



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Wednesday, February 13, 2019
1:20 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 1432
RELATING TO THE LAND CONSERVATION FUND**

Senate Bill 1432 proposes to provide increased funding for land conservation by removing the annual dollar amount cap of the annual proceeds from the Conveyance Tax to the existing Land Conservation Fund. **The Department of Land and Natural Resources (Department) supports this bill that makes more funding available for the public purpose of purchasing and protecting, forever, land that shelters exceptional, unique, and threatened resources, and offers amendments.**

In 2005, the Legislature recognized that “an alarmingly small amount of money is invested each year to protect our natural capital base,” and authorized ten percent of annual conveyance tax revenue as a source of permanent adequate funding for land conservation, based on a finding “that the preservation, protection, and enhancement of the State's land, coastal areas, and natural resources are of central importance for current and future residents and for the state economy” (Act 156). During the first eight years of funding (Fiscal Year (FY) 06-FY13), the Land Conservation Fund’s uncapped, ten percent share of conveyance tax revenue ranged from \$2.38 million (FY09) to \$5.92 million (FY06), and averaged \$4.48 million. In FY14 and FY15, this revenue share climbed to \$7.72 million per year (average), while the Department’s spending ceiling remained unchanged at \$5.1 million per year.

In 2015, the Legislature set a \$6.8 million cap on this revenue source, based on an intent to “(1) [m]ake forecasts of general fund revenues more reliable; (2) [i]ncrease legislative oversight of the agencies and programs supported by the non-general funds; and (3) [s]ubject those agencies and programs to competition for limited public funds if the agencies or programs want more than the amount automatically distributed to their non-general funds” (Act 84). Over the next three

years (FY16-FY18), ten percent of conveyance tax revenue exceeded the \$6.8 million annual cap by \$5.9 million, total. For FY19, the Legislature granted the Department's perennial request to raise the spending ceiling, providing a one-time increase from \$5.1 million to \$6.9 million.

In the face of escalating real estate prices and persistent development pressure, the Department's primary dedicated funding mechanism for land conservation continues to lose pace with public demand, resulting in deferred and missed opportunities for many worthy and time-sensitive land acquisitions. For example, the Department received applications for over \$9.7 million in FY19 grant funding, with over 58% of total land acquisition costs to be provided by other sponsors. In reviewing these applications, the Legacy Land Conservation Commission voiced its disappointment that more funds were not available to support the bulk of the proposals.

In order to assist budgetary planning and transparency in the disposition of conveyance tax revenues, the Department assisted the Department of Budget and Finance with analyzing the potential impact on general fund revenues of removing the annual dollar amount cap of the annual proceeds from the conveyance tax to the existing land acquisition fund. We applied Council on Revenues growth rate projections to total FY18 conveyance tax collections, resulting in an estimated \$31.5 million total impact to the general fund over the FY20-FY25 budget planning period, starting at \$4.1 million in FY20 and ending at \$6.5 million in FY25.

Also, in order to promote greater legislative involvement in the distribution of funds and more timely determination of program resource needs, the Department recently changed the timeline for the Land Conservation Fund grant application process so that, beginning with the FY21 budget cycle, we will receive a funding recommendation from the Legacy Land Conservation Commission before we prepare our budget request for the fiscal year. Through this new process, our future budget requests will be based on specific, point-in-time knowledge of planned acquisitions rather than on anticipated demand as presently derived from assessment of historic revenue, appropriations, and requested grant amounts.

An increase in the revenues will only result in additional funding available for land acquisition if there is a corresponding increase in the spending ceiling of the Land Conservation Fund. The base budget spending ceiling is \$5,117,250 and the Executive budget contains a requested increase of \$2,364,905 each year of the biennium. To make this bill the vehicle for both a revenue and ceiling increase, the Department offers the following amendments:

SECTION 3. An appropriation in public lands management (LNR 101) of \$7,482,115 or so much thereof as may be necessary in land conservation funds shall be expended in fiscal year 2019-2020 and \$7,482,115 or so much thereof as may be necessary in land conservation funds shall be expended in fiscal year 2020-2021 for resource land acquisition.

Thank you for the opportunity to comment on this measure.



SENATE COMMITTEE ON WATER AND LAND
The Honorable Kaiali'i Kahele, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

S.B. NO. 1432, RELATING TO THE LAND CONSERVATION FUND

Hearing: Wednesday, February 13, 2019, 1:20 p.m.

The Office of the Auditor has **no position** regarding S.B. No. 1432, which eliminates the monetary cap on the amount of conveyance taxes collected that can be paid into the Land Conservation Fund which is administered by the Department of Land and Natural Resources (DLNR). **However, we offer the following comments.**

We recently audited the Land Conservation Fund and the Legacy Land Conservation Program. See Report No. 19-01, *Audit of the Department of Land and Natural Resources' Land Conservation Fund*. The report is available at: <http://files.hawaii.gov/auditor/Reports/2019/19-01.pdf>.

Currently, the Land Conservation Fund is entitled to 10 percent of all conveyance taxes collected under Chapter 247, Hawai'i Revised Statutes (HRS), subject to a monetary cap of \$6.8 million. S.B. No. 1432 would eliminate this monetary cap, thereby providing more revenue for the fund and significantly increasing the amount available to the program to fund more land conservation projects.

