	\$11.64	\$12.63	\$13.64	\$14.65
3"	\$11.32	\$12.45	\$13.67	\$14.93	\$16.21	\$17.51
4"	\$15.05	\$16.42	\$17.87	\$19.36	\$20.87	\$22.41
6"	\$21.58	\$23.41	\$25.31	\$27.26	\$29.24	\$31.25
8"	\$28.25	\$30.49	\$32.78	\$35.11	\$37.48	\$39.88

**Customer Class Definitions**  
**Public Water users of water that create State Department of Health Drinking Water Standards:** For all customers, all public water users for buildings will be billed in accordance with the primary usage of the property. Public water customers are divided into the following classes:  
**Essential:** Single-family residential units in single-family and duplex residences. Multi-unit refers to multi-unit residences including apartment, condominium and townhouses. Low-rise multi-unit up to three stories in height. High-rise multi-unit higher than three stories in height.  
**Apartment:** refers to a parcel devoted to apartment activities. To qualify for Apartment Quantity Charges, wastewater must collect within applications to the Board of Water Supply and furnish satisfactory proof that they are engaged in apartment use as a commercial class. Only one dwelling unit will be allowed on a meter qualifying for the apartment quantity charge. To continue to qualify, the application must be renewed each fiscal year.  
**Non-Residential:** refers to any property not used for residential or apartment purposes. To determine appropriate quantity charges, combinations of residential and non-residential may require separate meters for each use, e.g., separate residential and non-residential meters.  
**Non-Public/Residential**  
 • R1 Recycled Water  
 • R1 Recycled Water is recycled wastewater that meets State Department of Health Water Guidelines.  
 • R1 Other are those customers that receive R1 water and primarily for irrigation purposes.  
 • R1 Other are those customers that receive R1 recycled water for uses other than irrigation purposes.  
 • Reverse Osmosis (RO) Desalinated Water is recycled wastewater that has been desalinated through a reverse osmosis process.  
**The R1, R1-Other and RO Customer and Quantity Charges shall not separately existing or individually regulated charges unless explicitly identified in the contract.**

**Fire Water Standby Charge:** For residences to cover, applies to meters used exclusively for private fire protection purposes, including automatic fire sprinkler services connected to the alarm system, fire hydrant, and non-complex. These meters shall be provided separate flow and billing as water. No connection of usage of meter for other than fire fighting and system test purposes is allowed. In addition, for any meter or non-fire protection related services, each meter shall be billed at the highest quantity charge in effect at that time. For any such meters or meters, the Customer shall be billed separately pursuant to Chapter 1, Article 12.1 of the Honolulu Charter of Honolulu. Except for meters and non-fire protection related uses as described above, there are no quantity charges associated with these meters.  
**Continued in the next column:**

**Standby Charge:** A Standby Charge will be required by the Manager and Chief Engineer with each private water system connected to the water distribution system. Such charges shall be provided during emergency or temporary service outages with the intent to protect against interrupted water service supporting normal public system requirements. Water used shall be charged at the applicable quantity rate for each Standard gallon. Approved customers and meters shall be included upon requests to BWS customer level of service and BWS safety system Standards compliance. Additional meters and charges related requests shall be approved by the Manager and Chief Engineer at least 48 hours before being installed, unless waived by the Manager and Chief Engineer.  
**Water service shall be provided in accordance with Board of Water Supply Rules and Regulations Section 5-102 Availability of Water with requests that the Department have sufficient personnel and water supply available to provide the appropriate protection and any necessary meter or additional service related to the meter's primary billing service.  
**Power Outage Adjustment:** When full power, or standby, costs to the Board of Water Supply exceed the amount owed by a customer for every 100,000 gallons of water used, the quantity charge may be increased \$0.01 per 1,000 gallons for each 100,000 gallons of additional water that the Board of Water Supply is required to incur in order to comply with any Federal or State environmental laws or regulations.  
**Water of Water System Positive Charge for Qualified Affordable and Moderate Density Water:** The Board of Water Supply may assess the Water System Positive Charge and may meter cost for qualified affordable and moderate density units, up to 200 dwelling units per year. The charges will be granted when the building permits submitted for approval. To qualify, the dwelling units must be certified as either a "rental" or "moderate density" unit by the appropriate agency of the City and County of Honolulu. Water of the Water System Positive Charge will apply only to 100% of the number of certified dwelling units in the total number of dwelling units in the project. If the overall cap of 200 dwelling units has not been reached and a project is proposed that would qualify for more than the remaining number of dwelling units in that year, the Manager and Chief Engineer has the discretion to increase that year's cap.  
**Water of Water Charge for Residential Fire Sprinkler Installations:** The Board of Water Supply may assess the size water charge for high-rise multi-unit residential fire sprinkler installations. The Board of Water Supply may assess the Water System Positive Charge and may meter cost for qualified new buildings up to 14 stories or more and existing buildings up to 14 stories or more. A new meter is defined as any meter installed to serve a new residential building that will be actively serving comprehensive fire sprinkler for fire protection, or fully automatic fire sprinkler. Existing meters installed on the BWS system for the purpose of fire protection, existing building operations and operations of existing buildings do not qualify. The BWS will have full discretion whether what buildings are subject to fire sprinkler and whether those buildings are subject to the BWS system. The BWS will explore when the meters installed by BWS have reached 51 million, unless otherwise indicated prior to that time. The meter will be provided and the installation fee and Water System Positive Charge will become immediately due and payable 100% commercial equivalent operations are not subject to the payment terms, or the water volume not installed and not provided with a specified timeline established by the BWS.**





MAHALO!

THERE IS NO  
SUBSTITUTE FOR PURE  
WATER!

[boardofwatersupply.com](http://boardofwatersupply.com)

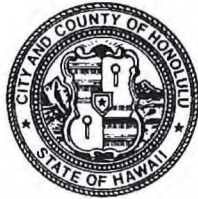
**§54-26 Rates.** The board of water supply may fix and adjust rates and charges for the furnishing of water and for water service; provided no rates or charges shall be fixed or adjusted prior to the holding by the board of a public hearing, public notice of which shall be given not less than twenty days before the date of the public hearing and the notice shall set forth the time, place of the hearing, and the proposed rates and charges to be considered thereat. The board may collect and by appropriate means, including the discontinuance of service to delinquent consumers, or commencement of civil action in the name of the board, enforce the collection of the rates and charges; and adjust and settle all complaints, claims, and accounts of consumers or the public. All water furnished to the county or any department thereof or to the State or any department thereof shall be charged to the respective departments and shall be payable to the board by the respective departments at the rates and times established by the board, and, upon failure of the departments to make payment when payment is due, then the auditor of the county and the comptroller of the department of accounting and general services of the State shall pay from the account of the department or departments all delinquencies as certified by the chairperson of the board. [L 1961, c 155, pt of §1; am L 1965, c 96, §91; Supp, §145A-16; HRS §54-26; gen ch 1993; am L 1998, c 2, §21]

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**REVISED  
CHARTER  
OF THE  
CITY & COUNTY  
OF HONOLULU  
1973  
(AMENDED 2017 EDITION)**



**Rick Blangiardi,  
Mayor**

**June 6, 2023**

- (g) Review and make recommendations concerning the performance of public transit and other transportation system contractors under the jurisdiction of the department of transportation services.
- (h) Submit an annual report to the mayor and council.

The commission shall make the recommendations authorized under this subsection to the director of transportation services, mayor, and council.

2. Except for purposes of inquiry, neither the transportation commission nor its members shall interfere in any way with the administrative affairs of the department of transportation services.  
*(Reso. 95-205)*

**Section 6-1706. Pedestrian and Bicycle Friendly City –**

It shall be one of the priorities of the department of transportation services to make Honolulu a pedestrian- and bicycle-friendly city. *(2006 General Election Charter Amendment Question No. 8)*

**ARTICLE VII -  
BOARD OF WATER SUPPLY**

**Section 7-101. Organization –**

There shall be a department of water, to be known as the "board of water supply," consisting of a board of water supply, manager and chief engineer of the board of water supply and the necessary staff.

**Section 7-102. Definitions –**

The terms "department" and "board" as used in this article of the charter shall have the following meaning:

- (a) "Department" shall mean the governmental unit known as the "board of water supply," unless the context indicates otherwise.
- (b) "Board" shall mean the policy-making body, consisting of seven members of the board of water supply.

**Section 7-103. Powers, Duties and Functions of the Department –**

1. All water systems of the city, including water rights and water sources, together with all materials, supplies and equipment and all real and personal property used or useful in connection with such water systems shall be under the control of the department.

2. The department shall have full and complete authority to manage, control and operate the water systems and properties used or useful in connection with such water systems.

3. The department shall:

- (a) Make studies, surveys, investigations and estimates relating to the locations and sources of water supply within the city, the amounts available for current and prospective uses, the water resources which may be made available for such uses and the maximum productivity of such sources.
- (b) Investigate, examine, inspect and ascertain the manner and extent of use or other disposition of any water by any person irrespective of ownership thereof and any machinery, pump or other plant or equipment and conduits, pipes or other means used

for the elevation, transmission or distribution of water, upon either public or private property and, in the case of wells, ascertain, as far as practicable, the depth thereof, depth and thickness of the different strata penetrated, pressure, quantity, quality or chemical composition of the water, and the general conditions surrounding the same, including encasement, capping and other equipment or means of control thereof.

- (c) Devise ways and means for the economic distribution and conservation of water.
- (d) Make contracts necessary or convenient to the execution and performance of its powers, duties and functions.

