

H.B. NO. 1133

A BILL FOR AN ACT

RELATING TO NATURAL RESOURCE VIOLATIONS.

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

1 SECTION 1. Section 184-3.4, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) There is established within the state treasury a fund
4 to be known as the state parks special fund, into which shall be
5 deposited:

6 (1) All proceeds collected by the state parks programs
7 involving park user fees, any leases or concession
8 agreements, the sale of any article purchased from the
9 department to benefit the state parks programs, or any
10 gifts or contributions; provided that proceeds derived
11 from the operation of Iolani Palace shall be used to
12 supplement its educational and interpretive programs;
13 [~~and~~]

14 (2) Transient accommodations tax revenues pursuant to
15 section 237D-6.5; provided that these moneys shall be
16 expended in response to a master plan developed in
17 coordination with the Hawaii tourism authority[-]; and

1 (3) Civil, criminal, and administrative penalties, fines,
2 and other charges collected under this chapter or any
3 rule adopted thereunder, notwithstanding the
4 provisions of any other law.

5 (b) The department shall expend the moneys from the state
6 parks special fund for the following purposes:

7 (1) Permanent and temporary staff positions;

8 (2) Planning and development of state parks programs,
9 including the aina hoomalu state parks program;

10 (3) Construction, repairs, replacement, additions, and
11 extensions of state parks facilities;

12 (4) Operation and maintenance costs of state parks and
13 state parks programs; [~~and~~]

14 (5) Administrative costs of the division of state
15 parks~~[-]~~; and

16 (6) Restoration of or mitigation of damage to natural or
17 cultural resources, public education and outreach
18 programs, and enforcement efforts for the state parks
19 program."

20 SECTION 2. Section 189-2.4, Hawaii Revised Statutes, is
21 amended by amending subsections (b) and (c) to read as follows:

1 "(b) The following revenues shall be deposited into the
2 commercial fisheries special fund:

3 (1) Moneys collected as fees for licenses and permits
4 related to commercial fishing and the sale of aquatic
5 life, use of public fishing grounds for commercial
6 fishing purposes, and use of commercial fisheries-
7 related facilities;

8 (2) Moneys collected under the provision of any law or
9 rule related to the importation, rearing, fishing,
10 taking, catching, or killing of any aquatic life for
11 commercial purposes;

12 (3) Moneys, other than informers' fees authorized under
13 section 187A-14, collected as fines or bail
14 forfeitures or administrative fines for violations of
15 this chapter;

16 (4) Moneys collected from fines, penalties, and
17 settlements for commercial fishing violations under
18 subtitle 5, or any rule adopted thereunder,
19 notwithstanding the provisions of any other law;

20 [+4+] (5) Moneys collected from the sale of any article
21 purchased from the department related to aquatic life

1 used for commercial purposes or fishing for commercial
2 purposes;

3 ~~[(+5)]~~ (6) Any monetary contributions or moneys collected
4 from the sale of nonmonetary gifts to benefit aquatic
5 life used for commercial purposes or fishing for
6 commercial purposes; and

7 ~~[(+6)]~~ (7) Moneys derived from interest, dividend, or other
8 income from the above sources.

9 (c) The commercial fisheries special fund shall be used
10 for the following:

11 (1) Programs and activities for projects concerning
12 aquatic life used for commercial purposes;

13 (2) Developing and conducting resource monitoring
14 programs, conducting studies to determine the
15 sustainable use of aquatic life for commercial
16 purposes, and developing recommendations for
17 acceptable levels of use;

18 (3) Research programs and activities concerning the
19 conservation and management of aquatic life for
20 commercial purposes;

21 (4) Programs and activities concerning the importation and
22 management, preservation, propagation, enforcement,

1 and protection of aquatic life used for commercial
2 purposes; [~~and~~]

3 (5) Payroll for personnel of the department or the
4 awarding of grants-in-aid to or contracts with the
5 University of Hawaii or other qualified organizations
6 or individuals to develop or implement the programs
7 and activities for the conservation and management of
8 aquatic life for commercial purposes[~~-~~];

9 (6) Restoration or remediation projects where actions that
10 involved commercial purposes have resulted in damage
11 to or destruction of aquatic life; and

12 (7) Programs and activities, including but not limited to
13 education and outreach to the public on the importance
14 of aquatic life and the ecosystems they compose, on
15 the impact of commercial activities on aquatic life,
16 and on enforcement actions conducted in efforts to
17 protect aquatic life."

18 SECTION 3. Section 198D-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§198D-2 Establishment of Hawaii statewide trail and access**
21 **program.** (a) There is established the Hawaii statewide trail
22 and access program, to be known as Na Ala Hele. The department

1 of land and natural resources shall plan, develop, acquire land
2 or rights for public use of land, construct, restore, and engage
3 in coordination activities to implement the program in accordance
4 with this chapter.

5 (b) The trail and access program shall use funding for the
6 management, maintenance, and development of trails and trail
7 accesses under the jurisdiction of the department from the
8 following sources:

- 9 (1) A portion of the highway fuel taxes collected under
10 chapter 243;
- 11 (2) Federal government grants;
- 12 (3) Private contributions;
- 13 (4) Fees, established pursuant to administrative rules and
14 charged by the department for the commercial and other
15 use of trails and trail accesses under the
16 jurisdiction of the department; [~~and~~]
- 17 (5) Transient accommodations tax revenues pursuant to
18 section 237D-6.5[-]; and
- 19 (6) Civil, criminal, and administrative penalties, fines,
20 and other charges collected under this chapter or any
21 rule adopted pursuant to this chapter, notwithstanding
22 the provisions of any other law.

