

Report Title:

Threatened and Endangered Species

Description:

Removes the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO SECTION 13 OF ACT 380, SESSION LAWS OF HAWAII 1997.

PURPOSE: To remove the sunset date on the use of new safe harbor agreements, habitat conservation plans, and incidental take licenses as recovery options for conserving and protecting the State's threatened and endangered species.

MEANS: Amend section 13 of Act 380, Session Laws of Hawaii (SLH) 1997, as amended by Act 3, SLH 2001, as amended by Act 90, SLH 2006, and as amended by Act 145, SLH 2012.

JUSTIFICATION: Hawaii is the Endangered Species Capital of the World with over 500 listed threatened and endangered species, of which the majority are terrestrial species and with over 50 candidate species proposed for listing. As such, Hawaii needs the flexibility within its state law to work cooperatively with its federal counterparts, private landowners, and other government agencies to deal with the complexities of the endangered species situation in Hawaii, and find proactive, workable solutions that will protect and conserve our endangered species while allowing for responsible development activities and economic growth to continue.

In 1997, the Legislature expanded recovery options in the State Endangered Species Act (State ESA) by establishing a process for the preparation and implementation of habitat conservation plans and safe harbor agreements, while providing for additional incentives to private landowners to conserve endangered species. In addition, the Legislature inserted a five-year sunset date (July 1, 2002) for the approval of habitat

conservation plans and safe harbor agreements and issuance of incidental take licenses. Subsequently, Act 145 of the 2012 Regular Session extended the sunset provision through June 30, 2017.

To date, eleven habitat conservation plan and six safe harbor agreements have been approved under state law. The Department is currently processing fifteen habitat conservation plans and safe harbor agreement applications and several others are in the early planning stages.

The State of Hawaii is determined to achieve a goal of 100 percent renewable energy generation by the year 2045. This bold energy target will be achieved through a diverse energy portfolio, including wind energy generation. Given that virtually every large wind energy project will require state-approved habitat conservation plans to authorize incidental take associated with their operations, it is essential that the provisions under the law for that authorization be assured beyond a five-year period.

Safe harbor agreements and habitat conservation plans are proving to be invaluable tools in the process of recovering the State's endangered species. It is important that these provisions within the State ESA be made permanent by removing the sunset date and providing public and private landowners with a clear message that the Legislature is committed to maintaining responsible solutions to conserve Hawaii's endangered species.

Impact on the public: This bill proposes to reaffirm the State's commitment to protect and conserve its endangered species.

Impact on the department and other agencies: This bill proposes to reinforce the Department's commitment to protect and

conserve the State's endangered species. If the habitat conservation plan, safe harbor agreement, and incidental take license provisions sunset, a process to allow mitigation and permitting of the relocation and take, if appropriate, of endangered species that are affected by development activities will no longer be available.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 402.

OTHER AFFECTED
AGENCIES: Department of Transportation, Department of Hawaiian Home Lands, Department of Defense, University of Hawaii, Department of Accounting and General Services, Department of Business, Economic Development, and Tourism, counties, and any other land management agency that has development projects planned in areas that are inhabited by endangered species.

EFFECTIVE DATE: Upon approval.