

JAN 23 2020

---

---

# A BILL FOR AN ACT

RELATING TO CONSERVATION.

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

1           SECTION 1. The legislature finds that human activities  
2 have contributed to the fragility of local habitats, leading to  
3 a current crisis in the survival of Hawaiian plants and animals  
4 and impacting public and private land use. Chapter 195D, Hawaii  
5 Revised Statutes, provides that the intended purpose of all  
6 habitat conservation plans, safe harbor agreements, incidental  
7 take licenses, and subsequent actions is to promote recovery of  
8 Hawaii's threatened and endangered species.

9           The purpose of this Act is to:

- 10           (1) Establish a habitat conservation program manager  
11                 position within the department of land and natural  
12                 resources and appropriate funds for the initial  
13                 establishment of the position; and
- 14           (2) Charge habitat conservation plan applicants an hourly  
15                 fee for all assistance provided by the habitat  
16                 conservation program manager, which shall be used to



1           maintain the habitat conservation program manager  
2           position.

3           The legislature further finds that effective implementation  
4 of Hawaii's endangered species law, section 195D-4, Hawaii  
5 Revised Statutes, requires resources for adequate staffing.  
6 Currently, the department of land and natural resources division  
7 of forestry and wildlife has three administrative positions to  
8 manage statewide projects, plus additional staff supported by  
9 grants to produce standalone habitat conservation plans. The  
10 incidental take licenses currently issued or approved by the  
11 board of land and natural resources for these plans and  
12 agreements cover at least forty-five threatened or endangered  
13 species on five islands, and the department of land and natural  
14 resources is currently processing additional draft habitat  
15 conservation plans and consulting on other potential projects  
16 that will add at least fifteen more species. The State's  
17 initiative to reach one hundred per cent renewable energy by  
18 2045 is another factor that will likely result in more requests  
19 for incidental take licenses. The legislature finds that  
20 funding a state civil service position to draft rules that  
21 implement and clarify the intent of chapter 195D, Hawaii Revised



1 Statutes, work with applicants for incidental take licenses to  
2 develop their projects to minimize and mitigate incidental take  
3 of threatened and endangered species to the maximum extent  
4 practicable, and track and monitor funds and expenditures  
5 related to each habitat conservation plan project would further  
6 improve the implementation of chapter 195D, Hawaii Revised  
7 Statutes. This would provide greater consistency in issuing  
8 incidental take licenses, conducting follow-up monitoring for  
9 development projects, and implementing and managing mitigation  
10 and other projects that are extremely beneficial for the  
11 recovery of Hawaii's threatened and endangered species.

12 SECTION 2. Chapter 195D, Hawaii Revised Statutes, is  
13 amended by adding a new section to part II to be appropriately  
14 designated and to read as follows:

15 "§195D-\_\_\_\_\_ Habitat conservation program manager; fees.

16 (a) There is established within the department a habitat  
17 conservation program manager position. The habitat conservation  
18 program manager shall draft rules that implement and clarify the  
19 intent of this chapter, work with applicants for incidental take  
20 licenses, as part of a habitat conservation plan, to develop  
21 their projects to minimize and mitigate incidental take of



1 threatened and endangered species to the maximum extent  
2 practicable, effectively track and monitor funds and  
3 expenditures related to habitat conservation plans, conduct  
4 follow-up monitoring for development projects, and implement and  
5 manage mitigation and other projects that benefit the recovery  
6 of threatened and endangered species.

7 (b) The department shall charge all habitat conservation  
8 plan applicants an hourly rate of \$50 for all assistance  
9 provided to applicants by the habitat conservation program  
10 manager relating to their habitat conservation plan, including  
11 incidental take licenses. The fees collected pursuant to this  
12 subsection shall be deposited into the endangered species trust  
13 fund established under section 195D-31. The fee established by  
14 this subsection shall be in addition to any other applicable  
15 fee."

16 SECTION 3. Section 195D-23, Hawaii Revised Statutes, is  
17 amended by amending subsection (d) to read as follows:

18 (d) The department [~~may~~] shall establish a habitat  
19 conservation technical assistance program to assist landowners  
20 in developing, reviewing, or monitoring habitat conservation  
21 plans by providing technical assistance. The department may



1 collect fees and payment for costs incurred for use of the  
2 technical assistance program in the development, review, or  
3 monitoring of a specific habitat conservation plan. Fees shall  
4 be charged at an hourly rate of \$50. The fees and payment for  
5 costs collected pursuant to this subsection shall be deposited  
6 into the endangered species trust fund established under section  
7 195D-31."

8 SECTION 4. Section 195D-31, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10 "(a) There is established within the state treasury a  
11 trust fund to be known as the endangered species trust fund to  
12 be administered by the department to implement the purposes of  
13 this chapter.

14 The fund shall consist of moneys from the following  
15 sources:

- 16 (1) Moneys accrued from the sale of retail items  
17 officially sponsored by the department for the fund;
- 18 (2) Private contributions for the management and recovery  
19 of Hawaii's unique plants and animals;
- 20 (3) Fees and assessments charged for the use of public  
21 land and waters and designated for the fund;



- 1 (4) Penalties, fines, or auctions resulting from
- 2 enforcement violations;
- 3 (5) Legislative appropriations; [~~and~~]
- 4 (6) Moneys deposited to implement the obligations of a
- 5 habitat conservation plan, as security for habitat
- 6 conservation plan funding, or technical assistance
- 7 program fees and payment for costs incurred for use of
- 8 the technical assistance program as set forth in
- 9 section 195D-23(d) [~~-~~]; and
- 10 (7) Fees collected for assistance provided by the habitat
- 11 conservation program manager as set forth in section
- 12 195D- ; provided that the fees shall be used to
- 13 maintain the habitat conservation manager position
- 14 established pursuant to section 195D- ."

15 SECTION 5. There is appropriated out of the general  
 16 revenues of the State of Hawaii the sum of \$ or so  
 17 much thereof as may be necessary for fiscal year 2020-2021 for  
 18 start-up costs for one full-time equivalent (1.0 FTE) state  
 19 civil service position established pursuant to section 2 of this  
 20 Act.



# S.B. NO. 3050

1 The sum appropriated shall be expended by the department of  
2 land and natural resources for the purposes of this Act.

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval;  
6 provided that section 5 shall take effect on July 1, 2020.

7

INTRODUCED BY:

*Piliviere*

*Rosely de Becker*

*Wadhvani*

*M*

~~*Wadhvani*~~

*Kurt Faller*

*Breanna Hunt*



# S.B. NO. 3050

**Report Title:**

Department of Land and Natural Resources; Habitat Conservation Plans; Incidental Take Licenses; Staff Position; Appropriation

**Description:**

Establishes a habitat conservation program manager position to be funded from fees charged to applicants for assistance provided to habitat conservation plan (HCP) applicants. Requires the habitat conservation program manager to draft rules that implement and clarify the intent of chapter 195D, Hawaii Revised Statutes, work with applicants for incidental take licenses, as part of a HCP, to develop their projects to minimize and mitigate incidental take of threatened and endangered species to the maximum extent practicable, effectively track and monitor funds and expenditures related to habitat conservation plans, conduct follow-up monitoring for development projects, and implement and manage mitigation and other projects that benefit the recovery of threatened and endangered species. Appropriates funds.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

