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LAND
STATE PARKS

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

Monday, January 31, 2022
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 2351
RELATING TO THE LAND CONSERVATION FUND

Senate Bill 2351 proposes to provide increased funding for land conservation by loosening the cap on conveyance tax revenue that is deposited into the Land Conservation Fund (SECTION 2); appropriating additional moneys from the Land Conservation Fund for land acquisition (SECTION 3); and increasing the percentage of a preceding year's Land Conservation Fund revenue that may be used to supply grants for operating, maintaining, and managing over forty properties already conserved/protected through land acquisition grants from the Land Conservation Fund (SECTION 1). **The Department of Land and Natural Resources (Department) strongly supports this measure, provided that its passage does not replace or adversely impact priorities indicated in the Executive Supplemental Budget request.** The Department offers the following comments and an amendment.

During Fiscal Years 2016-2021, implementation of Conveyance Tax revenue caps reduced Land Conservation Fund revenues by \$14 million. In fiscal year 2021, \$15 million was transferred from the Land Conservation Fund to the general fund. After these losses, and with full spending of existing appropriations for Fiscal Years 2022 and 2023, the projected cash balance of the Land Conservation Fund will be just \$4.4 million, while the historic base spending ceiling is \$5.1 million per year.

Recent escalation in real estate market values has eroded the buying power of the Land Conservation Fund to its lowest level since its inception. At current funding levels, the Legacy Land Conservation Program is unable to support many important opportunities for land acquisition. The current revenue stream—if restricted to \$5.1 million per year—will not deliver enough cash to support additional spending that may be authorized by future ceiling increases

and CIP appropriations, for Fiscal Year 2024 and beyond, and will limit the amount available for management grants to \$255,000 or less per year. Senate Bill 2351, if enacted, would help return Land Conservation Fund finances to the position envisioned by the 2005 Legislature when it recognized that "an alarmingly small amount of money is invested each year to protect our natural capital base" and "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).

The Department of Taxation reports that Fiscal Year 2022 Conveyance Tax revenues reached over \$118 million by the end of December 2021. If these revenues are distributed this Fiscal Year, under the \$8 million cap proposed by this measure, then the Land Conservation Fund would receive an additional infusion of \$2.9 million, and an additional \$145,000 would become available for management grants in Fiscal Year 2023. Therefore, the Department requests that the Committee consider amending SECTION 5, page 3, line 8 of this measure to read as follows:

SECTION 5. This Act shall take effect [~~on July 1,~~
~~2022.~~] upon approval.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR OF
HAWAII



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SB-2351

Submitted on: 1/30/2022 8:56:34 AM

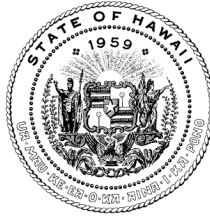
Testimony for WTL on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thorne Abbott	Individual	Support	No

Comments:

I strongly support this bill. We should not cap or limit our efforts to conserve Hawaii's natural resources, especially using an arbitrary financial amount. Please remove the cap! Mahalo!

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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THE TRUST FOR PUBLIC LAND'S TESTIMONY REGARDING SB 2351

Senate Committee on Water & Land

Monday, January 31, 2022, 1:00 p.m.

Conf. Rm. 229 & Videoconference

The Trust for Public Land has comments regarding SB 2351. The bill proposes to increase the percentage of the fund that can be used for management/maintenance on lands acquired with the fund from 5% to 25%, increases the current \$5.1 million cap on the Legacy Land Conservation Fund to \$8 million, and includes a special provision in Section 3 specifying a blank/placeholder amount for land acquisition.

The Trust for Public Land supports increasing the management/maintenance element of the fund to 25% **if the cap on the fund** – whether the current \$5.1 million or the proposed \$8 million -- **is removed**. During the past five or more years, the cap has remained at \$5.1 million while real estate prices have skyrocketed. Meanwhile, residents' desire to conserve special lands on their islands has risen. As a result, the Legacy Land Conservation Commission routinely recommends many more worthy projects for funding than there are funds available – double or triple the amount available in the fund. Due to lack of funds, projects must request money over multiple years – delaying closings, and resulting in heartbreaking missed opportunities while international or mainland speculators quickly purchase incredibly special lands above asking price or appraised fair market value, in cash, with short closings.