4. To carry out the powers, duties and functions of the department, any member or authorized representative of the department may enter upon any public or private property at any reasonable time without warrant, doing no unnecessary injury thereto. (*Reso. 70 and 253 (1974)*)

#### **Section 7-104. Board of Department of Water –**

The board shall consist of seven members. The chief engineer of the department of facility maintenance of the city and the director of transportation of the State shall be members ex officio of the board. Five other members shall be appointed as provided by Section 13-103 of this charter. The board shall be governed by the provisions of Section 13-103 of this charter. (*Reso. 83-357; 1992 General Election Charter Amendment Question No. 32A(17); 1998 Reorganization*)

#### **Section 7-105. Powers, Duties and Functions of the Board of Water Supply –**

The board of water supply shall:

- (a) Appoint and remove the manager and chief engineer of the department. The manager and chief engineer shall be a registered engineer who shall have had a minimum of five years of training and experience in waterworks activities or related fields, at least three years of which shall have been in a responsible administrative capacity.
- (b) Fix the salary of the manager and chief engineer.
- (c) Have the authority to create and abolish positions.
- (d) Determine the policy for construction, additions, extensions and improvements to the water systems of the city which shall include a long range capital improvement program covering a period of at least six years which shall be adopted after consultation with the director of planning and permitting and which may be amended or modified by the board from time to time.
- (e) Have the authority to acquire by eminent domain, purchase, lease or otherwise, in the name of the city, all real property or any interest therein necessary for the construction, maintenance, repair, extension or operation of the water systems of the city. The council shall take no action to acquire real property or any interest therein for the department without the written approval of the board.
- (f) Have the authority to recommend to the council the sale, exchange or transfer of real property or any interest therein which is under the control of the department. The council shall take no action to dispose of such property without the prior approval of the board, and all proceeds from the disposition of such property shall be paid into the special fund of the department.
- (g) Have the authority to enter into arrangements and agreements, as it deems proper for the joint use of poles, conduits, towers, stations, aqueducts, and reservoirs, for the operation of any of the properties under its management and control.
- (h) Have the authority to issue revenue bonds under the name of "board of water supply."



- (i) Modify, if necessary, and approve and adopt annual operating and capital budgets submitted by the manager and chief engineer.
- (j) Prescribe and enforce rules and regulations having the force and effect of law to carry out the provisions of this article of the charter, including (1) the regulation of water systems and necessary appurtenances for subdivisions and other properties and requirements for adequate water supply and storage facilities for domestic use and fire protection, (2) the prevention of waste and pollution of water, (3) the manner in which new wells or shafts may be bored, drilled or excavated, cased and capped or recased, (4) the manner in which wells or shafts shall be maintained, controlled and operated to prevent waste of water or the impairment of potability, (5) the limitation to beneficial uses of all water, (6) in times of shortage or threatened shortage of water or of danger to potability of the water of any ground water basin or area by overdraft on such basin, the restriction of the drawing of water in all wells supplied from such basin on a basis proportionate to the proper and beneficial uses served by them respectively, and (7) other matters having for their object the proper conservation and beneficial use of the water resources available for the city.
- (k) Hear appeals from the order of the manager and chief engineer refusing, suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water supply.

*(Reso. 70, 253 (1974) and 83-357; 1998 General Election Charter Amendment Question No. 1(IV))*

**Section 7-106. Powers, Duties and Functions of the Manager and Chief Engineer –**

The manager and chief engineer shall:

- (a) Administer the affairs of the department, including the rules and regulations adopted by the board.
- (b) Grant, suspend or revoke permits under conditions prescribed by the rules and regulations of the department for the drilling, casing, recasing or reopening of any well or shaft for the development of underground water.
- (c) Unless otherwise provided by this charter, sign all necessary contracts for the department.
- (d) Appoint and remove members of the staff.
- (e) Make recommendations to the board to create or abolish positions.
- (f) Prepare bills, collect and, by appropriate means including discontinuance of service and civil action, enforce the collection of charges for the furnishing of water and for water services.
- (g) Prepare payrolls and pension rolls.
- (h) Maintain proper accounts in such manner as to show the true and complete financial status of the department and the results of management and operation thereof.
- (i) Prepare annual operating and capital budgets.
- (j) Prescribe rules and regulations as are necessary for the organization and internal management of the department.
- (k) Recommend rules and regulations for adoption by the board.

*(Reso. 70 and 253 (1974))*

**Section 7-107. Personnel Administration; Centralized Purchasing; Auditing; Pension –**

1. The department shall be subject to the civil service provisions of this charter.
2. The department shall be subject to the centralized purchasing and disposal of personal property provisions of this charter.
3. The department shall come within the purview of the performance audit conducted by the

managing director and such audits as may be required by the council or conducted by the city auditor.

4. Pensions for officers and employees shall be governed by law. (*Reso. 02-39*)

**Section 7-108. Independent Post Audit –**

The accounts and financial status of the department shall be examined annually by a certified public accountant whose services shall be contracted for by the board and whose fees shall be paid as an expense of the department. The result of such examination shall be reported to the board, the council and the mayor.

**Section 7-109. Rates, Revenues and Appropriations –**

The board shall have the power to fix and adjust reasonable rates and charges for the furnishing of water and for water services so that the revenues derived therefrom shall be sufficient to make the department self-supporting. Such revenues shall be sufficient to meet all necessary expenditures, including expenditures for (a) operating and maintenance expenses; (b) repairs, replacements, additions and extensions; (c) accident reserve, pension charges and compensation insurance; (d) payment of principal and interest on all bonds, including reserves therefor, issued for the acquisition or construction of waterworks and extensions thereto, and (e) reserve funds under Section 7-112 of this charter. All water furnished to the city or any department thereof shall be charged to the respective departments and collected at the regular rates established by the board. There shall be no free water, except as authorized by the state. The board may make appropriations for the purposes stated in this section of the charter. (*Reso. 70 and 253 (1974)*)

**Section 7-110. Public Hearings –**

The board shall hold public hearings prior to fixing and adjusting rates and prior to the adoption of the budget.

**Section 7-111. Receipt and Disbursement of Funds –**

The department shall make its own collections, but all receipts shall be paid daily into the city treasury and maintained in a fund separate and apart from any other funds of the city.

All moneys expended by the department shall be disbursed with the written approval of the department according to the procedures prescribed by the director of budget and fiscal services. (*Reso. 70 and 253 (1974); 1998 General Election Charter Amendment Question No. 2(VI)*)

**Section 7-112. Reserve Funds –**

The board may provide for the accumulation of funds for the purpose of financing major replacements, or extensions and additions to the water systems, the average estimated annual increment to which, for a period of ten years, shall not exceed fifteen percent of the gross revenues of the water systems of the department in any fiscal year. (*Reso. 70 and 253 (1974)*)

**Section 7-113. Bond Sales –**

The director of budget and fiscal services, when so directed by the board, shall sell such revenue bonds as may be authorized by the board for the acquisition, construction, replacement, extension or completion of water systems in accordance with the procedures prescribed by law for such sales.

The proceeds from such sales shall be kept by the director of budget and fiscal services in a separate fund to be used only for the purposes for which the bonds were sold. (*Reso. 70 and 253 (1974); 1998 General Election Charter Amendment Question No. 2(VI)*)

**Section 7-114. Special Deposits –**

Whenever there are on deposit with the director of budget and fiscal services funds belonging to the department in an amount greater than is necessary for the immediate needs of the department, the director shall, upon the direction of the board, deposit such funds in such depositories as provided by law for the city. All interest received by the director upon the funds so deposited shall be credited to the department. All interest from all other moneys of the department on deposit in any bank shall likewise be credited to the department. *(1998 General Election Charter Amendment Question No. 2(VI))*

**Section 7-115. Performance Bonds –**

The board may require an individual or blanket bond in such amount as it shall deem proper for any or all employees, which bond shall be duly conditioned for the faithful performance of duties, and the board may provide that the premium on the bond be paid out of the revenues of the department.

**Section 7-116. Legal Counsel –**

The corporation counsel of the city shall be the legal adviser of the department and shall institute and defend, as the board may require, any and all actions involving matters under the jurisdiction of the department. The corporation counsel may, with the prior approval of the board, compromise, settle or dismiss any claim or litigation, for or against the department.

The compensation for such legal work shall be as agreed upon by the board and the council and shall be paid from the revenues of the department.

The department may employ an attorney to act as its legal adviser and to represent the department in any litigation to which the department is a party. *(Reso. 83-357)*

**Section 7-117. Service of Process; Claims –**

The department may sue and be sued under the name of the "Board of Water Supply, City and County of Honolulu." Service of process in all matters affecting the department or any property under its jurisdiction may be made by service upon any member of the board or on the manager and chief engineer. Any action commenced or prosecuted for the recovery of damages for any injury to persons or property by reason of negligence of the board or of any agents or employees of the department, shall be commenced and prosecuted against the department. No action shall be maintained for the recovery of damages unless a written statement verified by oath of claimant, setting forth the nature and items of the claim and the time and place where the alleged injury occurred, has been filed with the department within six months after the date of sustaining the injury.

**Section 7-118. Appeals –**

1. Any order of the manager and chief engineer refusing any permit or suspending or revoking any permit for the sinking, drilling or reopening of any well or shaft for the development of underground water shall be subject to an appeal therefrom to the board. The board shall have power to review and to affirm, modify or reverse any decision or order of the manager and chief engineer so appealed from. Such appeal shall be taken within ten days after service of the order of the manager and chief engineer.

2. Any decision of the board, upon such review, shall be appealable directly to the supreme court of the state by any person who has been refused a permit or whose permit has been suspended or revoked. The court shall have power to review and to affirm, modify or reverse any decision or

order of the board so appealed from and may determine all questions of fact or of law involved in the appeal. Such appeal shall be taken within ten days after service of the board's order by filing notice of appeal with the clerk of the supreme court of the state and serving a copy thereof upon the board stating the grounds therefor.

**Section 7-119. Applicability of Charter Provisions –**

Except as otherwise provided, no provision of this charter, other than those set forth in this article of the charter, shall be applicable to the department.

