
A BILL FOR AN ACT

RELATING TO STATE FINANCES.

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

SECTION 1. The legislature finds that Hawaii's natural environment faces significant pressure from climate change and the heavy use it receives from persons traveling to enjoy the State's natural resources. Climate change and overuse are placing our natural and cultural resources in increasing peril creating greater risk of fire, flood, coastal erosion, loss of reefs, and pollution of our air and water supplies threatening lives, homes, visitor accommodations, fisheries, stability of other natural systems, and irreplaceable Hawaiian cultural landscapes enjoyed by Hawaii residents and tourists. The current underinvestment in our natural and cultural resources significantly limits the ability of the State and our communities to improve management of our lands, waters, and cultural sites to reduce these risks and to respond to climate crises when they occur. Climate change will intensify and increase the threat of these emergencies unless we take significantly greater action now to prevent them.

The recent tragedy on Maui due to the Lahaina wildfire resulted in unbearable loss of lives, homes, infrastructure, and businesses, and will have severe economic costs for residents and public agencies to pay for the response, remediation, and rebuilding, as well as ongoing revenue losses for Hawaii's tourism industry and state and local

governments. This tragic event is a wake-up call for all Hawaii residents, businesses, and public agencies to significantly increase efforts to prevent climate crises and limit the damage when crises do occur.

Non-native grasses and other non-native plants, mismanaged lands, and reduced water availability present continuing wildfire risks to the lives and homes of Hawaii residents, hotels and other visitor accommodations, native ecosystems and cultural landscapes, and Hawaii's tourism-dependent economy. In addition to wildfires, climate crises also result from the loss and degradation of our coral reefs that protect homes, beaches, businesses, and infrastructure from coastal erosion. Coastal erosion often exposes and damages historic Hawaiian burials as sand dunes were a traditional burial location across Hawaii. Furthermore, the degradation of coral reefs threatens fisheries and other ocean life that are important to the State's tourism industry, provides food for residents, and contributes significantly to Hawaii's quality of life. Hawaii's forests and other watershed lands are critical to the quality and the quantity of water that sustains families, visitors, businesses, and native fish and wildlife. Hawaii's water supplies will be impaired unless greater action is taken to protect and restore forest and watershed lands in the State.

The legislature also finds that climate change will cause more frequent and severe droughts that threaten the water supplies that sustain homes, visitor accommodations, and sensitive natural and cultural resources. Climate change will also cause more intense storms leading to more floods causing water contamination; damage to homes, businesses, and infrastructure; and risk of life and health.

The legislature further finds that the number of floods per year has already sharply increased since the 1960s and is expected to keep

rising. Significant pollution events and chronic release of contaminants weaken the resiliency of Hawaii's natural environment and pollutes the air, land, fresh water supplies, and nearshore waters threatening the health of Hawaii residents, visitors, and fish and wildlife.

Climate crises can cost taxpayers billions of dollars in response and recovery costs and repairs to infrastructure, while reducing revenues especially if the crises adversely impact tourism and other industries. The costs borne by the public to respond to and recover from climate crises exceeds the costs of preventing them by billions of dollars.

Climate change is impacting health in a myriad of ways, including by leading to death and illness from increasingly frequent extreme weather events such as heatwaves, storms, and floods; disrupting food systems; and increasing zoonoses and food-, water-, and vector-borne diseases and mental health issues. Climate change can disrupt food availability, reduce access to food, and affect food quality. Projected increases in temperatures, changes in precipitation patterns, changes in extreme weather events, and reductions in water availability may all result in reduced agricultural productivity and disrupt food chain supply, which could be detrimental to the Hawaiian islands.

The work of the department of land and natural resources and other departments, agencies, and community partners directly improves the health and sustainability of Hawaii's lands, waters, and cultural sites through actions such as fencing in native forests to restrict ungulates and stop the spread of invasive species and diseases such as rapid ohia death, stream surveys to monitor native stream species health and water levels, and restoring coral reefs through propagation and release of sea urchins. Hawaii has many of the solutions to prevent and mitigate

climate crises by looking to indigenous Hawaiian land, water, ocean, and cultural site stewardship practices. Perpetuation of traditional Hawaiian management practices, including fishponds, loi kalo, and mauka-makai ahupuaa management, results in increased groundwater recharge, decreased sediment reaching the ocean and reefs, increased community volunteerism, and increased public education and changed behaviors about pono stewardship practices.