As real estate prices rise and conveyance tax collections rise, it is appropriate that the Legacy Land Conservation Fund increases proportionately without a cap and at the 10% level, keeping pace with rising real estate prices. Removing the cap would insure that sufficient funding remains available for land and conservation easement acquisition, while at the same time, providing management and maintenance support for lands acquired with the fund.

Mahalo for this opportunity to testify. I apologize that I will not be able to attend the hearing in person or virtually due to a scheduling conflict.

Me ke aloha,



Lea Hong
State Director
Edmund C. Olson Trust Fellow

January 31, 2022

The Honorable Lorraine Inouye, Chair
Senate Committee on Water and Land
Via Videoconference

RE: S.B. 2351, Relating to the Land Conservation Fund

HEARING: Monday, January 31, 2022, at 1:00 p.m.

Aloha Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee,

I am Ken Hiraki, Director of Government Affairs, testifying on behalf of the Hawai'i Association of REALTORS® (“HAR”), the voice of real estate in Hawai'i, and its over 10,800 members. HAR **opposes** S.B. 2351 which increases the percentage of the land conservation fund that may be used for costs related to the operation, maintenance, and management of lands acquired by the fund. Increases the maximum dollar amount of the conveyance tax distribution to the land conservation fund. Appropriates funds from the land conservation fund for the resource land acquisition.

The Conveyance Tax was not intended as a revenue generating tax. It was designed to cover the administrative costs to assist the Department of Taxation in determining market value of properties transferred.

In July 2012, the Auditor of the State of Hawaii prepared Report No. 12-04: “Study of the Transfer of Non-General Funds to the General Fund.” The Auditor examined issues relating to the establishment and continuance of special and revolving funds in the State. The Auditor used the statutory criteria for establishment and continuance of special and revolving funds, under Sections 37-2.3 and 37-52.4 of the Hawaii Revised Statutes (“HRS”). Of those reviewed, the Auditor determined that the Land Conservation Fund and the Natural Area Reserve Fund did not qualify for continuance, both of which are funded by the Conveyance Tax.

Furthermore, the problem linking funding to the Conveyance tax is that when the real estate market is down, there are not enough funds to pay for the programs and special funds it covers. Then, the Conveyance Tax is often targeted for increase to cover these programs. However, when the market is up, there are excess funds over and above the program's needs. This becomes a cyclical issue, and unreliable in forecasting these program's needs.

The Conveyance Tax applies to the conveyance of multi-family rentals, land for residential subdivisions, affordable housing projects, mixed-income and multi-use properties, commercial properties, resort properties, and agricultural lands, as well as condominium and single-family homes. It applies whether or not a property is sold at a gain or a loss.

Finally, while the Land Conservation Fund is valuable, it should be noted it can request appropriations and funds through the budgetary process as contained in this measure.

Mahalo for the opportunity to testify.

SB-2351

Submitted on: 1/29/2022 12:34:53 PM

Testimony for WTL on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robin Rayner	Testifying for Ke Ao Hali'i	Support	No

Comments:

The original bill establishing the Land Conservation Fund was intended to help ensure some of our precious Hawaiian lands would be protected from development. With demand to develop property increasing and the cost to purchase land rising monthly, it is crucial that this Land Conservation Fund be increased to keep pace with the competing demands of private development.

PLEASE VOTE TO INCREASE RELATED COSTS AND THE APPROPRIATION OF FUNDS FOR LAND ACQUISITIONS.

