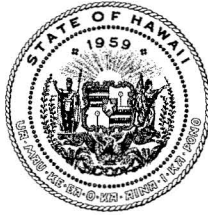


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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**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
WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS**

March 14, 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.



**THE TRUST FOR PUBLIC LAND'S TESTIMONY IN PARTIAL SUPPORT
AND PARTIAL OPPOSITION TO SB 3102 SD2**
House Committee on Water, Land, Ocean Resources and Hawaiian Affairs
Friday, March 14, 2008, Room 312
WLHtestimony@capitol.hawaii.gov



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The Trust for Public Land (TPL):

1. Supports those portions of SB 3102, SD 2 that allow private and public entities to supplement the Land Conservation Fund (Sec. 1, proposed Sec. 173A-5(e)). And,
2. Opposes those portions of SB 3102, SD 2 that allow the diversion of Land Conservation Funds for operation, maintenance and management (Sec. 1, proposed sec. 173A-5(h)(4) & Sec. 2).

While TPL supports greater funding for Department of Land and Natural Resources (DLNR) for management and operations, raiding the Land Conservation Fund is not the solution. The Land Conservation Fund already receives many more worthy applications for land conservation projects than it can fund. TPL was actively involved with this Legislature in the passage of the Legacy Lands Act, and thanks the committees for their support of this historic legislation.

TPL conserves land for people to enjoy as parks, gardens and other natural places, ensuring livable communities for generations to come. Nationwide, TPL has five program initiatives: (1) providing parks for people, (2) protecting working lands (farms, ranches, and forests), (3) conserving natural lands (wilderness, wildlife habitat), (4) safeguarding heritage lands (cultural and historical resources), and (5) preserving land to ensure clean drinking water and the natural beauty of our coasts and waterways. In Hawai'i, TPL has worked with public and private partners to conserve over 36,000 acres of land in the State, with a focus on coastal lands and lands important to Hawaiian communities.

TPL supports those Section of SB 3102 SD2 that allow public and private entities to supplement the Fund (Sec. 1, proposed Sec. 173A-5(e)). Allowing public and private entities to donate into the Fund will increase resources for worthy land conservation projects.

TPL opposes the specific amendments in sections of SB 3102 SD2 that divert monies from the Land Conservation for operations and maintenance (Sec. 1, proposed sec. 173A-5(h)(4) & Sec. 2) for the following reasons:

1. The Legacy Lands Commission, which this Legislature created, was not consulted regarding this bill. I attended a Legacy Lands Commission meeting on February 6, 2008. The Commission was surprised to learn of the bill and had not been consulted. The Commission consists of experts in agricultural, science, Hawaiian cultural, and conservation. These individuals have first hand knowledge of how the program has worked for the past two years, and should have been consulted in the first instance.
2. Although TPL supports more funding for DLNR, it must oppose diverting 5% of Legacy Lands Funds for operation and maintenance costs. In the past two years since this Legislature passed the Legacy Lands Act, the number of worthy projects has far exceeded available funds. Every project that has been funded has leveraged substantial matching federal, county, and/or private funds, making the limited dollars in the Legacy Lands Fund go farther. The funded projects met several criteria. All projects had: (1) willing landowners/sellers who had agreed to sell the property at a set price, (2) engaged communities calling for the preservation of the lands, (3) specific plans to manage the land, (4) substantial matching funding, (5) significant natural and/or cultural resource value, and (6) current threats to the property that called for protection or acquisition. The experts on the Legacy Lands Commission weighed these factors, and as difficult as the task was, prioritized the projects for available funding. The amount of funding has always been less than the number of good projects. Taking away money from the Legacy Lands Fund for operation and maintenance will mean that fewer projects will be funded.

TPL therefore supports those portions of SB 3102, SD 2 that allow private and public entities to supplement the Land Conservation Fund (Sec. 1, proposed Sec. 173A-5(e)). TPL opposes those portions of SB 3102, SD 2 that allow the diversion of Land Conservation Funds for operation, maintenance and management (Sec. 1, proposed sec. 173A-5(h)(4) & Sec. 2).

Mahalo for this opportunity to testify.


Lea Hong
Hawaiian Islands Program Director