

---

---

# A BILL FOR AN ACT

RELATING TO KAWAI NUI MARSH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Kawai Nui Marsh, encompassing approximately  
2 eight hundred thirty acres of land in Kailua, Oahu, is the  
3 State's largest remaining wetland and an ecological treasure.  
4 It has been identified by the United States Fish and Wildlife  
5 Service as a primary habitat for endemic and endangered native  
6 Hawaiian birds. Last year, the Ramsar Convention on Wetlands  
7 designated Kawai Nui Marsh a wetland of international  
8 importance.

9 Act 314, Session Laws of Hawaii 1990, directed the transfer  
10 of that certain parcel bearing tax map key number 4-2-16:1 to  
11 the State that is owned by the city and county of Honolulu and  
12 encompasses the bulk of Kawai Nui Marsh. Both the city and  
13 county of Honolulu and the State own other parcels that are part  
14 of the wetlands ecosystem of Kawai Nui Marsh.

15 Since Act 314 was passed, the State and city and county of  
16 Honolulu have disputed their respective management  
17 responsibilities of Kawai Nui Marsh. This dispute has delayed  
18 restoration and rehabilitation of the marsh to the point where



1 the continued health of the marsh to support its native wildlife  
2 population is in crisis. It is in the public interest that the  
3 State immediately take over primary responsibility for the  
4 economic, ecological, and cultural resources of Kawai Nui Marsh  
5 to preserve the marsh in perpetuity for Hawaii's residents.  
6 Federal funding is available to the State to carry out this  
7 responsibility and the funding opportunities could be lost if  
8 the dispute between the State and city and county of Honolulu is  
9 not resolved.

10 The purpose of this Act is to transfer from the city and  
11 county of Honolulu to the State, lot 3, as shown on land  
12 division parcel map file no. 18-3-3-13, as well as other parcels  
13 to enable the State to meet its responsibilities to preserve  
14 this important wetland.

15 SECTION 2. Act 314, Session Laws of Hawaii 1990, as  
16 amended by Act 47, Session Laws of Hawaii 1998, is amended by  
17 amending section 1 to read as follows:

18 "SECTION 1. The estate, right, title, and interest, and  
19 any appurtenance thereto, of the city and county of Honolulu  
20 relating to [~~Kawainui Marsh, tax map key no. 4-2-16:1, lot 2-b,~~]  
21 Kawai Nui Marsh, lot 3, as shown on land division parcel map  
22 file no. 18-3-3-13, less the area makai of the boundary defined



1 as five feet from the toe of the Coconut Grove side of the flood  
 2 control levee, beginning at the Oneawa [~~Canal~~] canal and ending  
 3 at the State-owned parcel identified by tax map key number  
 4 4-2-16:02, lot A[~~7~~] and the levee system that runs from Kailua  
 5 road to the Oneawa canal, shall be vested in the State in fee  
 6 simple [~~;~~ ~~provided that the city and county of Honolulu and the~~  
 7 ~~United States Army Corps of Engineers shall have first completed~~  
 8 ~~all pending flood control projects for Kawainui Marsh to the~~  
 9 ~~satisfaction of the department of land and natural resources;~~  
 10 ~~provided further that at the time of the transfer of Kawainui~~  
 11 ~~Marsh to the State, the State shall enter into any required~~  
 12 ~~operation or maintenance agreements, or both, with the United~~  
 13 ~~States Army Corps of Engineers)]. Parcels owned by the city and  
 14 county of Honolulu as part of the Oneawa canal widening project  
 15 shall also be vested in the State in fee simple.~~

16 [~~Pending the completion of the transfer of Kawainui Marsh~~  
 17 ~~to the State, the State and the city and county of Honolulu~~  
 18 ~~shall enter into a management lease, licence agreement, or other~~  
 19 ~~similar agreement to enable the department of land and natural~~  
 20 ~~resources, on behalf of the State, to manage the economic,~~  
 21 ~~ecological, and cultural resources of Kawainui Marsh as provided~~  
 22 ~~in the 1983 Kawainui Marsh resource management plan. The lease~~



1 ~~or agreement shall provide for the notification of the city and~~  
2 ~~county of Honolulu of any undertaking relating to the operation~~  
3 ~~and maintenance of Kawanui Marsh and allow the city and county~~  
4 ~~of Honolulu the opportunity for review of the effect of the~~  
5 ~~proposed undertaking.]"~~

6 SECTION 3. Nothing in this Act prohibits the State and  
7 city and county of Honolulu from entering into an agreement for  
8 maintenance or operations of any part of Kawai Nui Marsh.

9 SECTION 4. In the event that a dispute arises between the  
10 State and the city and county of Honolulu over the transfer of  
11 the parcels identified in section 2 of this Act, the State shall  
12 have an easement in perpetuity over those parcels for the  
13 purpose of permitting the department of land and natural  
14 resources to manage the economic, ecological, and cultural  
15 resources of Kawai Nui Marsh, including any restoration and  
16 rehabilitation program.

17 SECTION 5. All land transfers shall be completed no later  
18 than September 1, 2006; provided that prior to the transfer of  
19 the parcels identified in section 2 of this Act, the State shall  
20 be granted a temporary easement over those parcels.

21 SECTION 6. There is appropriated out of the general  
22 revenues of the State of Hawaii the sum of \$1 or so much thereof

1 as may be necessary for fiscal year 2006–2007 for the department  
2 of land and natural resources to maintain the Kawai Nui Marsh.

3 The sum appropriated shall be expended by the department of  
4 land and natural resources for the purposes of this Act.

5 SECTION 7. If any provision of this Act, or the  
6 application thereof to any person or circumstance is held  
7 invalid, the invalidity does not affect other provisions or  
8 applications of the Act, which can be given effect without the  
9 invalid provision or application, and to this end the provisions  
10 of this Act are severable.

11 SECTION 8. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval;  
14 provided that section 6 shall take effect on July 1, 2050.



**Report Title:**

Kawai Nui Marsh; Appropriation

**Description:**

Requires the City and County of Honolulu to transfer to the State a parcel of pristine wetlands known as Kawai Nui Marsh effective September 1, 2006; transfers another parcel of Kawai Nui Marsh to the State. (SD1)