**ARTICLE VIII -  
PROSECUTING ATTORNEY**

**Section 8-101. Organization –**

There shall be a department of the prosecuting attorney headed by a prosecuting attorney.  
*(Reso. 78-279)*

**Section 8-102. Term of Office –**

The term of office of the prosecuting attorney shall commence at twelve o'clock meridian on the second day of January following the prosecuting attorney's election. *(Reso. 78-279, 83-357 and 86-238; 1992 General Election Charter Amendment Question No. 4)*

**Section 8-103. Prosecuting Attorney, Qualifications –**

The prosecuting attorney shall be a duly registered voter of the city, an attorney licensed to practice and in good standing before the supreme court of the state, who shall have engaged in the practice of law for at least five years, and who shall have been actively involved in criminal cases for at least three years within ten years next preceding the prosecuting attorney's election. *(Reso. 78-279 and 83-357; 1992 General Election Charter Amendment Question No. 32A(12))*

**Section 8-104. Powers, Duties and Functions –**

1. The prosecuting attorney shall:
  - (a) Attend all courts in the city and conduct, on behalf of the people, all prosecutions therein for offenses against the laws of the state and the ordinances and rules and regulations of the city.
  - (b) Prosecute offenses against the laws of the state under the authority of the attorney general of the state.
  - (c) Appear in every criminal case where there is a change of venue from the courts in the city and prosecute the same in any jurisdiction to which the same is changed or removed. The expense of such proceeding shall be paid by the city.
  - (d) Institute proceedings before the district judges for the arrest of persons charged with or reasonably suspected of public offenses, when the prosecuting attorney has information that any such offenses have been committed, and for that purpose, take charge of criminal cases before the district judges either in person or by a deputy or by such other prosecuting officer or in such other manner as the prosecuting attorney shall designate with approval of the district court or in accordance with statute; draw all indictments and attend before and give advice to the grand jury whenever cases are presented to it for its consideration; and investigate all matters which may properly come before the

**BOARD OF WATER SUPPLY  
KA 'OIHANA WAI  
CITY AND COUNTY OF HONOLULU**

630 SOUTH BERETANIA STREET • HONOLULU, HAWAII 96843  
Phone: (808) 748-5000 • [www.boardofwatersupply.com](http://www.boardofwatersupply.com)



**RULES AND REGULATIONS**

## **Rules and Regulations**

These Rules and Regulations have been adopted pursuant to the authority expressed in Section 7-105(j) of the Revised Charter of the City and County of Honolulu; and, in accordance with procedures established and prescribed in Hawaii Revised Statutes, Chapter 91.

These Rules and Regulations represent a compilation, recodification and general amendment to those previously existing rules and regulations governing the Board of Water Supply.

Reprinted 2010 with amendments

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"DAILY RECORDS" means information and data collected during a defined and consistently observed 24-hour time period such as 6:00 am to 5:59 am.

"DEPARTMENT" shall mean the governmental unit known as the "Board of Water Supply."

"DESIGNATED GROUNDWATER CONTROL AREA" means an area in which the State's Board of Land and Natural Resources finds that the groundwater must be regulated and protected for its best utilization, conservation, and protection in order to prevent threat of exhaustion, depletion, waste, pollution, or deterioration by salt encroachment or an area in which the Board of Land and Natural Resources finds that the groundwater must be regulated and protected in order to protect the groundwater resources from exhaustion, depletion, waste, pollution, or deterioration by salt encroachment.

"DEVELOPER" shall mean an owner or other person or legal entity with written authorization from the owner who intends to improve or to construct improvements upon his property. The term shall also mean a subdivider.

"DEVELOPMENT" shall mean the improvement of, or construction of improvements on, a lot. The term shall include subdivisions, planned development projects, cluster developments, site development plans and condominium projects.

Planned development projects, cluster developments and site development plans shall be as defined under the Comprehensive Zoning Code (CZC) of the City and County of Honolulu.

"DIRECTOR" shall mean the Director of Land Utilization of the Land Utilization Department, City and County of Honolulu.

"DISPOSAL WELL" refers to any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed into the ground for the diversion, injection, or disposal of wastewaters or other liquid wastes into any underground formation, except for shallow excavations in soil formations used for the disposal of irrigation tail water.

"DOH GUIDELINES" refers to Hawaii Department of Health's *Guidelines for the Treatment and Use of Recycled Water*.

"DOMESTIC USE" or "DOMESTIC WATER" refers to water meeting the requirements of P.L. 93-523 the "Safe Drinking Water Act" and all amendments thereto.

"HEAD LEVEL" means the groundwater elevation in feet at designated monitoring points in relation to sea level or as calculated by reference to bulkhead pressure measurements.



protection, and which shall be owned, operated, and maintained by the Association or other legal entity.

"PRIVATE WELL" means any well that is not owned by the Department.

"PROJECT WATER SYSTEM" shall mean the water system, to and within any development, including mains, valves, hydrants, laterals, pumps, tanks, reservoirs and all appurtenances necessary to provide water and fire protection for such development and, where necessary, sources of supply.

"PUBLIC WATER SYSTEM" shall mean the water system owned and operated by the Department.

"RECYCLED WATER" refers to oxidized wastewater that is filtered and disinfected to achieve bacterial concentrations consistent with DOH Guidelines for R-1 Water.

"REFUSE DISPOSAL DUMPS" refer to any specific land site where solid wastes or refuse of any type, except rocks, soil and agricultural leaf trash, are deposited, and where the site is not thereafter managed as a sanitary landfill.

"RESTRICTED WATERSHED" ("RW") shall refer to those areas defined by the State of Hawaii Department of Land and Natural Resources Regulation No. 4, dated October 2, 1964, and any subsequent legal revisions of said definition; such areas being delineated on maps on file at the Office of the Department of Land and Natural Resources and the Office of the Lieutenant Governor, State of Hawaii.

"SANITARY LANDFILL" refers to a method of disposing of refuse on land by confining the refuse to the smallest practical area, reducing the refuse to the smallest practical volume, and covering the refuse with a layer of earth at the conclusion of each day's operation.

"SEPTIC TANK" refers to a water-tight receptacle which receives the discharge of domestic sewage, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge outside the tank into a subsurface disposal field or one or more seepage pits.

"SERVICE LATERAL" shall mean the main tap, pipes, fittings, valves and appurtenances from the main to, and including, the meter box and consumer's shut-off valve.

"SERVICE LIMIT" shall mean the maximum elevation to which adequate water service is available. The service limit shall be that elevation which is 100 feet below the spillway elevation of the supplying reservoir for the area.

"WASTEWATER" refers to water discharged after it has been used in some beneficial way, and which the user intends to dispose of in some manner. This definition excludes irrigation tail water to be disposed of as provided under the definition of "Disposal Well."

"WATER SYSTEM FACILITIES CHARGE" shall mean the fee to be paid by developers and consumers as their share of the cost of developing water system facilities.

"WATER RESOURCES" refer to all waters on or below the ground surface, regardless of quality.

"WELL" is defined to be, but not limited to, any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed into the ground for the location, exploration, diversion, or acquisition of any groundwater by natural pressure or artificial means; provided, that if and whenever groundwater is encountered in an excavation, for whatever purposes made, such excavation shall be considered a well and subject to these Rules and Regulations.

"WATER SERVICE" shall mean the complete installation of pipes, fittings, appurtenances and meter necessary to provide service to a consumer. This term also refers to the delivery of water to consumers.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. 475, 1980; am BWS Res. No. 502, 1982; am BWS Res. No. 528, 1985; am BWS Res. No. 598, 1991; am BWS Res. No. 610, 1992; am BWS Res. No. 722, 2001]

c. Areas with No Additional Water Supply. The Department shall not issue water commitments to proposed developments in areas where the water system has no additional supplies to assume new or additional services. The only exception shall be the issuance of a single 5/8-inch meter to proposed developments on existing single vacant lots.

The Department may establish guidelines for issuance of water commitments as indicated in Section 1-101, 5. a. and b.

6. Availability of water for large landscaped areas such as golf courses, parks, schools, cemeteries, and highways. If a suitable nonpotable water supply is available, the Department shall require the use of nonpotable water for irrigation of large landscaped areas.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 468, 1979; am BWS Res. No. 472, 1979; am BWS Res. No. 485, 1981; am BWS Res. No. 530, 1985; am BWS Res. No. 598, 1991; am BWS Res. No. 610, 1992]

## **Sec. 1-102 Water System Facilities Charges**

Water system facilities charges shall be levied against all new developments requiring water supplies from the Department's system or additional water supplies from the existing services. Developers shall pay the water system facilities charges before water services are made available to the developments. A schedule of such charges is included in the Department's Schedule of Rates and Charges for the Furnishing of Water and Water Service.

The Department may negotiate water system facilities charges other than those in the schedule when it is determined that the schedule is inappropriate. The Department may also negotiate agreements with developers for payment of the actual costs of the installation of the necessary water system facilities or require the installation of the facilities by the developer in lieu of payment of water system facilities charges.

Water system facilities charges will not be levied on developments where the developer installs at his cost, a complete water system including source and transmission and daily storage facilities.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 468, 1979; am BWS Res. No. 472, 1979; am BWS Res. No. 528, 1985]

## **Sec. 1-103 Increase in Size of Water Mains**

1. Increase in Size of Water Main Extensions for Service to Other Areas. Whenever the Department finds it is necessary that the water mains proposed to deliver water to a development should be of a greater capacity, in order to supply water and fire protection to other property, the Department will require the installation of a larger size main.

