

JAN 23 2015

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 70 per
7 cent of beaches undergoing chronic erosion, over thirteen miles
8 of beach completely lost to erosion, and inappropriate shoreline
9 development over the past century. Because of the growing
10 demand for the use of beaches, we need to reinvest in our
11 beaches as one of our important and valuable natural resources
12 and conserve and restore these important assets by more
13 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 171-152, Hawaii Revised Statutes, is
7 amended to read as follows:

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

18 (b) The board or the board's designee, subject to this
19 chapter and chapters 183C and 205A, shall maintain and manage
20 beach lands restored and conserved pursuant to this part as well



1 as [a] beach restoration [~~plan~~] and conservation plans described
2 in section 171-153, subject to available funds."

3 SECTION 3. Section 171-153, Hawaii Revised Statutes, is
4 amended to read as follows:

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

- 9 (1) Guide the board in identifying those beach lands in
10 need of restoration which have been degraded or are
11 threatened as a result of natural or human actions
12 [~~and shall designate~~];
- 13 (2) Designate suitable coastal lands for the purpose of
14 generating revenues to carry out the purposes of this
15 section~~[-]~~;
- 16 (3) Include, where appropriate, county participation in
17 the development of beach restoration and conservation
18 plans and on-going maintenance; and
- 19 (4) Include, where appropriate, the formation of a
20 private-public partnership for the development and



1 execution of a beach restoration and conservation
2 plan.

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

12 (1) The development of socioeconomic profiles [~~]~~
13 environmental] ;

14 (2) Environmental studies pertaining to sand source
15 analysis, and ecological effects of beach
16 restoration [~~]~~ cost-benefit] ;

17 (3) Cost-benefit analysis for project viability [~~]~~ and] ;

18 (4) The effect of sea level rise on beaches; and

19 (5) The coastal engineering studies including [~~data~~
20 gathering.] resource assessment, studies of beach



1 dynamics, land use plans, special management area
2 plans, zoning ordinances, and other laws."

3 SECTION 4. Section 171-154, Hawaii Revised Statutes, is
4 amended to read as follows:

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

14 SECTION 5. Section 171-155, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " [f]§171-155 [f] Development of public coastal lands. On
17 the lands subject to this part, the board may undertake
18 appropriate development to generate revenues for beach
19 restoration which is consistent with this chapter and chapters
20 183C and 205A and other applicable laws. These revenues shall
21 be deposited in the beach restoration and conservation



1 []special[] fund. For purposes of this section, "development"
2 includes:

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

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

10 " []§171-156[] Beach restoration and conservation special
11 fund. (a) There is established in the state treasury a special
12 fund to be designated as the "beach restoration and conservation
13 special fund" to carry out the purposes of this part. The
14 following moneys shall be deposited into the beach restoration
15 and conservation special fund:

- 16 (1) Proceeds from the lease or development of public
17 coastal lands designated pursuant to a beach
18 restoration or conservation plan, subject to the
19 Hawaiian Homes Commission Act of 1920, as amended, and
20 section 5(f) of the Admission Act of 1959;



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



- 1 (1) Planning, designing, development, or implementation of
2 beach restoration and conservation projects, and all
3 things necessary, useful, and convenient in connection
4 with the restoration and conservation of beach lands,
5 pursuant to this part; and
- 6 (2) Providing grants to the counties, nongovernmental
7 organizations, and the University of Hawaii for the
8 restoration and conservation of beach lands and for
9 research or engineering studies necessary to support
10 beach restoration and conservation projects, subject
11 to this part."

12 SECTION 7. Section 237D-6.5, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

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

- 17 (1) \$26,500,000 shall be allocated to the convention
18 center enterprise special fund established under
19 section 201B-8;
- 20 (2) \$82,000,000 shall be allocated to the tourism special
21 fund established under section 201B-11; provided that:



