
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, Session Laws of Hawaii 2017 (Act
3 209), which required the auditor to conduct a performance audit
4 of the department of land and natural resources' land
5 conservation fund and provide recommendations as appropriate.
6 The audit required by Act 209 was submitted to the legislature
7 in 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 section
13 173A-3, Hawaii Revised Statutes. The auditor noted that without
14 this plan in place, the legacy land conservation program and the
15 department of land and natural resources "lack an overall
16 direction and purpose."



1 The audit found a number of specific concerns with program
2 implementation and financial management. Overall, the
3 department of land and natural resources failed to exercise
4 proper financial management over the land conservation fund.

5 For example:

- 6 (1) Program staff missed fiscal deadlines to create and
7 execute contracts for grant awards, triggering a
8 domino effect of borrowing anticipated future funds
9 that had not yet been appropriated by the legislature.
10 In practice, this reduced the amount of funding
11 available for future projects;
- 12 (2) Program staff did not track balances in the trust
13 account used to hold legacy land conservation program
14 funds awarded to state agencies, and therefore
15 reported an incomplete picture of encumbered funds to
16 the legislature;
- 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 for the salary of an employee to support the program;
4 however, a portion the employee's time was spent on
5 other departmental projects unrelated to the legacy
6 land conservation fund program; and

7 (5) The division of forestry and wildlife of the
8 department of land and natural resources has at times
9 sought and obtained legislative authority for funding
10 from the land conservation fund above the spending
11 ceiling for public lands acquisition projects outside
12 of the legacy land conservation program's grant award
13 process.

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

19 Accordingly, the purpose of this Act is to require the
20 department of land and natural resources to implement certain
21 recommendations made by the auditor.



1 Specifically, this Act requires the department of land and
2 natural resources to:

3 (1) Establish an initial resource land acquisition plan no
4 later than June 30, 2021;

5 (2) Maintain a record of the transfer of funds to and from
6 any department of land and natural resources trust
7 account and report these transactions to the governor
8 and the legislature in the program's annual report;

9 (3) Develop and implement written policies and procedures,
10 including internal controls, to govern the grant award
11 and blanket encumbrance processes;

12 (4) Develop clear and well-defined policies and procedures
13 between the legacy land conservation program and the
14 division of forestry and wildlife regarding the
15 distribution of land conservation fund moneys;

16 (5) Maintain a centralized file system and establish a
17 records retention policy for all awarded projects,
18 including pending, completed, and discontinued
19 projects; and

20 (6) Report on its progress in meeting its obligations
21 under this Act prior to the convening of the regular



1 session of 2020, as part of the annual report to the
2 governor and the legislature pursuant to chapter 173A,
3 Hawaii Revised Statutes.

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

6 "§173A-3 Resource land acquisition plan. In consultation
7 with the senate president and speaker of the house of
8 representatives, the department shall prepare and, from time to
9 time, revise a plan for the acquisition of land having value as
10 a resource to the State[-]; provided that an initial plan shall
11 be completed no later than June 30, 2021. This plan shall guide
12 the board in acquiring [~~such~~] applicable land in the exercise of
13 its powers under this chapter. In preparing this plan, the
14 department may institute studies relating to the need for [~~such~~]
15 the land and shall consider any plan relating to the acquisition
16 of [~~such~~] applicable land that has been prepared by any state or
17 county agency."

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

20 "(1) The board shall:

21 (1) Track amounts disbursed from the fund;



- 1 (2) Prepare and submit an annual report to the governor
2 and the legislature at least twenty days prior to the
3 convening of each regular session. The annual report
4 shall include:
- 5 (A) A summary of all interests or rights in land
6 acquired during the preceding fiscal year;
 - 7 (B) A summary of what value each newly acquired land
8 has as a resource to the State;
 - 9 (C) Proposals for future land acquisitions, including
10 a summary of the resource value that the land may
11 possess;
 - 12 (D) A financial report for the preceding fiscal year;
13 [and]
 - 14 (E) A record of the balance of and all transfers of
15 funds to or from any department of land and
16 natural resources trust account established to
17 hold awards granted to state agencies. The
18 report shall include a list of all projects for
19 which a grant was awarded and the status of each
20 project; and



1 ~~(E)~~ (F) Objectives and budget projections for the
2 following fiscal year; and

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

5 SECTION 4. No later than June 30, 2021, the department of
6 land and natural resources shall:

7 (1) Develop and implement written policies and procedures,
8 including internal controls, governing the grant award
9 and blanket encumbrance processes to ensure that
10 project contracts are executed on time and blanket
11 encumbrance funds do not lapse;

12 (2) Develop clear and well-defined policies and procedures
13 between the legacy land conservation program and the
14 division of forestry and wildlife regarding
15 distribution of moneys from the land conservation
16 fund; provided that the procedures shall require the
17 division of forestry and wildlife to follow the grant
18 application process described in section 173A-5,
19 Hawaii Revised Statutes, in order to receive funding
20 from the land conservation fund, except as otherwise
21 authorized by the legislature; and



1 (3) Develop a centralized file system and establish a
2 records retention policy for all awarded projects,
3 including pending, completed, and discontinued
4 projects.

5 SECTION 5. The department of land and natural resources
6 shall submit a report of its progress in meeting its obligations
7 under this Act no later than twenty days prior to the convening
8 of the regular session of 2020, as part of the annual report to
9 the governor and legislature required pursuant to chapter 173A,
10 Hawaii Revised Statutes.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 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 6/30/2021 and implementing policies, procedures, and internal controls related to the use of the fund and grant awards. Takes effect 7/1/2050. (SD1)

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