



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 6, 2019
1:15 PM
State Capitol, Conference Room 229

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

Senate Bill 838 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, forever, land that shelters exceptional, unique, and threatened resources, and offers amendments and 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 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 (FY06-FY13), the Land Conservation Fund (Fund) received an uncapped, ten percent share of conveyance tax revenue that 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 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 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 help evaluate this measure, Senate Bill 838, the Department analyzed the potential impact on general fund revenues of a \$2 million lift in the maximum dollar amount cap of annual conveyance tax distribution to the Fund (\$12 million total over the FY20-FY25 budget planning period). We applied Council on Revenues growth rate projections to total FY18 conveyance tax collections, resulting in an estimated three percent reduction in the total conveyance tax distribution to the general fund during this period, which is otherwise estimated at \$454.3 million.

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. The base budget spending ceiling is \$5,117,250 and the Executive Budget requests an increase of \$2,364,905 each year of the biennium. To make this measure, Senate Bill 838, the vehicle for increasing both revenue and spending ceiling, the Department offers the following amendment:

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.

In order to provide a more concrete 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, 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.

(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—unlike awarding and administering grants for land acquisition itself—must be conducted under State procurement law and requires additional staff resources to develop and implement procedures for grant application, review, award, contracting, and field inspection. Under present financial circumstances, adding one position to the existing program staff of two would push the Department’s administrative costs uncomfortably close to, and could eventually exceed, the existing administrative cost cap (five percent of annual fund revenues of the previous year). Therefore, increases in both the revenue cap and the administrative cost cap for the Land Conservation Fund would likely be needed in order to responsibly 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.



The Nature Conservancy
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Testimony of The Nature Conservancy of Hawai'i
Supporting SB 838 Relating to the Land Conservation Fund
Senate Committee on Water and Land
Wednesday, February 6, 2019, 1:15 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 838 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

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SB-838

Submitted on: 2/5/2019 1:13:54 PM

Testimony for WTL on 2/6/2019 1:15:00 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:

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; HB 1297 (Identical)

INTRODUCED BY: SB by KEITH-AGARAN, BAKER, ENGLISH, RUDERMAN; HB by SAIKI

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: Upon approval.

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.

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 2/4/2019

SB-838

Submitted on: 2/2/2019 10:26:48 AM

Testimony for WTL on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mio Chee	Individual	Support	No

Comments:

SB-838

Submitted on: 2/5/2019 12:15:48 PM

Testimony for WTL on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments: