

HOUSE OF REPRESENTATIVES
THE TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008

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COMMITTEE ON FINANCE

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Rep. Faye P. Hanohano	Rep. John Mizuno	Rep. Colleen Rose Meyer	

NOTICE OF HEARING

DATE: Thursday, April 3, 2008
TIME: 2:30 P.M.
PLACE: Conference Room 308
State Capitol
415 South Beretania Street

AGENDA # 1

SB 3171, SD2, HD1
(HSCR1264-08)

Status

(Email Testimony)

RELATING TO CHARITABLE TRUSTS AND NONPROFIT ORGANIZATIONS.

Requires charitable trusts and nonprofits to register and file annual financial reports with the attorney general. Authorizes the attorney general to conduct investigations on possible violations. Prohibits contracting with unregistered solicitors. Requires a report submittal fee based on total revenue of organization. Appropriates funds to staff additional positions.

CPC/JUD, FIN

SB 2480, SD2, HD2
(HSCR1280-08)

Status

(Email Testimony)

RELATING TO TECHNOLOGY WORKFORCE AND DEVELOPMENT.

Establishes the Science Technology and Education Special Fund. Appropriates general funds into the Special Fund for the Robotics and Problem-based, Applied Learning Program, and the Research Experiences for Teachers Program. Provides matching funds for Project EAST. Appropriates funds for science-, technology-, engineering-, and math-related programs and K-12 creative media education programs.

EDB, HED/HSH,
FIN

SB 2151, SD2
(HSCR1093-08)

Status

(Email Testimony)

RELATING TO LONG-TERM CARE OMBUDSMAN.

Expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring county.

HLT/HSH, FIN



SB 3102, SD2
(HSCR1293-08)
Status

(Email Testimony)

RELATING TO THE LAND CONSERVATION FUND.

Allows public and private moneys to be deposited into the land conservation fund and distributed as grants for the acquisition of land having value as a resource to the State. Allows moneys from the land conservation fund to be used for the operation, maintenance, and management of the acquired lands.

WLH, FIN

DECISION MAKING TO FOLLOW

Persons wishing to offer comments should submit testimony at least 24 seconds prior to the hearing with a transmittal cover indicating:

- Testifier's name with position/title and organization;
- The date and agenda no. of the hearing;
- Measure number;
- If you will be testifying in person or submitting written testimony only;
- The Committee the comments are directed to; and
- The number of copies the Committee is requesting.

While every effort will be made to copy, organize, and collate all testimony received, materials received on the day of the hearing or improperly identified or directed to the incorrect office, may be distributed to the Committee after the hearing.

Submit testimony in ONE of the following ways:

PAPER: 2 copies to Room 306 in the State Capitol. It is required that the copies be on one side of an 8½" X 11" sheet;

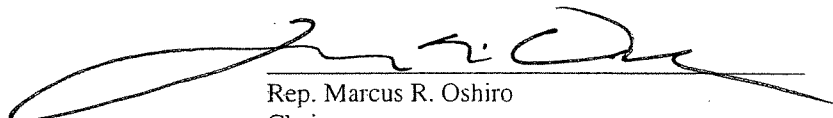
FAX: For comments less than 5 pages in length, transmit to 586-6001 (Oahu) or 1-800-535-3859 (Neighbor Islands);
OR

EMAIL: For comments less than 5 pages in length, transmit to FINtestimony@Capitol.hawaii.gov. Please include the measure number, date of hearing, and agenda no. in the subject line or click on the appropriate "Email Testimony" link above.

Testimony submitted will be placed on the Legislative Web site after the hearing adjourns. This public posting of testimony on the Web site should be considered when including personal information in your testimony.

If you require special assistance or auxiliary aids and/or services to participate in the House public hearing process (i.e., sign or foreign language interpreter or wheelchair accessibility), please contact the Committee Clerk at 586-6200 or email your request for an interpreter to HouseInterpreter@Capitol.hawaii.gov at least 24 hours prior to the hearing for arrangements. Prompt requests submitted help to ensure the availability of qualified individuals and appropriate accommodations.

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Rep. Marcus R. Oshiro
Chair



Honolulu, Hawaii

March 20, 2008

RE: S.B. No. 3171
S.D. 2
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Consumer Protection & Commerce and
Judiciary, to which was referred S.B. No. 3171, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHARITABLE TRUSTS AND
NONPROFIT ORGANIZATIONS,"

beg leave to report as follows:

The purpose of this bill is to protect consumers who donate
to charities by, among other things:

- (1) Requiring charitable organizations, with certain
exemptions, to register and file annual financial
reports with the Attorney General (AG);
- (2) Requiring audited financial statements for charities
with over \$1,000,000 in gross revenue for the year
covered by the annual financial report;
- (3) Establishing financial report filing fees based upon the
charitable organization's income;
- (4) Authorizing the AG to issue subpoenas to investigate
suspected violations;
- (5) Requiring professional solicitors to report national and
local gross revenues from a solicitation activity or
campaign in financial reports to the AG;



- (6) Prohibiting charities from using the services of an unregistered professional solicitor or professional fundraising counsel;
- (7) Enhancing the registration requirements for professional fundraising counsel and professional solicitors; and
- (8) Appropriating funds to meet the AG's additional staffing needs in carrying out the purposes of this bill.

The Children's Alliance of Hawaii, Inc., and Nature Conservancy of Hawaii testified in support of this bill. The Hawaii Alliance of Nonprofit Organizations supported the intent of this measure. The Domestic Violence Action Center opposed this bill. The AG submitted comments.

Your Committees have amended this bill by:

- (1) Allowing a parent organization to submit a consolidated registration application for itself and any of its related foundations, supporting organizations, chapters, branches, or affiliates in Hawaii;
- (2) Lowering the gross revenue threshold for the mandatory filing of audited financial statements, from \$1,000,000 to \$500,000;
- (3) Lowering from \$20,000 to \$1,000, the total amount of monetary penalties that may be imposed for failing to file a financial report or return, to match the cap on administrative fines for other violations of the law under section 467B-9.7(b)(3), Hawaii Revised Statutes;
- (4) Delaying the start of the new registration and financial reporting requirements until November 15, 2008; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Consumer Protection & Commerce and Judiciary that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3171, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3171, S.D. 2, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Consumer
Protection & Commerce and
Judiciary,



TOMMY WATERS, Chair



ROBERT N. HERKES, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HSCD 1764-08

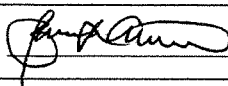
Record of Votes of the Committee on Consumer Protection & Commerce

Bill/Resolution No.: SB3171, SD2 (SSCR2787)	Committee Referral: CPC/JUD, FIN	Date: 03-13-08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
CPC Members	Ayes	Ayes (WR)	Nays	Excused
1. HERKES, Robert N. (C)	X			
2. McKELVEY, Angus L.K. (VC)	Y			
3. EVANS, Cindy	b			
4. GREEN, Josh, M.D.	b			
5. ITO, Ken	b			
6. LUKE, Sylvia	Y			
7. MORITA, Hermina M.				X
8. SONSON, Alex M.				X
9. SOUKI, Joseph M.				X
10. TSUJI, Clift	X			
11. YAMANE, Ryan I.	Y			
12. YAMASHITA, Kyle T.	X			
13. MARUMOTO, Barbara C.	X			
14. THIELEN, Cynthia				X
TOTAL (14)	10	0	0	4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. _____ (committee acronym(s))				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HSCP 1264-08

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: SB 3171, SD 2 (SSCR 2787)	Committee Referral: CPC/JUD, FIN	Date: 3-13-08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	✓			
2. OSHIRO, Blake K. (VC)	✓			
3. EVANS, Cindy	✓			
4. GREEN, Josh, M.D.	✓			
5. ITO, Ken	✓			
6. LUKE, Sylvia	✓			
7. McKELVEY, Angus L.K.	✓			
8. MORITA, Hermina M.				✓
9. SONSON, Alex M.				✓
10. SOUKI, Joseph M.				✓
11. TSUJI, Clift	✓			
12. YAMANE, Ryan I.	✓			
13. YAMASHITA, Kyle T.	✓			
14. MARUMOTO, Barbara C.	✓			
15. PINE, Kymerly Marcos	✓			
16. THIELEN, Cynthia				✓
TOTAL (16)	12			4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				

A BILL FOR AN ACT

RELATING TO CHARITABLE TRUSTS AND NONPROFIT ORGANIZATIONS.

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

1 SECTION 1. Hawaii has more than 5,000 charities and
2 nonprofit organizations that employ 41,000 individuals who
3 provide needed services to Hawaii residents. Hawaii charities
4 have revenues over \$2,000,000,000 and pay over \$1,000,000,000 in
5 wages. According to a study conducted in 2002, local residents
6 made \$430,000,000 worth of cash and in-kind donations in one
7 year to Hawaii and national charities.

8 However, Hawaii is one of only 11 states that do not
9 require charities to register with a state agency. Nonprofit
10 experts have noted that Hawaii's oversight of charities is one
11 of the weakest in the nation. According to a 2004 survey,
12 Hawaii was ranked last in the number of state positions budgeted
13 for charity oversight and enforcement. New York had 55 budgeted
14 positions, Pennsylvania had 30 positions, and Oregon had nearly
15 20 positions. Hawaii has a single deputy attorney general who
16 serves on a part-time basis to oversee charities in the state.