Our audit found that DLNR (and its Division of Forestry and Wildlife) have struggled to properly manage the Legacy Land Conservation Program. We recommended, among other things, that DLNR develop a Resource Land Acquisition Plan, as required by Section 173A-3, HRS, to guide its land conservation activities, which currently are opaque and appear arbitrary; that DLNR promulgate policies and procedures governing the grant award process to ensure that available funds are properly encumbered and that Land Conservation Fund moneys are used only for costs directly related to the Legacy Land Conservation Program; and that DLNR accurately track and report the program funds that are held in DLNR's trust account.

We believe that these recommendations, and others included in Report No. 19-01, will ensure that DLNR achieves the statutory purpose of the Legacy Land Conservation Program. However, until DLNR implements the audit recommendations, we question whether increasing the revenue to the Land Conservation Fund, which increases the funds available for the program is prudent and in the public interest. The Legacy Land Conservation Program must be accountable for its use of public funds; but, as we found, DLNR has struggled to manage the program.

Thank you for considering our testimony related to S.B. No. 1432.

Testimony of The Nature Conservancy of Hawai'i
Supporting SB 1432 Relating to the Land Conservation Fund
Senate Committee on Water and Land
Wednesday, February 13, 2019, 1:20 PM, Room 229

The Nature Conservancy of Hawai'i is a non-profit conservation organization dedicated to the preservation of the lands and waters upon which all life depends. The Conservancy has helped protect more than 200,000 acres of natural lands in Hawai'i and Palmyra Atoll. We manage 40,000 acres in 13 preserves and work in over 30 coastal communities to help protect the near-shore reefs, waters and fisheries of the main Hawaiian Islands. We forge partnership with government, private parties and communities to protect forests and coral reefs for their ecological values and the many benefits they provide to people.

The Nature Conservancy supports SB 1432 that would increase the revenue into the Land Conservation Fund.

Since its inception in FY2006, the Legacy Land Conservation Program (LLCP)—with revenue from the Land Conservation Fund—has resulted in a diverse variety of positive environmental, cultural, historical, and agricultural land protection projects supported by communities, government agencies and non-profits. These projects produce food, protect drinking water, preserve Hawaiian culture, and save iconic landscapes, beaches, and shorelines for future generations. On average, only 1/3 of the cost of purchasing the land has been borne by the State, with 2/3 of the cost coming from federal, county and private sources, and often discounts from sellers.

Currently, applicants for LLCP funding participate in a transparent competitive process. Proposals are reviewed and ranked by a diverse Commission of experts from a variety of fields as required by the Legacy Land authorizing law. The Legacy Land Commission makes recommendations on funding. Senate and House leadership is consulted prior to approval by the Board of Land and Natural Resources. Following BLNR approval, funds are released by the Governor.

However, every year, there are many more worthy projects that apply for funding than there is funding available. More special places throughout Hawai'i could be conserved and protected with the Legislature's increased support of this program.

Thank you.

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The Trust For Public Land's Testimony In Support Of SB 1432 Relating To The Land Conservation Fund

Senate Committee on Water & Land, Conf. Room 229

Wednesday, February 13, 2019, 1:20 p.m.

Aloha e Chair Kahele, Vice Chair Keith-Agaran, and Committee Members:

The Trust for Public Land strongly supports SB 1432's proposed increase of funding for the Legacy Land Conservation Program. This bill proposes to delete the statutory cap of \$6.8 million in HRS Section 247-7(1). However, this bill does nothing to address the secondary spending ceiling set annually in budget passed by the Legislature and may not have its intended effect.

The Trust for Public Land was part of a coalition legislators and community and environmental groups that worked together to enact the Legacy Land Conservation Program in 2005, which sets aside funding from the real estate conveyance tax to conserve land and special places throughout Hawai'i Nei. Currently, HRS Section 247-7(1) provides that: "Ten per cent or \$6,800,000, whichever is less, shall be paid into the land conservation fund established pursuant to section 173A-5." However, for the past several years, the Legislature has imposed a secondary and even lower spending ceiling cap of \$5.1 million in the annual State budget. This has caused a large unallocated pool of money (approximately \$16 million) to build up in the fund that the DLNR and Legacy Land Conservation Program cannot spend or use for land conservation, as the Legislature and supporters of the program originally intended.

Even if the \$6.8 million statutory cap is deleted via this SB 1432, the Legislature must ensure that the secondary annual spending ceiling cap in the budget passed by the Legislature allows the full 10% of the real estate conveyance tax to be spent by DLNR. Otherwise, this bill will have not have its intended effect.

The Legacy Land Conservation Program has conserved significant cultural sites, watersheds that produce our drinking, important habitat for native species, agricultural land that increases our food security, beaches and coastal areas enjoyed by all. Each year, there are many more worthy projects than there is available funding. We strongly support this bill which deletes the statutory cap, and urge the Legislature to increase the secondary spending ceiling cap in the annual budget so that this bill will have its intended effect. I apologize that I cannot be present at the hearing of this bill due to scheduling conflicts.

Me ke aloha,



Hawaiian Islands State Director, Edmund C.
Olson Trust Fellow



SB-1432

Submitted on: 2/12/2019 11:56:22 AM

Testimony for WTL on 2/13/2019 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

SB-1432

Submitted on: 2/10/2019 8:03:54 PM

Testimony for WTL on 2/13/2019 1:20:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Thorne Abbott	Individual	Support	No

Comments:

The best way to ensure Hawaii's spectacular, unique, special, culturally and ecologically significant places remain for the future is to protect them in perpetuity by either buying them or restricting their development with a conservation easement. To do so requires funds and we should not limit ourselves to artificial caps or set amounts that limit our ability to achieve the program's goals. Please support this bill. Mahalo!