

JAN 19 2007

A BILL FOR AN ACT

RELATING TO BIOPROSPECTING.

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

1 SECTION 1. Article XI, section 1, of the state
2 constitution provides that "[a]ll public natural resources are
3 held in trust by the State for the benefit of the people."

4 Section 190-1, Hawaii Revised Statutes, provides that the
5 department of land and natural resources shall administer as a
6 marine life conservation area all marine waters of the State.

7 The legislature finds that:

8 (1) Hawaii's biological diversity and biological resources
9 are assets of the public trust and the general public;

10 (2) The biological diversity and biological resources on
11 public lands and in the state marine waters are of
12 great potential economic benefit in the areas of
13 medicine, scientific research, biotechnology, and
14 commercial development for the general public. If
15 properly regulated, the potential economic benefit of
16 these biological resources can create market-driven
17 incentives and generate financial resources for the



1 conservation and sustainable development of Hawaii's
2 biological resources;

3 (3) Hawaii is experiencing a tremendous loss of
4 biodiversity due to the conversion of natural habitat
5 for development, environmental degradation, and
6 nonsustainable consumptive practices; and

7 (4) The State has a trust obligation to ensure the
8 preservation and sustainable use and equitable sharing
9 of benefits of Hawaii's biological resources.

10 The purpose of this Act is to establish a temporary
11 bioprospecting commission to develop a comprehensive plan for
12 the preservation of biological diversity and biological
13 resources as it relates to the use of bioprospecting on public
14 lands and in the state marine waters.

15 SECTION 2. For the purpose of this Act:

16 "Biological diversity" means the variability among living
17 organisms from all sources, including but not limited to:

18 (1) Terrestrial, marine, and other aquatic ecosystems and
19 the ecological complexes of which they are a part; and

20 (2) Diversity within species, between species, and of
21 ecosystems within the State.



1 "Biological resources" means biological and genetic
2 resources, including plant material, animals, microorganisms,
3 cells, and genes that exist on the public lands of Hawaii.

4 "Bioprospecting" means the collection, removal, or use of
5 biological and genetic resources of any organism, mineral, or
6 other organic substance found within the public lands of the
7 State and the state marine waters for scientific research or
8 commercial development.

9 "Commission" means the bioprospecting advisory commission
10 established in this Act.

11 "Public lands" means public lands as defined in section
12 171-2, Hawaii Revised Statutes, including submerged lands, lands
13 to which the University of Hawaii holds title, and ocean
14 resources under state jurisdiction.

15 "State marine waters" has the meaning as set forth in
16 section 190D-3, Hawaii Revised Statutes.

17 "Sustainable use" means the use of components of biological
18 diversity in a way and at a rate that does not lead to the
19 long-term decline of biological diversity, thereby maintaining
20 the economic and cultural potential of Hawaii's biological trust
21 assets for the mutual benefit of present and future generations.



1 SECTION 3. (a) There is established a temporary
2 bioprospecting advisory commission to develop a comprehensive
3 plan for the preservation and use of the biological diversity
4 and biological resources on public lands. The commission shall
5 be placed within the office of Hawaiian affairs for
6 administrative purposes and shall be exempt from section 26-34,
7 Hawaii Revised Statutes. The office of Hawaiian affairs shall
8 provide staff and technical support for the commission.

9 (b) The commission shall be composed of fifteen members as
10 follows:

- 11 (1) The chairperson of the board of trustees of the office
12 of Hawaiian affairs or the chairperson's designee;
- 13 (2) The president of the University of Hawaii or the
14 president's designee;
- 15 (3) The director of business, economic development, and
16 tourism or the director's designee;
- 17 (4) The chairperson of the board of land and natural
18 resources or the chairperson's designee;
- 19 (5) The chairperson of the board of agriculture or the
20 chairperson's designee;
- 21 (6) The director of health or the director's designee;



- 1 (7) Five members representing Hawaiians who have a
2 demonstrated background in traditional and customary
3 use of biological or genetic resources, the
4 preservation of biological or genetic resources,
5 indigenous and traditional technologies, or scientific
6 or legal procedures for the protection or
7 commercialization of biological and genetic resources.
8 These five members shall be appointed by the governor
9 from lists of nominees submitted by the president of
10 the senate, the speaker of the house of
11 representatives, and native Hawaiian organizations;
- 12 (8) One representative from the biotechnology industry
13 whose principal place of business is in the State, and
14 who shall be appointed by the governor from lists of
15 nominees submitted by the president of the senate, the
16 speaker of the house of representatives, and Hawaii-
17 based representatives of the biotechnology industry;
- 18 (9) Two representatives from Hawaii's scientific community
19 as follows:
- 20 (A) An ecologist who is familiar with the State's
21 ecosystem; and
- 22 (B) A geneticist,



1 both of whom shall be appointed by the governor from
2 lists of nominees submitted by the president of the
3 senate, the speaker of the house of representatives,
4 and members of Hawaii's scientific community; and

5 (10) A representative of the Hawaii Institute for Public
6 Affairs.

7 The commission shall select a chairperson from among its
8 members.

9 (c) The commission shall:

10 (1) Identify and develop issues and policies for the
11 conservation and sustainable use of biological
12 diversity, the responsible regulation of
13 bioprospecting, the right of traditional, indigenous
14 knowledge holders, the fair and equitable sharing of
15 benefits arising from the use of genetic resources on
16 the public lands and in the state marine waters, and
17 the meaningful participation in these processes by
18 traditional, indigenous knowledge holders;

19 (2) Review policies, laws, and models of other
20 jurisdictions;



1 (3) Prepare a comprehensive report addressing the issues
2 in paragraphs (1) and (2) and propose appropriate
3 legislation; and

4 (4) Conduct an inventory of all ongoing bioprospecting
5 activities in the State.

6 (d) The commission shall perform its duties as follows:

7 (1) Members shall serve without compensation; provided
8 that members may be reimbursed for reasonable
9 expenses, including travel expenses, incurred in the
10 discharge of their duties;

11 (2) A majority of the members of the commission shall
12 constitute a quorum for the transaction of business,
13 except as otherwise required by chapter 92, Hawaii
14 Revised Statutes;

15 (3) All meetings of the commission shall be subject to
16 chapter 92, Hawaii Revised Statutes; and

17 (4) The commission may hold meetings as feasible and
18 frequently as deemed necessary to receive testimony on
19 issues related to its activities.

20 (e) The commission shall submit an interim report of its
21 findings and recommendations to the legislature and the governor
22 no later than twenty days before the convening of the regular



1 session of 2008. The commission shall submit a final report of
2 its findings and recommendations, including any proposed
3 legislation, to the legislature and the governor no later than
4 twenty days before the convening of the regular session 2009.

5 (f) The commission shall cease to exist on June 30, 2009.

6 SECTION 4. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$, or so
8 much thereof as may be necessary for fiscal year 2007-2008, and
9 the same sum, or so much thereof as may be necessary for fiscal
10 year 2008-2009, to enable the temporary bioprospecting advisory
11 commission to fulfill its mandate.

12 The sums appropriated shall be expended by the office of
13 Hawaiian affairs for the purposes of this Act.

14 SECTION 5. This Act shall take effect on July 1, 2007.

15

INTRODUCED BY:

Will Espero
Norman Sakuma



Report Title:

Bioprospecting Advisory Commission

Description:

Establishes a temporary bioprospecting advisory commission to address issues relating to bioprospecting. Appropriates funds for commission to fulfill its mandate. Commission ends June 30, 2009.