While the State has many of the solutions for prevention, the State and the counties currently do not have the needed resources to implement even the highest priority climate crises prevention measures.

Furthermore, delays in federal reimbursements, when available, make it difficult to sustain response efforts when climate crises strike. The State has a compelling and urgent need to increase funding to prevent climate crises and fully respond to crises when they occur.

The purpose of this Act is to establish the climate health and environmental action special fund to prevent climate crises and more effectively respond to climate crises when they occur.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

CLIMATE HEALTH AND ENVIRONMENTAL ACTION SPECIAL FUND

§ -1 Definitions. As used in this chapter, unless the context otherwise requires:

"Climate crisis" means but is not limited to wildfires; sea level rise and coastal erosion resulting in loss of beaches, public infrastructure, and public facilities; exposure and damage to coastal burials; loss or degradation of reefs; extreme heat; droughts; floods; and pollution that contaminates drinking water or nearshore waters.

"Chairperson" means the chairperson of the board of land and

natural resources.

"Department" means the department of land and natural resources.

"Fund" means the climate health and environmental action special fund.

"Nonprofit organization" means an organization that has been granted tax exempt status by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that has among its charitable purposes preventing or responding to climate crises; preservation, restoration, or management of natural or cultural resources for cultural perpetuation, scientific, historic, educational, recreational, scenic, wildlife, or open-space purposes; protection of the natural environment or biological resources, or both; preservation, enhancement, or both, of wildlife; and protection of native Hawaiian cultural resources and practices related thereto.

"Resilience" includes but is not limited to actions with the ability to anticipate, prevent, prepare for, and respond to climate crises events, trends, or disturbances.

§ -2 Climate health and environmental action special fund. (a)

There is established in the state treasury the climate health and environmental action special fund to be administered by the chairperson of the department to minimize the impacts of, and respond to, climate crises.

(b) Moneys from the fund shall be expended only for the following purposes:

(1) Wildfire prevention and response strategies to protect communities, sites frequented by tourists and other visitors, and sensitive environmental and cultural resources. Highest priority shall be placed on environmentally beneficial wildfire prevention strategies including removal of non-native grasses and other non-native vegetation; propagation and planting of native species; restoration of stream flows; restoration of forests and watersheds; and restoration, or establishment and enhancement of traditional Hawaiian land management and agricultural practices;

(2) Flood prevention;

(3) Coral reef protection and restoration and other environmentally beneficial strategies that protect fisheries or help prevent shoreline erosion and coastal flooding;

(4) Emergency drinking water supplies when droughts or water pollution prevent the traditional water supplies from meeting the drinking water needs of residents and visitors. Measures may include, but are not limited to, conservation measures, temporary extension of pipelines, and the use of trucks or other vehicles needed to deliver emergency water supplies;

(5) Provision of emergency sources of electricity from portable renewable energy sources, as needed, for communities adversely impacted by a climate crisis;

(6) Heat management including green infrastructure and programs that plant trees and vegetation that can cool ecosystems, and help keep buildings and their surroundings cooler;

(7) Shoreline restoration and coastal management to address and adapt to sea level rise and coastal erosion;

(8) Other environmentally compatible strategies to prevent or reduce the potential harm that climate crises can cause;

(9) Protection of lives, homes, businesses, sites popular with tourists and other visitors, and infrastructure when climate crises occur;

(10) Perpetuation of indigenous Hawaiian land, water, ocean, and cultural site stewardship practices;

(11) Preparation of climate crises prevention and response strategies and plans; and

(12) Costs to administer this chapter.

(c) In allocating funding for prevention projects, the department shall prioritize projects that include one or more of the following features:

(1) Projects that are cost-effective; or

(2) Projects that provide significant benefits relative to their cost, are equitable, protect homes, protect and improve native fish and wildlife habitat, protect natural and cultural resources including but not limited to those that are important to the tourism industry, and provide nature-based or indigenous-led solutions to help prevent climate crises. These priorities are not listed in priority order.

