

LATE

SB-838-SD-1

Submitted on: 2/18/2019 9:58:18 AM

Testimony for WAM on 2/19/2019 9:30:00 AM

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:

LATE

SB-838-SD-1

Submitted on: 2/18/2019 12:02:10 PM

Testimony for WAM on 2/19/2019 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support SB838. Invasive species have helped to make Hawaii the "endangered species capital of the world," but habitat loss and degradation is also a big contributor. Land conservation is an important step in protecting Hawaii's ecosystem and natural resources.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Tuesday, February 19, 2019
9:30 AM

State Capitol, Conference Room 211

In consideration of
SENATE BILL 838, SENATE DRAFT 1
RELATING TO THE LAND CONSERVATION FUND

Senate Bill 838, Senate Draft 1 proposes (1) to increase the maximum dollar amount of the annual conveyance tax distribution to the Land Conservation Fund (Fund) from \$6.8 million to \$8.8 million and (2) to increase the percentage of the Fund that may be used, annually, for costs related to the operation, maintenance, and management of lands acquired by the Fund. **The Department of Land and Natural Resources (Department) supports this measure to make more funding available for the public purpose of purchasing and protecting land that shelters exceptional, unique, and threatened resources, and offers comments.**

(1) **Raising the Revenue Cap**

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 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 (FY06-FY13), the Land Conservation Fund (Fund) received an uncapped, ten percent share of conveyance tax revenue.

In 2015, the Legislature set a \$6.8 million cap on this revenue source. From FY16 to FY18, the ten percent of conveyance tax revenue exceeded the \$6.8 million annual cap by \$5.9 million over three years, money that could have been applied to land acquisition projects. For FY19, the Legislature granted the Department’s request to raise the spending ceiling for the Fund, providing a one-time increase from \$5.1 million to \$6.9 million.

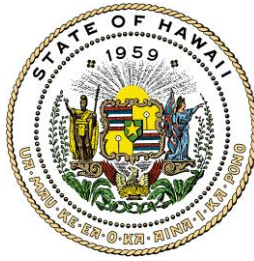
In the face of escalating real estate prices and persistent development pressure, the Department's primary dedicated funding mechanism for land conservation continues to lose pace with public demand, resulting in missed opportunities for many worthy and time-sensitive land acquisitions. For example, in FY19 the Department received applications for over \$9.7 million 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 several worthy proposals.

It should be noted that an increase in Land Conservation Fund revenue will only provide additional funding for land acquisition grants if there is a corresponding increase in the spending ceiling for the Fund. In order to provide a basis for determining program resource needs and for appropriating increased funding, 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 acquisitions, rather than on anticipated demand.

(2) Raising the Management Grants Cap

The Department notes that awarding and administering grants of operation, maintenance, and management funds for lands acquired by way of the Land Conservation Fund must be conducted under State procurement law and would require additional staff resources to develop and implement procedures for grant application, review, award, contracting, and field inspection. Under present circumstances, adding one position to the existing program staff of two would push the Department's administrative costs close to, with the potential to exceed, the existing administrative cost cap of five percent of annual fund revenues of the previous year. Therefore, a modest increase in the administrative cost cap for the Land Conservation Fund would likely be needed in order to implement an expansion of the management grant component of the Legacy Land Conservation Program, while continuing to preserve and enhance the vitality of grants for land acquisition.

Thank you for the opportunity to comment on this measure.



SENATE COMMITTEE ON WAYS AND MEANS
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Gilbert S.C. Keith-Agaran, Vice Chair

S.B. NO. 838, S.D. 1, RELATING TO THE LAND CONSERVATION FUND

Hearing: Tuesday, February 19, 2019, 9:30 a.m.

The Office of the Auditor has **no position** regarding S.B. No. 838, S.D.1, which, among other things, increases the maximum amount of conveyance taxes that can be paid into the Land Conservation Fund which is administered by the Department of Land and Natural Resources (DLNR) and increases the amount appropriated from the Land Conservation Fund for resource land acquisition. **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>.

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, and providing additional appropriations for resource land acquisition are 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 and has expended funds without the statutorily required Resource Land Acquisition Plan.