1 Due to the absence of a registration system, the department
2 of the attorney general may only pursue an investigation if an
3 individual complains or questionable conduct is revealed and
4 disclosed to the public. Recent news articles reported a pre-
5 school with an enrollment of three hundred students had
6 \$2,000,000 in annual revenues, paid a top executive \$250,000
7 annually, made an illegal \$100,000 loan to another officer whose
8 spouse is another executive, and paid \$1,200 per month for two
9 leased luxury cars for its husband and wife management team.
10 New reports have revealed other instances of improper and
11 illegal conduct by charities and leaders.

12 The legislature finds that a registration system is needed
13 for charities. A registration system will provide the State
14 with valuable information on which nonprofit groups are raising
15 funds, what programs these groups seek to fund, and how these
16 groups are spending collected funds. Registration can help
17 enforcement officials spot red flags, such as questionable
18 transactions or compensation deals, and answer questions from
19 the public. The review of annual filings may also serve as a
20 deterrent to abuse. Before making a contribution, donors could
21 find out if an organization is a legitimate charity and



1 determine if the group has provided the State with information
2 on its finances.

3 The purpose of this Act is to:

- 4 (1) Require charitable trusts and nonprofits to register
5 and file annual financial reports with the attorney
6 general;
- 7 (2) Provide standards for registration of professional
8 fund raising counsel and professional solicitors, and
9 registration of charitable trusts and nonprofits;
- 10 (3) Authorize the attorney general to conduct
11 investigation on possible violations;
- 12 (4) Prohibit contracting with unregistered solicitors;
- 13 (5) Require submittal of a filing fee based on total
14 revenue of organization; and
- 15 (6) Appropriate funds to staff additional positions.

16 SECTION 2. Chapter 467B, Hawaii Revised Statutes, is
17 amended by adding four new sections to be appropriately
18 designated and to read as follows:

19 **"§467B-A Registration of charitable organizations. (a)**
20 Every public benefit corporation domiciled in Hawaii and every
21 charitable organization not exempted by section 467B-C shall
22 register with the department prior to conducting any



1 solicitation or prior to having any solicitation conducted on
2 its behalf by others; provided that each charitable organization
3 soliciting funds within the state prior to the effective date of
4 this Act shall register with the attorney general no later than
5 December 31, 2008. Two authorized officers of the charitable
6 organization shall sign the registration form and shall certify
7 that the statements therein are true and correct to the best of
8 their knowledge subject to penalties imposed by section 710-
9 1063. A consolidated application for registration may, at the
10 option of the charitable organization, be submitted by a parent
11 organization for itself and any or all of its related
12 foundations, supporting organizations, chapters, branches, or
13 affiliates in this state.

14 (b) The attorney general may make available a registration
15 form to assist in the registration by charitable organizations
16 that must register in other states and may designate the uniform
17 registration statement developed by the National Association of
18 State Charity Officials be used as the registration form under
19 this section.

20 (c) The attorney general may require that registration
21 forms be filed with the department electronically and may
22 require the use of electronic signatures.



1 §467B-B Annual financial reports; fiscal records and fees.

2 (a) Every charitable organization required to register pursuant
3 to section 467B-A shall annually file with the department a
4 report for its most recently completed fiscal year. The report
5 shall include a financial statement and other information as the
6 department may require. The charitable organization shall file
7 the report not more than eight months following the close of its
8 fiscal year on or before the date the organization files a Form
9 990 or 990EZ with the Internal Revenue Service. The report
10 shall be accompanied by a filing fee as prescribed by subsection
11 (d) and shall be signed by two authorized officers of the
12 organization, one of whom shall be the chief fiscal officer of
13 the organization. These officers shall certify that the report
14 is true and correct to the best of their knowledge. The
15 department shall prescribe the form of the report and may
16 prescribe standards for its completion. The department may
17 accept, under such conditions as the attorney general may
18 prescribe, a copy or duplicate original of financial statements,
19 reports, or returns filed by the charitable organization with
20 the Internal Revenue Service or another state having
21 requirements similar to the provisions of this section.



1 (b) A charitable organization with gross revenue in excess
2 of \$500,000 in the year covered by the report shall include,
3 with its financial statement, an audit report prepared by a
4 certified public accountant. For purposes of this section,
5 gross revenue shall not include grants or fees from government
6 agencies or the revenue derived from funds held in trust for the
7 benefit of the organization.

8 (c) The department, upon written request and for good
9 cause shown, may grant an extension of time, not to exceed three
10 months, for the filing of the report.

11 (d) Each charitable organization filing a report required
12 by this section shall pay a filing fee to the department, based
13 on the total amount of its income and receipts during the time
14 covered by the report at the close of the calendar or fiscal
15 year adopted by the charitable organization as follows:

- 16 (1) \$10, if less than \$25,000;
17 (2) \$25, if \$25,000 but less than \$50,000;
18 (3) \$50, if \$50,000 but less than \$100,000;
19 (4) \$100, if \$100,000 but less than \$250,000;
20 (5) \$150, if \$250,000 but less than \$500,000;
21 (6) \$200, if \$500,000 but less than \$1,000,000;
22 (7) \$300, if \$1,000,000 but less than \$2,000,000;



1 (8) \$500, if \$2,000,000 but less than \$5,000,000; or

2 (9) \$750, if \$5,000,000 or more.

3 (e) If a return or report required under this section is
4 not filed, taking into account any extension of time for filing,
5 unless it is shown that the failure is due to reasonable cause,
6 a fine of \$20 shall be imposed for each day during which the
7 violation continues; provided that the total amount imposed
8 under this subsection shall not exceed \$1,000. Returns and
9 reports submitted without the proper filing fee shall not be
10 accepted for filing.

11 (f) Every charitable organization subject to sections
12 467B-A and 467B-B shall keep true fiscal records that shall be
13 available to the department for inspection upon request. The
14 organization shall retain the records for no less than three
15 years after the end of the fiscal year to which they relate.

16 **§467B-C Charitable organizations exempted from**
17 **registration and financial disclosure requirements.** The
18 following charitable organizations shall not be subject to
19 sections 467B-A and 467B-B, if each organization submits
20 information as the department may require to substantiate an
21 exemption under this section:



- 1 (1) Any duly organized religious corporation, institution,
2 or society;
- 3 (2) Any parent-teacher association or educational
4 institution, the curricula of which in whole or in
5 part are registered or approved by any state or the
6 United States either directly or by acceptance of
7 accreditation by an accrediting body;
- 8 (3) Any nonprofit hospital licensed by the State or any
9 similar provision of the laws of any other state;
- 10 (4) Any governmental unit or instrumentality of any state
11 or the United States;
- 12 (5) Any person who solicits solely for the benefit of
13 organizations described in paragraphs (1) to (4); and
- 14 (6) Any charitable organization that normally receives
15 less than \$25,000 in contributions annually, if the
16 organization does not compensate any person primarily
17 to conduct solicitations.

18 **§467B-D Investigations; subpoenas; court orders.** (a) The
19 department, on its own motion or on complaint of any person, may
20 conduct an investigation to determine whether any person has
21 violated or is about to violate any provision of sections 467B-
22 A, 467B-B, and 467B-9.



1 (b) The attorney general or the attorney general's
2 authorized representative may subpoena documentary material
3 relating to any matter under investigation, issue subpoenas to
4 any person involved in or who may have knowledge of any matter
5 under investigation, administer an oath or affirmation to any
6 person, and conduct hearings on any matter under investigation.

7 (c) If any person fails to obey any subpoena issued by the
8 department pursuant to this section, the department, after
9 notice, may apply to the circuit court for the first circuit,
10 State of Hawaii, for a hearing on the application, and after the
11 hearing, the court may issue an order requiring the person to
12 obey the subpoena or any part thereof, together with any other
13 relief as may be appropriate. Any disobedience of any order
14 entered under this section by any court shall be punished as a
15 contempt thereof."

16 SECTION 3. Section 467B-1, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding two new definitions to be appropriately
19 inserted and to read:

20 "Gross revenue" means income of any kind from all sources,
21 including all amounts received as the result of any solicitation
22 by a professional solicitor.



1 "Person" means an individual, corporation, limited
2 liability company, association, partnership, trust, foundation,
3 and any other entity, however styled."

4 2. By amending the definition of "parent organization" to
5 read:

6 "'Parent organization" means that part of a charitable
7 organization that coordinates, supervises, or exercises control
8 over policy, fund raising, and expenditures, or assists or
9 advises one or more related foundations, supporting
10 organizations, chapters, branches, or affiliates of such
11 organization in [the State.] this state."

12 3. By repealing the definition of "person".