2. Increase in Size of Water Mains Within Developments for Benefit of Other Areas. Whenever, in order to provide for existing or future services beyond the boundaries of a development, the Department finds that the mains to be installed within the

4. Contours. When required by the Department, contours or elevations shall be furnished by the developer, based upon City and County datum.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 1-106 Construction Plans**

1. Preparation of Plans. All construction plans shall be prepared by a registered engineer. Preliminary and final maps of developments to be reviewed by the Department shall fully conform to the definitions and requirements of the Rules and Regulations of the Planning Commission of the City.
2. Information to be shown on Construction Plans. The construction plans, insofar as the water system is concerned, shall show the following on standard size sheets measuring 22" x 36":
  - a. Name of development, name of developer, name of engineer, and location of development.
  - b. Date, North arrow, scale, tax key.
  - c. The proposed water system, complete in both plan and profile, reflecting the inter-relationship with street lines, lot lines, curb grades, sewers and drains, both existing and proposed, as well as any other features, natural or artificial.
  - d. Plan views drawn to a scale of one inch equals 40 feet or one inch equals 20 feet. Profile views drawn to a vertical scale of one inch equals 4 feet or larger. Manhole, fire hydrant, lateral and other details drawn to a scale of one half inch equals one foot or larger.
  - e. The designation, including alignment and width, of all easements for parts of the water system which will not be in street areas to be dedicated to the public.
  - f. A general layout map showing the entire development on one sheet with locations of lots and streets within the development and its vicinity, together with existing and proposed water systems.
  - g. A small key location inset or vicinity map showing the proposed development in relationship to streets and water mains in the area.
  - h. In cases in which the owner or developer also owns areas contiguous to the proposed development, or separated therefrom by a street, a sketch of the future street and lot pattern and the water system proposed to serve such contiguous areas shall be furnished for study with the construction plans.
  - i. All plans shall have the approval block at the lower right hand corner of the drawings except when the approval signature is on the title sheet.
3. Service Limit. Whenever a lot or lots within a development are at or near the service limit, the contour line of the service limit shall be shown on the construction drawings and subdivision map. A reasonable buildable area below the service limit shall be provided for the lot or lots in the development.
4. Approval of Plans. No construction of a water system, or any portions thereof, shall be undertaken prior to approval of the final construction plans by the Manager, the Director,

connected to the public water system together with easements for access, water pipeline, and other necessary utility purposes.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. No. 610, 1992]

## **Sec. 1-109 Modification of Requirements**

When conditions pertaining to any development are such that the public may be properly served with water and fire protection without full and strict compliance with these Rules and Regulations, or where the development site or layout is such that the public interest will be adequately protected, such modification thereof as is reasonably necessary or expedient, and not contrary to law or the intent and purpose of these Rules and Regulations, may be made by the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

securities acceptable to the Manager in the amount provided by paragraphs numbered 1, 2 or 3 respectively, of this Section.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 610, 1992]

## **Sec. 1-111 Repair and Replacement of Improvements**

The developer shall enter into an agreement with the City and the Department and shall file with the Director, a surety bond to insure the repair and replacement of subdivision improvements excluding private water systems, for a period of one year from the date of acceptance by the City of the dedication. The amount of the surety bond shall be ten percent of the cost of construction as estimated by the Chief Engineer, Director of Recreation and Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 610, 1992]

## **Sec. 1-112 Use of Nonpotable Water Required for Large Landscaped Areas**

1. If the Department determines that a suitable nonpotable water supply is available, the Department shall require existing services to use nonpotable water for irrigation of large landscaped areas such as golf courses, parks, schools, cemeteries, and highways.
2. Upon such notification by the Department, the existing service holder(s) has no more than five (5) years to complete the conversion to nonpotable irrigation as may be required by the Department unless otherwise approved by the Manager. Failure to comply with these requirements may result in discontinuation of water service and/or penalties as authorized in section 2-205, 2b, and Section 5-501 of these Rules and Regulations.

[Eff 12/1/1991; BWS Res. No. 598, 1991]

## **Sec. 1-113 Review of Construction Plans and Building Permit Applications**

1. General Requirements. The applicant, the Owner<sup>1</sup> (in situations where the applicant is not the owner), and the architect and/or engineer shall ultimately be responsible for producing complete plans and specifications which comply with the following requirements as applicable: Section 1-106, Construction Plans of the Department's Rules & Regulations, Water System Standards; the latest checklist for construction plans and building permit application submittals to meet fire protection requirements and water service for domestic use; water allocation requirements; and approved master plans.

If plans are determined to be incomplete, they will be returned without further review.

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<sup>1</sup> Owner is defined as: 1) the fee simple owner; or (2) buyer of a property if a letter or authorization from the seller is submitted; or (3) lessee/tenant if a letter of authorization from the fee owner is submitted.

Any other projects with valuation for water system improvements below \$49,999

Category III

Water System Improvements for 51 to 500 lots

16 working days

Transmission Mains (up to one mile/5,280 linear feet)

Exploratory Wells

And any projects with valuation for water system improvements between \$50,000 to \$999,999

Category IV

Water System Improvements for more than 500 lots

20 working days

Reservoirs and other Infrastructure improvements

Booster & Pump Stations

New Wells

Transmission Mains (more than one mile long)

And any other projects with valuation for water system improvements between \$1,000,000 to \$9, 999,999

\* Applications affecting property that is subject to a zoning variance, or that fall within a potential slide area, special district or shoreline setback area shall be evaluated for complexity upon submission of construction plans and may be placed within a higher category. The applicant shall verify with the Department of Planning and Permitting if the project is subject to these requirements.

The maximum time limits shall begin upon receipt of the application and shall stop when the applicant is called for pick-up except under the following conditions:

Additional Plans. The Department may request the submission of additional sets of plans in order to accommodate the maximum time limit requirements. The Maximum Time Limit requirement starts on the day when the Department receives the required number of plans for review. Maximum time limits shall be extended by one day for each day the additional sets are due for up to three (3) working days.

If additional plan sets are not received within this period, all plan submittals then in receipt by the Department shall be returned without review.

Extensions. Extensions from the maximum time limit may be granted in the event of a national disaster, state emergency, or union strike, which would prevent the Department from reviewing permits or plans, or when adequately justified by the Department and mutually acceptable to the Department, the applicant, and/or owner.

Inapplicability. Maximum time limits shall not apply:

# CHAPTER II: WATER SERVICE TO CONSUMERS

## Sec. 2-201 Application for Water Service

1. Any prospective consumer adjacent to a distributing main, where pressure conditions permit except as provided for in Sec. 2-217, Elevation Agreement may obtain water service; provided, that the Department has a sufficient water supply developed and available for domestic use and fire protection to take on new or additional service without detriment to those already served.
2. Each prospective consumer may be required to sign an application form for water service.
3. The consumer shall be responsible for payment of all charges for water service at the designated location. Charges will begin when the water service is established, and will continue until due notification from the consumer, or until discontinued by the Department for failure of the consumer to comply with these Rules and Regulations.
4. When an application for water service is made by a consumer who was responsible for and failed to pay bills previously rendered by the Department, regardless of location and within the statutory period of limitations, the Department may refuse to furnish water service to such applicant until the outstanding bills are paid.
5. A consumer taking possession of a property and using water without having made application for the transfer of water service shall be held liable for the water delivered from the date of the last recorded meter reading. If proper application for transfer is not made, and if accumulated bills for water service are not paid upon presentation, the water service may be discontinued five business days after written notice is given to the consumer.
6. The Department may require a deposit from any consumer or prospective consumer to guarantee payment of bills for service are other obligations to the Department.
  - a. The amount of the deposit may be the maximum estimated charge for service for two consecutive billing periods, or as may reasonably be required by the Department in cases involving service for short periods or special occasions, but shall be not less than \$10.00.
  - b. No interest on these deposits shall be accrued, or paid, to the consumer.
  - c. The deposit shall be retained as long as it is necessary to ensure payment of obligations to the Department.
  - d. If the deposit has not been returned by the time the consumer discontinues service or pays all outstanding obligations, the deposit shall be returned less all unpaid or outstanding charges.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979; am BWS Res. No. 530, 1985; am BWS Res. No. 659, 1996]



4. Readings of Separate Meters Not Combined. For the purpose of computing charges, all meters serving the consumer's premises shall be considered separately, and the readings thereof shall not be combined except in cases where the Department, because of operating necessity, installs two or more meters in parallel to service the same consumer's supply pipe.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

## **Sec. 2-204 Payment of Bills**

1. All bills shall be due and payable upon presentation to the consumer. Payment shall be made at the offices of the Department or, at the Department's option, to duly authorized collectors of the Department.

2. Any bill which is not paid within 30 days after the date of the bill shall be deemed delinquent. Water service may be discontinued five business days after written notice is given to the consumer.

3. A service fee for handling a dishonored check may be made in accordance with fees established by the Department.

4. A late payment charge may be applied to any delinquent balance payable to the Department. The late payment charge shall be assessed at the rate of one percent for each month or fraction thereof against the delinquent balance, beginning 30 days after the date of the bill.

5. For the purposes of this section, 'delinquent balance' includes any loan, fee, charge, or other liquidated sum which is 30 days past due to the Department, regardless of whether there is an outstanding judgment for that sum, and whether the sum has accrued through contract, subrogation, tort, operation of law, or administrative order.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 659, 1996]

## **Sec. 2-205 Discontinuation of Water Service**

1. Consumer About to Vacate Premises. Each consumer about to vacate any premises supplied with water by the Department shall give notice of his intention to vacate, specifying the date service should be discontinued; otherwise, the consumer shall be responsible for all water service furnished to such premises until the Department has received a notice of discontinuance. Before buildings are demolished, the Department should be notified so the water service can be closed.

2. Water service may be discontinued for any of the following reasons:

a. Nonpayment of Bills. Water service may be discontinued for nonpayment of a bill five business days after written notice is given to the consumer.

b. Noncompliance with Rules and Regulations. If the consumer fails to comply with any of these Rules and Regulations, the Department will have the right to discontinue service.

to the head of the Collection and Credit Section; second, to the Chief of the Customer Service Division whose decision shall be the final agency decision. However, the amount due must be paid into an escrow trust account after the billing conference with the Customer Service employee and will not be postponed pending the appeal with the head of the Collection and Credit Section or with the Chief of the Customer Service Division. In conducting an appeal all upper management personnel shall exercise the same impartial judgment required of the employee conducting the billing conference.