Thank you for considering our testimony related to S.B. No. 838, S.D. 1.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONVEYANCE, Increase Earmark to Land Conservation Fund

BILL NUMBER: SB 838, SD-1

INTRODUCED BY: Senate Committee on Water and Land

EXECUTIVE SUMMARY: Increases the cap on the conveyance tax revenues to be redirected to the land conservation fund to \$8.8 million. The cap was imposed to make general fund forecasting more reliable and increase transparency and accountability.

SYNOPSIS: Amends section 247-7(1), HRS, to change the \$6.8 million cap on the conveyance tax revenues to be redirected to the land conservation fund to \$8.8 million.

Amends section 173A-5, HRS, to allow the costs related to the operation, maintenance, and management of lands acquired by way of this fund to reach 25% (from 5%) of annual fund revenues of the previous year,

EFFECTIVE DATE: December 31, 2050.

STAFF COMMENTS: The conveyance tax was enacted by the 1966 legislature after the repeal of the federal law requiring stamps for transfers of real property. It was enacted for the sole purpose of providing the department of taxation (which at the time also administered the real property tax) with additional data for the determination of market value of properties transferred. This information was also to assist the department in establishing real property assessed values and at that time the department stated that the conveyance tax was not intended to be a revenue raising device.

Prior to 1993, the conveyance tax was imposed at the rate of 5 cents per \$100 of actual and full consideration paid for a transfer of property. At the time all revenues from the tax went to the general fund. The legislature by Act 195, SLH 1993, increased the conveyance tax to 10 cents per \$100 and earmarked 25% of the tax to the rental housing trust fund and another 25% to the natural area reserve fund. As a result of legislation in 2005 and in 2009, the conveyance tax rates were substantially increased and bifurcated between nonowner-occupied residential properties and all other properties. Tax brackets were based on the amount of the value transferred. Until 2005, 50% of the receipts went into the general fund and the other half was split with the affordable rental housing program and the natural area reserve program. Beginning in 2005, another 10% was taken for the land conservation fund. Act 84, SLH 2015, imposed the \$6.8 million cap on the earmark.

In 2015, the Conference Committee explained the rationale for the cap on the earmark as follows:

Your Committee on Conference finds that budgetary planning and transparency are key components to ensuring the ongoing fiscal health of the State. Your Committee on

Conference believes that, by establishing maximum amounts to be distributed to various non-general funds from the conveyance tax, this measure will make forecasts of general fund revenues more reliable, will increase legislative oversight of agencies and programs supported by the non-general funds, and will subject 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.

Conf. Comm. Rep. No. 156 (2015).

Raising the cap on the earmarked revenues should be done only with great caution. As with any earmarking of revenues, the legislature will be preapproving each of the programs fed by the fund into which the tax monies are diverted, expenses from the funds largely avoid legislative scrutiny, and the effectiveness of the programs funded becomes harder to ascertain. It is also difficult to determine whether the fund has too little or too much revenue.

If the legislature deems the programs and purposes funded by this revolving fund to be a high priority, then it should maintain the accountability for these funds by appropriating the funds as it does with other programs. Earmarking revenues merely absolves elected officials from setting priorities. If the money were appropriated, lawmakers could then evaluate the real or actual needs of each program.

Digested 2/15/2019

Testimony of The Nature Conservancy of Hawai'i
Supporting SB 838 SD1 Relating to the Land Conservation Fund
Senate Committee on Ways and Means
Tuesday, February 19, 2019, 9:30 AM, Room 211

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 838 SD1 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-profit organizations. 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 are 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.