The department shall allocate at least twenty-five per cent of the funds each year for grants to counties and nonprofit organizations to plan for and implement climate crisis prevention projects consistent with this section.

(d) Grants shall be made to counties and nonprofit organizations to plan for and implement climate crisis prevention projects consistent with subsection (c). Applications for grants shall be made to the department and contain such information as the department shall require by rules adopted pursuant to chapter 91. At a minimum, the applicant must show that:

(1) The grant shall be used exclusively for activities consistent with the purposes of this chapter;

(2) The applicant shall have applied for or received all applicable licenses and permits;

(3) The applicant shall comply with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, color, national origin, religion, creed, sex, age, sexual orientation, disability, or any other characteristic protected under applicable federal or state law;

(4) The applicant shall comply with other requirements as the department may prescribe;

(5) All activities and improvements undertaken with funds received shall comply with all applicable federal, state, and county statutes and ordinances, including applicable building codes and agency rules; and

(6) The applicant shall indemnify and save harmless the State of Hawaii and its officers, agents, and employees from and against any and all claims arising out of or resulting from activities carried out or projects undertaken with funds provided hereunder, and procure sufficient insurance to provide this

indemnification if requested to do so by the department.

(e) To receive a grant under this section an applicant shall:

(1) Be either:

- (A) A nonprofit community-based organization determined to be exempt from federal income taxation by the Internal Revenue Service;
- (B) A cooperative association; or
- (C) An organization providing technical assistance;

(2) In the case of a nonprofit organization, have a governing board whose members have no material conflict of interest and serve without compensation, have bylaws or policies that describe the manner in which business is conducted and policies relating to nepotism and management of potential conflict of interest situations, and employ or contract with not more than two members of a family or kin of the first or second degree unless specifically permitted by the department;

(3) Agree to make available to the department all records the applicant may have relating to the grant, to allow state agencies to monitor the applicant's compliance with the purpose of this chapter; and

(4) Establish, to the satisfaction of the department, that sufficient funds are available for the effective operation of the activity, business, enterprise, or technical assistance for the purpose for which the grant is awarded.

(f) The following shall be deposited into the fund:

(1) Revenues raised pursuant to section 237D-2(f);

(2) Revenues directed to the fund by the chairperson from site-based and other fees established by the department; and

(3) Other moneys appropriated to the fund by the legislature.

§ -3 **Revenue bonds.** To the extent necessary, with the approval of the governor and with the required legislative authorization, the chairperson and the director of finance may provide for the issuance of

revenue bonds pursuant to part III of chapter 39 to be paid for from revenues received pursuant to section -2(c) and section 237D-2(f).

§ -4 Reimbursements. (a) The department may seek reimbursement for fund expenditures related to climate crises.

(b) Damages for which recipients of funds are liable under this chapter include, but are not limited to:

(1) All costs of response, containment, removal, and treatment including, but not limited to, monitoring and administration costs incurred as a result of responding to the climate crisis;

(2) Provision of emergency drinking water supplies; and

(3) Injury to, destruction of or loss of, natural resources, including, but not limited to the reasonable costs of treating, restoring or replacing water supplies; rehabilitating fish, wildlife, habitat, and other natural resources; and reasonable costs of assessing those losses.

(c) Any damages recovered under this section shall be in addition to and shall not count against the recovery of any other damages or other costs recovered pursuant to other laws.

(d) Moneys recovered from responsible parties under this section shall be deposited into the fund, except for costs necessary to reimburse the department of the attorney general for any costs associated with recovery of those damages.

§ -5 Technical advisory committee. (a) The chairperson shall appoint a technical advisory committee to advise the department on strategies to prevent and respond to climate crises.

(b) The technical advisory committee shall include, but shall not be limited to:

(1) Experts in wildfire prevention and response;

(2) Experts in coral reef, forest, stream, and watershed protection and restoration;

(3) Experts in the protection, restoration, and cultural stewardship of native Hawaiian cultural sites;

- (4) Experts in providing emergency drinking water and other resources that can help minimize the impact of climate crises on residents and visitors;
- (5) Experts in climate change resilience, including indigenous land and water stewardship practices;
- (6) At least one representative from each county; and
- (7) Other experts as identified by the chairperson.

