

**ACT 161**

S.B. NO. 3012

A Bill for an Act Relating to Kaho‘olawe.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The purpose of this Act is to:

- (1) Create a trust fund for the receipt of federal funds designated by Congress for the rehabilitation of Kaho‘olawe;
- (2) Appropriate funds for the operation of the Kaho‘olawe island reserve commission; and

- (3) Appropriate funds to complete negotiations on a memorandum of understanding with the United States Navy.

SECTION 2. Chapter 6K, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§6K- Rehabilitation trust fund.** (a) There is created in the state treasury a trust fund to be designated as the rehabilitation trust fund to be administered by the department with the prior approval of the commission. Subject to P.L. 103-139, and this chapter, all moneys received from the federal government for the rehabilitation and environmental restoration of the island of Kaho'olawe, any moneys appropriated by the legislature to the trust fund, and the interest or return on investments earned from moneys in the trust fund, shall be deposited in the trust fund and shall be used to fulfill the purposes of this chapter.

(b) The commission may use moneys in the trust fund to carry out the purposes of this chapter, including hiring employees, specialists, and consultants necessary to complete projects related to the purposes of this chapter.

(c) Moneys deposited into or appropriated to the trust fund shall remain available until they are obligated or until the trust fund is repealed.

(d) The trust fund shall be repealed on July 1, 2005. The commission shall transfer to the credit of the state general fund, all unexpended or unencumbered balances remaining in the trust fund prior to June 30, 2005; provided that all unexpended or unencumbered balances of federal moneys shall be disbursed in accordance with applicable federal law."

SECTION 3. Section 6K-4, Hawaii Revised Statutes, is amended to read as follows:

**"[§6K-4] Powers and duties.** The department and other departments and agencies of the State shall be subject to the oversight of the commission with regard to the control and management of the island reserve. Subject to section 6K-6, the department shall:

- (1) Adopt rules pursuant to chapter 91 after the commission has approved the rules;
- (2) (1) Implement controls and permitted uses for the island reserve;
- (3) (2) Enforce this chapter;
- (4) (3) Provide administrative support to the commission; and
- (5) (4) Authorize [such] those of its employees as it deems reasonable and necessary to serve and execute warrants and arrest offenders or issue citations in all matters relating to enforcement of the laws and rules applicable to the island reserve."

SECTION 4. Section 6K-5, Hawaii Revised Statutes, is amended to read as follows:

**"[§6K-5] Commission.** (a) There is established the Kaho'olawe island reserve commission to be placed within the department of land and natural resources for administrative purposes as provided in section 26-35. The commission shall consist of seven members to be appointed in the manner and to serve for the terms provided in section 26-34; provided that:

- (1) One member shall be a member of the Protect Kaho'olawe Ohana;
- (2) Two members shall be appointed by the governor from a list provided by the Protect Kaho'olawe Ohana;

- (3) One member shall be a trustee or representative of the office of Hawaiian affairs;
- (4) One member shall be a county official appointed by the governor from a list provided by the mayor of the county of Maui;
- (5) One member shall be the chairperson of the board of land and natural resources; and
- (6) One member shall be appointed by the governor from a list provided by native Hawaiian organizations.

(b) The governor shall appoint the chairperson from among the members of the commission.

(c) The members of the commission shall serve without pay but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in carrying out their duties.

(d) Any action taken by the commission shall be approved by a simple majority of its members. Four members shall constitute a quorum to do business.

(e) The commission, without regard to the requirements of chapters 76 and 77, may hire employees necessary to perform its duties[, including administrative personnel, as provided in section 26-35.

(f) The commission shall adopt rules in accordance with chapter 91 to guide its conduct and shall maintain a record of its proceedings and actions].”

SECTION 5. Section 6K-6, Hawaii Revised Statutes, is amended to read as follows:

“**[§6K-6] Responsibilities and duties of the commission.** The commission shall:

- (1) Establish criteria, policies, and controls for permissible uses within the island reserve;
- (2) Approve all contracts for services and rules pertaining to the island reserve;
- (3) Provide advice to the governor, the department, and other departments and agencies on any matter relating to the island reserve;
- (4) Provide advice to the office of state planning and the department of the attorney general on any matter relating to the federal conveyance of Kaho‘olawe;
- (5) Enter into curator or stewardship agreements with appropriate Hawaiian cultural and spiritual community organizations for the perpetuation of native Hawaiian cultural, religious, and subsistence customs, beliefs, and practices for the purposes stated in section 6K-3;
- (6) Carry out those powers and duties otherwise conferred upon the board of land and natural resources and the land use commission with regard to [land] dispositions and [land use] approvals pertaining to the island reserve. All powers and duties of the board of land and natural resources and the land use commission concerning [land] dispositions and [land use] approvals pertaining to the island reserve are transferred to the commission; [and]
- (7) Carry out those powers and duties concerning the island reserve otherwise conferred upon the county of Maui by chapter 205A. The powers and duties of the county of Maui and its agencies concerning coastal zone disposition and approvals pertaining to the island reserve are transferred to the commission[.]; and

- (8) Adopt rules in accordance with chapter 91 that are necessary for the purposes of this chapter and shall maintain a record of its proceedings and actions."

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1994-1995, for the operational expenses of the Kaho'olawe island reserve commission and its staff; provided that if moneys received from the federal government for the rehabilitation and environmental restoration of the island of Kaho'olawe can be used for these purposes, the moneys appropriated by this Act shall lapse into the state general fund. The sum appropriated shall be expended by the department of land and natural resources upon the prior approval of the commission.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1, or so much thereof as may be necessary for fiscal year 1994-1995, to complete conveyance and cleanup negotiations with federal agencies. The sum appropriated shall be expended by the office of state planning.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>1</sup>

SECTION 9. This Act shall take effect upon its approval; provided that sections 6 and 7 shall take effect on July 1, 1994.

(Approved June 9, 1994.)

**Note**

1. Edited pursuant to HRS §23G-16.5.