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# A BILL FOR AN ACT

RELATING TO BEACH PROTECTION.

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

1           SECTION 1. The legislature finds that Hawaii's beaches are  
2 important and unique components of the array of natural  
3 resources that make our islands a special place for our  
4 residents and an attractive destination for visitors. Recent  
5 studies by researchers at the University of Hawaii indicate that  
6 our beaches are disappearing at an alarming rate, with seventy  
7 per cent of beaches undergoing chronic erosion, over thirteen  
8 miles of beach completely lost to erosion, and inappropriate  
9 shoreline development over the past century. Because of the  
10 growing demand for the use of beaches, we need to reinvest in  
11 our beaches as one of our important and valuable natural  
12 resources and conserve and restore these important assets by  
13 more efficiently distributing our limited financial resources.

14           The purpose of this Act is to:

15           (1) Allocate transient accommodations tax revenues to a  
16           beach restoration and conservation special fund;



1           (2) Effectively develop and implement plans to slow the  
2           degradation of our beaches; and

3           (3) Restore beaches through the coordination of activities  
4           involving the counties and the formation of public-  
5           private partnerships.

6           SECTION 2. Section 171-19, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8           "(a) There is created in the department a special fund to  
9 be designated as the "special land and development fund".

10 Subject to the Hawaiian Homes Commission Act of 1920, as  
11 amended, and section 5(f) of the Admission Act of 1959, all  
12 proceeds of sale of public lands, including interest on deferred  
13 payments; all moneys collected under section 171-58 for mineral  
14 and water rights; all rents from leases, licenses, and permits  
15 derived from public lands; all moneys collected from lessees of  
16 public lands within industrial parks; all fees, fines, and other  
17 administrative charges collected under this chapter and chapter  
18 183C; a portion of the highway fuel tax collected under chapter  
19 243; all moneys collected by the department for the commercial  
20 use of public trails and trail accesses under the jurisdiction  
21 of the department; transient accommodations tax revenues



1 collected pursuant to section [~~237D-6.5(b)(2)~~] 237D-6.5(b)(5);  
2 and private contributions for the management, maintenance, and  
3 development of trails and accesses shall be set apart in the  
4 fund and shall be used only as authorized by the legislature for  
5 the following purposes:

- 6 (1) To reimburse the general fund of the State for  
7 advances made that are required to be reimbursed from  
8 the proceeds derived from sales, leases, licenses, or  
9 permits of public lands;
- 10 (2) For the planning, development, management, operations,  
11 or maintenance of all lands and improvements under the  
12 control and management of the board, including but not  
13 limited to permanent or temporary staff positions who  
14 may be appointed without regard to chapter 76;
- 15 (3) To repurchase any land, including improvements, in the  
16 exercise by the board of any right of repurchase  
17 specifically reserved in any patent, deed, lease, or  
18 other documents or as provided by law;
- 19 (4) For the payment of all appraisal fees; provided that  
20 all fees reimbursed to the board shall be deposited in  
21 the fund;



- 1           (5) For the payment of publication notices as required  
2                   under this chapter; provided that all or a portion of  
3                   the expenditures may be charged to the purchaser or  
4                   lessee of public lands or any interest therein under  
5                   rules adopted by the board;
- 6           (6) For the management, maintenance, and development of  
7                   trails and trail accesses under the jurisdiction of  
8                   the department;
- 9           (7) For the payment to private land developers who have  
10                   contracted with the board for development of public  
11                   lands under section 171-60;
- 12           (8) For the payment of debt service on revenue bonds  
13                   issued by the department, and the establishment of  
14                   debt service and other reserves deemed necessary by  
15                   the board;
- 16           (9) To reimburse the general fund for debt service on  
17                   general obligation bonds issued to finance  
18                   departmental projects, where the bonds are designated  
19                   to be reimbursed from the special land and development  
20                   fund;



- 1 (10) For the protection, planning, management, and  
2 regulation of water resources under chapter 174C; and  
3 (11) For other purposes of this chapter."

4 SECTION 3. Section 171-152, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[~~f~~]**§171-152**[~~f~~] **General powers.** (a) In carrying out its  
7 functions under this part, the board may do all things  
8 necessary, useful, and convenient in connection with the  
9 restoration and conservation of beach lands, subject to all  
10 applicable laws, and may provide any necessary assistance to any  
11 county or nongovernmental organization in the restoration of  
12 beach lands so long as the public interest is served; provided  
13 that for beach restoration and conservation on privately-owned  
14 lands, the board shall be required to obtain authorization from  
15 affected property owners.

16 (b) The board or the board's designee, subject to this  
17 chapter and chapters 183C and 205A, shall maintain and manage  
18 beach lands restored and conserved pursuant to this part as well  
19 as [a] beach restoration [~~plan~~] and conservation plans described  
20 in section 171-153, subject to available funds."