5. Where the water consumer is a tenant, the delinquent service holder is the tenant's landlord, and a discontinuation of the tenant's water service is proposed, the following special conditions will be observed:

- a. Prior to shut off, notice to the tenant shall be accomplished by delivery of notice of discontinuation of water services described in Section 2-205 (3) to the tenant in person or to the premises being serviced.
- b. At the same time the tenant shall also be notified that (s)he has the right and opportunity to place water service in his/ her own name. If the tenant consumer places water service in his/her own name and the changeover in service can be accomplished without serious mechanical and financial burden, the tenant will not be held responsible for the landlord's unpaid water bills.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 462, 1978; am BWS Res. No. 659, 1996]

## **Sec. 2-206 Restoration of Water Service**

If water service is turned off because of failure to pay a bill, or for violation of any of these Rules and Regulations, all outstanding accounts against the consumer must be paid before service is restored. For the restoration of service, a charge based on the cost of turning on the water service must be paid by the applicant. Said charge shall be as established by the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 2-207 Nonregistering Meters**

If a meter fails to register due to any cause except nonuse of water, an average bill may be rendered. Such average bill will be subject to equitable adjustment, taking into account all factors before, during, and after the period of said bill.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 2-208 Meter Tests and Adjustment of Bills**

1. Meter Tests. Any consumer, who for any reason questions the accuracy of the meter serving his premises, may request a test of the meter. The consumer, if he so requests, will be notified as to the time of the test and may witness same.
2. Adjustment of Bills for Meter Inaccuracy. If, as the result of test, the meter is found to register more than two percent fast under conditions of normal operation, the Department

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 597, 1991]

## **Sec. 2-210 Pressure Conditions**

When the pressure of the Department's supply is higher than that for which individual fixtures are designed, the consumer shall protect such fixtures by installing and maintaining pressure reducing and relief valves. The Department will not be liable for damage due to pressure conditions caused by or arising out of the failure or defective condition of such pressure regulators and relief valves or for damage that may occur through the installation, maintenance, or use of such equipment.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 2-211 Damage to Department's Property**

1. Any damage to water mains, service connections, valves, fire hydrants, or other property of the Department shall be paid for by the person, persons or legal entity responsible for the damage.
2. The consumer shall be liable for any damage to a meter or other equipment or property of the Department caused by the consumer or his tenants, agents, employees, contractors, licensees or permittees, and the Department shall be promptly reimbursed by the consumer for any such damage upon presentation of a bill therefor. In the event settlement for such damage is not promptly made, the Department reserves the right to discontinue water service to such premises.
3. When a meter is found to have been damaged by hot water or steam emanating from the premises served, the consumer shall pay all costs required to repair the meter.
4. No obstruction shall be placed on or around any water meter, fire hydrant, or valve so as to render it inaccessible.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 2-212 Ingress To and Egress From Consumer's Premises**

Any officer or employee of the Department shall have the right of ingress to and egress from the consumer's premises at all reasonable hours, and at any hour during an emergency, for any purpose reasonably connected with the furnishing of water or other Departmental service and the exercise of any and all rights secured to the Department by law or these Rules and Regulations. In case any such officer or employee is refused admittance to any premises, or, being admitted, shall be hindered or prevented from carrying out his duties, the Department may cause the water service to be turned off at said premises five business days after written notice is given the consumer.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

facility; or, in any way increases the pressures of the water within his premises above the pressure furnished by the Department; or, has such equipment or arrangement of piping, storage or industrial methods or processes as might under certain conditions raise the pressure of the water within his premises above the pressure of the water in the mains of the Department. Plans for all such installations must be approved by the Department.

3. Location of Protective Devices. Any device installed for the prevention of backflow as may be required under these Rules and Regulations, shall unless the Department approves otherwise in writing, be located above ground, and in such location as to be safe from flooding or submergence in water or other liquids, properly protected from external damage, freely accessible, and with adequate working room for testing and repairing.

All such devices shall be tested at least once annually, and as often as required by the Department in those instances where successive tests indicate repeated failure. Repairs, replacement of parts, etc., shall be made whenever deemed necessary by the Department at the expense of the consumer. Making annual tests shall be the responsibility of the consumer, and shall be performed only by the consumer or such other qualified person or persons as may be acceptable to the Department. Records of all tests shall be made on forms prescribed by the Department, and a copy of each such record shall be promptly furnished to the Department. Failure of the consumer to make the proper tests and submission of records may, at the discretion of the Department, result in the Department's making the tests, needed repairs, and replacements, and charging the costs thereof to the consumer.

4. Conformance with Laws and Ordinances. The several conditions relative to installation and maintenance of cross-connections and other physical connections referred to in this Section shall be subject to the changing requirements of State and Federal health and environmental statutes, rules, regulations or other authority, and of the City and County of Honolulu Building Code.

5. Discontinuance of Water Service for Noncompliance. Failure on the part of the consumer to comply with the Department's requirements relative to cross-connections and backflow prevention will be sufficient reason for discontinuing water service until such time as the Department is satisfied the requirements have been met.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am BWS Res. No. 472, 1979]

## **Sec. 2-214 Fire Service**

1. Fire service will be furnished as a public service only where adequate provision is made to prevent diversion of water through such service for other purposes. The fire connection shall be paid for by the consumer. After the water is turned on, the Department assumes no liability for loss or damage of any kind whatsoever that may occur to the premises served, as a consequence of fluctuation in pressure or any other cause.

2. No charge will be made for water used through such service for fire protection purposes, but any water lost through leakage or used in violation of the conditions contained herein shall be paid for by the consumer at the regular schedule of water rates

2. Where pressure conditions within the distributing main adjacent to the lots above the service limit is less than 40 psi, the existing vacant lots may be serviced provided only one single-family home is constructed on the lot. For existing lots that are located along the water main between a reservoir and the service limit, a maximum of two (2) single-family homes will be allowed.

3. Where pressure conditions permit, subdivisions served by a private water system will be permitted above the service limit. The master meter serving the private water system shall be located within the service limit of the system. As a condition of providing water service to subdivisions above the service limit with private water systems, the Department will require the formation of an Association, which shall be organized and managed so that it substantially conforms with the requirements of Section 514A-83.6 Hawaii Revised Statutes. The Association shall name the Department as an additional insured in its general liability insurance policy and shall be financially responsible for the operation and maintenance of the private water system.

4. Where the floor elevation of a unit is less than 70 feet below the spillway elevation of the reservoir, a receiving tank with air gap, in accordance with the Department's requirements, and a pump shall be installed. The consumer shall permit the Department to inspect the installation for compliance with departmental requirements.

5. The prospective consumers or associations shall enter into an agreement with the Department agreeing to accept such water service as the system is able to provide and to hold the Department harmless for all claims due to any inadequacy of water supply.

The Department will record the agreement at the Bureau of Conveyances.

[Eff 9/5/1979; BWS Res. No. 472, 1979; am and renum BWS Res. No. 530, 1985; am BWS Res. No. 591, 1991; am and renum BWS Res. No. 610, 1992]

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976; am and renum BWS Res. No. 502, 1982]

### **Sec. 3-302 Surface Waters**

The subject of surface waters shall be governed by the appropriate and applicable Federal and State statutes, rules, regulations, directives and standards as currently exist and as may, from time to time hereafter be amended.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

### **Sec. 3-303 Use of Pesticides**

1. Any person planning to use pesticides on lands within the "RW" (Restricted Watershed) Conservation District Subzone, Department lands and installations, must obtain written approval from the Manager in addition to any other approval or permit required by law.
2. The Manager may prohibit or restrict the use of pesticides in any area when there is a reasonable basis to expect the pesticide will affect the quality of water resources used or expected to be used for domestic water.
3. If the Manager proposes to prohibit or restrict the use of pesticides in an indicated area, he shall inform the users of pesticides in the area of those facts and reasons upon which his prohibition or restriction is based, and afford the users an opportunity to be heard before taking action.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

### **Sec. 3-304 Protection of Water Resources**

1. Pursuant to the applicable provisions of the Revised Charter of the City and County of Honolulu, any proposed amendments to the "General Plan" and "Development Plan" of the City and County of Honolulu shall be reviewed by the Manager.
2. Whenever applications for any land use activity within the Conservation District in the City, whether permitted or not by State or City agencies, are submitted to the Manager for his review, the Manager shall investigate the effects the proposed use may have on water resources.
3. The Manager may recommend disapproval, within 30 days, if he finds any reason that the proposed activity could affect water resources and may be a detriment to the water resources used or expected to be used for domestic water.
4. If the Manager recommends disapproval, he shall inform the applicant of those facts and reasons upon which his disapproval is based, and shall afford the applicant an opportunity for informal hearing before the Manager prior to making a final decision.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

b. The amount of bond as set by the Manager shall include the cost of sealing the well in accordance with these Rules and Regulations should it be necessary to abandon the well for any reason prior to its completion.

c. The bond shall be effective for a period covering the life of the drilling contract plus 30 days.

d. The payee of the bond shall be the Department, and the payor shall be the Owner of the well or his agent.

3. Application forms for drilling, modifying, recasing, or reusing wells may be obtained at the offices of the Department.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

### **Sec. 3-306 Permit for Drilling, Modifying, Recasing, or Reusing Wells**

1. An application for drilling each new well to develop water; modifying, recasing, or changing the use of an existing well from which water is to be drawn; or reusing for water development purposes any well which has been unused for a period of five years or more will be reviewed and acted upon by the Manager within thirty (30) calendar days after receipt.

2. Before a permit is granted, the Owner will be required to furnish an agreement to perform the work in accordance with these Rules and Regulations, and thereafter to operate and maintain the well in accordance with the laws of the State of Hawaii and these Rules and Regulations.

3. The Manager shall classify all wells, guided by Figures 1 and 2, included herein, and by the fundamental criteria that the primary purpose of these Rules and Regulations is to assure public safety, water conservation, prevention of groundwater degradation and/or pollution, and the obtaining and recording of geologic and hydrologic information. The Manager may reclassify any well while work is in progress if the geologic and hydrologic information that then becomes available does not substantiate his original classification. The Manager's classification of the well shall be the basis of application of these Rules and Regulations.

