

JAN 25 2006

S.B. NO. 3148

A BILL FOR AN ACT

RELATING TO LAND 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 a four new sections to be appropriately
3 designated and to read as follows:

4 "§173A-A Acquisitions by applications to the board;
5 application. (a) Any state agency, county, or nonprofit land
6 conservation organization may submit an application to the board
7 for the acquisition of specific parcels of land, conservation
8 easements, or agricultural easements in land having value as a
9 resource to the State.

10 (b) The board, from time to time, shall give notice of
11 when applications will be accepted. Notice shall be published
12 at least once in each of three successive weeks statewide, with
13 the last public notice published not less than ten days before
14 the first day that applications are to be accepted. The notice
15 shall contain the following:

16 (1) The first day and the last day that applications will
17 be accepted;



- 1 (2) The form in which the application is to be submitted;
- 2 and
- 3 (3) The information required to be submitted with the
- 4 application.
- 5 (c) The application shall contain:
- 6 (1) A description of the specific parcel of land,
- 7 conservation easement, or agricultural easement
- 8 proposed to be acquired;
- 9 (2) The owner of the property;
- 10 (3) The estimated costs for acquisition of the interest in
- 11 the land;
- 12 (4) If the applicant is a county agency or nonprofit land
- 13 conservation organization, if matching funds equal to
- 14 at least twenty-five per cent of the total costs are
- 15 available; and
- 16 (5) Evidence that the matching funds shall be made
- 17 available by the applicant.
- 18 (d) The board shall review the applications and shall
- 19 determine those applications qualifying as interests in lands
- 20 having value as a resource to the State. The board shall
- 21 prepare a list of applications accepted and rank the
- 22 applications based on its evaluation of the parcels. The board



1 shall establish a priority for the acquisition of interest in
 2 land having value as a resource to the State. The board shall
 3 submit its recommendations to the legislature for the
 4 acquisition of interests in land having value as a resource to
 5 the State and the appropriation of moneys from the fund for the
 6 acquisitions.

7 **§173A-B Acquisitions authorized by the legislature.** (a)

8 The board, pursuant to section 173A-A, or any other state
 9 agency, county, or nonprofit land conservation organization may
 10 submit a proposal to the legislature for the acquisition of
 11 specific parcels of land, conservation easements, or
 12 agricultural easements in land having value as a resource to the
 13 State.

14 (b) All proposals shall be made in the form of a bill and
 15 shall contain:

16 (1) A statement of the value of the interest in land as a
 17 resource to the State;

18 (2) A description of the specific parcel of land,
 19 conservation easement, or agricultural easement
 20 proposed to be acquired;

21 (3) The owner of the property;



1 (4) The estimated costs for acquisition of the interest in
2 the land; and

3 (5) If the applicant is a county agency or nonprofit land
4 conservation organization, if matching funds equal to
5 at least twenty-five per cent of the total costs are
6 available.

7 (c) The legislature shall:

8 (1) Determine whether to authorize any acquisitions;

9 (2) Make an appropriation or otherwise determine how
10 payment shall be made; including determining whether
11 the landowner shall receive payment for the interests
12 in a lump sum or through an installment purchase
13 agreement pursuant to section 173A-D.

14 **§173A-C Acquisitions; payment, grants.** (a) If the
15 landowner agrees to the sale of the interest in land having
16 value as a resource to the State and the legislature did not
17 determine whether the purchase would be by lump sum payment or
18 installment purchase agreement, the landowner and the board
19 shall agree upon whether the landowner shall receive payment for
20 the interests in a lump sum or through an installment purchase
21 agreement pursuant to section 173A-D.



1 (b) The board may make grants to state agencies, counties,
2 and nonprofit land conservation organizations from an
3 appropriation of moneys from the fund as authorized by the
4 legislature.

5 **§173A-D Installment purchase agreements; interest payment.**

6 (a) The legislature may authorize the board to establish
7 installment purchase agreements for the acquisition of specific
8 parcels of land, conservation easements, or agricultural
9 easements in land having value as a resource to the State. The
10 agreements shall be structured pursuant to the requirements of
11 the Internal Revenue Code of 1986, as amended, to defer
12 recognition of capital gain until all of the purchase price is
13 paid. The agreement shall include provisions for the periodic
14 payment of a portion of the purchase price with the remainder of
15 the purchase price paid at the end of the term of the agreement.
16 The legislature shall authorize the purchase of United States
17 Treasury zero coupon bonds for the installment purchase
18 agreement with a maturity date equal to the term of the
19 agreement.

20 (b) The interest rate paid on the installment purchase
21 agreement shall be not less than the interest rate on the zero



1 coupon bonds at the closing of the agreement or eight per cent,
2 whichever is higher.

3 (c) The board shall make semi-annual interest payments on
4 the outstanding balance of the installment purchase agreement
5 purchase price from the land conservation fund."

6 SECTION 2. Section 173A-2, Hawaii Revised Statutes, is
7 amended by adding four definitions to be appropriately inserted
8 and to read as follows:

9 "Agricultural easement" means an interest in real property
10 created by deed, restrictions, covenants, or conditions, the
11 purpose of which is to preserve and protect agricultural lands
12 classified pursuant to chapter 205.

13 "Fund" means the land conservation fund.

14 "Installment purchase agreement" or "agreement" means a
15 contract entered into by the board for the purchase of an
16 agricultural easement or the purchase of agricultural land
17 pursuant to section 173A-C.

18 "Matching funds" means:

- 19 (1) Direct moneys;
- 20 (2) A combination of public and private funds;
- 21 (3) Land value donation;
- 22 (4) In-kind contributions; or



1 (5) Any combination of the above."