1 SECTION 4. Section 171-153, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[+]§171-153[+]~~ **Beach restoration [plan-] and conservation**  
4 **plans.** The department shall prepare and, from time to time,  
5 revise plans for the restoration and conservation of beach lands  
6 of the State. These plans shall [guide]:

7 (1) Guide the board in identifying those beach lands in  
8 need of restoration which have been degraded or are  
9 threatened as a result of natural or human actions  
10 ~~[and shall designate]~~;

11 (2) Designate suitable coastal lands for the purpose of  
12 generating revenues to carry out the purposes of this  
13 section~~[+]~~;

14 (3) Include, where appropriate, county participation in  
15 the development of beach restoration and conservation  
16 plans and ongoing maintenance; and

17 (4) Include, where appropriate, the formation of a  
18 private-public partnership for the development and  
19 execution of a beach restoration and conservation  
20 plan.



1 In preparing these plans, the department may institute studies  
2 pertaining to the need for restoration and conservation of  
3 [~~such~~] beach lands and shall consider any plan relating to the  
4 restoration and conservation of [~~such~~] beach lands that has been  
5 prepared by any federal, state, county, or private agency or  
6 entity. The department may also institute other studies as  
7 necessary to support the development of beach restoration  
8 projects[~~]~~ or beach conservation plans that involve more than  
9 the nourishment of beaches with sand, including [~~the~~]:

- 10 (1) The development of socioeconomic profiles[~~]~~  
11 environmental];
- 12 (2) Environmental studies pertaining to sand source  
13 analysis, and ecological effects of beach  
14 restoration[~~]~~ cost-benefit];
- 15 (3) Cost-benefit analysis for project viability[~~]~~ and];
- 16 (4) The effect of sea level rise on beaches; and
- 17 (5) The coastal engineering studies including [~~data~~  
18 gathering-] resource assessment, studies of beach  
19 dynamics, land use plans, special management area  
20 plans, zoning ordinances, and other laws."



1 SECTION 5. Section 171-154, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~§171-154~~ **Authority to lease coastal lands.** The  
4 board, subject to this chapter, may lease public coastal lands  
5 under the board's jurisdiction for the purpose of generating  
6 revenues to be deposited into the beach restoration and  
7 conservation ~~special~~ fund. Any terms and conditions  
8 imposed by the board on the lessee shall run with the land and  
9 shall be binding on the lessee's heirs, successors, and assigns.  
10 The board may seek enforcement of such terms and conditions in  
11 any court of appropriate jurisdiction."

12 SECTION 6. Section 171-155, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 " ~~§171-155~~ **Development of public coastal lands.** On  
15 the lands subject to this part, the board may undertake  
16 appropriate development to generate revenues for beach  
17 restoration which is consistent with this chapter and chapters  
18 183C and 205A and other applicable laws. These revenues shall  
19 be deposited in the beach restoration and conservation  
20 ~~special~~ fund. For purposes of this section, "development"  
21 includes:



- 1 (1) Any building or mining operation;
- 2 (2) Any material change in use, intensity of use, or
- 3 appearance of any structure or land, fast or
- 4 submerged; or
- 5 (3) The division of land into two or more parcels."

6 SECTION 7. Section 171-156, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§171-156[+] **Beach restoration and conservation special**

9 **fund.** (a) There is established in the state treasury a special  
10 fund to be designated as the "beach restoration and conservation  
11 special fund" to carry out the purposes of this part. The  
12 following moneys shall be deposited into the beach restoration  
13 and conservation special fund:

- 14 (1) Proceeds from the lease or development of public
- 15 coastal lands designated pursuant to a beach
- 16 restoration or conservation plan, subject to the
- 17 Hawaiian Homes Commission Act of 1920, as amended, and
- 18 section 5(f) of the Admission Act of 1959;
- 19 (2) Proceeds from the lease of public lands pursuant to
- 20 this part for an existing [~~seawall or revetment,~~]
- 21 shoreline structure;



- 1 (3) Fines collected for unauthorized shoreline structures  
2 on state submerged land or conservation district land;
- 3 (4) Appropriations made by the legislature for deposit  
4 into this fund;
- 5 (5) Donations [~~and~~], contributions [~~made by~~], and matching  
6 funds to carry out beach restoration and conservation  
7 plans from private individuals or organizations for  
8 deposit into this fund;
- 9 (6) Fees collected for the processing of applications for  
10 coastal and beach erosion control projects; [~~and~~]
- 11 (7) Transient accommodations tax revenues allocated  
12 pursuant to section 237D-6.5; and
- 13 [~~(7)~~] (8) Grants provided by governmental agencies or any  
14 other source.
- 15 (b) The beach restoration and conservation special fund  
16 may be used by the department for one or more of the following  
17 purposes:
- 18 (1) Planning, designing, development, or implementation of  
19 beach restoration and conservation projects, and all  
20 things necessary, useful, and convenient in connection



1           with the restoration and conservation of beach lands,  
2           pursuant to this part; and  
3           (2) Providing grants to the counties, nongovernmental  
4           organizations, and the University of Hawaii for the  
5           restoration and conservation of beach lands and for  
6           research or engineering studies necessary to support  
7           beach restoration and conservation projects, subject  
8           to this part."