4. The Manager may refuse to grant a permit to drill a new well or to modify, reuse, or recase an existing well if there is a reasonable basis to expect that the proposed work will affect groundwater resources by:

a. Causing or bringing about overdraft conditions, or

b. Excessive lowering of the ambient groundwater table, or

c. Causing or bringing about excessive salt water intrusion, excessive mineralization or other degradation of water quality, or

d. Interfering with the operations of existing established water sources.

5. If the Manager elects to refuse a permit, he shall inform the applicant of the facts and reasons upon which his refusal is based and afford the applicant an opportunity for informal hearing before taking action.

<b>TABLE OF CASING THICKNESS</b>	
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Nominal Diameter of Casing (In.)	Casing Thickness (In.)
2	0.154
2-1/2	0.203
3	0.216
3-1/2	0.226
4	0.237
6 - 8	0.250
10	0.312
12	0.312
14	0.312
16	0.375
18	0.375
20	0.375

For well diameters greater than 20",  
casing thickness shall be as specified by the Manager.

The well owner shall insure that proper precautions are taken during installation to prevent collapse.

3. In all new and/or modified wells wherein casing is required, the annular space shall be grouted in a manner approved by the Manager from a depth set by the Manager to the ground surface.
4. Joints in the steel casing may be either welded or of the screwed type with external sleeves. Welded joints are to be made by a State certified welder. External sleeve joints shall be screwed to refusal before being lowered into the ground. The threads of the pipe casing and the sleeves shall be cleaned of any rust, dirt or grease and given a coating of approved metal preservative. After the joint has been made up, all exposed surface of the joints, sleeves and uncovered threads are to be given a final coating of the same preservative.
5. The lower end of the casing shall be set at such depth and by such method, chosen by the contractor and approved by the Manager, as will minimize the possibility of leakage and insure that any loose material will not enter or ravel into the well. Tests for leakage in and around the casing shall be conducted under the direction of the Manager after drilling or recasing is completed. For the purposes of such tests a suitable standpipe shall be temporarily installed by the Owner at his own expense when so requested by the Manager.



## **Sec. 3-310 Log of Well, Length of Casing and Depth of Well**

1. The Owner shall require that the well driller maintain a continuous log of the drilling of the well, including a description and samples of the materials encountered, together with the depths to the top and bottom of each change in geologic characteristics. The log shall include a record of water levels encountered, any changes thereof, and the rate of flow at the surface, if any, for different depths of drilling.
2. Within ninety (90) calendar days after construction of each well, the Owner shall submit a Driller's Report to the Manager on forms approved by the Manager.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 3-311 Qualifications of Well Drillers**

The drilling, modifying, recasing, reusing, or sealing of any well shall be done only under the direct supervision of personnel properly certified by the Department of Regulatory Agencies, State of Hawaii.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 3-312 Inspection of Work**

The Manager may supply an inspector, whose duties shall be to obtain and report the progress of the work of drilling, modifying, recasing, reusing, or sealing of wells. The Manager and his assistants or inspectors shall have free access to all parts of the work at all times, and shall be given any assistance required and every facility, information and means of thoroughly inspecting the work and the materials used or to be used.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 3-313 Utilization of Well Water**

1. All water wells shall be operated in a manner that will readily and effectively prevent wastage and pollution of water. The Manager may exclude high-level tunnels from the provisions of this section if it is specifically determined in each case that wastage of water therefrom cannot be reasonably corrected.
2. The Manager may limit the amount of water drawn from any well covered under these Rules and Regulations if there is a reasonable basis to expect that the overdraft will:
  - a. Cause or bring about overdraft conditions, or
  - b. Excessively lower the ambient groundwater table, or
  - c. Cause or bring about excessive salt water intrusion, excessive mineralization, or other degradation of water quality, which may render a domestic water source unfit for such purposes, or
  - d. Interfere with the operations of existing established water sources.

## **Sec. 3-317 Access to Wells and Appurtenances**

Any member and any authorized representative or employee of the Department shall have free access to all wells and their appurtenances at any reasonable time for the purpose of inspecting or testing or securing such hydrologic or other information as the Manager may deem necessary.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 3-318 Low Groundwater Level Conditions**

### **1. Caution Low Groundwater Condition**

A caution low groundwater condition exists:

- a. At any time during the period in which three or more of the groundwater head levels at the areas listed in Schedule I fall below the levels designated in Column A of said schedule for said areas.
- b. Whenever chloride content rises 8 ppm but less than 12 ppm over three consecutive months at sufficient sources to hamper operations.

The Board may at any time during the period in which a caution low groundwater condition exists:

- a. Inform the public that a Caution Low Groundwater Condition exists.
- b. Conduct an intensive public appeal for water conservation through the mass media.
- c. Institute voluntary irrigation and other water use schedules to reduce water consumption.
- d. Send letters to large consumers and other private well operators asking them to cut back their usage.

2. The Manager shall, at each regular Board meeting while a caution low groundwater condition exists, report to the Board the status of the head and chloride levels of the Department's facilities; the weekly average of daily pumpage; the effectiveness of the voluntary conservation measures being advocated; recommendations to increase or decrease public appeals to conserve water, and such other information which the Board may desire or require from time to time to evaluate the status of the low groundwater condition and make modification to the voluntary conservation measures being advocated.

### **3. Alert Low Groundwater Condition**

An alert low groundwater condition exists:

- a. At any time during the period in which three or more of the groundwater head levels at the areas listed in Schedule I fall below the levels designated in Column B of said schedule for said areas.
- b. Whenever chloride content rises 12 ppm but less than 16 ppm over three consecutive months at sufficient sources to hamper operations.

governmental, and agricultural consumers. The allotment shall not be less than 90% of the previous 12-month monthly average or less than 350 gallons/day for single family and duplex residences.

2. Private Wells

During an alert low groundwater condition period, the Board may ask owners of private wells to comply with maximum monthly water allotments established for each private well or battery of private wells. Such allotments shall be stated as a percentage of the highest average daily draft for each month of the year over the last 5 years prior to the effective date of declaration by the Board.

Example: John Doe Well - Average Daily Pumpage Each Month

Jan.	2.3 mgd	1.7 mgd	*2.4 mgd	2.0 mgd	1.9 mgd
Feb.	1.8 mgd	1.9 mgd	1.8 mgd	*2.0 mgd	1.8 mgd
Mar.	*1.9 mgd	1.8 mgd	1.8 mgd	1.7 mgd	1.8 mgd
Apr.	2.2 mgd	2.0 mgd	*2.6 mgd	2.3 mgd	2.3 mgd
etc.	etc.	etc.	etc.	etc.	etc.

\*Highest Average Daily Pumpage for Each Month of the Year Over the Last 5 Years for John Doe Well

Jan.	2.4 mgd.
Feb.	2.0 mgd.
Mar.	1.9 mgd.
Apr.	2.6 mgd.
etc.	etc.

In no case shall the allotment be less than 90% of the highest average daily draft for each month of the year over the last 5 years. Any owner of 2 or more separate wells may regulate the draft of their wells so that aggregate monthly draft will not exceed the combined monthly allotment for all of their wells.

3. Department personnel may issue warnings and citations for violations of mandatory restrictions set by the Board.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

**Sec. 3-320 Mandatory Restrictions Related to Critical Low Groundwater Condition**

1. Board of Water Supply Consumers

consumed in excess of the water allotment per billing period for each consumer shall be charged according to the following schedule:

Gallons in excess of Allotment for Meter Sizes 2" and Larger (Monthly or Bi-monthly Billing)	Gallons in excess of Allotment for Meter Sizes 5/8" to 1-1/2" (Monthly Billing)	Gallons in excess of Allotment for Meter Sizes 5/8" to 1-1/2" (Bi-Monthly Billing)	Surcharge
First 25% or part thereof	First 3,000 gallons or part thereof	First 6,000 gallons or part thereof	2 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part thereof	Next 6,000 gallons or part thereof	3 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part	Next 6,000 gallons or part thereof	4 times existing water rate*
Next 25% or part thereof	Next 3,000 gallons or part	Next 6,000 gallons or part thereof	12 times existing water rate*
All use over 100%	All use over 12,000 gallons	All use over 24,000 gallons	20 times existing water rate*

*\*If the service is charged by block rates, the surcharge will be charged at the Block Rate that the allotment falls in.*

For residential consumers, the surcharge shall be charged at the block rate that the allotment falls in. Surcharges shall be assessed each consumer after receipt of the first water bill following the establishment of allotments by the Board. Upon termination of allotments by the Board, surcharges shall cease.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

### **Sec. 3-321 Penalties**

1. Any violation by any person of the restrictions declared by the Board under Sections 3-319 and 3-320 of this Chapter shall be punishable according to Chapter II, Section 2-205 and Chapter V, Section 5-501 of these Rules and Regulations.

2. Any consumer who violates the restrictions declared by the Board under Sections 3-319 and 3-320 of this Chapter or who consumes water in excess of the amount designated below for their class shall be subject to the installation of a flow restriction device by the Department and punishable according to Chapter V, Section 5-501 of these Rules and Regulations. An offender shall pay \$50.00 for the installation and removal of a flow restriction device by the Department. Water service may be discontinued for an offense committed after the installation of a flow restrictor in accordance to Chapter II, Section 2-205.

### 3. Notice of Water Allotment to Consumers

Each consumer shall be notified of their water bill or by direct mail to the consumer. In cases where a water bill is not sent directly to the person using the water, the consumer shall be responsible for informing the user of the water allotment per billing period applicable to them.

### 4. Notice of Maximum Monthly Water Allotment to Private Well Operators

Each private well operator shall be notified by mail of their monthly water allotment.

