

JAN 18 2013

S.B. NO. 811

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

PART I

1
2 SECTION 1. The purpose of this part is to establish the
3 Hawaii legacy trust fund as a means to encourage people to make
4 strong financial investments while supporting conservation,
5 reforestation of Hawaii's native trees, environmental
6 stewardship, sustainable food and energy production, affordable
7 housing, public education, and programs that support and benefit
8 keiki and kupuna. The fund will serve as a repository for
9 federal and state funds, as well as private contributions from
10 corporations and other businesses, foundations, individuals, and
11 other interested parties. The fund will be used to purchase
12 individual or lots of Hawaiian hardwood trees that will be grown
13 on private or publicly owned land. The legislature's intent is
14 for the Hawaiian hardwood trees to be used for investment
15 purposes by the State of Hawaii, individual residents of Hawaii,
16 and other individuals and organizations who are interested in
17 financial health, conservation, reforestation, environmental
18 stewardship, sustainable food and energy production, affordable



1 housing, public education, and the well-being of the State's
2 keiki and kupuna.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER A

7 HAWAII LEGACY TRUST FUND

8 §A-1 Definitions. As used in this chapter:

9 "Board" means the Hawaii legacy trust fund advisory board.

10 "Chairperson" means the chairperson of the board of land
11 and natural resources.

12 "Department" means the department of land and natural
13 resources.

14 "Trust fund" or "fund" means the Hawaii legacy trust fund.

15 §A-2 Hawaii legacy trust fund; established. (a) There is
16 established the Hawaii legacy trust fund as a separate fund of a
17 nonprofit entity having a board of directors and qualifying
18 under section 501(c)(3) of the Internal Revenue Code of 1986, as
19 amended, into which shall be deposited moneys received as
20 provided under subsection (e). The chairperson, with the
21 concurrence of the governor, shall select, in accordance with
22 chapter 103D, the entity based upon the proven record of



1 accomplishment of the entity in administering a similar trust
2 fund.

3 (b) The purpose of the trust fund is to encourage people
4 to make strong financial investments while supporting
5 conservation efforts, the reforestation of Hawaii's native
6 trees, environmental stewardship, sustainable food and energy
7 production, affordable housing, public education, and programs
8 that support and benefit the State's keiki and kupuna.

9 (c) Notwithstanding that the Hawaii legacy trust fund is
10 established within a private entity, the department of budget
11 and finance shall have oversight authority over the fund and may
12 make periodic financial audits of the fund; provided that the
13 director of finance may contract with a certified public
14 accountancy firm for this purpose. The chairperson with the
15 concurrence of the governor in their sole discretion may rescind
16 the selection of the entity. If the selection of the entity is
17 rescinded, moneys in the trust fund shall revert back to the
18 State and shall be deemed to be trust moneys.

19 (d) The Hawaii legacy trust fund may receive
20 appropriations, contributions, grants, endowments, or gifts in
21 cash or otherwise from any source, including the State,



1 corporations or other businesses, foundations, government,
2 individuals, and other interested parties.

3 (e) The assets of the Hawaii legacy trust fund shall
4 consist of:

5 (1) Moneys appropriated to the Hawaii legacy trust fund by
6 the state, county, or federal government;

7 (2) Income tax remittances allocated under section 235- ;

8 (3) Fees collected for the identification of sustainable
9 forest carbon offsets under section B-65;

10 (4) Private contributions of cash or property; and

11 (5) Income and capital gains earned by the trust fund.

12 (f) The aggregate principal sum deposited in the Hawaii
13 legacy trust fund shall be invested by the entity selected under
14 subsection (a) in a manner intended to maximize the rate of
15 return on investment of the trust fund consistent with the
16 objective of preserving the trust fund's principal.

17 (g) If the entity selected under subsection (a) is
18 dissolved, the chairperson, with the concurrence of the
19 governor, shall select a successor entity. If the Hawaii legacy
20 trust fund is terminated, the moneys remaining in the trust fund
21 shall revert back to the State and shall be deemed to be trust
22 moneys.



1 (h) The administration of the Hawaii legacy trust fund
2 shall be advised by the Hawaii legacy advisory board created
3 under section A-4.

4 **SA-4 Hawaii legacy trust fund advisory board.** (a) There
5 is established a Hawaii legacy trust fund advisory board under
6 the department for administrative purposes.