Mahalo,

Robin Rayner

Board member, Ke Ao Hali'i

Hana, Maui

SB-2351

Submitted on: 1/29/2022 4:58:34 PM

Testimony for WTL on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lucienne de Naie	Testifying for Sierra Club Maui	Support	No

Comments:

Dear Chair Inouye and Vice chair Keith-Agaran

The Legacy Lands Fund has been a great success since it began receiving regular funding over a decade ago. Residents and visitors on every island have enjoyed additional opportunities to hike, fish, gather and enjoy the beauties of Hawaii's natural wonders. Priceless heritage sites and essential watersheds and habitat areas have also been enhanced through the support of the State's Land Conservation Fund. During these times when access to the clean safe spaces of Hawaii's outdoors is more important than ever for our mental and spiritual well being,

Sierra Club Maui strongly supports the intent of SB2351 to Increase the percentage of the land conservation fund that may be used for maintenance and operation costs for lands acquired by the fund, as well as the raising the maximum amount of the conveyance tax that is distributed to the land conservation fund and using conservation fund monies for resource land acquisition.

Mahalo for your support of this important step forward

Lucienne de Naie

Chairperson, Sierra Club Maui Group



P. O. Box 2122 Wailuku, HI 96793

January 30, 2022

SB 2351 and SB 2533 RELATING TO THE LAND CONSERVATION FUND

Aloha Senators,

Ma`alaea Village Association (MVA), a 501(c) 3 nonprofit corporation, with over 190 dues-paying members, supports increased funding for the State's Land Conservation Fund.

The Ma`alaea community, along with other Maui community groups from Kihei to Haiku, has worked for over 20 years to preserve "Ma`alaea Mauka" Ag. lands at the crossroads between Lahaina, Kihei and Central Maui, in open space and free from development. The property is key to restoring the Pohakea Watershed with its scenic views of Ma`alaea Bay and Haleakala. It contains the historic Lahaina Pali Trail which dates back over 100 years. Ma`alaea Bay is a precious resource, and home of the Hawaiian Islands National Humpback Whale Marine Sanctuary, and Kealia Pond National Wildlife Refuge as well as environmental leaders Maui Ocean Center and the Pacific Whale Foundation. Recent efforts to restore Ma`alaea Bay, a 303(d) 'impaired body of water designated by EPA, undertaken by the DLNR Division of Forestry and Wildlife (DOFAW), along with Maui nonprofit Maui Nui Marine Resource Council, have begun to address wildfire and erosion that threaten the Bay and the watershed. Combining this 257 acre property with the 4,000 acre West Maui watershed will allow the state to manage the entire watershed in perpetuity.

We have been successful in obtaining Maui County Council Open Space funding toward purchase of the property. With Trust for Public Lands helping to facilitate the process, we have made great headway with the County and the landowner toward realizing this long-held dream. MVA submitted its application for "Pohakea Watershed Lands" to the DLNR Legacy Lands program in 2020, and Ma`alaea is on the calendar for consideration next month. Legacy Lands funding could make all the difference.

There are communities all over this state with precious natural resources, scenic vistas and valuable Ag. land that need to be protected and preserved. The Land Conservation Fund, in conjunction with other funders – both public and private, through the Legacy Lands program, makes this possible.

Please support increased funding for the Land Conservation Fund.

Mahalo!

Lynn Britton
Immediate Past President and Co-Founder, Ma`alaea Village Association

Cc: Scott Fretz, Maui Branch Manager, DLNR DOFAW

Lyndon Ibele, MVA President 2022

Lea Hong, Hawaii Director, Trust for Public Lands

**Testimony of The Nature Conservancy
Comments on SB 2351, RELATING TO THE LAND CONSERVATION FUND.**

**Committee on Water and Land
January 31, 2022, 1:00 pm
Conference Room 229 & Videoconference**

Aloha Chair Inouye, Vice Chair Keith-Agaran, and Members of the Committee:

The Nature Conservancy (TNC) offers comments on SB 2351, Relating to the Land Conservation Fund, which increases the percentage of the Land Conservation Fund that may be used for costs related to the operation, maintenance, and management of lands acquired by the fund; increases the maximum dollar amount of the conveyance tax distribution to the Land Conservation Fund; and appropriates funds from the Land conservation fund for the resource land acquisition.

