

JAN 25 2006

S.B. NO. 3077

A BILL FOR AN ACT

RELATING TO CONSERVATION.

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

1 SECTION 1. Chapter 173A, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§173A-A Legacy land conservation commission. (a) There
5 is established within the department of land and natural
6 resources a legacy land conservation commission. The commission
7 shall consist of nine members, with at least one member from
8 each of the counties, who shall be appointed in the manner and
9 serve for the term set forth in section 26-34 as follows:

10 (1) Four of the members of the commission shall be persons
11 possessing scientific qualifications as evidenced by
12 an academic degree in wildlife or marine biology,
13 botany, forestry, ecology, resource management,
14 biogeography, zoology, or geology;

15 (2) One member shall be a person possessing membership in
16 a environmental organization organized in the State;



1 (3) One member shall be a person possessing membership in
2 a land conservation organization organized in the
3 State;

4 (4) One member shall be a person possessing membership in
5 a statewide agricultural association; and

6 (5) One member shall be a person knowledgeable about
7 native Hawaiian culture.

8 The chairperson of the natural area reserves system commission
9 shall serve as an ex officio voting member and the chairperson
10 of the commission. The members shall receive no compensation
11 for their services on the commission but shall be entitled to
12 reimbursement for necessary expenses, including travel expenses,
13 incurred in the discharge of their duties.

14 (b) Any action taken by the commission shall be by a
15 simple majority of its members. Five members of the commission
16 shall constitute a quorum to do business.

17 (c) Except as otherwise provided in this chapter, the
18 commission shall be subject to sections 26-34, 26-35, 26-35.5,
19 and 26-36.

20 (d) The commission may adopt rules, subject to chapter 91,
21 to carry out its duties.



1 **§173A-B Responsibilities of the legacy land conservation**

2 **commission.** The responsibilities of the commission shall

3 include, but not be limited to:

4 (1) Advising the department and the board on any proposal,
5 public or private, for the acquisition of any interest
6 or rights in land having value as a resource to the
7 State;

8 (2) Advising the department and the board on any requests
9 for grants from the fund to a qualifying state or
10 county agency or nonprofit land conservation
11 organization for the preservation of lands having
12 value as a resource to the State;

13 (3) Recommending to the board the acquisition of interests
14 or rights in certain lands having value as a resource
15 to the State; and

16 (4) Reviewing and adopting rules relating to the criteria
17 it applies in advising the department and the board
18 and making recommendations to the board regarding land
19 acquisitions and grants made pursuant to this chapter.

20 **§173A-C Criteria.** In advising the department and the

21 board and making its recommendations to the board, the

22 commission shall apply the following criteria in determining the



1 priority in the acquisition of interests or rights or the making
2 of grants from the fund to preserve lands having value as a
3 resource to the State as set forth in section 173A-5(f):

4 (1) Lands having exceptional value due to the presence of:

5 (A) Unique aesthetic resources;

6 (B) Unique and valuable cultural or archaeological
7 resources; or

8 (C) Habitats for threatened or endangered species of
9 flora, fauna, avifauna, or aquatic resources;

10 (2) Lands that are in imminent danger of development;

11 (3) Lands that are in imminent danger of being modified,
12 changed, or used in a manner to diminish its value;

13 (4) Lands providing critical habitats for threatened or
14 endangered species that is in imminent danger of being
15 harmed or negatively impacted;

16 (5) Lands containing cultural or archaeological sites or
17 resources that are in danger of theft or destruction;

18 and

19 (6) Lands that are unique and productive agricultural
20 lands."

1 SECTION 2. Section 173A-1, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Legacy land commission" or "commission" means the legacy
5 land conservation commission established in section 173A-A."