13 [~~"Person" means any individual, organization, trust,~~
14 ~~foundation, group, association, partnership, corporation,~~
15 ~~society, or any combination thereof.]~~

16 SECTION 4. Section 467B-2.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Within ninety days after a solicitation campaign or
19 event has been completed and on the anniversary of the
20 commencement of a solicitation campaign lasting more than one
21 year, a professional solicitor shall file with the attorney
22 general a financial report for the campaign, including gross



1 revenue and an itemization of all expenses incurred[-] on a form
2 prescribed by the attorney general. This report shall be signed
3 under penalty provided by section 710-1063 by the authorized
4 contracting agent for the professional solicitor and two
5 authorized officials of the charitable organization[-] and shall
6 report gross revenue from Hawaii donors and national gross
7 revenue from a solicitation activity or campaign. A
8 professional solicitor shall maintain during each solicitation
9 campaign and for not less than three years after the completion
10 of that campaign the following records, which shall be available
11 for inspection upon demand by the attorney general:

- 12 (1) The date and amount of each contribution received and
13 the name and address of each contributor;
- 14 (2) The name and residence of each employee, agent, or
15 other person involved in the solicitation;
- 16 (3) Records of all revenue received and expenses incurred
17 in the course of the solicitation campaign; and
- 18 (4) The location and account number of each bank or other
19 financial institution account in which the
20 professional solicitor has deposited revenue from the
21 solicitation campaign."



1 SECTION 5. Section 467B-5.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Prior to the commencement of any charitable sales
4 promotion in this [~~State~~] state conducted by a commercial co-
5 venturer using the name of a charitable organization, the
6 commercial co-venturer shall obtain the written consent of the
7 charitable organization whose name will be used during the
8 charitable sales promotion. The commercial co-venturer shall
9 file a copy of the written consent with the department not less
10 than ten days prior to the commencement of the charitable sales
11 promotion within this state. An authorized representative of
12 the charitable organization and the commercial co-venturer shall
13 sign the written consent, and the terms of the written consent
14 shall include the following:

- 15 (1) The goods or services to be offered to the public;
- 16 (2) The geographic area where, and the starting and final
17 date when, the offering is to be made;
- 18 (3) The manner in which the name of the charitable
19 organization is to be used, including any
20 representation to be made to the public as to the
21 amount or per cent per unit of goods or services



- 1 purchased or used that is to benefit the charitable
2 organization;
- 3 (4) A provision for a final accounting on a per unit basis
4 to be given by the commercial co-venturer to the
5 charitable organization and the date when it is to be
6 made; and
- 7 (5) The date when and the manner in which the benefit is
8 to be conferred on the charitable organization."

9 SECTION 6. Section 467B-8, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§467B-8 Information filed to become public records.**
12 Statements, reports, professional fundraising counsel contracts
13 or professional solicitor contracts, and all other documents and
14 information required to be filed under this chapter or by the
15 attorney general shall become government records in the
16 department and be open to the general public for inspection [~~at~~
17 ~~such times and under such conditions as the attorney general may~~
18 ~~prescribe.~~] pursuant to chapter 92F; provided that information
19 in any registration statement concerning the residential
20 addresses of any officer or director or that identifies a
21 charitable organization's financial or banking accounts shall be
22 confidential under chapter 92F."



1 SECTION 7. Section 467B-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§467B-9 Prohibited acts. (a) No person, for the purpose
4 of soliciting contributions from persons in the [~~State,~~] state,
5 shall use the name of any other person except that of an
6 officer, director, or trustee of the charitable organization by
7 or for which contributions are solicited, without the written
8 consent of the other persons.

9 A person shall be deemed to have used the name of another
10 person for the purpose of soliciting contributions if the latter
11 person's name is listed on any stationery, advertisement,
12 brochure, or correspondence in or by which a contribution is
13 solicited by or on behalf of a charitable organization or the
14 latter person's name is listed or referred to in connection with
15 a request for a contribution as one who has contributed to,
16 sponsored, or endorsed the charitable organization or its
17 activities.

18 (b) No charitable organization, professional solicitor, or
19 professional fundraising counsel soliciting contributions shall
20 use a name, symbol, or statement so closely related or similar
21 to that used by another charitable organization or governmental



1 agency that the use thereof would tend to confuse or mislead the
2 public.

3 (c) No person, in connection with any solicitation or
4 sale, shall misrepresent or mislead anyone by any manner, means,
5 practice, or device whatsoever, to believe that the solicitation
6 or sale is being conducted on behalf of a charitable
7 organization or that the proceeds of the solicitation or sale
8 will be used for charitable purposes, if that is not the fact.

9 (d) No professional solicitor, and no agent, employee,
10 independent contractor, or other person acting on behalf of the
11 professional solicitor, shall solicit in the name of or on
12 behalf of any charitable organization unless:

13 (1) The professional solicitor has obtained the written
14 authorization of two officers of the organization,
15 which authorization shall bear the signature of the
16 professional solicitor and the officers of the
17 charitable organization and shall expressly state on
18 its face the period for which it is valid, which shall
19 not exceed one year from the date of issuance, and has
20 filed a copy of the written authorization with the
21 attorney general prior to the solicitation; and



1 (2) The professional solicitor and any person who, for
2 compensation, acts as an agent, employee, independent
3 contractor, or otherwise on behalf of the professional
4 solicitor carries a copy of the authorization while
5 conducting solicitations, and exhibits it on request
6 to persons solicited or police officers or agents of
7 the department.

8 (e) No charitable organization, professional fundraising
9 counsel, or professional solicitor subject to this chapter shall
10 use or exploit the fact of filing any statement, report,
11 professional fundraising counsel contracts, or professional
12 solicitor contracts or other documents or information required
13 to be filed under this chapter or with the department so as to
14 lead the public to believe that the filing in any manner
15 constitutes an endorsement or approval by the State of the
16 purposes or goals for the solicitation by the charitable
17 organization, professional fundraising counsel, or professional
18 solicitor; provided that the use of the following statement
19 shall not be deemed a prohibited exploitation: "Information
20 regarding this organization has been filed with the State of
21 Hawaii department of the attorney general. Filing does not



1 imply endorsement or approval of the organization or the public
2 solicitation for contributions."

3 (f) No person, while soliciting, shall impede or obstruct,
4 with the intent to physically inconvenience the general public
5 or any member thereof in any public place or in any place open
6 to the public.

7 (g) No person shall submit for filing on behalf of any
8 charitable organization, professional fundraising counsel, or
9 professional solicitor, any statement, financial statement,
10 report, attachment, or other information to be filed with the
11 department that contains information, statements, or omissions
12 that are false or misleading.

13 (h) No person shall solicit contributions from persons in
14 the [~~State~~] state or otherwise operate in the [~~State~~] state as a
15 charitable organization, an exempt charitable organization,
16 professional fundraising counsel, professional solicitor, or
17 commercial co-venturer unless the person has filed the
18 information required by this chapter with the department in a
19 timely manner.

20 (i) No person shall aid, abet, or otherwise permit any
21 persons to solicit contributions from persons in the [~~State~~]



1 state unless the person soliciting contributions has complied
2 with the requirements of this chapter.

3 (j) No person shall fail to file the information and
4 registration statement, annual or financial reports, and other
5 statements required by this chapter or fail to provide any
6 information demanded by the attorney general pursuant to this
7 chapter in a timely manner.

8 (k) No person shall employ in any solicitation or
9 collection of contributions for a charitable organization, any
10 device, scheme, or artifice to defraud or obtain money or
11 property by means of any false, deceptive, or misleading
12 pretense, representation, or promise.

13 (l) No person, in the course of any solicitation, shall
14 represent that funds collected will be used for a particular
15 charitable purpose, or particular charitable purposes, if the
16 funds solicited are not used for the represented purposes.

17 (m) No person shall receive compensation from a charitable
18 organization for obtaining moneys or bequests for that
19 charitable organization if that person has also received
20 compensation for advising the donor to make the donation;
21 provided that compensation may be received if the person obtains



1 the written consent of the donor to receive compensation from
2 the charitable organization.

3 (n) No person shall act as a professional solicitor if the
4 person, any officer, any person with a controlling interest
5 therein, or any person the professional solicitor employs,
6 engages, or procures to solicit for compensation, has been
7 convicted by any federal or state court of any felony, or of any
8 misdemeanor involving dishonesty or arising from the conduct of
9 a solicitation for a charitable organization or purpose.

10 (o) No charitable organization shall use the services of
11 an unregistered professional solicitor or professional
12 fundraising counsel."