2 SECTION 3. Section 173A-4, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) [~~Subject to the approval of the governor,~~] When
5 authorized pursuant to section 173A-A, the board may acquire, by
6 purchase, gift, or the exercise of the power of eminent domain,
7 as authorized by chapter 101, any land having value as a
8 resource to the State[.] or any agricultural easement or
9 agricultural lands upon application of a landowner. Such
10 acquisition is hereby declared to be for a public use."

11 SECTION 4. Section 173A-5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§173A-5 Land conservation fund.** (a) A land conservation
14 fund, hereinafter called "fund", is hereby established.

15 (b) The proceeds from the sale of any general obligation
16 bonds, authorized and issued for purposes of this chapter, shall
17 be deposited in or credited to the fund.

18 (c) Any net proceeds or revenue from the operation,
19 management, sale, lease, or other disposition of land or the
20 improvements on such land, acquired or constructed by the board
21 under the provisions of this chapter, shall also be deposited in
22 or credited to the fund.

1 (d) Ten per cent of all taxes imposed and collected by
2 section 247-1 shall be deposited in or credited to the fund
3 every year.

4 (e) The fund shall be administered and managed by the
5 [~~department.~~] board.

6 (f) The acquisition of interests or rights in land having
7 value as a resource to the State for the preservation of:

- 8 (1) Watershed protection;
- 9 (2) Coastal areas, beaches, and ocean access;
- 10 (3) Habitat protection;
- 11 (4) Cultural and historical sites;
- 12 (5) Recreational and public hunting areas;
- 13 (6) Parks;
- 14 (7) Natural areas;
- 15 (8) Agricultural production; or
- 16 (9) Open spaces and scenic resources,

17 constitutes a public purpose for which public funds may be
18 expended or advanced.

19 (g) The fund shall be used for:

- 20 (1) The acquisition of interests or rights in land having
21 value as a resource to the State, whether in fee title
22 or through the establishment of permanent conservation



1 easements under chapter 198[+] or agricultural
2 easements; and

3 (2) Annual administration costs for the fund, not to
4 exceed five per cent of annual fund revenues of the
5 previous year.

6 ~~[(h) Based on applications from state agencies, counties,~~
7 ~~and nonprofit land conservation organizations, the department~~
8 ~~shall recommend to the board specific parcels of land to be~~
9 ~~acquired, restricted with conservation easements, or preserved~~
10 ~~in similar fashion. The board shall review the selections and~~
11 ~~approve or reject the selections according to the availability~~
12 ~~of moneys in the fund. To be eligible for grants from the fund,~~
13 ~~state and county agencies and nonprofit land conservation~~
14 ~~organizations shall submit applications to the department that~~
15 ~~contain:~~

- 16 ~~(1) Contact information for the project;~~
17 ~~(2) A description of the project;~~
18 ~~(3) The request for funding;~~
19 ~~(4) Cost estimates for acquisition of the interest in the~~
20 ~~land;~~
21 ~~(5) Location and characteristics of the land; and~~



1 ~~(6) Other similar, related, or relevant information as may~~
2 ~~be determined by the department.~~

3 ~~(i) For applications approved by the board, the board may~~
4 ~~acquire land having value as a resource to the State, pursuant~~
5 ~~to section 173A-4, or the board may award grants from the fund~~
6 ~~to the qualifying state or county agencies or nonprofit land~~
7 ~~conservation organizations for the preservation of the real~~
8 ~~property. Where the recipient of a grant is a county agency or~~
9 ~~nonprofit land conservation organization, the board shall~~
10 ~~require additional matching funds of at least twenty-five per~~
11 ~~cent of the total project costs. Matching funds may be in the~~
12 ~~form of:~~

- 13 ~~(1) Direct moneys;~~
- 14 ~~(2) A combination of public and private funds;~~
- 15 ~~(3) Land value donation;~~
- 16 ~~(4) In-kind contributions; or~~
- 17 ~~(5) Any combination of the above,~~

18 ~~and evidence of these matching funds shall be made available~~
19 ~~from the qualifying entities prior to distribution of the fund~~
20 ~~grant.~~

21 ~~(j)]~~ (h) The board shall:

- 22 (1) Track amounts disbursed from the fund;



1 (2) Prepare an annual report to be transmitted to the
 2 governor and the legislature at least twenty days
 3 prior to the convening of each regular session of the
 4 legislature. The annual report shall include:

5 (A) A summary of all interests or rights in land
 6 acquired during the preceding fiscal year;

7 (B) A summary of what value each newly acquired land
 8 has as a resource to the State;

9 (C) Proposals for future land acquisitions, including
 10 a summary of the resource value that the land may
 11 possess;

12 (D) A financial report for the preceding fiscal year;
 13 and

14 (E) Objectives and budget projections for the
 15 following fiscal year; and

16 (3) Make copies of the annual report available to the
 17 public."

18 SECTION 5. Section 173A-9, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "**§173A-9 Grants to state agencies, counties, and nonprofit**
 21 **land conservation organizations.** [~~Subject to the approval of~~
 22 ~~the governor,~~] As provided in section 173A-A, the board may make



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

16 SECTION 6. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.

19

INTRODUCED BY: 

By Request



SB. NO. 3148

Report Title:

Land Conservation; Land Acquisition

Description:

(1) Requires BLNR to accept applications for acquisitions of certain lands; (2) requires legislative approval of acquisition; and (3) provides for lump sum purchase or installment purchase agreement with landowner.

