



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
WATER AND LAND

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

In consideration of
HOUSE BILL 589, HOUSE DRAFT 2
RELATING TO THE LAND CONSERVATION FUND

House Bill 589, House Draft 2 proposes (1) to require that the Department of Land and Natural Resources (Department) fully implement, within a period of ten months or less, five of the eleven recommendations found in the January 2019 audit of the Land Conservation Fund (LCF); and (2) to limit the ability of the Legislature to provide funding for projects to be administered by the Department's Division of Forestry and Wildlife (DOFAW) from the LCF, thereby restricting the ability of the Legislature to award funds to benefit the public. **The Department acknowledges the intent of this bill to foster improvements in the Department's administration and management of the LCF and offers the following comments and recommendations.**

The Legacy Land Conservation Program (LLCP) is a popular and highly successful public-private partnership that achieves its statutorily authorized program purposes. Since the Legislature provided a dedicated source of funding in 2005, the LLCP has supported 30 land acquisitions, all of which provide a benefit to the people and communities of Hawai'i (project details are found on the LLCP website at <http://dlnr.hawaii.gov/ecosystems/llcp/projects>). LLCP is administered in a rigorous, systematic, transparent, and cost-effective manner that maximizes return on state investments while benefiting the people of Hawai'i.

The Department's response to the LCF audit acknowledged a brief period in Fiscal Years 2016 and 2017 of shortcomings in program management due to vacancies in three key positions. This resulted in lapsed grant funds (\$2.2 million, which lapsed back into the LCF) and unnecessary payment of \$684,256 of central service fees. Over the last two years, we filled the vacancies and strengthened our fiscal management of the LLCP. As detailed in the Department's response to the LCF audit, several statements mischaracterized the implementation of the program.

The Department offers the following proposed amendments (in gray highlight):

The Department recommends amending SECTION 1(a) of the measure to accurately reflect the findings in the audit report and implementation of the program, as follows:

SECTION 1. (a)

. . .

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

. . .

(2) Program staff ~~[failed to]~~ did not track balances in the trust account used to hold legacy land conservation program funds awarded to state agencies, ~~[resulting in a complete lack of oversight and accountability;]~~ and therefore reported an incomplete picture of encumbered funds to the legislature;

. . .

(4) The department of land and natural resources used the land conservation fund's limited administrative budget ~~[to support]~~ for the salary of an employee to support the program; ~~however, a portion of their time was spent on other departmental projects~~ unrelated to the legacy land conservation fund program; and

(5) The division of forestry and wildlife of the department of land and natural resources has at times sought and obtained legislative authority for funding from the land conservation fund above the spending ceiling for ~~[its own]~~ public lands acquisition projects outside of the legacy land conservation program's grant award process ~~[, reducing transparency and accountability]~~.

The Department recommends amending SECTION 1(b) and SECTION 2 of the measure to provide an achievable timeline for a more community inclusive process for implementing audit recommendations, as follows:

SECTION 1 (b)

. . .

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

- (1) Establish an initial resource land acquisition plan no later than ~~[January 1, 2020,]~~ June 30, 2021;

. . .

- (6) Report to the legislature ~~[and the auditor]~~ on its progress in meeting its obligations under this Act prior to the convening of the legislature's regular session of 2020~~[-]~~, as part of the annual report to the governor and the legislature required under chapter 173A, Hawaii Revised Statutes.

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

"§173A-3 Resource land acquisition plan. . . . provided
that an initial plan shall be completed no later than [January
1, 2020.] June 30, 2021.

. . .

The Department recommends amending SECTION 4 to provide an achievable timeline for implementing audit recommendations and maintain the Legislature's ability to award funds to benefit the public, as follows:

SECTION 4. No later than [January 1, 2020,] June 30, 2021,
the department of land and natural resources shall:

. . .

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

SECTION 5, Progress Report

The Department notes that that Office of the Auditor follows a standard process and timeline for evaluating the implementation of its recommendations and publishing the results of that evaluation. Therefore, the Department suggests that interim reporting to the Legislature be included in the Department's required annual report to the Legislature rather than under separate cover.