13 SECTION 8. Section 467B-9.7, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§467B-9.7 Administrative enforcement and penalties.** (a)
16 The attorney general may refuse to register[, ~~may revoke, or may~~
17 ~~suspend~~] or may revoke or suspend the registration of any
18 charitable organization, professional fundraising counsel, or
19 professional solicitor whenever the attorney general finds that
20 a charitable organization, professional fundraising counsel, or
21 professional solicitor, or an agent, servant, or employee
22 thereof:



- 1 (1) Has violated or is operating in violation of this
- 2 chapter, the rules of the attorney general, or an
- 3 order issued by the attorney general;
- 4 (2) Has refused or failed, after notice, to produce any
- 5 records of the organization or to disclose any
- 6 information required to be disclosed under this
- 7 chapter or the rules of the attorney general;
- 8 (3) Has made a material false statement in an application,
- 9 statement, or report required to be filed under this
- 10 chapter; or
- 11 (4) Has failed to file the financial report required by
- 12 section 467B-2.5, or filed an incomplete financial
- 13 report.
- 14 (b) When the attorney general finds that the registration
- 15 of any person may be refused, suspended, or revoked under the
- 16 terms of subsection (a), the attorney general may:
- 17 (1) Revoke a grant of exemption from any provisions of
- 18 this chapter;
- 19 (2) Issue an order directing that the person cease [~~and~~
- 20 desist] specified fundraising activities;
- 21 (3) Impose an administrative fine not to exceed \$1,000 for
- 22 each act or omission that constitutes a violation of



1 this chapter and an additional penalty, not to exceed
 2 \$100, for each day during which the violation
 3 continues. Registration shall be automatically
 4 suspended upon final affirmation of an administrative
 5 fine until the fine is paid or until the normal
 6 expiration date of the registration. No registration
 7 shall be renewed until the fine is paid; or

8 (4) Place the registrant on probation for [such] any
 9 period of time and subject to [such] any conditions as
 10 the attorney general may determine.

11 (c) Any person aggrieved by an action of the attorney
 12 general under this section may request a hearing to review that
 13 action in accordance with chapter 91 and rules adopted by the
 14 attorney general. Any request for hearing shall be made within
 15 ten days after the attorney general has served the person with
 16 notice of the action, which notice shall be deemed effective
 17 upon mailing.

18 (d) The attorney general may apply to the circuit court
 19 for the first circuit, State of Hawaii, for relief, and the
 20 court may issue a temporary injunction or a permanent injunction
 21 to restrain violations of this chapter, appoint a receiver,
 22 order restitution or an accounting, or grant other relief as may



1 be appropriate to ensure the due application of charitable
2 funds. Proceedings thereon shall be brought in the name of the
3 State."

4 SECTION 9. Section 467B-12, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§467B-12 Filing requirements for professional fundraising**

7 **counsel and professional solicitors.** (a) Every professional

8 fundraising counsel or professional solicitor, prior to any

9 solicitation, shall register with the department. The

10 registration statement [~~shall be in the form prescribed by the~~

11 ~~attorney general and~~] shall contain the information [~~as the~~

12 ~~attorney general may require.~~] set forth in subsection (e). The

13 registration statement shall be accompanied by a fee in the

14 amount of \$250, or in the amount and with any additional sums as

15 may be prescribed by the attorney general. [~~The statement shall~~

16 ~~list the names and addresses of all owners, officers, and~~

17 ~~directors of a professional fundraising counsel, and the names~~

18 ~~and addresses of all owners, officers, and directors of a~~

19 ~~professional solicitor.]~~ Renewal registration statements shall

20 be filed with the department on or before July 1 of each

21 calendar year by each professional fundraising counsel or

22 professional solicitor [~~and shall be effective until June 30 of~~



1 ~~the next calendar year].~~ The renewal statement shall ~~[be in a~~
2 ~~form prescribed by the attorney general.]~~ contain the
3 information set forth in subsection (e). A renewal fee of \$250,
4 or in any amount and with any additional sums as may be
5 prescribed by the attorney general, shall accompany the renewal
6 statement.

7 (b) ~~[The professional fundraising counsel or]~~ Each
8 professional solicitor, at the time of each filing, shall file
9 with and have approved by the attorney general a bond in which
10 the applicant is the principal obligor in the penal sum of
11 \$25,000 issued with good and sufficient surety or sureties
12 approved by the attorney general and which shall remain in
13 effect for one year. The bond shall inure to the benefit of the
14 State, conditioned that the applicant, its officers, directors,
15 employees, agents, servants, and independent contractors shall
16 not violate this chapter. A partnership or corporation that is
17 a ~~[professional fundraising counsel or]~~ professional solicitor
18 may file a consolidated bond on behalf of all its members,
19 officers, and employees.

20 (c) The attorney general shall examine each registration
21 statement and supporting document filed by a professional
22 fundraising counsel or professional solicitor and shall



1 determine whether the registration requirements are satisfied.
2 If the attorney general determines that the registration
3 requirements are not satisfied, the attorney general shall
4 notify the professional fundraising counsel or professional
5 solicitor in writing within fifteen business days of its receipt
6 of the registration statement; otherwise the registration
7 statement is deemed to be approved. Within seven business days
8 after receipt of a notification that the registration
9 requirements are not satisfied, the professional fundraising
10 counsel or professional solicitor may request a hearing.

11 (d) The attorney general may [~~adopt rules to provide for:~~
12 ~~(1) The extension of filing deadlines;~~
13 ~~(2) The online availability of forms required to be filed;~~
14 ~~(3) The electronic filing of required registration~~
15 ~~statements, contracts, forms, and reports; and~~
16 ~~(4) The acceptance of electronic signatures.]~~
17 require that registration and renewal registration, surety
18 bonds, and contracts be filed with the department electronically
19 and may require the use of electronic signatures.

20 (e) Each registration and renewal registration shall
21 contain:



- 1 (1) The names and addresses of all owners, officers, and
2 directors of a professional fundraising counsel, and
3 the names and addresses of all owners, officers, and
4 directors of a professional solicitor;
- 5 (2) A statement concerning the corporate form of the
6 registrant, whether corporation, limited liability
7 corporation, partnership, or individual;
- 8 (3) A statement whether the registrant has an office in
9 Hawaii and the name and phone number of the person in
10 charge of the office;
- 11 (4) The names and addresses of any individuals supervising
12 any solicitation activity;
- 13 (5) A statement whether the registration has entered into
14 a consent agreement with, or been disciplined by or
15 subject to administrative action by, another
16 governmental agency;
- 17 (6) A statement whether any officer, director, or any
18 person with a controlling interest in the registrant
19 has ever been convicted of a felony or a misdemeanor
20 involving dishonesty in the solicitation for a
21 charitable purpose;



1 (7) The date that the registrant began soliciting Hawaii
2 residents on behalf of a charitable organization or
3 providing professional fundraising counsel services;
4 and

5 (8) Whether any owners, directors, or officers are related
6 to:

7 (A) Any other officers, directors, owners, or
8 employees of the registrant;

9 (B) Any officer, director, trustee, or employee of a
10 charitable organization under contract with the
11 registrant; and

12 (C) Any vendor or supplier providing goods or
13 services to a charitable organization under
14 contract with the registrant."

15 SECTION 10. There is appropriated out of the solicitation
16 of funds for charitable purposes special fund the sum of
17 \$ or so much thereof as may be necessary for fiscal
18 year 2008-2009 for two permanent full-time equivalent (2.00 FTE)
19 deputy attorney general positions, one permanent full-time
20 equivalent (1.00 FTE) auditor position, and one permanent full-
21 time equivalent (1.00 FTE) legal assistant position.



1 The sum appropriated shall be expended by the department of
2 the attorney general for the purposes of this Act.

3 SECTION 11. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

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

9 SECTION 13. This Act shall take effect upon its approval;
10 provided that:

11 (1) Section 2 of this Act shall take effect on November
12 15, 2008; and

13 (2) Section 10 of this Act shall take effect on July 1,
14 2008.



S.B. NO. 3171
S.D. 2
H.D. 1

Report Title:

Charitable Trusts and Nonprofit Organizations; Accountability;
Appropriation

Description:

Requires charitable trusts and nonprofits to register and file annual financial reports with the attorney general. Authorizes the attorney general to conduct investigations on possible violations. Prohibits contracting with unregistered solicitors. Requires a report submittal fee based on total revenue of organization. Appropriates funds to staff additional positions. (SB3171 HD1)

SB3171 HD1 HMS 2008-3122



Honolulu, Hawaii

March 20, 2008

RE: S.B. No. 2480
S.D. 2
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Higher Education and Human Services & Housing, to which was referred S.B. No. 2480, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TECHNOLOGY WORKFORCE AND DEVELOPMENT,"

beg leave to report as follows:

The purpose of this bill is to develop Hawaii's technology workforce by:

- (1) Establishing the Science Technology and Education Special Fund (Special Fund) within the University of Hawaii (UH) System, to hold appropriations, private contributions, and other funding for science-, technology-, engineering-, and math-related programs;
- (2) Appropriating general funds into the Special Fund for the Robotics and Problem-based, Applied Learning Program, and the Research Experiences for Teachers Program;
- (3) Appropriating general funds to be deposited into the Hawaii 3Ts School Technology Laboratories Fund to provide matching funds for the Project Environmental and Spatial Technology program;



- (4) Appropriating federal Temporary Assistance for Needy Families (TANF) Program funds and general funds for science-, technology-, engineering-, and math-related programs and K-12 creative media education programs; and
- (5) Appropriating general funds for K-12 creative media programs.

The Department of Business, Economic Development, and Tourism (DBEDT), University of Hawaii at Manoa (UH-Manoa), Hawaii Center for Advanced Communications at the UH-Manoa College of Engineering, Referentia Systems Incorporated, Hawaii Crop Improvement Association, educators in the Searider Productions integrated journalism and digital media education program at Waianae High School, Moanalua High School production staff, and numerous concerned individuals testified in support of this bill. The Department of Education supported the intent of this measure. The Department of Budget and Finance, Department of Human Services (DHS), and HiTech Quest offered comments.