6 SECTION 3. Section 173A-3, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§173A-3[+] **Resource land acquisition plan.** [The] In
9 consultation with the commission, the department [may] shall
10 prepare and from time to time revise a plan, utilizing the
11 criteria set forth in section 173A-C, for the acquisition of
12 land having value as a resource to the State. This plan shall
13 guide the board in acquiring such land in the exercise of its
14 powers under this chapter. In preparing this plan, the
15 department may institute studies relating to the need for such
16 land[-] and shall consider any plan relating to the acquisition
17 of such land [which] that has been prepared by any state or
18 county agency[-] or the commission."

19 SECTION 4. Section 173A-4, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§173A-4[+] **Authority to acquire and convey.** (a)
22 [~~Subject~~] In consultation with the commission and subject to the



1 approval of the [~~governor,~~] legislature, the board may acquire,
2 by purchase, gift, or the exercise of the power of eminent
3 domain as authorized by chapter 101, any land having value as a
4 resource to the State. Such acquisition is hereby declared to
5 be for a public use.

6 (b) The board [~~may,~~] subject to chapter 171, in
7 consultation with the commission, and with the approval of the
8 [~~governor,~~] legislature, may sell, lease, or otherwise convey
9 any such land subject to terms and conditions [~~which~~] that it
10 deems appropriate and [~~which~~] that will [~~insure~~] ensure that the
11 transferee will not use the land in a manner [~~which~~] that is
12 inconsistent with the purposes for which it was acquired by the
13 board. Such terms and conditions shall run with the land and
14 shall be binding on the transferee's heirs, successors, and
15 assigns. The board may seek enforcement of such terms and
16 conditions in any court of appropriate jurisdiction."

17 SECTION 5. Section 173A-5, Hawaii Revised Statutes, is
18 amended by amending subsection (h) to read as follows:

19 "(h) Based on applications from state agencies, counties,
20 and nonprofit land conservation organizations, the department,
21 after reviewing the advice and recommendations of the
22 commission, shall recommend to the board specific parcels of



1 land to be acquired, restricted with conservation easements, or
 2 preserved in similar fashion. The board shall review the
 3 selections and approve or reject the selections according to the
 4 availability of moneys in the fund. To be eligible for grants
 5 from the fund, state and county agencies and nonprofit land
 6 conservation organizations shall submit applications to the
 7 department that contain:

- 8 (1) Contact information for the project;
- 9 (2) A description of the project;
- 10 (3) The request for funding;
- 11 (4) Cost estimates for acquisition of the interest in the
 12 land;
- 13 (5) Location and characteristics of the land; and
- 14 (6) Other similar, related, or relevant information as may
 15 be determined by the department."

16 SECTION 6. Section 173A-9, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 **"§173A-9 Grants to state agencies, counties, and nonprofit**
 19 **land conservation organizations.** [~~Subject~~] After consultation
 20 with the commission and subject to the approval of the
 21 [governor,] legislature, the board may make grants to state
 22 agencies, counties, and nonprofit land conservation

1 organizations from available funds for the purchase or
2 acquisition of interests or rights in land having value as a
3 resource to the State, whether in fee title or through the
4 purchase of permanent conservation easements under chapter 198,
5 and approved for purchase or acquisition by the board. Any land
6 so acquired by any state agency or county may be sold, leased,
7 or otherwise disposed of, subject to chapter 171, with the prior
8 written approval of the [~~board.~~] legislature. Any land acquired
9 by any nonprofit land conservation organization under this
10 chapter may be sold, leased, or otherwise disposed of with the
11 prior written approval of the [~~board.~~] legislature. Any
12 permanent conservation easement established under this section
13 that includes partnership with a federal land conservation
14 program may be transferred only as provided by rules of the
15 federal program."

16 SECTION 7. In codifying the new sections added by section
17 1 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

1 SECTION 9. This Act shall take effect upon its approval.

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Report Title:

Department of Land and Natural Resources; Land Conservation Fund

Description:

Creates a legacy land conservation commission to assist DLNR and BLNR in administering the land conservation fund; establishes criteria for prioritizing land and easement acquisitions with moneys in the fund.