The Land Conservation Fund supports the Legacy Land Conservation Program (LLCP), which funds grants to state and county governments and non-profit land conservation organizations to acquire land and protect valuable resources for public benefit. Protecting these lands offers wide benefits for the people of Hawai'i, including reforestation efforts that help mitigate the impacts of climate change by providing freshwater and preventing runoff, drought, and wildfires.

As real estate prices rise, raising the cap on the Land Conservation Fund will help meet the demand for and cost of acquiring land for public and ecological benefit. Under the current cap, the Legacy Land Conservation Program regularly is unable to meet all the need. Additionally, the Land Conservation Fund provides vital matching funds necessary to access federal money under the Land and Water Conservation Fund, which provides \$900 million annually for land conservation programs.

TNC does not oppose increasing the funds available for management of lands acquired under the LLCP; however, there must be an increase or removal of the cap to ensure the amount of funds available for acquisition is not reduced.

Increasing the cap on the Land Conservation Fund will support much needed land protection efforts as Hawai'i battles the impact of climate change.

Mahalo for the opportunity to provide testimony on SB 2351.

The Nature Conservancy of Hawai'i and Palmyra is a non-profit 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 nature preserves and work in over 50 coastal communities to help protect and restore the nearshore reefs and fisheries of the main Hawaiian Islands. We forge partnerships with government, private parties, and communities to protect forests and coral reefs for their ecological values and for the many benefits they provide to people.

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January 30, 2022

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Meeting on January 31, 2022 at 1 p.m.
Conference Room 229 & Videoconference

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RE: **Support for SB2351, SB2533 and the Land Conservation Fund**

Dean Takebayashi
Director

Aloha Chair Inouye, Vice Chair Keith-Agaran, and WTL Committee Members,

Gary Weller
Director

Livable Hawaii Kai Hui **supports an amendment** to SB2351 that would make Section 2 identical to the proposed language in SB2533.

Kendrick Chang
Community Outreach
Coordinator

SB2351 does two critical things to strengthen the Legacy Land Conservation Program (LLCP) and build upon its record of success.

Dylan Ramos
Communications &
Operations

First and foremost, SB2351 raises the percentage of Land Conservation Fund monies that can be put toward the operation, maintenance, and management of lands after they have been acquired.

Website

www.hawaiikaihui.org
www.kaiwicost.org

As a member of the Ka Iwi Coalition – which led the movement to protect Kaiwi Coast from Maunalua to Makapu'u – we know firsthand the positive impact an LLCP grant can have.

Like us on Facebook
Livable Hawaii Kai Hui
Aloha Aina O Kamilo Nui
Ka Iwi Coast

In 2014, Livable Hawaii Kai Hui was awarded one such grant to conserve the Kaiwi Mauka Lands in perpetuity. Not only did the grant fund a substantial portion of the acquisition (completed in 2016), it provided much needed momentum for our campaign to build public support.

Livable Hawaii Kai Hui is a 501c(3) non-profit, community organization serving East Honolulu since 2004. We strive to promote sensible growth, respect for cultural & natural resources and upholding the integrity of the East Honolulu Sustainable Communities Plan.

But as grateful as we are for that push, we also know the struggle conservationists often face when the momentum of a big campaign levels out. Even projects that continue to receive tremendous levels of public support can always use more help. That's where SB2351 comes in.

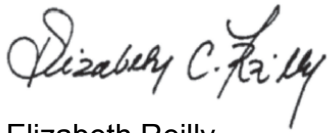
Livable Hawaii Kai Hui has long observed that conservation is an ongoing kākou effort. Simply closing on a land deal or securing a conservation easement is only the starting point – the real work begins when people start to serve the land. By allowing more funding for land management, SB2351 attempts to recognize that fact.