(c) The technical advisory committee shall meet at least twice each year to advise the chairperson regarding the implementation of this chapter.

(d) The chairperson shall appoint one of the members to serve as chair of the technical advisory committee.

§ -6 Report to the legislature. The department shall report to the legislature on the uses of the fund, progress in implementing projects and other strategies to reduce the likelihood and severity of climate crises, and other authorized uses of the fund no later than twenty days prior to the convening of the regular session of 2026 and every year thereafter.

Beginning January 1, 2028, and each three years thereafter, the governor shall provide for an audit to ensure that funds were expended only for purposes authorized in this chapter. The audit shall be transmitted to the fiscal committees of each house of the legislature no later than twenty days prior to the convening of the regular session of 2029 and every five years thereafter.

SECTION 3. Section 237D-2, Hawaii Revised Statutes, is amended to read as follows:

"§237D-2 Imposition and rates. (a) There is levied and shall be assessed and collected each month a tax of:

- (1) Five per cent for the period beginning on January 1, 1987, to June 30, 1994;
- (2) Six per cent for the period beginning on July 1, 1994, to December 31, 1998;
- (3) 7.25 per cent for the period beginning on January 1, 1999, to June 30, 2009;
- (4) 8.25 per cent for the period beginning on July 1, 2009, to June 30, 2010; and
- (5) 9.25 per cent for the period beginning on July 1, 2010, and thereafter;

on the gross rental or gross rental proceeds derived from furnishing transient accommodations.

(b) Every transient accommodations broker, travel agency, and tour packager who arranges transient accommodations at noncommissioned negotiated contract rates and every operator or other taxpayer who receives gross rental proceeds shall pay to the State the tax imposed by ~~[subsection]~~ subsections (a) ~~[7]~~ and (f), as provided in this chapter.

(c) There is levied and shall be assessed and collected each month, on the occupant of a resort time share vacation unit, a transient accommodations tax of:

- (1) 7.25 per cent on the fair market rental value until December 31, 2015;
- (2) 8.25 per cent on the fair market rental value for the period beginning on January 1, 2016, to December 31, 2016; and
- (3) 9.25 per cent on the fair market rental value for the period beginning on January 1, 2017, and thereafter.

(d) Every plan manager shall be liable for and pay to the State the transient accommodations tax imposed by subsection (c) as provided in this chapter. Every resort time share vacation plan shall be represented by a plan manager who shall be subject to this chapter.

(e) Notwithstanding the tax rates established in subsections (a) (5) and (c) (3), the tax rates levied, assessed, and collected pursuant to subsections (a) and (c) shall be 10.25 per cent for the period beginning on January 1, 2018, to December 31, 2030; provided that:

(1) The tax revenues levied, assessed, and collected pursuant to this subsection that are in excess of the revenues realized from the levy, assessment, and collection of tax at the 9.25 per cent rate shall be deposited quarterly into the mass transit special fund established under section 248-2.7; and

(2) If a court of competent jurisdiction determines that the amount of county surcharge on state tax revenues deducted and withheld by the State, pursuant to section 248-2.6, violates statutory or constitutional law and, as a result, awards moneys to a county with a population greater than five hundred thousand, then an amount equal to the monetary award shall be deducted and withheld from the tax revenues deposited under paragraph (1) into the mass transit special fund, and those funds shall be a general fund realization of the State.

The remaining tax revenues levied, assessed, and collected at the 9.25 per cent tax rate pursuant to subsections (a) and (c) shall be deposited into the general fund in accordance with section 237D-6.5(b).

(f) In addition to the taxes imposed under subsections (a), (c), and (e), there is levied and shall be assessed and collected each month a tax of \$25 on each furnishing of a transient accommodation, including transient accommodations furnished for cash or charge, at no charge, on a complimentary or gratuitous basis, for a nominal charge, or in exchange for points, miles, or other amounts provided through a membership, loyalty, or rewards program which shall be deposited into the climate health and environmental action special fund established under chapter _____."