9           SECTION 8. Section 237D-6.5, Hawaii Revised Statutes, is  
10          amended by amending subsection (b) to read as follows:

11          "(b) Revenues collected under this chapter shall be  
12          distributed as follows, with the excess revenues to be deposited  
13          into the general fund:

14           (1) \$26,500,000 shall be allocated to the convention  
15           center enterprise special fund established under  
16           section 201B-8;

17           (2) \$82,000,000 shall be allocated to the tourism special  
18           fund established under section 201B-11; provided that:

19           (A) Beginning on July 1, 2012, and ending on June 30,  
20           2015, \$2,000,000 shall be expended from the  
21           tourism special fund for development and



1 implementation of initiatives to take advantage  
2 of expanded visa programs and increased travel  
3 opportunities for international visitors to  
4 Hawaii;

5 (B) Of the \$82,000,000 allocated:

6 (i) \$1,000,000 shall be allocated for the  
7 operation of a Hawaiian center and the  
8 museum of Hawaiian music and dance at the  
9 Hawaii convention center; and

10 (ii) 0.5 per cent of the \$82,000,000 shall be  
11 transferred to a sub-account in the tourism  
12 special fund to provide funding for a safety  
13 and security budget, in accordance with the  
14 Hawaii tourism strategic plan 2005-2015; and

15 (C) Of the revenues remaining in the tourism special  
16 fund after revenues have been deposited as  
17 provided in this paragraph and except for any sum  
18 authorized by the legislature for expenditure  
19 from revenues subject to this paragraph,  
20 beginning July 1, 2007, funds shall be deposited  
21 into the tourism emergency trust fund,



1           established in section 201B-10, in a manner  
2           sufficient to maintain a fund balance of  
3           \$5,000,000 in the tourism emergency trust fund;  
4       (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000  
5           for fiscal year 2015-2016, and \$93,000,000 for each  
6           fiscal year thereafter shall be allocated as follows:  
7           Kauai county shall receive 14.5 per cent, Hawaii  
8           county shall receive 18.6 per cent, city and county of  
9           Honolulu shall receive 44.1 per cent, and Maui county  
10          shall receive 22.8 per cent; provided that commencing  
11          with fiscal year 2018-2019, a sum that represents the  
12          difference between a county public employer's annual  
13          required contribution for the separate trust fund  
14          established under section 87A-42 and the amount of the  
15          county public employer's contributions into that trust  
16          fund shall be retained by the state director of  
17          finance and deposited to the credit of the county  
18          public employer's annual required contribution into  
19          that trust fund in each fiscal year, as provided in  
20          section 87A-42, if the respective county fails to



1 remit the total amount of the county's required annual  
2 contributions, as required under section 87A-43;

3 (4) \$3,000,000 shall be allocated to the Turtle Bay  
4 conservation easement special fund established under  
5 section 201B-8.6 for the payment of debt service on  
6 revenue bonds, the proceeds of which were used to  
7 acquire the conservation easement in Turtle Bay, Oahu,  
8 until the bonds are fully amortized; ~~and~~

9 (5) ~~[Of the excess revenues deposited into the general~~  
10 ~~fund pursuant to this subsection,]~~ \$3,000,000 shall be  
11 allocated ~~[subject to the mutual agreement]~~ and  
12 deposited into the special land and development fund  
13 of the ~~[board]~~ department of land and natural  
14 resources ~~[and the board of directors of the Hawaii~~  
15 ~~tourism authority]~~; provided that the allocation shall  
16 be expended in accordance with the Hawaii tourism  
17 authority strategic plan for:

18 (A) The protection, preservation, and enhancement of  
19 natural resources important to the visitor  
20 industry;



1 (B) Planning, construction, and repair of facilities;  
2 and

3 (C) Operation and maintenance costs of public lands  
4 connected with enhancing the visitor  
5 experience[-]; and

6 (6) Beginning July 1, 2015, \$3,000,000 shall be annually  
7 allocated to the beach restoration and conservation  
8 special fund established in section 171-156 until a  
9 fund balance of \$5,000,000 is achieved; thereafter,  
10 funds shall be allocated from the beach restoration  
11 and conservation special fund in a manner sufficient  
12 to maintain a fund balance of \$5,000,000.

13 All transient accommodations taxes shall be paid into the  
14 state treasury each month within ten days after collection and  
15 shall be kept by the state director of finance in special  
16 accounts for distribution as provided in this subsection.

17 As used in this subsection, "fiscal year" means the twelve-  
18 month period beginning on July 1 of a calendar year and ending  
19 on June 30 of the following calendar year."



1           SECTION 9. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 10. This Act shall take effect upon its approval.



**Report Title:**

Transient Accommodations Tax; Beach Restoration and Conservation Plan; Beach Restoration and Conservation Special Fund; Board of Land and Natural Resources; Hawaii Tourism Authority

**Description:**

Expands the scope of the Department of Land and Natural Resources' Beach Restoration Plans to include beach conservation. Allocates funds from the Transient Accommodations Tax to be used in accordance with the Hawaii Tourism Strategic Plan and for beach restoration and conservation. (HB444 HD2)

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