Your Committees have amended this bill by changing the appropriation for science-, technology-, engineering-, and math-related programs and K-12 creative media education programs as follows:

- (1) Changing the source of funds from TANF Program funds to general revenues; and
- (2) Changing the expending agency from DHS to DBEDT.

Other technical, nonsubstantive amendments were also made for clarity, consistency, and style.

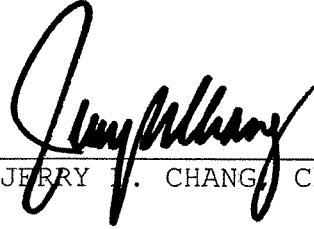
As affirmed by the records of votes of the members of your Committees on Higher Education and Human Services & Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2480, S.D. 2, H.D. 1, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as S.B. No. 2480, S.D. 2, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committees on Higher Education
and Human Services & Housing,



MAILE SHIMABUKURO, Chair



JERRY I. CHANG, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

ASCR 1280-08

Record of Votes of the Committee on Higher Education

Bill/Resolution No.: <i>SB 2480, SD 2, HD 1</i>		Committee Referral: <i>EDB, HED/HSH, FIN</i>		Date: <i>3/18/08</i>
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HED Members	Ayes	Ayes (WR)	Nays	Excused
1. CHANG, Jerry L. (C)	✓			
2. BERTRAM, Joe, III (VC)				✓
3. BERG, Lyla B., Ph.D.	✓			
4. CABANILLA, Rida T.R.	✓			
5. NISHIMOTO, Scott Y.	✓			
6. SAIKI, Scott K.				✓
7. SHIMABUKURO, Maile S. L.	✓			
8. TAKAI, K. Mark	✓			
9. TAKAMINE, Dwight Y.	✓			
10. TAKUMI, Roy M.	✓			
11. WAKAI, Glenn	✓			
12. CHING, Corinne W.L.	✓			
13. FINNEGAN, Lynn	✓			
TOTAL (13)	11			2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <i>Lyla B. Berg</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				

State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HSCA 1280-08

Record of Votes of the Committee on Human Services & Housing

Bill/Resolution No.: SB 2480 SD2 HD1	Committee Referral: EDB, HED/HSH, FIN	Date: March 18, 2008		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HSH Members	Ayes	Ayes (WR)	Nays	Excused
1. SHIMABUKURO, Maile S. L. (C)	X			
2. RHOADS, Karl (VC)	X			
3. AWANA, Karen Leinani	X			
4. BELATTI, Della Au				X
5. BERTRAM, Joe, III				X
6. CABANILLA, Rida T.R.	X			
7. GREEN, Josh, M.D.	X			
8. MIZUNO, John	X			
9. TOKIOKA, James Kunane	X			
10. WARD, Gene, Ph.D.				X
TOTAL (10)	7	0	0	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <i>Hal Rhoads</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office				

A BILL FOR AN ACT

RELATING TO TECHNOLOGY WORKFORCE AND DEVELOPMENT.

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

1 SECTION 1. In early 2007, the National Governors
2 Association made improving the nation's economic competitiveness
3 through innovation its primary focus. In a report titled, "A
4 Benchmarking of the Hawaii Educational System," Monitor Group
5 and the National Governors Association Center for Best Practices
6 profiled how Hawaii's educational system was performing relative
7 to national averages. Although Hawaii's high school graduation
8 rate is close to the national average (about 70 per cent
9 compared with 75 per cent), its postsecondary completion rate is
10 six points below the national average (47 per cent compared
11 against 53 per cent), and 20 points below the highest-performing
12 states. The report states, ". . . [t]his statistic measures
13 state universities' success in helping as many students through
14 the system as possible. As the importance of a college
15 education grows . . . so does the relevance of this metric in
16 assessing a state's educational performance." Similar
17 differences were found in eighth grade National Assessment of



1 Educational Progress test scores for 2004-2005, SAT scores, and
2 Advanced Placement course participation rates.

3 The 2007 legislature strongly endorsed initiatives related
4 to science, technology, engineering, and math (STEM) fields, and
5 creative media education as the most practical, hands-on means
6 of increasing students' interest in pursuing math/science and
7 technology careers. All STEM proposals were evaluated against
8 the backdrop of existing, successful math/science and related
9 initiatives. Emphasizing the need to build upon solid
10 performance outcomes, the legislature enacted Act 111, Session
11 Laws of Hawaii 2007 (Act 111), and Act 271, Session Laws of
12 Hawaii 2007 (Act 271). Act 111 expanded existing STEM programs
13 like robotics (including FIRST Lego League, Junior FIRST Lego
14 League, botball, underwater ROV, VEX, Micro-Robot and robotics
15 camps) and Research Experiences for Teachers - Middle School.
16 Act 271 expanded Project EAST, the Project Environmental and
17 Spatial Technology program.

18 At the same time, Act 111 funded new programs (like the Hi-
19 EST Academy, applied learning high school academies,
20 business/education internships, and related STEM teacher
21 development) in a pilot environment to provide the department of
22 education, University of Hawaii, individual schools, and their



1 tech partners with an opportunity to work through initial set-up
2 requirements and to produce a well-tested model for future
3 expansion.

4 The initial legislative targets for 2007-2008 were to
5 double the existing 48 STEM, Research Experiences for Teachers -
6 Middle School, Project Environmental and Spatial Technology, and
7 robotics programs within public schools to achieve a level of 84
8 school initiatives. Based on strong demand from individual
9 schools, and stellar tournament results, the number of schools
10 desiring to participate in STEM initiatives funded by Act 111
11 and Act 271 far exceed the 2008 target.

12 At the highest level of robotics team competition, the
13 number of For Inspiration and Recognition of Science and
14 Technology (FIRST) robotics teams has grown from four
15 participating high schools in 2007 to 25 Hawaii high school
16 teams (including public and private schools) in 2008. This
17 year's March 2008 FIRST robotics regional tournament in
18 Honolulu, Hawaii includes 38 schools competing for the national
19 FIRST championships (being held in April 2008 in Georgia).

20 The legislature therefore reaffirms its initial commitment
21 to expand outstanding and new STEM-related programs in Hawaii's
22 public schools and public charter schools by providing



1 additional funds to ensure that all schools desiring to join in
2 providing STEM programs for their students will be able to
3 participate between 2008-2012. The legislature also proposes to
4 add funding support to K-12 after-school creative media
5 education initiatives to allow for a broader range of student
6 participation in these programs.

7 SECTION 2. Chapter 304A, Hawaii Revised Statutes, is
8 amended by adding a new section to part V to be appropriately
9 designated and to read as follows:

10 "§304A- Science technology and education special fund.

11 (a) There is established the science technology and education
12 special fund, for the purposes of providing additional resources
13 and expertise to stimulate the interest and achievement of
14 students in science, technology, engineering, and mathematics
15 skills pursuant to sections 304A-1861, 304A-1862, and 304A-1863.

16 (b) The following may be deposited into the special fund:
17 appropriations made by the legislature, private contributions,
18 and moneys from other sources; provided that:

19 (1) Moneys on balance in the special fund at the close of
20 each fiscal year shall remain in the fund and shall
21 not lapse to the credit of the general fund;



- 1 (2) Any amount to be deposited into the special fund from
2 the revenues collected under this chapter that causes
3 the special fund to exceed \$ _____ shall be
4 deposited into the general fund. No further deposits
5 from the revenues collected under this chapter shall
6 be made into the special fund until the balance of the
7 special fund drops below \$ _____, in which event
8 two and one-half per cent of the revenues collected
9 under this chapter shall be deposited into the special
10 fund until the balance equals \$ _____; and
- 11 (3) An amount from the special fund not exceeding five per
12 cent of the total amount of outstanding loans may be
13 set by the university to be used for administrative
14 expenses incurred in administering the special fund."

15 SECTION 3. Act 111, Session Laws of Hawaii 2007, is
16 amended by amending part V, section 12, to read as follows:

17 "SECTION 12. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$1,402,230 or so much
19 thereof as may be necessary for fiscal year 2007-2008 and the
20 [~~same~~] sum of \$ _____ or so much thereof as may be necessary
21 for fiscal year 2008-2009 to establish the fostering inspiration
22 and relevance through science and technology pre-academy



1 program, including nine full-time equivalent (9.00 FTE)
 2 positions in the University of Hawaii college of engineering;
 3 provided that the appropriation for fiscal year 2008-2009 shall
 4 be deposited into the science technology and education special
 5 fund established under section 304A- , Hawaii Revised Statutes,
 6 pursuant to Act , Session Laws of Hawaii 2008, and the same
 7 sum or so much thereof as may be necessary shall be appropriated
 8 out of the science technology and education special fund for the
 9 purposes of this section; provided further that the sums
 10 appropriated shall be allocated as follows:

- 11 (1) \$314,925 for fiscal year 2007-2008 and the [same] sum
 12 of \$ _____ for fiscal year 2008-2009 for the
 13 robotics and problem-based, applied learning program;
 14 and
- 15 (2) \$734,805 for fiscal year 2007-2008 and the [same] sum
 16 of \$ _____ for fiscal year 2008-2009 for the
 17 research experiences for teachers program.