### 5. Exceptions

Consideration of written applications for exceptions regarding the allotment system or regulations and restrictions on water use set forth in this Chapter shall be as follows:

a. Written applications for exceptions shall be accepted, and may be granted, by the Manager.

b. Grounds for granting such exceptions are:

(1) Failure to do so would cause an unnecessary and undue hardship to the Applicant, including but not limited to adverse economic impacts such as loss of production or jobs;

(2) Failure to do so would cause an emergency condition affecting the health, sanitation, fire protection, or safety of the Applicant or the public;

(3) For single family residences with more than four persons permanently residing in the home, if a written application for an exception is granted as provided herein, the applicable allotment shall be increased by 40 gallons per person per day for each person permanently residing in the home in excess of four persons;

(4) For multiple residential units with more than two dwelling units where the allotment is less than 280 gallons per day per dwelling unit, if a written application for an exception is granted as provided herein, the applicable allotment shall be 280 gallons for each unit;

(5) Denial of an application for exception may be appealed in writing to the Board.

### 6. Termination of Low Groundwater Level Condition

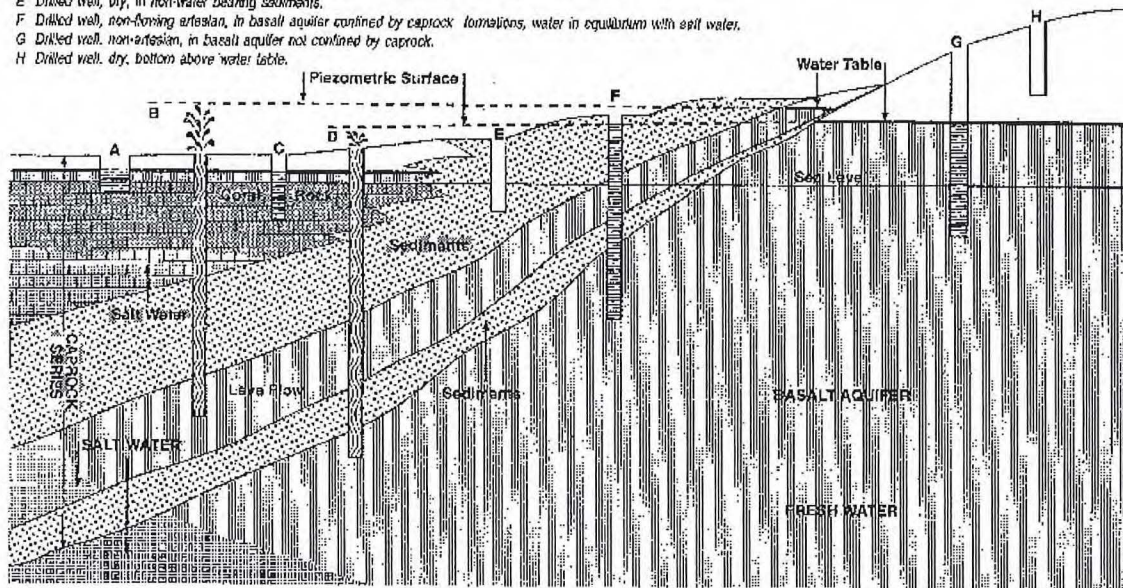
The Board may terminate a declared low groundwater level condition whenever head levels at fewer than five of the area heads listed in Schedule I are within the prevailing condition or whenever chloride content has risen less than 12 ppm over three consecutive months at sources that caused the declared low groundwater level conditions.

The Manager shall inform the public and the Department's consumers of the termination of an alert or critical low groundwater condition by publishing such termination in a newspaper of general circulation on the island of Oahu at least once a day for three consecutive days. The alert or critical low groundwater condition and all restrictions and allotments associated therewith shall terminate at midnight on the first day of a publication terminating such condition.

[Eff 8/14/1978; BWS Res. No. 459, 1978; am BWS Res. No. 624, 1994]

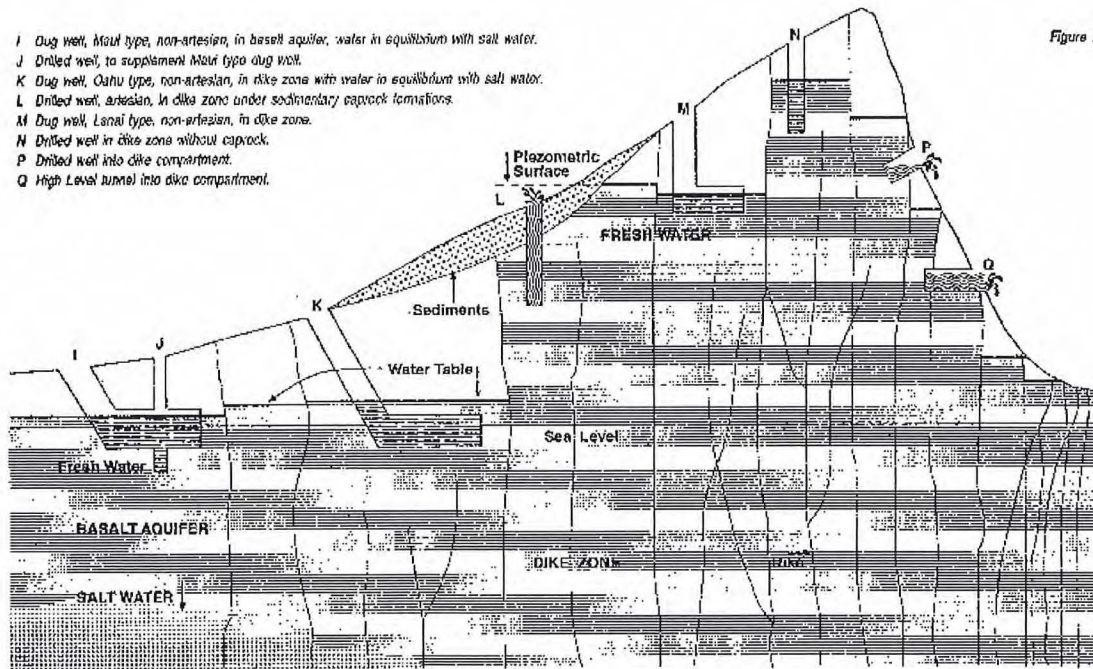
- A Dug well, non-artesian, in formation of caprock series.
- B Drilled well, artesian, in water bearing formations of caprock series.
- C Drilled well, non-artesian, in lava or sediments of caprock series.
- D Drilled well, artesian, in lava flows confined under caprock formations, water in equilibrium with salt water.
- E Drilled well, dry, in non-water bearing sediments.
- F Drilled well, non-flowing artesian, in basalt aquifer confined by caprock formations, water in equilibrium with salt water.
- G Drilled well, non-artesian, in basalt aquifer not confined by caprock.
- H Drilled well, dry, bottom above water table.

Figure 1



- I Dug well, Mout type, non-artesian, in basalt aquifer, water in equilibrium with salt water.
- J Drilled well, to supplement Mout type dug well.
- K Dug well, Qahu type, non-artesian, in dike zone with water in equilibrium with salt water.
- L Drilled well, artesian, in dike zone under sedimentary caprock formations.
- M Dug well, Lanai type, non-artesian, in dike zone.
- N Drilled well in dike zone without caprock.
- P Drilled well into dike compartment.
- Q High Level tunnel into dike compartment.

Figure 2



[Eff 3/31/1980; BWS Res. No. 475, 1980; am BWS Res. No. 624, 1994; am BWS Res. No. 796, 2010]

- ii. Should be knowledgeable about all applicable conditions of recycled water use;
    - iii. Will be responsible for installing, operating, and maintaining the recycled water system;
    - iv. Will be responsible for preventing potential hazards;
    - v. Will be responsible for implementing the DOH Guidelines; and
    - vi. Will be responsible for coordinating with the Department's cross-connection control program.
  - c. The Management Reuse Plan will include operation criteria for irrigation.
    - i. Rationale for scheduling irrigation.
    - ii. How to determine when to stop irrigation.
    - iii. The number of fields that can or should be irrigated at the same time.
    - iv. The order in which fields should be irrigated.
    - v. The sequence to follow when starting and stopping the irrigation system.
    - vi. How to control flow and pressure.
  - d. The Management Reuse Plan will include a contingency plan that identifies actions and precautions to be taken to protect public health in the event of a non-approved use, such as an overspray or runoff from the approved recycled water use site, and ponding of recycled water.
- 8. A public education plan will be developed to inform persons about the use of recycled water in areas where they are likely to come in contact with it.
  - a. When spray irrigation is used, the Department and user property manager will comprise a reuse committee. The intent of this committee is to identify, document, and notify the Department of Health of inappropriate use of recycled water.
  - b. Signs with conspicuous pictorial and text warning will be approved by the Department and will be posted in all areas where recycled water is used. The wording will be of sufficient size to be clearly read by the public. Examples of approved signs are available from the Department.
- 9. Information will be provided to employees who work in an approved recycled water use site. Information will include oral and written information that:
  - a. Recycled water is being used.
  - b. Recycled water is not suitable for drinking and that drinking recycled water may result in potential illness.
- 10. Daily records of operation and maintenance information will be maintained, including:
  - a. The volume of recycled water flow applied to the approved recycled water use area.
  - b. The volume of any supplemental water flow applied to the approved recycled water use area.

# **CHAPTER IV: RULES GOVERNING PARKING AT THE BOARD OF WATER SUPPLY**

## **Sec. 4-401 Off-Street Parking Areas**

The following areas are designated for off-street parking as indicated:

### **1. Visitor Parking**

Areas in the back of the Public Service Building and in front of the Engineering Building, shown as Areas A and B in Appendix A, attached.