The Department recommends amending SECTION 5 of the measure as follows:

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

Thank you for the opportunity to comment on this measure.



HAWAII

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

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The Trust For Public Land’s Testimony Relating To HB 589 HD 2
Senate Committee on Water & Land,,Conf. Room 229
Wednesday, March 13, 2019, 1:20 p.m.

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

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. 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.

HB 589 proposes to: (1) sets a statutory deadline of January 1, 2020 for DLNR to complete an initial land resource acquisition plan, and (2) requires DLNR to keep a record of the balance of and all transfers of funds to or from any DLNR trust account established to hold awards granted to state agencies, including a list a of all projects for which a grant was awarded and the status of each project. The Trust for Public Land has the following comments:

(1) January 1, 2020 Deadline for Initial Land Resource Acquisition Plan

The Trust for Public Land notes that the DLNR has requested that the deadline be set for January 1, 2021 so that DLNR has sufficient time post legislative session to consult with the Senate and House and other stakeholders and properly follow procurement procedures. The Audit of the Legacy Land Conservation Program pointed out that the enabling statute has long required that DLNR complete a land resource acquisition plan in consultation with representatives designated by the Speaker of the House and Senate President. DLNR has requested funding in its budget to complete such a plan, and if such funding is forthcoming and DLNR and this Committee can agree on a reasonable deadline for completion of the plan, The Trust for Public Land has no objection to this provision.



(2) Additional recordkeeping

The Trust for Public Land has no objection to the additional recordkeeping requirements if DLNR believes it can accurately track the items proposed by the bill. DLNR has requested additional time until 2021 to properly develop the requested guideline and implement them.

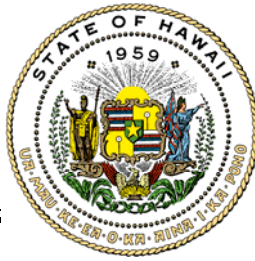
While the Audit identified some administrative deficiencies in the Legacy Land Conservation Program, these mistakes occurred during staff vacancies and have not been repeated. DLNR has committed to developing processes to ensure these mistakes are not repeated. The Auditor had no complaints about the expert volunteer Legacy Land Conservation Commission and the open and transparent process it conducts to make recommendations for funding to BLNR on an annual basis. Each year, there are many more worthy projects than there is available funding and we urge the Legislature to consider raising the statutory cap and annual budgetary spending ceiling to allow the Legacy Land Conservation Program to conserve more special places throughout Hawai'i Nei.

I apologize that I cannot be present at the hearing of this bill due to scheduling conflicts.

Me ke aloha,

A handwritten signature in cursive script that reads "Lea Hong".

Hawaiian Islands State Director, Edmund C.
Olson Trust Fellow



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

H.B. NO. 589, H.D. 2, RELATING TO THE LAND CONSERVATION FUND

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

The Office of the Auditor **supports** the intent of H.B. No. 589, H.D. 2, which requires the Department of Land and Natural Resources (DLNR) to implement certain recommendations made in our Report No. 19-01, *Audit of the Department of Land and Natural Resources' Land Conservation Fund*.

Our audit found that DLNR has 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.

As part of every audit, we offer recommendations with the intent of improving an agency's operations, but agencies may disregard certain recommendations and do little to address our audit findings. Given the importance of the Legacy Land Conservation Program, which is intended to protect public lands for future generations, we agree with the Legislature's intent to require DLNR to implement certain of our recommendations to address issues that we found with DLNR's current management of the program.

Thank you for considering our testimony related to H.B. No. 589, H.D. 2.

LATE

HB-589-HD-2

Submitted on: 3/12/2019 7:50:02 PM
Testimony for WTL on 3/13/2019 1:20:00 PM

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

Comments:

Dear Honorable Committee Members:

Please support HB589.

Thank you for your time.

Andrea Quinn

Kihei