1 (c) The moneys specified in subsection (b)(2) shall be
2 deposited in the state treasury; provided that moneys received as
3 deposits or contributions from the federal government shall be
4 accounted for in accordance with the conditions established by
5 the agencies making the contribution.

6 (d) The moneys specified in subsection (b)(1), (3), (4),
7 ~~[and]~~ (5), and (6) shall be deposited in the special land and
8 development fund under section 171-19 for the management,
9 maintenance, and development of trails and trail accesses under
10 the jurisdiction of the department; provided that the moneys
11 specified in subsection (b)(5) shall be expended for the
12 management, maintenance, and development of trails and access
13 areas frequented by visitors in response to a master plan
14 developed in coordination with the Hawaii tourism authority[-]
15 and moneys specified in subsection (b)(6) may also be expended
16 for restoration of or mitigation of damage to natural or
17 cultural resources, enforcement, search and rescue, and public
18 education and outreach efforts related to Na Ala Hele."

19 SECTION 4. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. Ay

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BY REQUEST

JAN 26 2009

Report Title:

Special Funds; Department of Land and Natural Resources

Description:

Expands authorization of the State Parks and Commercial Fisheries Special Funds and the Special Land and Development Fund to: (1) Allow for deposits of criminal and civil penalties, fines, and other administrative charges collected, and (2) Expend moneys for restoration or mitigation of natural or cultural resources, education and public outreach, and enforcement efforts.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO NATURAL RESOURCE VIOLATIONS.

PURPOSE: To expand the authorization of the State Parks and Commercial Fisheries Special Funds and the Special Land and Development Fund to: (1) allow for deposits of criminal and civil penalties, fines, and other administrative charges collected, and (2) expend moneys for restoration or mitigation of damage to natural or cultural resources, public education and outreach, and enforcement efforts.

MEANS: Amend sections 184-3.4(a) and (b), 189-2.4(b) and (c), and 198D-2, Hawaii Revised Statutes (HRS).

JUSTIFICATION: In many of the state parks and recreational areas across the State, the Department is witnessing a decline in the integrity of these unique resources and the quality of the recreational and educational opportunities they provide. While multiple factors contribute to this decline, two trends are particularly apparent. First, actions and behavior prohibited by statute and administrative rule are occurring with greater frequency and the kinds of actions taking place are more diverse. Examples include off-road vehicles used to access and joy-riding in ecologically or culturally sensitive areas, theft of resources for construction and commercial activities (e.g., rocks and timber), disturbance of cave resources and sand dunes, dumping of abandoned vehicles and rubbish, parking in undesignated areas, and other unpermitted commercial activities. Second, vandalism is significantly raising the cost of maintaining park facilities and can unexpectedly drain funds budgeted for

routine park repairs. Examples include the destruction of bathroom fixtures, setting fire to buildings, graffiti and tagging, and defacing interpretive displays and warning signs. Increased vandalism is a community-wide problem.

By authorizing penalties and fines to be deposited in the State Parks Special Fund, this bill addresses the problems of unpermitted activities by providing additional revenues to defray the cost of repairing damage caused by these activities and by supporting initiatives designed to deter illegal activities through education and by creating a greater presence in the parks with trained personnel. These funds could contribute to management actions as varied as fixing sinks and replacing toilet paper to restoring landscapes, including natural and cultural resources, and could defray the cost of park rangers who can warn park users of prohibited activities and help gather information needed to pursue enforcement actions. Additional funds could also support inventories of facilities and natural and cultural resources that could then serve as baseline data to track or substantiate illegal or prohibited actions.

The Commercial Fisheries Special Fund was established to receive license fees from commercial fishers, to be used in support of the licensing system and to collect data needed in fisheries management. Currently, the Department lacks the authority to retain moneys from fines, penalties, and settlements from violations where commercial use of aquatic life was involved and subsequently apply those moneys for the restoration of aquatic life, public outreach and education, and enforcement needs.

The proposed amendments in this bill would allow the Department to deposit moneys that result from successful pursuit of claims against a responsible party into the

Commercial Fisheries Special Fund and to also allow the Department the ability to plan and implement restorative projects for damaged aquatic ecosystems. Moreover, moneys could be used to conduct outreach activities and to assist in the enforcement process.

Presently, the quantity of documented violations under the Hawaii Statewide Trail and Access System (Na Ala Hele) has been limited to those by unauthorized commercial trail tour operators and occasional squatters. There are, in addition, growing management issues associated with potential off-highway vehicle use resulting in degrading of trails and accesses.

Sections 198D-12 and 198D-13, HRS, authorize the Department to impose administrative and criminal penalties, respectively, for violations of Na Ala Hele laws. However, as the statutes are unclear where fine amounts for these violations are to be deposited, the Department is reluctant to apply the fine amounts for funding the management, maintenance, and development of trails and trail accesses and for enforcement, search and rescue, and public education and outreach efforts related to Na Ala Hele.

This bill would clarify that criminal and civil penalties, fines, and other administrative charges collected for violations of Na Ala Hele laws, and rules adopted pursuant to these laws, be deposited into the Department's Special Land and Development Fund for the management, maintenance, and development of trails and trail accesses, and for enforcement, search and rescue, and public education and outreach efforts related to Na Ala Hele.

Impact on the public: Would help improve the condition of parks, trails and accesses statewide. Moneys in the Commercial

Fisheries Special Fund could be used to restore damaged marine ecosystems.

Impact on the department and other agencies:
Would provide additional financial resources to be spent on repair and maintenance, protection, conservation, restoration, and educational and interpretive natural resource programs.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 806, LNR 401, LNR 804

OTHER AFFECTED
AGENCIES: Department of Budget and Finance.

EFFECTIVE DATE: Upon approval.