Of course, changes in how we fund different activities mean little if there are too few funds to begin with. Section 2 of SB2351 offers a decent solution: it raises the cap on tax dollars that can be put toward the Land Conservation Fund, while still maintaining the 10% cap on revenue allocated to the fund overall. This doesn't guarantee maximum funding for the LLCP, but it ensures that the important matter of conservation is not forgotten amidst budgetary changes.

SB2533 goes one step further by removing reference to a dollar amount in the Land Conservation Fund allocation. So, whereas the existing statute and SB2351 both reference "Ten per cent or [\$X], whichever is less," SB2533 guarantees the full 10% share of revenue moving forward.

By passing SB2351 with an amendment to match SB2533, this Committee can show its support for true and effective conservation.

Mahalo,



Elizabeth Reilly
Founder/President
Livable Hawaii Kai Hui



Dylan Ramos
Communications & Operations
Livable Hawaii Kai Hui



A COMMUNITY DRIVEN, VOLUNTEER-BASED RESTORATION PROJECT.

Hāwea Heiau Complex
& Keawāwā Wetland

CELEBRATE THE CULTURAL AND NATURAL RESOURCES OF YOUR COMMUNITY!

Ka Iwi Coalition

Mauka to Makai



SB-2351

Submitted on: 1/30/2022 10:58:37 AM

Testimony for WTL on 1/31/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Denise E Antolini	Individual	Support	No

Comments:

Dear Chair Inouye, Vice Chair Keith-Agaran, and WTL Members,

I strongly support SB2351.

The Legacy Land Conservation Program/Fund has played a critical role in the conservation of important cultural, biological, and recreational lands in Hawai'i since it was established in 2005.

This bill will help the LLC/P be even more effective across the islands.

Mahalo to Vice Chair Keith-Agaran for introducing this important bill!

Best regards,

Denise Antolin

Pūpūkea, O'ahu



LATE

HAWAI'I LAND TRUST'S TESTIMONY REGARDING SB 2351
Senate Committee on Water & Land
Monday, January 31, 2022, 1:00 p.m.
Conf. Rm. 229 & Videoconference

Hawai'i Land Trust wishes to share comments regarding SB 2351 which proposes to increase the percentage (from 5% to 25%) of the Legacy Land Conservation Fund that can be used for management and maintenance on lands acquired with Legacy Land funds, increase the current \$5.1 million cap on the Legacy Land Conservation Fund to \$8 million, and include a special provision in Section 3 specifying a blank/placeholder amount for land acquisition.

Hawai'i Land Trust supports increasing the management/maintenance element of the fund to 25% IF the cap on the fund – whether the current \$5.1 million or the proposed \$8 million -- is removed. An increase from \$5.1M to \$8M will certainly allow for more irreplaceable lands to be protected and additional funds to be available for management of protect lands, but an increase to an \$8M spending cap will not meet the current need.

Every year, communities from all over Hawai'i apply to the State Legacy Land Conservation Fund for monies to purchase threatened lands with significant ecological, cultural, agricultural, and recreational attributes. The current cap only allows the top few projects to be funded and the other communities are left without a means to realistically protect their most special natural places. Real estate values in Hawai'i are higher than ever before with no signs of slowing, and there is a higher need for the Legacy Land Conservation Fund than ever before. The public wants to see the places that hold our unique history and sustain us permanently protected. The Legacy Land Conservation Fund is one of the few funding sources that can be used to permanently purchase land and conservation easements.

Stewarding the lands once protected is very expensive and should be supported by a portion of the Legacy Land Conservation Fund. However, without increasing the current spending cap or ideally removing it completely, increasing the amount of the Legacy Fund that can be used for maintenance

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will cut away at an already small pie for actual land protection. Increasing the percentage that can be used for management from 5% to 25% and removing the spending cap would provide both sufficient funds to purchase and protect the lands that are the heart and soul of Hawai‘i, and sufficiently care for those lands once protected.

Mahalo for the opportunity to share feedback,

A handwritten signature in black ink, reading "Laura H. E. Kaakua". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Laura H. E. Kaakua
President and CEO
Hawai‘i Land Trust