- 1 (A) Beginning on July 1, 2012, and ending on June 30,
2 2015, \$2,000,000 shall be expended from the
3 tourism special fund for development and
4 implementation of initiatives to take advantage
5 of expanded visa programs and increased travel
6 opportunities for international visitors to
7 Hawaii;
- 8 (B) Of the \$82,000,000 allocated:
- 9 (i) \$1,000,000 shall be allocated for the
10 operation of a Hawaiian center and the
11 museum of Hawaiian music and dance at the
12 Hawaii convention center; and
- 13 (ii) 0.5 per cent of the \$82,000,000 shall be
14 transferred to a sub-account in the tourism
15 special fund to provide funding for a safety
16 and security budget, in accordance with the
17 Hawaii tourism strategic plan 2005-2015; and
- 18 (C) Of the revenues remaining in the tourism special
19 fund after revenues have been deposited as
20 provided in this paragraph and except for any sum
21 authorized by the legislature for expenditure



1 from revenues subject to this paragraph,
2 beginning July 1, 2007, funds shall be deposited
3 into the tourism emergency trust fund,
4 established in section 201B-10, in a manner
5 sufficient to maintain a fund balance of
6 \$5,000,000 in the tourism emergency trust fund;
7 (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000
8 for fiscal year 2015-2016, and \$93,000,000 for each
9 fiscal year thereafter shall be allocated as follows:
10 Kauai county shall receive 14.5 per cent, Hawaii
11 county shall receive 18.6 per cent, city and county of
12 Honolulu shall receive 44.1 per cent, and Maui county
13 shall receive 22.8 per cent; provided that commencing
14 with fiscal year 2018-2019, a sum that represents the
15 difference between a county public employer's annual
16 required contribution for the separate trust fund
17 established under section 87A-42 and the amount of the
18 county public employer's contributions into that trust
19 fund shall be retained by the state director of
20 finance and deposited to the credit of the county
21 public employer's annual required contribution into



1 that trust fund in each fiscal year, as provided in
 2 section 87A-42, if the respective county fails to
 3 remit the total amount of the county's required annual
 4 contributions, as required under section 87A-43;

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

11 (5) ~~[Of the excess revenues deposited into the general~~
 12 ~~fund pursuant to this subsection,]~~ \$3,000,000 shall be
 13 allocated ~~[subject to the]~~ to the special land and
 14 development fund to be expended according to a mutual
 15 agreement of the board of land and natural resources
 16 and the board of directors of the Hawaii tourism
 17 authority in accordance with the [Hawaii tourism
 18 authority] long-range strategic plan for tourism
 19 developed by the Hawaii tourism authority for:



- 1 (A) The protection, preservation, and enhancement of
2 natural resources important to the visitor
3 industry;
- 4 (B) Planning, construction, and repair of facilities;
5 and
- 6 (C) Operation and maintenance costs of public lands
7 connected with enhancing the visitor
8 experience [-]; and
- 9 (6) Beginning July 1, 2015, \$3,000,000 shall be annually
10 allocated to the beach restoration and conservation
11 special fund established in section 171-156 until a
12 fund balance of \$7,000,000 is achieved; thereafter,
13 funds shall be allocated from the beach restoration
14 and conservation special fund in a manner sufficient
15 to maintain a fund balance of \$7,000,000.

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



S.B. NO. 617

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

4 SECTION 8. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 9. This Act shall take effect on July 1, 2015.

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S.B. NO. 617

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:

Incorporates beach land conservation under the general powers of the board of land and natural resources. Expands the department of land and natural resources' beach restoration plans to include beach conservation plans. Requires beach restoration plans to include, where appropriate, county participation and the formation of private-public partnerships. Allows the department of land and natural resources to include studies about the effect of sea level rise and other coastal engineering studies when developing beach conservation plans that involve more than the nourishment of beaches with sand. Renames the "beach restoration special fund" as the "beach restoration and conservation special fund". Permits proceeds from the lease of public lands for an existing shoreline structure, matching funds to carry out a beach restoration and conservation plans, from private individuals or organizations, and transient accommodations tax revenues to be deposited into the beach restoration and conservation special fund. Allows moneys from the beach restoration and conservation special fund to be used for conservation projects and all things necessary, useful, and convenient in connection with the restoration and conservation of beach lands. Allocates \$3,000,000 of transient accommodations tax revenues to the special land and development fund to be expended by the board of land and natural resources and board of directors of the Hawaii tourism authority, under a mutual agreement. Allocates an annual amount of \$3,000,000 of transient accommodations tax revenues to the beach restoration and conservation special fund and requires the fund to maintain a balance of \$7,000,000 once that balance is achieved.

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