H.B. NO. 3180

A BILL FOR AN ACT

RELATING TO THE LAND CONSERVATION FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 173A-5, Hawaii Revised Statutes, is amended to read as follows:

"**§173A-5 Land conservation fund.** (a) A land conservation fund, hereinafter called "fund", is hereby established.

(b) The proceeds from the sale of any general obligation bonds, authorized and issued for purposes of this chapter, shall be deposited in or credited to the fund.

(c) Any net proceeds or revenue from the operation, management, sale, lease, or other disposition of land or the improvements on such land, acquired or constructed by the board under the provisions of this chapter, shall also be deposited in or credited to the fund.

(d) Ten per cent of all taxes imposed and collected by section 247-1 shall be deposited in or credited to the fund every year.

(e) Moneys from any other private or public sources may be deposited in or credited to the fund, provided that mandates,

regulations, or conditions on these funds do not conflict with the use of the fund under this chapter. Moneys received as deposits or private contributions shall be deposited, used, and accounted for in accordance with the conditions established by the agencies or persons making the contribution.

[~~(e)~~] (f) The fund shall be administered and managed by the department.

[~~(f)~~] (g) The acquisition of interests or rights in land having value as a resource to the State for the preservation of:

(1) Watershed protection;

(2) Coastal areas, beaches, and ocean access;

(3) Habitat protection;

(4) Cultural and historical sites;

(5) Recreational and public hunting areas;

(6) Parks;

(7) Natural areas;

(8) Agricultural production; or

(9) Open spaces and scenic resources,

constitutes a public purpose for which public funds may be expended or advanced.

[~~(g)~~] (h) The fund shall be used for:

(1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements;

(2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State; [~~and~~]

(3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year[~~.~~]; and

(4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands, provided that these costs do not exceed five per cent of annual fund revenues of the previous year.

[~~(h)~~] (i) Based on applications from state agencies, counties, and nonprofit land conservation organizations, the department, in consultation with the senate president and speaker of the house of representatives, shall recommend to the

1 board specific parcels of land to be acquired, restricted with
2 conservation easements, or preserved in similar fashion. The
3 board shall review the selections and approve or reject the
4 selections according to the availability of moneys in the fund.
5 To be eligible for grants from the fund, state and county
6 agencies and nonprofit land conservation organizations shall
7 submit applications to the department that contain:
8 (1) Contact information for the project;
9 (2) A description of the project;
10 (3) The request for funding;
11 (4) Cost estimates for acquisition of the interest in the
12 land;
13 (5) Location and characteristics of the land; and
14 (6) Other similar, related, or relevant information as may
15 be determined by the department.
16 [~~(i)~~] (j) For applications approved by the board, the board
17 may acquire land having value as a resource to the State,
18 pursuant to section 173A-4, or the board may award grants from
19 the fund to the qualifying state or county agencies or nonprofit
20 land conservation organizations for the preservation of the real
21 property. Where the recipient of a grant is a county agency or
22 nonprofit land conservation organization, the board shall

require additional matching funds of at least twenty-five per cent of the total project costs. Matching funds may be in the form of:

(1) Direct moneys;

(2) A combination of public and private funds;

(3) Land value donation;

(4) In-kind contributions; or

(5) Any combination of the above,

and evidence of these matching funds shall be made available from the qualifying entities prior to distribution of the fund grant.

[~~(j)~~] (k) The board shall:

(1) Track amounts disbursed from the fund;

(2) Prepare an annual report to be transmitted to the governor and the legislature at least twenty days prior to the convening of each regular session of the legislature. The annual report shall include:

(A) A summary of all interests or rights in land acquired during the preceding fiscal year;

(B) A summary of what value each newly acquired land has as a resource to the State;

(C) Proposals for future land acquisitions, including a summary of the resource value that the land may possess;

(D) A financial report for the preceding fiscal year; and

(E) Objectives and budget projections for the following fiscal year; and

(3) Make copies of the annual report available to the public."

SECTION 3. Section 173A-9, Hawaii Revised Statutes, is amended to read as follows:

"**§173A-9 Grants to state agencies, counties, and nonprofit land conservation organizations.** After consultation with the senate president and speaker of the house of representatives, and subject to the approval of the governor, the board may make grants to state agencies, counties, and nonprofit land conservation organizations from available funds for the purchase or acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the purchase of permanent conservation easements under chapter 198, and approved for purchase or acquisition by the board[~~.~~], or for the operation, maintenance, and management of lands acquired

under this chapter that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands. Any land so acquired by any state agency or county may be sold, leased, or otherwise disposed of, subject to chapter 171, with the prior written approval of the board. Any land acquired by any nonprofit land conservation organization under this chapter may be sold, leased, or otherwise disposed of with the prior written approval of the board. Any permanent conservation easement established under this section that includes partnership with a federal land conservation program may be transferred only as provided by rules of the federal program."

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 380

Report Title:
Land Conservation Fund

Description:
Allows public and private moneys to be deposited into the Land Conservation Fund (Fund) and distributed as grants for acquisition of land having value as a resource to the State, and allows moneys from the Fund to be used for the operation, maintenance, and management of the acquired lands.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO THE LAND CONSERVATION FUND.

PURPOSE: To allow public and private moneys to be deposited into the Land Conservation Fund (LCF) and distributed as grants for the acquisition of land having value as a resource to the State under chapter 173A, Hawaii Revised Statutes (HRS); and to clarify that moneys from LCF may be used for the operation, maintenance, and management of lands acquired by way of this Fund.

MEANS: Amend sections 173A-5 and 173A-9, HRS.

JUSTIFICATION: As presently written, section 173A-5, HRS, does not clearly allow for donations or grants to the Legacy Land Conservation Program (chapter 173A, HRS) to be deposited in or credited to LCF. Grants or donations to the LCF that do not conflict with chapter 173A, HRS, can increase the Department's ability to permanently protect, through land acquisition grants to state agencies, county agencies, and nonprofit land conservation organizations, lands having value as a resource to the State.

Chapter 173A, HRS, outlines an approval process under which these moneys can then be awarded. For example, private or corporate donations for land acquisition, private or public mitigation payments for land acquisition, county or federal grants or legislative appropriations such as funds authorized for specific land purchases or funds available from the State's portion of the Conservation Reserve and Enhancement Program for the purchase of conservation easements to protect agricultural lands, can

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be deposited in the LCF for distribution according to chapter 173A, HRS.

This bill would also allow for the use of a portion of moneys from the LCF, not to exceed 5 percent of the annual revenue available for expenditure, to be used for operation, maintenance, and management of lands acquired under chapter 173A, HRS, that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands. This will provide needed funding for projects that do not have another source of operating funds to make improvements to lands purchased under this chapter to better meet the needs of the public for access or to protect or enhance their conservation values. Examples would be creating or improving access roads and parking areas to popular visitor sites, providing signs and fencing to regulate human use, or fencing or rehabilitating areas to restore or protect their conservation values. The allocation of funds for these types of activities would be by competitive grant or proposal and go through the same review and ranking with acquisitions. The action with the highest public good would be funded. This change also comes with the flexibility that if acquisition is a higher priority, funds for operation, maintenance, and management would not be allocated in that particular year.

Impact on the public: Greater protection of lands having value as a resource to the people of the State of Hawaii.

Impact on the department and other agencies: May increase the volume of land acquisition grants distributed under chapter 173A, HRS, and provide greater support for the acquisition of resource lands (including agricultural lands) by state agencies.

GENERAL FUND: None.

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OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: LNR 101.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: Upon approval.