### **2. Employee Parking**

Areas makai of Lusitana Street bounded by Alapai, Lisbon and Lauhala Streets, respectively, which are shown as Areas C, D & E, in Appendix A.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 4-402 Parking Authorization**

Except as specified otherwise by appropriate signs and/or markings, parking in the above-designated areas is authorized only as follows:

1. Areas A and B - For bona fide visitors on Departmental business.
2. Areas C, D and E - For bona fide employees of the Department, whose vehicles display the required decal evidencing the issuance of a parking permit by the Manager or his authorized representative.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 4-403 Parking Hours**

Except as otherwise specifically authorized, the off-street parking areas shall be open Monday through Friday, inclusive, from 6:30 a.m. to 5:30 p.m., holidays excepted.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 4-404 Removal of Unauthorized Vehicles**

The Manager or his authorized representative is hereby authorized to remove or cause to be removed at the vehicle owner's expense any vehicle parking within the areas described in Section 4-402 when:

1. Such vehicle is parked by a person who is not a bona fide visitor on Departmental business.
2. Such vehicle does not display the required decal evidencing the issuance of a parking permit by the Manager or his authorized representative.



# **CHAPTER V: GENERAL PROVISIONS**

## **Sec. 5-501 Penalty**

Any person who shall violate any provision of any of the foregoing Rules and Regulations shall be guilty of a misdemeanor, pursuant to Chapter 1, Article 3, Section 1-3.1 of the Revised Ordinances of Honolulu, as amended and upon conviction thereof shall be punished for each offense as prescribed by law, except that in cases where such offense shall continue after due notice, each day's continuance of the same shall constitute a separate offense.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 5-502 Appeals**

Appeals to the Board as prescribed in Sections 7-105(k) and 7-118 of the Revised Charter of the City and County of Honolulu shall be conducted in accordance with procedures established under Sections 91-9, -10, -11 and -12 of the Hawaii Revised Statutes.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 5-503 Repeal of Rules**

The Rules and Regulations and all amendments thereto previously adopted by the Board are hereby repealed.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 5-504 Severability**

If any rule, section, sentence, clause, or phrase of these Rules and Regulations, or the application thereof to any person, circumstance, or property is held to be unconstitutional or invalid, the remaining provisions or applications of these Rules and Regulations to other persons, circumstances, or property shall not be affected, and to this end the provisions of these Rules and Regulations are severable. The Board hereby declares that it would have adopted these Rules and Regulations as presently promulgated, irrespective and notwithstanding the fact that any one or more of said rules, sections, sentences, clauses, or phrases might be declared unconstitutional or invalid.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **Sec. 5-505 Rules Inoperative, When**

If any provision of these Rules and Regulations jeopardizes the receipt by the State, City and County of Honolulu, or Department of any federal grant-in-aid or other federal allotment of money, the provision shall, insofar as such funding is jeopardized, be deemed inoperative.

[Eff 5/10/76; am, renum and comp BWS Res. No. 427, 1976]

## **IV. ADMINISTRATIVE MATTERS**

A. Update on the Board's Upcoming Advocacy Activities and Programs in accordance with the Board's Powers under Section 201M-5, Hawaii Revised Statutes

1. Review of the Board's Current Membership and Expiration of Terms - *attachment*
2. Discussion and Action on the Proposed Nomination of Ms. Nikki Ige for a seat on the Small Business Regulatory Review Board - *attachment*
3. Update on Becker Communications, Inc., regarding the Board's Outreach Efforts
4. Presentations to Industry Associations
5. Staff's Small Business Outreach

## Small Business Regulatory Review Board

(SBRRB/SBRRB/Members/SBRRB-Brd& ComDoc 23-24)

**Purpose:** The Small Business Regulatory Review Board (SBRRB), which is administratively attached to DBEDT, was established on July 1, 1998 with the passage of the Hawaii Small Business Regulatory Flexibility Act (RFA). Pursuant to the RFA, the purpose and responsibilities of the SBRRB include:

- 1) Commentary on small business impact statements to the rule-drafting departments,
- 2) Identification and commentary on business impact of existing administrative rules,
- 3) Recommendations to the Governor's Office, Departments or the Legislature regarding the need for an administrative rule or legislative change,
- 4) Recommendations to the Mayors or County Councils regarding County rules, and
- 5) Review of small business petitions and complaints on business impact.

**Restrictions:** Sec. 26-34, Hawaii Revised Statutes (HRS) / **Number of Seats:** 11

**Contact / Email / Phone:** 1) Dori Palcovich / [dori.palcovich@hawaii.gov](mailto:dori.palcovich@hawaii.gov) / 808 586-2594

2) Jet'aime Ariola / [jetaime.k.ariola@hawaii.gov](mailto:jetaime.k.ariola@hawaii.gov) / 808 798-0737

**Meeting Location/Duration/Frequency:**

Meeting Location: Leiopapa A Kamehameha Building – State Office Tower 235 S. Beretania Steet, Conference Room 405, Honolulu, HI 96813 (Subject to Change)/ Board meetings are held remotely through ZOOM and in person.

Meeting Frequency: Monthly / Third Thursday of the month

Meeting Time: 10:00 AM

Meeting Duration: Approx. 2 - 4 hours

Chairperson: Mary Albiz / Vice Chair: Robert Cundiff / Second Vice Chair Jonathan Shick

**Legal Authority:** Chapter 201M, HRS / **201M-5(b)(8), HRS – “There shall be at least one representative from each county.”**

**Membership:**

Member Name	Initial Appointment Date	Second Appointment Date	Term Ends	Term #	Seat / Representing	Remarks
Gomes, Tessa	4/2022		6/30/2026	1	Senate / Oahu (C&CH)	1 <sup>st</sup> Term
			6/30/2023	1	Senate	
Atmospera-Walch, Dr. Nancy	4/2015	7/01/2016/2020	6/30/2024	2	Senate / Oahu (C&CH)	2 <sup>nd</sup> Term
Morioka, Sanford	4/2022		6/30/2027	1	House / Oahu (C&CH)	2 <sup>nd</sup> Term
Lee, James Kimo	4/2019	4/2022	6/30/2024	2	House / Hawaii County	2 <sup>nd</sup> Term
Shick, Jonathan	4/2019	4/2022	6/30/2026	2	House / Oahu (C&CH)	2 <sup>nd</sup> Term
Yamanaka, Garth	4/2015	4/2019	6/30/2023	3	Governor / Hawaii County	3 <sup>rd</sup> Term
Cundiff, Robert	4/2015	7/01/2016/2020	6/30/2024	2	Governor / Oahu (C&CH)	2 <sup>nd</sup> Term
Mary Albiz	4/2018	6/2020	6/30/2024	2	SBRRB / Maui County	2 <sup>nd</sup> Term
William Lydgate	4/2018	4/2022	6/30/2026	2	SBRRB / Kauai County	2 <sup>nd</sup> Term
DBEDT, Director	NA	NA	NA	s	DBEDT	Ex Officio Voting Member

## NIKKI IGE

5023 Hekili Rd Kapaa, HI 96746 ♦ 808.652.2272 (cell) ♦ [nicolle.ige@gmail.com](mailto:nicolle.ige@gmail.com)

## WORK EXPERIENCE

**Executive Director**

February 2023 - Present

*Grove Farm Company Foundation, Inc. – Lihue, HI*

- Represent the organization in fostering positive relationships with stakeholders, donors, and the community
- Manage all distributions to ensure efficient allocation of resources that support the Foundation's mission
- Oversee the Grove Farm Foundation Scholarship and Employee Volunteer Grant programs

**Project Manager**

January 2019 – February 2023

*Grove Farm Company, Inc. – Lihue, HI*

- Assisted with risk management and financial analyses of various subsidiary companies
- Researched and developed pro forma reports for new business ventures
- Managed cybersecurity and created efficiencies using various IT resources

**Vice President of Loans**

July 2016 – January 2019

*Gather Federal Credit Union – Lihue, HI*

- Responsible for the strategic direction and creation of loan products and programs
- Managed a team of 20 loan and collections staff
- Monitored loan performance and profitability for a \$290 million loan portfolio

**Vice President of Risk Management / Internal Auditor**

September 2012 – July 2016

*Kauai Community Federal Credit Union – Lihue, HI*

- Conducted annual risk assessments for savings and loan products/services
- Created and executed compliance and risk based audits
- Served as the management liaison for the Supervisory Committee, NCUA Examiners, and External Auditors
- Investigated all fraud related activities involving the credit union

**Senior Information Technology Risk & Assurance Consultant – Advisory Services**

July 2008 – May 2012

*Ernst & Young, LLP – Los Angeles, CA and Honolulu, HI*

- Managed engagement teams performing testing and reviews of Financial, HR, and IT applications
- Lead weekly status meetings with management to present findings and recommendations
- Performed custom data analytics to identify potential fraud/irregular activities
- Assisted with multiple on-campus recruiting events for Brigham Young University and UCLA

## VOLUNTEER EXPERIENCE

**Board Member & Agriculture Committee Chair**

April 2021 – Present

*Kauai Chamber of Commerce*

- Plan & facilitate meetings to discuss and address issues pertaining to the agriculture sector
- Foster collaborative relationships among local government, small businesses, and the community

**Treasurer**

April 2023 - Present

*Kauai Pop Warner Football League*

- Manage financial operations to run youth football and cheer for over 400 children
- Assist with ensuring compliance with National Pop Warner requirements

## EDUCATION

**Bachelor of Science Information Systems**

September 2004 - August 2008

*Brigham Young University – Provo*

- Brigham Young University – Full Tuition Academic and Leadership Scholarship 2004-2008

## SKILLS &amp; INTERESTS

- Fitness enthusiast; travel adventurer; foodie; and part-time bellman



LYDGATE FARMS  
KAUAI CHOCOLATE

To Whom it May Concern,

I am writing this letter in strong support of Nikki Ige's candidacy for the Small Business Regulatory Review Board. Nikki's Kauai roots, business experience, and leadership skills make her a great choice.

I have had the chance to work with Nikki on the Chamber of Commerce Agriculture Subcommittee, which she chairs. I have enjoyed being in her meetings and contributing to that board under her leadership. She cares about Kauai businesses, and it shows.

Please take this as my strong recommendation as to Nikki Ige and the SBRRB board.

Aloha,

Will Lydgate