
A BILL FOR AN ACT

RELATING TO FEES FOR HABITAT CONSERVATION PLANS.

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

1 SECTION 1. The legislature finds that Hawaii hosts the
2 greatest concentration of threatened and endangered species in
3 the country. Increased development throughout the State, while
4 beneficial to the State in many regards, has the potential to
5 negatively affect threatened and endangered species. The
6 legislature has provided a means to permit desirable activities
7 that may cause incidental take of threatened and endangered
8 species through the establishment of incidental take licenses
9 and habitat conservation plans pursuant to chapter 195D, Hawaii
10 Revised Statutes.

11 Incidental take licenses authorize take of threatened and
12 endangered species in cases where take is incidental to an
13 otherwise lawful activity, provided that the applicant obtains
14 approval of a habitat conservation plan that identifies and
15 implements measures to avoid, minimize, mitigate, and monitor
16 take of those species, and that will increase the likelihood of
17 recovery of the endangered or threatened species that are the
18 focus of the plan.

1 The department of land and natural resources is responsible
2 for evaluating, processing, and approving habitat conservation
3 plans and incidental take licenses to ensure compliance with
4 requirements under chapter 195D, Hawaii Revised Statutes.
5 Chapter 195D, Hawaii Revised Statutes, provides that the
6 department may establish a technical assistance program to
7 assist landowners with habitat conservation plans. The
8 department has established such a program, and the technical
9 assistance that is required is specialized in nature and labor
10 intensive, requiring consultation with expert staff, endangered
11 species biologists, and land managers.

12 The number of applications for incidental take licenses and
13 requests for technical assistance related to habitat
14 conservation plan has increased significantly in recent years.
15 The demand for the technical assistance program cannot be met
16 under the department's current budget.

17 The purpose of this Act is to authorize the department of
18 land and natural resources to collect fees to cover the
19 technical assistance program costs associated with assisting
20 landowners in the development, review, and monitoring of habitat
21 conservation plans, and adopt rules for establishing such fees.

1 SECTION 2. Section 195D-2, Hawaii Revised Statutes, is
2 amended by adding a new definition to be appropriately inserted
3 and to read as follows:

4 "Technical assistance program" means department staff
5 designated to assist landowners in developing, reviewing, or
6 monitoring habitat conservation plans by providing technical
7 assistance."

8 SECTION 3. Section 195D-23, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) The department may establish a habitat conservation
11 technical assistance program to assist landowners in developing,
12 reviewing, or monitoring habitat conservation plans by providing
13 technical assistance. The department may collect fees to cover
14 the technical assistance program costs, and shall adopt rules
15 for establishing such fees."

16 SECTION 4. Section 195D-31, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) There is established within the state treasury a
19 trust fund to be known as the endangered species trust fund to
20 be administered by the department to implement the purposes of
21 this chapter.

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1 The fund shall consist of moneys from the following
2 sources:

- 3 (1) Moneys accrued from the sale of retail items
- 4 officially sponsored by the department for the fund;
- 5 (2) Private contributions for the management and recovery
- 6 of Hawaii's unique plants and animals;
- 7 (3) Fees and assessments charged for the commercial use of
- 8 public land and waters and designated for the fund;
- 9 (4) Penalties, fines, or auctions resulting from
- 10 enforcement violations;
- 11 (5) Legislative appropriations; and
- 12 (6) Moneys deposited to implement the obligations of a
- 13 habitat conservation plan [~~or~~], as security for
- 14 habitat conservation plan funding[-], or technical
- 15 assistance program fees."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Calvin K. King

21

BY REQUEST

JAN 24 2011

Report Title:

Habitat Conservation Plans; fees.

Description:

Authorizes the Department of Land and Natural Resources to collect fees to cover the technical assistance program costs associated with Habitat Conservation Plans, and adopt rules for establishing such fees.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO FEES FOR HABITAT CONSERVATION PLANS.

PURPOSE: To authorize the Department to collect fees sufficient to cover the technical assistance program costs associated with habitat conservation plans, and adopt rules for establishing such fees.

MEANS: Amend sections 195D-2, 195D-23(d), and 195D-31(a), Hawaii Revised Statutes.

JUSTIFICATION: The Department's Division of Forestry and Wildlife (Division) continues to be approached by applicants for Habitat Conservation Plans (HCP), in an amount that is increasing rapidly and well beyond the capacity of the Department to provide timely processing of requests. The Division provides technical assistance to HCP applicants to ensure they provide measures for avoidance, minimization, mitigation, and monitoring of take of endangered species. As the number of HCP applications and issuance of incidental take licenses increase, the Division's staff time associated with technical assistance is growing enormously. At present, the Department is able to collect fees from HCP applicants only for compliance monitoring after approval of a HCP.

This bill would authorize the Department to collect fees sufficient to cover the technical assistance program costs associated with habitat conservation plans, and adopt rules for establishing such fees.

Impact on the public: This bill would benefit the public through the enhancement of the HCP program and the Department's increased ability to provide technical

assistance to the public related to HCPs, thereby contributing to the timely permitting of economic and renewable energy projects that contribute to the State's economic and energy security.

Impact on the department and other agencies:
This bill will strengthen the Department's efforts to develop HCPs.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 402.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.