SECTION 4. Section 237D-3, Hawaii Revised Statutes, is amended to read as follows:

"This chapter shall not apply to:

(1) Health care facilities including all such facilities enumerated in section 321-11(10);

(2) School dormitories of a public or private educational institution providing education in grades kindergarten through twelve, or of any institution of higher education;

(3) Lodging provided by nonprofit corporations or associations for religious, charitable, or educational purposes; provided that this exemption shall apply only to the activities of the religious, charitable, or educational corporation or association as such and not to any rental or gross rental the primary purpose of which is to produce income even if the income is used for or in furtherance of the exempt activities of such religious, charitable, or educational corporation or association;

(4) Living accommodations for persons in the military on permanent duty assignment to Hawaii,

including the furnishing of transient accommodations to those military personnel who receive temporary lodging allowances while seeking accommodations in Hawaii or while awaiting reassignment to new duty stations outside the State;

(5) Low-income renters receiving rental subsistence from the state or federal governments and whose rental periods are for durations shorter than sixty days;

(6) Operators of transient accommodations who furnish accommodations to full-time students enrolled in an institution offering post-secondary education. The director of taxation shall determine what shall be deemed acceptable proof of full-time enrollment. This exemption shall also apply to operators who furnish transient accommodations to students during summer employment;

(7) Accommodations [~~furnished without charge such as, but not limited to, complimentary accommodations, accommodations~~] furnished to contract personnel such as physicians, golf or tennis professionals, swimming and dancing instructors, and other personnel to whom no salary is paid or to employees who receive room and board as part of their salary or compensation; [~~and~~]

(8) Accommodations furnished to foreign diplomats and consular officials who are holding cards issued or authorized by the United States Department of State granting them an exemption from state taxes[-]; and

(9) Accommodations furnished at no charge, including accommodations furnished on a complimentary or gratuitous basis, for the purpose of providing emergency housing to persons displaced as a result of a state disaster, as declared by the governor pursuant to sections 127A-14 or 209-2."

SECTION 5. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Except for the revenues collected pursuant to section 237D-2(e) [~~7~~] and (f), revenues collected under this chapter shall be distributed in the following priority, with the excess revenues to be deposited into the general fund:

(1) \$1,500,000 shall be allocated to the Turtle Bay conservation easement special fund beginning July 1, 2015, for the reimbursement to the state general fund of debt service on reimbursable general obligation bonds, including ongoing expenses related to the issuance of the bonds, the proceeds of which were used to acquire the conservation easement and other real property interests in Turtle Bay, Oahu, for the protection, preservation, and enhancement of natural resources important to the State, until the bonds are fully amortized;

(2) \$11,000,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;

(3) An allocation shall be deposited into the tourism emergency special fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency special fund; and

(4) \$3,000,000 shall be allocated to the special land and development fund established under section 171-19; provided that the allocation shall be expended in accordance with the Hawaii tourism authority strategic plan for:

- (A) The protection, preservation, maintenance, and enhancement of natural resources, including beaches, important to the visitor industry;
- (B) Planning, construction, and repair of facilities; and
- (C) Operation and maintenance costs of public lands, including beaches, connected with enhancing the visitor experience.

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

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

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2024-2025 to be deposited into the climate health and environmental action special fund.

SECTION 7. There is appropriated out of the climate health and environmental action special fund the sum of \$500,000 or so much thereof as may be necessary for fiscal year 2024-2025 for the establishment of two full-time equivalent (2.0 FTE) positions in the department of land and natural resources to administer the climate health and environmental action special fund.

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

SECTION 8. Statutory material to be repealed is bracketed and

stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 1, 2025.

INTRODUCED BY: _____

BY REQUEST

Report Title:

DLNR; Climate Health and Environmental Action Special Fund

Description:

Establishes the Climate Health and Environmental Action Special Fund in the Department of Land and Natural Resources to minimize the impacts of, and respond to, climate crises funded by a \$25 tax on transient accommodations. Exempts certain housing used for emergencies during a state disaster from the Transient Accommodations Tax.

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