BOARD OF TRUSTEES

Mark E. Agne Duke E. Ah Moo Paul D. Alston Dr. C. Tana Burkert Richard A. Cooke III Ka'iulani de Silva Brian J. Doyle
Robert J. Dzielak Dr. Alan M. Friedlander James J.C. Haynes III Sean A. Hehir Brett MacNaughton Kathy M. Matsui
Janet Montag Alicia Moy James C. Polk Dustin E. Sellers Nathan E. Smith (Chair) Peter K. Tomozawa Richard N. Zwern

Ihupani Advisory Council: Christopher J. Benjamin Kenton T. Eldridge Eiichiro Kuwana Duncan MacNaughton Jean E. Rolles Crystal K. Rose
Founders: Samuel A. Cooke Herbert C. Cornuelle



HAWAII

1003 Bishop St.
Pauahi Tower, Ste. 740
Honolulu, HI 96813
T: 808.524.8694
F: 808.524.8565
tpl.org

ADVISORY BOARD

Brad Punu, Chair

BJP Consulting

Earlynn Maile, Vice Chair

Hawaiian Electric

Dr. Noa Emmett Aluli

Molokai General Hospital

Stanford S. Carr

Stanford Carr Development

Mahina Duarte

Kanu o ka Aina School

Kā'eo Duarte

Kamehameha Schools

Steve Kelly

James Campbell Company LLC

Mark Linscott

Kaiser Permanente

Kurt Matsumoto

Pūlama Lānaʻi

Edmund C. Olson

Farmer, Rancher, Landowner

Gregory C. Pietsch

Pietsch Properties LLC

Kirstin Punu

NAVFAC Pacific

Gregg H. Takara

Morgan Stanley

Race Randle

Howard Hughes Corp.

Tom Reeve

Conservationist

Michael S. Spalding

Michael Spalding Realty

Carol Wilcox

Author

**The Trust For Public Land's Testimony In Support Of SB 838 SD1
Relating To the Land Conservation Fund**

Senate Committee on Ways & Means, Conf. Room 211

Tuesday, February 19, 2019, 9:30 a.m.

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

The Trust for Public Land strongly supports SB 838 SD1 which increases the amount that can be used to support stewardship of lands acquired with the fund, increases the statutory cap on the fund from \$6.8 million to \$8.8 million (or 10% of the fund, whichever is lower), and authorizes DLNR to spend a little over \$7.4 million.

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." The bill would increase the statutory cap to \$8.8 million, and give DLNR the authority to spend a little over \$7.4 million.

We thank the Legislature for attempting to address concerns raised in past testimony and in the recent Audit – that, 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 (lower than the existing statutory cap of \$6.8 million). 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.

While the bill's appropriation of \$7.4 million and explicit grant of authority to DLNR to spend this amount is appreciated, we note that the \$7.4 million remains below the proposed increased statutory cap of \$8.8 million in the bill. DLNR would still be prohibited from spending the difference, which would add to the unspent and unallocated pool of money building up in the fund.

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 increases the statutory cap and gives DLNR authority to spend over \$7.4 million, and urge the Legislature to increase DLNR's authority to spend to \$8.8 million 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





Board of Directors

February 16, 2019

Testimony of the Hawaiian Islands Land Trust in Support of Senate Bill
838 SD 1

Board Chair
Jonathan Scheuer

Aloha Chair Dela Cruz and Members of the Ways and Means
Committee,

Vice Chair
Mary Charles

Treasurer
Keith Ogata

In 2005, the State Legislature established the Land Conservation Fund as a permanent source of funding for the Legacy Land Conservation Program (LLCP) which provides grants to community organizations and government agencies that protect land having value as a resource for the State.

Secretary
Jennifer Luck

Past Chair
Matt Beall

To date, over 40 organizations have partnered with the Legacy Land Fund to provide matching funds, land value donations, and transactional assistance. The LLCP has successfully protected 30 properties totaling over 11,000 acres containing some of the most significant natural and cultural resources in Hawaii. The LLCP has also leveraged substantial matching funds from Federal, County, and private donations to protect these special places for the benefit of Hawaii's residents and future generations.

Sarah Bakewell

Lisa Grove

Le'ahi Hall

Yet, much of Hawaii's precious lands and natural resources remain at risk. Each year worthy projects do not get awarded due to a lack of sufficient funding.

Neil Hannahs

McD Philpotts

The Hawaiian Islands Land Trust supports SB 838 SD 1 to increase funding for the Legacy Land Fund.

Clyde Sakamoto

Larry Stevens

Mahalo,

William Swank

Anthony Takitani

Kawika Burgess
Chief Executive Officer

OUR MISSION:

To protect the lands that sustain us for current and future generations