18 The sums appropriated shall be expended by the University
 19 of Hawaii for the purposes of this part."

20 SECTION 4. Act 271, Session Laws of Hawaii 2007, is
 21 amended by amending sections 2 and 3 to read as follows:



1 "SECTION 2. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$1,100,000 or so much
3 thereof as may be necessary for fiscal year 2007-2008 and the
4 sum of \$ _____ or so much thereof as may be necessary for
5 fiscal year 2008-2009 to be deposited into the Hawaii 3Ts school
6 technology laboratories fund established pursuant to section
7 302A-1314, Hawaii Revised Statutes.

8 SECTION 3. There is appropriated out of the Hawaii 3Ts
9 school technology laboratories fund the sum of \$1,100,000 or so
10 much thereof as may be necessary for fiscal year 2007-2008 and
11 the sum of \$ _____ or so much thereof as may be necessary
12 for fiscal year 2008-2009 to maintain the project EAST program
13 in existing schools and to expand the program to schools
14 statewide; provided that no funds shall be expended unless
15 matching funds are provided pursuant to section 302A-1314(p),
16 Hawaii Revised Statutes.

17 The [~~sum~~] sums appropriated shall be expended by the
18 Economic Development Alliance of Hawaii, Inc., in accordance
19 with section 302A-1314, Hawaii Revised Statutes, and implemented
20 in partnership with county economic development boards, as
21 appropriate, for the purposes of this Act."



1 SECTION 5. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$ or so
3 much thereof as may be necessary for fiscal year 2008-2009 for
4 the department of human services, to augment, not replace,
5 funding for STEM programs and K-12 creative media education
6 programs.

7 The sum appropriated shall be expended by the department of
8 business, economic development, and tourism for the purposes of
9 this Act.

10 SECTION 6. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2008-2009 for
13 K-12 creative media programs.

14 The sum appropriated shall be expended by the department of
15 education for the purposes of this Act.

16 SECTION 7. The revisor of statutes shall insert the number
17 of this Act in section 3 of this Act.

18 SECTION 8. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 9. This Act shall take effect on July 1, 2034.



S.B. NO. 2480
S.D. 2
H.D. 2

Report Title:

Science, Technology, Engineering, and Math; Appropriations

Description:

Establishes the Science Technology and Education Special Fund. Appropriates general funds into the Special Fund for the Robotics and Problem-based, Applied Learning Program, and the Research Experiences for Teachers Program. Provides matching funds for Project EAST. Appropriates funds for science-, technology-, engineering-, and math-related programs and K-12 creative media education programs. (SB2480 HD2)

SB2480 HD2 HMS 2008-3239



Honolulu, Hawaii

March 14, 2008

RE: S.B. No. 2151
S.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Health and Human Services & Housing, to which was referred S.B. No. 2151, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LONG-TERM CARE OMBUDSMAN,"

beg leave to report as follows:

The purpose of this measure is to expand the long-term care ombudsman program by adding three county ombudsman positions and by appropriating funds for those positions.

Specifically, this measure establishes one local ombudsman position in each of the counties of Hawaii, Maui, and Kauai within the Office of the Long-Term Care Ombudsman to work under the supervision of the Long-Term Care Ombudsman in achieving the goals of the program as mandated by the United States Administration on Aging through the Older Americans Act. The measure also clarifies that the state Long-Term Care Ombudsman, with the approval of the Executive Office on Aging, appoints the three local long-term care ombudsmen.

Your Committees received testimony in support of this measure from the Judiciary, Hawaii Government Employees Association, Hawaii Disability Rights Center, National Association of Social Workers, Hawaii Alliance for Retired Americans, Policy Advisory Board for Elder Affairs, the Kokua Council, and two hundred twenty individuals. The Executive Office on Aging offered comments.



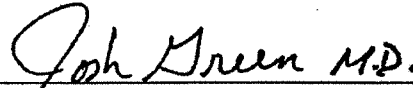
Your Committees find that this bill, by providing three local, county-based long-term care ombudsmen on the neighbor islands, will help to ensure that the needs of long-term care residents of those counties are met with the same regular and timely access to services that is currently provided by the State Long-Term Care Ombudsman based on Oahu.

As affirmed by the records of votes of the members of your Committees on Health and Human Services & Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2151, S.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committees on Health and Human
Services & Housing,



MAILE SHIMABUKURO, Chair



JOSHUA B. GREEN, M.D., Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HSCR 1093-08

Record of Votes of the Committee on Health

Bill/Resolution No.: SB 2151, SD 2	Committee Referral: HLT/HSR, FIN	Date: 3-12-08		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. GREEN, Josh, M.D. (C)	✓			
2. MIZUNO, John (VC)	✓			
3. AWANA, Karen Leinani	✓			
4. BELATTI, Della Au	✓			
5. BERTRAM, Joe, III	✓			
6. CABANILLA, Rida T.R.			✓	
7. RHOADS, Karl	✓			
8. SHIMABUKURO, Maile S. L.	✓			
9. TOKIOKA, James Kunane	✓			
10. WARD, Gene, Ph.D.	✓			
TOTAL (10)	9		1	
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature:				
Distribution: Original (White) - Committee Duplicate (Yellow) - Chief Clerk's Office				

A BILL FOR AN ACT

RELATING TO LONG-TERM CARE OMBUDSMAN.

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

1 SECTION 1. Act 93, Session Laws of Hawaii 2007,
2 established the office of the long-term care ombudsman within
3 the executive office on aging.

4 The purpose of this Act is to establish and fund three
5 additional local long-term care ombudsmen positions, one for the
6 county of Maui, one for the county of Hawaii, and one for the
7 county of Kauai, within the office of the long-term care
8 ombudsman to work under the supervision of the state long-term
9 care ombudsman in achieving the goals of the program as mandated
10 by the United States Administration on Aging through the Older
11 Americans Act.

12 SECTION 2. Section 349-21, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~§~~349-21~~§~~ Office of the long-term care ombudsman.

15 (a) There is established the office of the long-term care
16 ombudsman in the executive office on aging to protect the
17 health, safety, welfare, and rights of residents of long-term



1 care facilities in accordance with state and federal law. The
2 office of the long-term care ombudsman shall be headed by the
3 state long-term care ombudsman[-] with the assistance of three
4 local long-term care ombudsmen, to be appointed by the state
5 long-term care ombudsman with the approval of the director of
6 the executive office on aging, one situated in the county of
7 Hawaii, one situated in the county of Kauai, and one situated in
8 the county of Maui.

9 (b) The state long-term care ombudsman and each local
10 ombudsman shall:

- 11 (1) Be hired pursuant to chapter 76;
- 12 (2) Be free of conflict of interest;
- 13 (3) Have expertise and experience in the fields of
14 long-term care and advocacy;
- 15 (4) Serve on a full-time basis; and
- 16 (5) Prepare an annual report in accordance with the
17 federal Older Americans Act, as amended.

18 (c) The state long-term care ombudsman[7] and each local
19 ombudsman, personally or through a designee, shall:

- 20 (1) Represent the interests of residents of long-term care
21 facilities, individually and as a class, to:



- 1 (A) Protect their health, safety, welfare, and
- 2 rights; and
- 3 (B) Promote improvement in the quality of care they
- 4 receive and their quality of life;
- 5 (2) Identify, investigate, and resolve complaints,
- 6 including complaints against providers of long-term
- 7 care services and their representatives, made by or on
- 8 behalf of residents of long-term care facilities
- 9 relating to actions, inactions, or decisions that may
- 10 adversely affect the health, safety, welfare, or
- 11 rights of residents of long-term care facilities,
- 12 including the appointment and activities of guardians
- 13 and representative payees;
- 14 (3) Monitor and comment on the development and
- 15 implementation of federal, state, and local laws,
- 16 regulations, policies, and actions that pertain to the
- 17 health, safety, welfare, or rights of residents of
- 18 long-term care facilities, including the adequacy of
- 19 long-term care facilities and services in the State,
- 20 and recommend changes as necessary;



- 1 (4) Provide information as appropriate to public agencies
2 regarding the problems of residents of long-term care
3 facilities;
- 4 (5) Train volunteers and employees;
- 5 (6) Promote the development of citizen organizations to
6 participate in the advocacy program;
- 7 (7) Establish procedures for appropriate access by the
8 long-term care ombudsman to long-term care facilities
9 and to residents of long-term care facilities;
- 10 (8) Establish procedures for appropriate access by the
11 state long-term care ombudsman to all resident records
12 or portions thereof necessary for the long-term care
13 ombudsman to evaluate the merits of a specific
14 complaint or complaints; [~~provided that resident~~
15 ~~records shall be divulged only with the written~~
16 ~~consent of the resident or the resident's legal~~
17 ~~representative;~~]
- 18 (9) Establish procedures for appropriate access to files
19 maintained by the state long-term care ombudsman,
20 except that the identity of any complainant or
21 resident of a long-term care facility shall not be
22 disclosed unless:



- 1 (A) The complainant or resident, or the complainant's
- 2 or resident's legal representative, consents in
- 3 writing to the disclosure;
- 4 (B) The complainant or resident consents orally and
- 5 the consent is documented contemporaneously in
- 6 writing by the long-term care ombudsman or
- 7 designee; or
- 8 (C) The disclosure is required by court order;
- 9 (10) Provide technical support for the development of
- 10 resident and family councils to help protect the
- 11 health, safety, welfare, and rights of residents of
- 12 long-term care facilities;
- 13 (11) Provide residents of long-term care facilities with:
- 14 (A) Information regarding how to obtain necessary
- 15 services;
- 16 (B) Regular access to the office of the state long-
- 17 term care ombudsman at times deemed reasonable
- 18 and necessary by the state long-term care
- 19 ombudsman; and
- 20 (C) Regular and timely responses to their complaints;
- 21 (12) Seek administrative, legal, or other remedies to carry
- 22 out this part; and



1 (13) Carry out all other responsibilities as provided by
2 state or federal law.

