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



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

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

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

8 Subject to the Hawaiian Homes Commission Act of 1920, as
9 amended, and section 5(f) of the Admission Act of 1959, all
10 proceeds of sale of public lands, including interest on deferred
11 payments; all moneys collected under section 171-58 for mineral
12 and water rights; all rents from leases, licenses, and permits
13 derived from public lands; all moneys collected from lessees of
14 public lands within industrial parks; all fees, fines, and other
15 administrative charges collected under this chapter and chapter
16 183C; a portion of the highway fuel tax collected under chapter
17 243; all moneys collected by the department for the commercial
18 use of public trails and trail accesses under the jurisdiction
19 of the department; transient accommodations tax revenues
20 collected pursuant to section [~~237D-6.5(b)(2)~~], 237D-6.5(b)(5);
21 and private contributions for the management, maintenance, and



1 development of trails and accesses shall be set apart in the
2 fund and shall be used only as authorized by the legislature for
3 the following purposes:

- 4 (1) To reimburse the general fund of the State for
5 advances made that are required to be reimbursed from
6 the proceeds derived from sales, leases, licenses, or
7 permits of public lands;
- 8 (2) For the planning, development, management, operations,
9 or maintenance of all lands and improvements under the
10 control and management of the board[7] pursuant to
11 title 12, including but not limited to permanent or
12 temporary staff positions who may be appointed without
13 regard to chapter 76[7], provided that transient
14 accommodations tax revenues allocated pursuant to
15 section 237D-6.5(b)(5) shall be expended in accordance
16 with the Hawaii tourism authority strategic plan as
17 provided in section 237D-6.5(b)(5);
- 18 (3) To repurchase any land, including improvements, in the
19 exercise by the board of any right of repurchase
20 specifically reserved in any patent, deed, lease, or
21 other documents or as provided by law;



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



1 to be reimbursed from the special land and development
2 fund;

3 (10) For the protection, planning, management, and
4 regulation of water resources under chapter 174C; and

5 (11) For other purposes of this chapter."

6 SECTION 3. 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 4. 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 [~~7~~] or beach conservation plans that involve more than
11 the nourishment of beaches with sand, including [~~the~~]:

- 12 (1) The development of socioeconomic profiles [~~7~~
13 environmental];
- 14 (2) Environmental studies pertaining to sand source
15 analysis, and ecological effects of beach
16 restoration [~~7~~ ~~cost-benefit~~];
- 17 (3) Cost-benefit analysis for project viability [~~7~~ ~~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 5. Section 171-154, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§171-154[+] **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 [+]special[+] 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 6. Section 171-155, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§171-155[+] **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 and conservation which is consistent with this
20 chapter and chapters 183C and 205A and other applicable laws.
21 These revenues shall be deposited in the beach restoration and



1 conservation [{}special[{}] fund. For purposes of this section,

2 "development" 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 7. 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 8. 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 mutual agreement of the~~
14 ~~board of land and natural resources and the board of~~
15 ~~directors of the Hawaii tourism authority]~~ to the
16 special land and development fund established under
17 section 171-19, to be expended pursuant to title 12 in
18 accordance with the ~~[Hawaii tourism authority]~~ long-
19 range strategic plan for tourism developed by the
20 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 state parks, beaches, and trails, and costs
8 associated with improving enforcement of
9 ancillary regulations, connected with enhancing
10 the visitor experience [-]; and
- 11 (6) Beginning July 1, 2015, \$3,000,000 shall be annually
12 allocated to the beach restoration and conservation
13 special fund established in section 171-156 until a
14 fund balance of \$7,000,000 is achieved; thereafter,
15 funds shall be allocated from the beach restoration
16 and conservation special fund in a manner sufficient
17 to maintain a fund balance of \$7,000,000.

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



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 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7



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 in accordance with the long-range strategic plan for tourism. 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. (SD1)

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