7 (b) The board shall consist of seven members, who shall be
8 appointed in the manner and serve for the term set forth in
9 section 26-34, as follows:

10 (1) One member of the governor's staff, appointed by the
11 governor;

12 (2) One member to be appointed by the governor from a list
13 of two names submitted by the president of the senate;

14 (3) One member to be appointed by the governor from a list
15 of two names submitted by the speaker of the house of
16 representatives;

17 (4) The chairperson or the chairperson's designee;

18 (5) One member representing a well-established service
19 organization organized in the State, appointed by the
20 governor;



1 (6) One member who is a reputable arborist or other
2 professional educated and experienced in the growth
3 and care of trees, appointed by the chairperson; and

4 (7) One member who is experienced in forest finance or
5 managing a trust fund, appointed by the chairperson.

6 (c) The Hawaii legacy trust fund advisory board, in
7 collaboration with the department, shall develop policy,
8 planning, and strategy for the fund; publicize the fund; and
9 solicit public and private moneys for the fund.

10 (d) The Hawaii legacy trust fund advisory board shall make
11 the final recommendations to the entity selected under
12 subsection A-2(a) for the expenditure of funds for the following
13 activities:

14 (1) Grantmaking to raise community awareness of the trust
15 fund;

16 (2) Allocation of funds for sustainable forestry
17 operations;

18 (3) Allocation of funds for sustainable energy production;

19 (4) Allocation of funds for sustainable food production;

20 (5) Allocation of funds for affordable housing;

21 (6) Allocation of funds for the benefit of public
22 education;



- 1 (7) Allocation of funds for programs that support and
2 benefit the State's keiki;
- 3 (8) Allocation of funds for programs that support and
4 benefit the State's kupuna; and
- 5 (9) Administration of the trust fund."

6 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
7 amended by adding a new section to part VI to be appropriately
8 designated and to read as follows:

9 "§235- Additional income designation or check-off
10 authorized. Notwithstanding any law to the contrary, any
11 individual whose state income tax refund for any taxable year is
12 \$2 or more may designate \$2 of the refund to be paid over to the
13 Hawaii legacy trust fund established by section A-2, when
14 submitting a state income tax return to the department. In the
15 case of a joint return of a husband and wife having a state
16 income tax refund of \$4 or more, each spouse may designate that
17 \$2 be deposited into the special fund. The director of taxation
18 shall revise the individual state income tax form to allow the
19 designation of contributions to the fund on the face of the tax
20 return and immediately above the signature lines. If no
21 designation was made on the original tax return when filed, a
22 designation may be made by the individual on an amended return



1 filed within twenty months and ten days after the due date for
2 the original return for such taxable year. A designation once
3 made, whether by an original or amended return, may not be
4 revoked."

5 **PART II**

6 SECTION 4. The legislature finds that the State's natural
7 environment and ecosystems are in a fragile position because of
8 the amount of greenhouse gases released through human activities
9 and its contribution to global climate change.

10 The legislature also finds that the State should support
11 programs that incentivize businesses and landowners to adopt
12 practices that are more environmentally friendly and that result
13 in reduced carbon emissions into the environment. One such
14 mechanism that has gained success in Europe after adoption of
15 the Kyoto Protocol is the transferring and selling of carbon
16 credits.

17 The purpose of this part is to create a forest carbon
18 offsets program in Hawaii that would incentivize and reward
19 businesses or individuals that adopt, practice, and adhere to
20 carbon emission reduction activities, consistent with the Hawaii
21 2050 sustainability plan.



1 SECTION 5. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 12, subtitle 6, to be
3 appropriately designated and to read as follows:

4 "CHAPTER B

5 FOREST CARBON OFFSETS PROGRAM

6 §B-1 Definitions. As used in this chapter:

7 "Board" means the board of land and natural resources.

8 "Department" means the department of land and natural
9 resources.

10 "Forest carbon offset" means a transferable unit based on a
11 measured amount of carbon storage expressed as a carbon dioxide
12 emission equivalent, or other equivalent standard, and accruing
13 on forestland as live or dead matter in trees, shrubs, forest
14 litter, and soil.

15 §B-2 Forest carbon offsets program. (a) The department
16 shall establish a forest carbon offsets program that:

17 (1) Develops a process to identify forest management
18 actions that contribute to carbon sequestration;

19 (2) Establishes offset credits that may be transferred or
20 sold among public and private agencies in the State on
21 regulated or volunteer markets; and



1 (3) Guarantees sustainable management of Hawaii's natural
2 resources by ensuring land conservation and reducing
3 carbon emissions.

4 (b) The department shall adopt rules pursuant to chapter
5 91 necessary to carry out the purposes of this chapter.