3 (d) The state long-term care ombudsman shall establish
4 procedures to ensure that all designees, employees, and
5 volunteers are free of conflict of interest.

6 (e) The state long-term care ombudsman shall adopt rules
7 pursuant to chapter 91 for the purposes of administering and
8 implementing this part.

9 (f) For the purposes of this part:

10 "Conflict of interest" includes:

- 11 (1) Any direct involvement in the licensing or
12 certification of a long-term care facility or of a
13 provider of a long-term care service;
- 14 (2) An ownership or investment interest in a long-term
15 care facility or a long-term care service;
- 16 (3) Employment by, or participation in the management of,
17 a long-term care facility; and
- 18 (4) Receipt of, or the right to receive, directly or
19 indirectly, remuneration under a compensation
20 arrangement with an owner or operator of a long-term
21 care facility.

22 "Long-term care facility" means any:



- 1 (1) Skilled nursing facility as defined in section 1819(a)
- 2 of the Social Security Act, as amended;
- 3 (2) Nursing facility, as defined in section 1919(a) of the
- 4 Social Security Act, as amended;
- 5 (3) Adult residential care home, including any expanded
- 6 adult residential care home;
- 7 (4) Assisted living facility;
- 8 (5) Intermediate care facility as defined in section
- 9 1905(c) of the Social Security Act, as amended; and
- 10 (6) Other similar facility licensed or certified by the
- 11 State serving elders."

12 SECTION 3. Section 349-22, Hawaii Revised Statutes, is
13 amended:

14 1. By amending subsection (a) to read:

15 "(a) A long-term care facility shall permit immediate
16 access to the long-term facility and to the residents of the
17 long-term care facility to the state long-term care ombudsman or
18 designee at any time deemed necessary and reasonable by the
19 state long-term care ombudsman for the performance of the duties
20 and functions under this part."

21 2. By amending subsections (c) and (d) to read:



1 "(c) A long-term care facility shall permit access by the
2 state long-term care ombudsman or designee to all resident
3 records or portions thereof necessary for the state long-term
4 care ombudsman to evaluate the merits of any complaint[+
5 ~~provided that resident records shall be divulged only with the~~
6 ~~written consent of the resident or the resident's legal~~
7 ~~representative].~~

8 (d) The state long-term care ombudsman shall report
9 violations of this section to the department of health."

10 SECTION 4. Section 349-23, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) A violation of this section shall be reported by the
13 state long-term care ombudsman to the appropriate police
14 department or prosecuting attorney."

15 SECTION 5. Section 349-24, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]~~**\$349-24**~~[+]~~ **Wilful interference; prohibited.** Any
18 individual, including any long-term care facility or long-term
19 care facility employee, who wilfully interferes with or impedes
20 the state long-term care ombudsman or designee in the
21 performance of the state long-term care ombudsman's or
22 designee's duties pursuant to this part shall be guilty of a



1 misdemeanor. Each separate act of wilful interference and each
2 day during which any wilful interference continues shall
3 constitute a separate offense."

4 SECTION 6. Section 349-25, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The state long-term care ombudsman shall provide each
7 long-term care facility with brochures and a poster with
8 information regarding the office of the state long-term care
9 ombudsman, including the name, address, and telephone number of
10 the office of the state long-term care ombudsman and any local
11 long-term care ombudsmen, and a brief description of the
12 services provided by the office of the state long-term care
13 ombudsman."

14 SECTION 7. Section 457B-6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§457B-6 Powers and duties of director.** In addition to
17 any other powers and duties authorized by law, the director
18 shall:

19 (1) Develop, impose, and enforce standards [~~which~~] that
20 shall be met by individuals in order to receive a
21 license as a nursing home administrator [~~which~~]. The
22 standards shall be designed to insure that nursing



1 home administrators shall be individuals who, by
2 training or experience in the field of institutional
3 administration, are qualified to serve as nursing home
4 administrators;

5 (2) Develop and apply appropriate techniques, including
6 examinations and investigations, for determining
7 whether an individual meets the standards of this
8 chapter or the rules adopted pursuant thereto;

9 (3) Issue licenses to individuals determined, after the
10 application of appropriate techniques, to meet the
11 required standards, and revoke or suspend licenses in
12 any case where the individual holding a license is
13 determined substantially to have failed to conform to
14 the required standards of this chapter or the rules
15 adopted pursuant thereto;

16 (4) Establish and carry out procedures designed to insure
17 that individuals licensed as nursing home
18 administrators [~~shall~~], during any period that they
19 serve as such, shall comply with the required
20 standards. The director shall also initiate and
21 maintain cooperative arrangements with the state long-
22 term care ombudsman, department of human services, and



- 1 the department of health for the sharing of
2 information on the performance of administrators;
- 3 (5) Receive, investigate, and take appropriate action with
4 respect to any charge or complaint filed with the
5 department to the effect that any individual licensed
6 as a nursing home administrator has failed to comply
7 with the requirements of this chapter or the rules
8 adopted pursuant thereto;
- 9 (6) Adopt in accordance with chapter 91 rules [~~as~~] that
10 may be necessary for the purposes of this chapter; and
11 (7) Maintain a record of all proceedings."

12 SECTION 8. There is appropriated out of the general
13 revenues of the State of Hawaii the sum of \$ or so
14 much thereof as may be necessary for fiscal year 2008-2009 for
15 three local long-term care ombudsmen positions in the office of
16 the long-term care ombudsman within the executive office on
17 aging.

18 The sum appropriated shall be expended by the department of
19 health for the purposes of this Act.

20 SECTION 9. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 10. This Act shall take effect on July 1, 2008.



Report Title:

Long-Term Care; Ombudsman

Description:

Expands the long-term care ombudsman program by adding three additional ombudsman positions, one for each neighboring county.
(SB2151 SD2)



Honolulu, Hawaii

March 20, 2008

RE: S.B. No. 3102
S.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Water, Land, Ocean Resources & Hawaiian Affairs, to which was referred S.B. No. 3102, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO THE LAND CONSERVATION FUND,"

begs leave to report as follows:

The purpose of this bill is to provide for greater protection of lands that have value as a resource to the State by allowing:

- (1) Public and private moneys to be deposited into the Land Conservation Fund (Fund) and used for the acquisition of land having value as a resource to the State; and
- (2) Moneys from the Fund to be used for the costs of operating, maintaining, and managing lands acquired by way of the Fund.

The Department of Land and Natural Resources and Hawaii Agriculture Research Center testified in support of this bill. The Trust for Public Land provided comments.

As affirmed by the record of votes of the members of your Committee on Water, Land, Ocean Resources & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3102, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Water, Land, Ocean
Resources & Hawaiian Affairs,



KEN ITO, Chair



A BILL FOR AN ACT

RELATING TO THE LAND CONSERVATION FUND.

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

1 SECTION 1. Section 173A-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§173A-5 Land conservation fund.** (a) A land conservation
4 fund, hereinafter called "fund", is hereby established.

5 (b) The proceeds from the sale of any general obligation
6 bonds[~~7~~] authorized and issued for purposes of this chapter[~~7~~]
7 shall be deposited in or credited to the fund.

8 (c) Any net proceeds or revenue from the operation,
9 management, sale, lease, or other disposition of land or the
10 improvements on [~~such~~] the land[~~7~~] acquired or constructed by
11 the board under the provisions of this chapter[~~7~~] shall also be
12 deposited in or credited to the fund.

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

16 (e) Moneys from any other private or public source may be
17 deposited in or credited to the fund, provided that mandates,
18 regulations, or conditions on these funds do not conflict with



1 the use of the fund under this chapter. Moneys received as a
2 deposit or private contribution shall be deposited, used, and
3 accounted for in accordance with the conditions established by
4 the agency or person making the contribution.

