
A BILL FOR AN ACT

RELATING TO THE LAND CONSERVATION FUND.

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

1 SECTION 1. (a) During the regular session of 2017, the
2 legislature enacted Act 209, which required the auditor to
3 conduct a performance audit of the department of land and
4 natural resources' land conservation fund and provide
5 recommendations as appropriate. The audit required by Act 209,
6 Session Laws of Hawaii 2017, was submitted to the legislature in
7 January 2019.

8 The audit found that the department of land and natural
9 resources has struggled to properly manage the land conservation
10 fund, hampering the program's effectiveness. Significantly, the
11 department of land and natural resources has not established a
12 resource land acquisition plan, which is required by law
13 pursuant to section 173A-3, Hawaii Revised Statutes. The
14 auditor noted that without this plan in place, the legacy land
15 conservation program and the department of land and natural
16 resources "lack an overall direction and purpose."



1 The auditor also found a number of more specific concerns
2 with program implementation and financial management. Overall,
3 the department of land and natural resources failed to exercise
4 proper financial management over the land conservation fund,
5 resulting in shortfalls, misspending, and a lack of transparency
6 and accountability. For example:

- 7 (1) Program staff missed fiscal deadlines to create and
8 execute contracts for grant awards, triggering a
9 domino effect of borrowing anticipated future funds
10 that had not yet been appropriated by the legislature.
11 In practice, this reduced the amount of funding
12 available for future projects;
- 13 (2) Program staff failed to track balances in the trust
14 account used to hold legacy land conservation program
15 funds awarded to state agencies, resulting in a
16 complete lack of oversight and accountability;
- 17 (3) Department staff mistakenly paid nearly \$685,000 for
18 state central service fees during fiscal years 2016
19 and 2017, even though the land conservation fund had
20 been statutorily exempt from paying the fees since
21 2015;



1 (4) The department of land and natural resources used the
2 land conservation fund's limited administrative budget
3 to support the salary of an employee unrelated to the
4 legacy land conservation fund program; and

5 (5) The division of forestry and wildlife of the
6 department of land and natural resources has at times
7 sought and obtained funding from the land conservation
8 fund for its own projects outside of the legacy land
9 conservation program's grant award process, reducing
10 transparency and accountability.

11 (b) The legislature agrees with the auditor that the
12 department of land and natural resources must follow its
13 obligations under the law and implement the policies and
14 procedures required for the department to exercise proper
15 financial management over the land conservation fund.

16 Accordingly, the purpose of this Act is to require the
17 department of land and natural resources to implement certain
18 recommendations made by the auditor.

19 Specifically, this Act requires the department of land and
20 natural resources to:



- 1 (1) Establish an initial resource land acquisition plan no
2 later than January 1, 2020;
- 3 (2) Develop and implement written policies and procedures,
4 including internal controls, to govern the grant award
5 and blanket encumbrance processes;
- 6 (3) Develop clear and well-defined policies and procedures
7 between the legacy land conservation program and the
8 division of forestry and wildlife regarding the
9 distribution of land conservation fund moneys;
- 10 (4) Maintain a record of the transfer of funds to and from
11 any department of land and natural resources trust
12 account and report these transactions to the governor
13 and the legislature in the program's annual report;
- 14 (5) Maintain a centralized file system and establish a
15 records retention policy for all awarded projects,
16 including pending, completed, and discontinued
17 projects; and
- 18 (6) Report to the legislature and the auditor on its
19 progress in meeting its obligations under this Act
20 prior to the convening of the legislature's regular
21 session of 2020.



1 SECTION 2. Section 173A-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§173A-3 Resource land acquisition plan. In consultation
4 with the senate president and speaker of the house of
5 representatives, the department shall prepare and, from time to
6 time, revise a plan for the acquisition of land having value as
7 a resource to the State[-]; provided that an initial plan shall
8 be completed no later than January 1, 2020. This plan shall
9 guide the board in acquiring [~~such~~] applicable land in the
10 exercise of its powers under this chapter. In preparing this
11 plan, the department may institute studies relating to the need
12 for [~~such~~] the land and shall consider any plan relating to the
13 acquisition of [~~such~~] applicable land that has been prepared by
14 any state or county agency."

15 SECTION 3. Section 173A-5, Hawaii Revised Statutes, is
16 amended by amending subsection (1) to read as follows:

17 "(1) The board shall:

18 (1) Track amounts disbursed from the fund;

19 (2) Prepare and submit an annual report to the governor

20 and the legislature at least twenty days prior to the



1 convening of each regular session. The annual report
2 shall include:

3 (A) A summary of all interests or rights in land
4 acquired during the preceding fiscal year;

5 (B) A summary of what value each newly acquired land
6 has as a resource to the State;

7 (C) Proposals for future land acquisitions, including
8 a summary of the resource value that the land may
9 possess;

10 (D) A financial report for the preceding fiscal year;
11 [and]

12 (E) A record of the balance of and all transfers of
13 funds to or from any department of land and
14 natural resources trust account established to
15 hold awards granted to state agencies. The
16 report shall include a list of all projects for
17 which a grant was awarded and the status of each
18 project; and

19 [~~(E)~~] (F) Objectives and budget projections for the
20 following fiscal year; and



1 (3) Make copies of the annual report available to the
2 public."

3 SECTION 4. No later than January 1, 2020, the department
4 of land and natural resources shall:

- 5 (1) Develop and implement written policies and procedures,
6 including internal controls, governing the grant award
7 and blanket encumbrance processes to ensure that
8 project contracts are executed on time and blanket
9 encumbrance funds do not lapse;
- 10 (2) Develop clear and well-defined policies and procedures
11 between the legacy land conservation program and the
12 division of forestry and wildlife regarding
13 distribution of moneys from the land conservation
14 fund; provided that the procedures shall require the
15 division of forestry and wildlife to follow the grant
16 application process described in section 173A-5,
17 Hawaii Revised Statutes, in order to receive funding
18 from the land conservation fund; and
- 19 (3) Develop a centralized file system and establish a
20 records retention policy for all awarded projects,



1 including pending, completed, and discontinued
2 projects.

3 SECTION 5. The department of land and natural resources
4 shall submit a report of its progress in meeting its obligations
5 under this Act to the auditor and the legislature no later than
6 twenty days prior to the convening of the regular session of
7 2020.

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

DLNR; Land Conservation Fund; Auditor's Recommendations; Report

Description:

Requires the DLNR to comply with recommendations contained in Auditor's Report No. 19-01 related to management of the Land Conservation Fund including by completing a Land Resource Acquisition Plan by 1/1/2020 and implementing policies, procedures, and internal controls related to the use of the Fund and grant awards. (HB589 HD2)

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