6 **§B-3 Forest carbon offset.** (a) A forest carbon offset
7 may be created by performing, financing, or otherwise causing
8 one or more of the following activities:

9 (1) Reforestation of underproducing lands that are not
10 otherwise subject to a reforestation program;

11 (2) Forest management activities that are not already
12 required by law, including but not limited to the
13 following practices:

14 (A) Stand density control treatments in overstocked
15 underproducing stands of timber;

16 (B) Silvicultural practices that increase forest
17 stand biomass, including but not limited to
18 structure-based management, variable retention,
19 uneven age management, longer rotation ages, and
20 no harvest reserves;

21 (C) Expanded riparian buffers and other leave areas;
22 and



1 (D) Deferred harvest rotations past fifty years or an
2 appropriate time depending on the species or the
3 age of economic maturity, whichever is longer;
4 and

5 (3) Other activities as defined by the board.

6 (b) The department shall only be responsible for
7 identifying sustainable management activities for forest carbon
8 offsets.

9 **§B-4 Sustainable management.** (a) The department shall
10 develop a process for identifying practices for the sustainable
11 management of Hawaii's natural resources and the additional
12 benefits related to forest carbon offsets. The process for the
13 determination of sustainable management shall include:

14 (1) Accepted principles, standards, and best management
15 practices relating to the management and restoration
16 of Hawaii's natural resources;

17 (2) The effects of increasing carbon sequestration and
18 storage on forestlands as measured by a third party or
19 accredited forest carbon offset accounting system;

20 (3) Whether there is actual or threatened harm or
21 deterioration of the natural resources of Hawaii; and



1 (4) Environmental, social, cultural, or economic benefits
2 for the citizens of Hawaii, including but not limited
3 to the protection or enhancement of long-term native
4 fish and wildlife habitats and water quality.

5 (b) Rules adopted by the board under this section shall
6 establish:

7 (1) Standards to assure participants that forest carbon
8 offsets to be transferred or sold as a result of
9 forest management activities shall:

10 (A) Not result in harm to or deterioration of the
11 natural resources of Hawaii; and

12 (B) Provide environmental, social, cultural, or
13 economic benefits, including but not limited to
14 the protection or enhancement of long-term native
15 fish and wildlife habitat and water quality; and

16 (2) Principles to ensure that the forest carbon offset
17 program shall:

18 (A) Include provisions for establishing the
19 appropriate baseline for projects, practices,
20 rotation ages, and harvest schedules, and
21 ownership for which measured carbon dioxide
22 emission debits and credits for carbon storage or



1 sequestration are made through a third party or
2 accredited program;

3 (B) Ensure that specific forest management practices
4 include verifiable provisions for monitoring
5 carbon dioxide emission for carbon storage or
6 sequestration;

7 (C) Account for environmental, social, or economic
8 benefits of forest carbon offsets and ensure that
9 practices with unsustainable long-term
10 consequences are not used to create forest carbon
11 offsets; and

12 (D) Encourage the use of reputable third-party
13 verification of forest carbon offsets.

14 §B-5 **Carbon offset transfer or sale.** Nothing in this
15 chapter shall prohibit any person or governmental agency from
16 marketing, selling, or transferring forest carbon offsets.

17 §B-6 **Fees.** The board shall establish a processing fee for
18 the identification of sustainable forest carbon offsets. Fees
19 collected shall be deposited into the Hawaii legacy trust fund
20 established by section A-2."

21 **PART III**



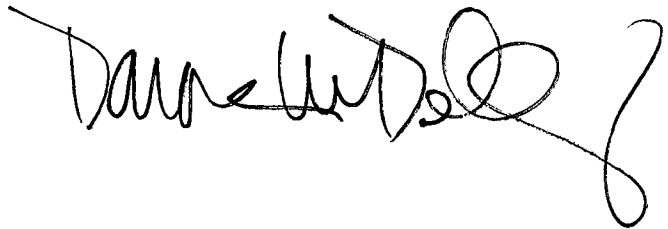
1 SECTION 6. In codifying the new chapters added by sections
2 2 and 5 of this Act, the revisor of statutes shall substitute
3 appropriate chapter numbers for the letters used in designating
4 the new chapters in this Act.

5 SECTION 7. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2013;
7 provided that section 3 of this Act shall apply to taxable years
8 beginning after December 31, 2012.

9

INTRODUCED BY: Erzanne Chun Cleveland



Report Title:

Department of Land and Natural Resources; Hawaii Legacy Trust Fund; Forest Carbon Offsets Program; Carbon Emissions

Description:

Establishes the Hawaii legacy trust fund as a separate fund of a nonprofit entity to encourage individuals to make strong financial investments while supporting conservation, reforestation, environmental stewardship, sustainability, affordable housing, public education, and the well-being of the State's keiki and kupuna. Establishes an income tax refund check-off box for the Hawaii legacy trust fund. Establishes a forest carbon offsets program in the department of land and natural resources. Creates a process for local businesses, individuals, and land owners to invest in forest carbon offsets that would provide incentives for retaining conservation land or practicing carbon emission reduction activities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