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

7 [~~f~~] (g) The acquisition of interests or rights in land
8 having value as a resource to the State for the preservation
9 of[+] the following shall constitute a public purpose for which
10 public funds may be expended or advanced:

- 11 (1) Watershed protection;
- 12 (2) Coastal areas, beaches, and ocean access;
- 13 (3) Habitat protection;
- 14 (4) Cultural and historical sites;
- 15 (5) Recreational and public hunting areas;
- 16 (6) Parks;
- 17 (7) Natural areas;
- 18 (8) Agricultural production; [~~e~~] and
- 19 (9) Open spaces and scenic resources[~~r~~
- 20 ~~constitutes a public purpose for which public funds may be~~
- 21 ~~expended or advanced].~~

22 [~~g~~] (h) The fund shall be used for:



- 1 (1) The acquisition of interests or rights in land having
2 value as a resource to the State, whether in fee title
3 or through the establishment of permanent conservation
4 easements under chapter 198 or agricultural easements;
- 5 (2) The payment of any debt service on state financial
6 instruments relating to the acquisition of interests
7 or rights in land having value as a resource to the
8 State; [~~and~~]
- 9 (3) Annual administration costs for the fund, not to
10 exceed five per cent of annual fund revenues of the
11 previous year~~[-]~~; and
- 12 (4) Costs related to the operation, maintenance, and
13 management of lands acquired by way of this fund that
14 are necessary to protect, maintain, or restore
15 resources at risk on these lands, or that provide for
16 greater public access and enjoyment of these lands;
17 provided that the costs related to the operation,
18 maintenance, and management of lands acquired by way
19 of this fund do not exceed five per cent of annual
20 fund revenues of the previous year.

21 ~~[(h)]~~ (i) Based on applications from state agencies,
22 counties, and nonprofit land conservation organizations, the



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

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

18 [~~(i)~~] (j) For applications approved by the board, the
 19 board may acquire land having value as a resource to the State,
 20 pursuant to section 173A-4, or the board may award grants from
 21 the fund to the qualifying state or county agencies or nonprofit
 22 land conservation organizations for the preservation of the real



1 property. Where the recipient of a grant is a county agency or
2 nonprofit land conservation organization, the board shall
3 require additional matching funds of at least twenty-five per
4 cent of the total project costs. Matching funds may be in the
5 form of:

- 6 (1) Direct moneys;
- 7 (2) A combination of public and private funds;
- 8 (3) Land value donation;
- 9 (4) In-kind contributions; or
- 10 (5) Any combination of the above[~~7~~

11 ~~and evidence~~].

12 (k) Evidence of ~~[these]~~ the matching funds in subsection
13 (j) shall be made available from the qualifying entities prior
14 to distribution of the fund grant.

15 ~~[+j+]~~ (1) The board shall:

- 16 (1) Track amounts disbursed from the fund;
- 17 (2) Prepare and submit an annual report to ~~[be transmitted~~
18 ~~to]~~ the governor and the legislature at least twenty
19 days prior to the convening of each regular session
20 ~~[of the legislature]~~. The annual report shall
21 include:



- 1 (A) A summary of all interests or rights in land
- 2 acquired during the preceding fiscal year;
- 3 (B) A summary of what value each newly acquired land
- 4 has as a resource to the State;
- 5 (C) Proposals for future land acquisitions, including
- 6 a summary of the resource value that the land may
- 7 possess;
- 8 (D) A financial report for the preceding fiscal year;
- 9 and
- 10 (E) Objectives and budget projections for the
- 11 following fiscal year; and
- 12 (3) Make copies of the annual report available to the
- 13 public."

14 SECTION 2. Section 173A-9, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§173A-9 Grants to state agencies, counties, and nonprofit**
17 **land conservation organizations.** After consultation with the
18 senate president and speaker of the house of representatives,
19 and subject to the approval of the governor, the board may make
20 grants to state agencies, counties, and nonprofit land
21 conservation organizations from available funds for the purchase
22 or acquisition of interests or rights in land having value as a



1 resource to the State, whether in fee title or through the
2 purchase of permanent conservation easements under chapter 198,
3 and approved for purchase or acquisition by the board[-], or for
4 the operation, maintenance, and management of lands acquired
5 under this chapter that are necessary to protect, maintain, or
6 restore resources at risk on these lands, or that provide for
7 greater public access and enjoyment of these lands. Any land so
8 acquired by any state agency or county may be sold, leased, or
9 otherwise disposed of, subject to chapter 171, with the prior
10 written approval of the board. Any land acquired by any
11 nonprofit land conservation organization under this chapter may
12 be sold, leased, or otherwise disposed of with the prior written
13 approval of the board. Any permanent conservation easement
14 established under this section that includes partnership with a
15 federal land conservation program may be transferred only as
16 provided by rules of the federal program."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

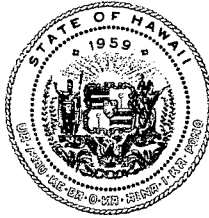
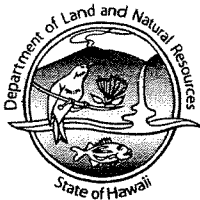
Land Conservation Fund

Description:

Allows public and private moneys to be deposited into the land conservation fund and distributed as grants for the acquisition of land having value as a resource to the State. Allows moneys from the land conservation fund to be used for the operation, maintenance, and management of the acquired lands. (SB3102 SD2)



LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING

FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES

on Senate Bill 3102, Senate Draft 2 - Relating To The Land Conservation Fund

BEFORE THE HOUSE COMMITTEE ON
FINANCE

April 3, 2008

Senate Bill 3102, Senate Draft 2 is an Administration bill which proposes; (1) To allow public and private moneys to be deposited into the Land Conservation Fund (Fund) to be distributed as grants for acquisition of land having value as a resource to the State, and (2) To allow moneys from the Fund to be used for the operation, maintenance, and management of the acquired lands. The Department of Land and Natural Resources (Department) is in strong support of this bill.

Currently, the Legacy Land Conservation Program (Program) is funded through an annual transfer of 10% of the State's Conveyance Tax to the Fund. The Program is successfully partnering with State agencies, county agencies, and nonprofit land conservation organizations to protect a significant amount of the State's resource lands. For the first two years of this Program's existence, applicants have asked for sums of over \$11 million each year. The Program is able, with current funding from the land conveyance tax, to award \$4.7 million in grant funds per year. The amount by which funding requested exceeds that rewarded indicates a need for more funding. This need is further demonstrated by the quality of the projects coming before the Program that are not able to receive funding.

This bill allows moneys from any other private or public sources to be deposited in or credited to the fund, provided that mandates, regulations, or conditions on these funds do not conflict with Chapter 173A, Hawaii Revised Statutes (HRS). With this change, the Program will be able to accept additional funds that may be raised by supporters or contributed by donors to support the protection of the State's resource lands. Examples include private donations, grants from Charitable Foundations, public fund raising efforts, federal funds, state funds such as direct appropriations or funding from the Conservation Reserve Enhancement Program to purchase agricultural conservation easements, and county funds and even court settlement agreements. For instance, this change would provide a mechanism and repository to collect private donations to contribute toward and help fund the purchase of the Turtle Bay property.

Chapter 173A, HRS, currently only allows for money to be used for acquisition of resource lands. This does not address the fact that many of the lands purchased with this program have extremely fragile resources and require active management to safeguard their existence. This bill will allow use of up to 5% of the Fund for operations, maintenance and management of lands purchased with this Fund - if necessary to protect, maintain or restore resources at risk on these

lands, or to provide for greater public access and enjoyment of these lands. It will provide needed funding for projects that do not have another source of operating funds to make urgently needed improvements to lands purchased under this chapter to protect native species from encroaching invasive species, or prevent soil erosion on farm or coastal properties, and provide facilities, fencing, and signage for safe public access and use of recreational and cultural areas.

The Department is aware there are concerns from some land conservation organizations that allowing use of the fund for operations and maintenance and management would dilute the Fund. The Department notes that the amount that would be made available is capped at 5% and restricted to cases where it is needed to protect, maintain or restore resources at risk or provide greater public access and enjoyment. The awarding of operations, maintenance and management funding would be through the same competitive process with acquisitions and go forward and only if judged a high priority. The Department is willing to work with the land conservation organizations and the committee to tighten up the language and suggests the following revision to clarify this provision:

Section 1. Page 3, lines 12-20. New text in bold.

- (4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands; provided that the costs related to the operation, maintenance, and management of lands acquired by way of this fund do not exceed five per cent of annual fund revenues of the previous year; and provided this use of funds is found by the board to outweigh other uses for funding under this chapter.

Additionally, the Department met with the Senate President and Speaker of the House as part of the consultation process on the projects proposed for funding in Fiscal Year 2008. The leadership raised concerns that the current statute does not adequately protect the State's interest to keep lands purchased under this Chapter in conservation status in the future. The Department developed and suggests the following language to address this concern:

Proposed paragraph (c) to §173A-4 - "Authority to acquire and convey".

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

"§173A-4 Authority to acquire and convey. ...

(c) The board may, in consultation with the senate president and speaker of the house of representatives, require as a condition of the receipt of funds that State, county, and nonprofit land conservation organizations receiving funds under this chapter provide a conservation easement under chapter 198, an agricultural easement or deed restriction or covenant to an appropriate land conservation organization or county, state or federal natural resource conservation agency, that shall run with the land and be recorded with the land for the purpose of ensuring the long-term protection of lands having value as a resource to the State and preserve the interests of the State.

