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## A BILL FOR AN ACT

RELATING TO THE HABITAT CONSERVATION PRESERVE.

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

1       SECTION 1. The legislature finds that the mascot for the  
2 University of Hawaii, West Oahu campus, is the endangered short-  
3 eared owl, or pueo. Currently, there are only eleven pueo  
4 living on the island of Oahu. For centuries, the area where the  
5 Hunehune gulch and Kaloi gulch converge, through what is now the  
6 University of Hawaii, West Oahu campus, has been documented as a  
7 pueo habitat. According to the October 2017 interim report to  
8 the twenty-ninth legislature entitled "Interim Report Regarding  
9 the Pueo Study Conducted by the Department of Land and Natural  
10 Resources and the University of Hawaii at Mānoa for the Period  
11 April 1, 2017 - August 1, 2017", a pueo has recently been  
12 detected at the University of Hawaii, West Oahu campus.  
13 Additionally, according to his east Kapolei master plan  
14 biological survey published on September 17, 1996, Kenneth  
15 Nagata recommended the use of the University of Hawaii, West  
16 Oahu campus, as a bird refuge due to the sixteen different  
17 species of birds inhabiting the property.



1       Accordingly, the purpose of this Act is to require the  
2       University of Hawaii to establish a habitat conservation  
3       preserve at its West Oahu campus. The legislature declares that  
4       this Act is a matter of statewide concern.

5       SECTION 2. Chapter 304A, Hawaii Revised Statutes, is  
6       amended by adding a new subpart to part IV to be appropriately  
7       designated and to read as follows:

8               "       Habitat Conservation Preserve

9       **§304A-A Definitions.** As used in this subpart, unless the  
10       context indicates otherwise:

11       "Chancellor" means the chancellor of the University of  
12       Hawaii, West Oahu campus.

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

15       "Makai parcel" means that five hundred acre parcel of land  
16       owned by the university and located to the south of the West  
17       Oahu campus.

18       "Mauka parcel" means that nine hundred ninety-one acre  
19       parcel of land owned by the university and located to the north  
20       of the West Oahu campus.

21       "Preserve" means the habitat conservation preserve.



1 "University" means the University of Hawaii.

2 **§304A-B Habitat conservation preserve; establishment.**

3 There is established within the university a habitat  
4 conservation preserve under the direction of the chancellor.

5 **§304A-C Siting and boundary.** (a) Within the boundary set  
6 forth in subsection (b), the university shall devote a  
7 contiguous segment of land within the non-campus private  
8 development lands of the University of Hawaii, West Oahu campus,  
9 as a habitat conservation preserve.

10 (b) The boundary of the preserve shall be defined as  
11 follows:

- 12 (1) The 1825 Hawaiian Malden trail to the north;  
13 (2) The Kapolei golf course to the west;  
14 (3) The Kualakai parkway to the east; and  
15 (4) The department of Hawaiian home lands to the south.

16 **§304A-D Prohibited acts within the preserve.** The  
17 following shall be prohibited in the preserve:

- 18 (1) Farming;  
19 (2) Grading and grubbing;  
20 (3) Defoliation of native grasses and other native flora;  
21 and



(4) Any other activities that the department's division of forestry and wildlife deems counterproductive to the proliferation of endangered or threatened avian and mammal species.

The university shall post signage within and throughout the preserve prohibiting the foregoing activities.

**§304A-E Preservation of historic railway berms.** The university shall keep all historic railway berms located in the preserve in the berms' original positions.

**§304A-F Educational uses of the preserve.** The university shall use the habitat conservation preserve lands as an outdoor classroom and to augment the curriculum of the University of Hawaii, West Oahu campus. The university shall also permit the preserve to be used for educational field trips.

**§304A-G Chancellor's authority to permit access to preserve.** The university shall authorize the chancellor to permit access to the preserve to all of the university's students, faculty, and instructors. The university shall also authorize the chancellor to permit access, on a case-by-case basis, to personnel from nature organizations and other universities.



**§304A-H Department duties.** The department shall provide the chancellor with the following:

- (1) Oversight and enforcement of the protection of endangered and threatened species within the preserve; and
- (2) Any materials that the department deems necessary to delineate and identify the boundary of the preserve and to protect the preserve and the endangered and threatened species within the preserve.

**§304A-I Unauthorized entry.** Unauthorized entry into the preserve shall be considered a criminal trespass onto state lands pursuant to section 708-814.7. The department shall erect and maintain signage throughout the preserve in accordance with section 708-814.7(1)(a)(ii).

**§304A-J Pre-existing development plans.** (a) If any party with title to or interest in any real property designated for the use of the preserve pursuant to this subpart, had final plans authorized by the university to develop any portion of the affected property prior to the effective date of this Act, the university shall offer the affected party the same terms and



1 conditions comparable in financial standing to reestablish the  
2 affected party's development plans on the mauka parcel.

3 (b) If an affected party suffers a financial loss  
4 pertaining to development plans for the affected property, as  
5 described in subsection (a), or already possesses a contract for  
6 development within the affected property, the university may  
7 compensate the affected party with additional acreage of  
8 property located in the mauka parcel to lease at no additional  
9 cost; provided that the cost of the additional acreage offered  
10 shall not exceed the actual financial loss incurred by the  
11 affected party.

12 **§304A-K Funding to maintain the preserve.** The university  
13 shall fund any landscaping, maintenance, or pest control  
14 activities and any other resources and infrastructure necessary  
15 to maintain the preserve with the proceeds from the following:

- 16 (1) Any moneys collected from tenants leasing land located  
17 in the mauka parcel; and  
18 (2) Any moneys collected from the rent from farming  
19 activities or other rental income permitted in the  
20 makai parcel.



1       **§304A-L Inventory of endangered and threatened species;**  
2 **report.** The biology department of the University of Hawaii,  
3 West Oahu campus, shall submit a report listing the inventory of  
4 endangered and threatened species that are utilizing the  
5 preserve to the legislature no later than twenty days prior to  
6 the convening of the regular session of 2019 and each fifth  
7 regular session thereafter."

8       SECTION 3. (a) Until December 31, 2018, any deadline for  
9 the adoption of administrative rules by the board of regents of  
10 the University of Hawaii or the department to accommodate the  
11 preserve shall be waived and extended to allow for time to  
12 quantify the necessary appurtenances and other resources as the  
13 department deems necessary and essential to the establishment of  
14 the preserve.

15       (b) The board of regents of the University of Hawaii and  
16 the chairperson of the board of land and natural resources shall  
17 jointly submit to the legislature proposed legislation to  
18 address amendments to administrative rules as may be necessary  
19 to sustain and manage the preserve, no later than December 31,  
20 2018.



SECTION 4. The department of land and natural resources shall submit a report of its estimated costs for the materials listed in section 304A-H(2), Hawaii Revised Statutes, in section 2 of this Act, to the legislature no later than twenty days prior to the convening of the regular session of 2019.

SECTION 5. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY:

James S. King (B.R.)

JAN 24 2018





**Report Title:**

DLNR; UH; West Oahu; Pueo; Endangered Species; Habitat  
Conservation Preserve

**Description:**

Requires the University of Hawaii to establish a habitat  
conservation preserve at its West Oahu campus.

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not legislation or evidence of legislative intent.*

