

JAN 25 2023

A BILL FOR AN ACT

RELATING TO NATURAL RESOURCES MANAGEMENT.

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

1 SECTION 1. The legislature finds that Hawaii's natural
2 resources, including reefs, oceans, forests, streams, estuaries,
3 shorelines, and beaches, provide irreplaceable and invaluable
4 benefits to visitors, residents, and the global community at
5 large.

6 The Hawai'i State Constitution makes clear that Hawaii's
7 natural and cultural resources are the essence of the public
8 trust, and therefore must be managed and protected for the
9 benefit of present and future generations. The Hawai'i State
10 Constitution also recognizes the importance of a clean and
11 healthful environment and requires the State and its agencies to
12 protect traditional and customary rights, which are dependent
13 upon carefully managed and abundant natural resources. This Act
14 should be construed as a means for fulfilling these
15 constitutional mandates.

16 The legislature further finds that Hawaii's natural
17 environment and relationship to those resources face significant

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1 environmental pressure from the heavy usage they receive from
2 persons traveling to enjoy the State's natural resources.
3 Underinvestment in Hawaii's natural resources poses a
4 significant liability to its visitor industry and the stability
5 of its natural systems, including its food systems and water
6 quality, ecosystem services, fisheries, economic resilience, and
7 health and safety of the citizens of the State.

8 The legislature also finds that Hawai'i residents contribute
9 to the protection and management of the State's natural
10 resources through taxes, environmental care, subsistence and
11 cultural practices, and the values and practices embodied in the
12 Hawai'i State Constitution. With escalating visitor impacts and
13 the increasing global threat to the State's island ecosystem,
14 there is an immediate need to fairly allocate the burden to
15 protect, restore, sustain, manage, and conserve Hawaii's natural
16 resources. Furthermore, a regenerative tourism fee has been
17 suggested as a solution by the Hawaii tourism authority. It is
18 timely to ask visitors who enjoy and reap the benefits of
19 Hawaii's natural resources to contribute to the protection,
20 care, and restoration of these resources.

21 The legislature believes that a license requirement for
22 visitors who enjoy Hawaii's unique, world-class public beaches,

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1 trails, parks, and ecosystems could generate necessary funding
2 each year to offset the adverse impacts of visitors and conserve
3 Hawaii's irreplaceable green infrastructure.

4 The legislature further finds that environmental protection
5 fees, commonly referred to as green fees, have been successfully
6 implemented at visitor destinations around the world, including
7 the Galapagos Islands, New Zealand, and Palau, and demonstrate
8 compounding benefits for visitors, residents, and the land and
9 seascapes.

10 The legislature believes that establishing a visitor green
11 fee in the State is a significant and effective way to raise
12 additional revenues to offset visitor impacts and ensure a
13 healthy and functioning environment for present and future
14 generations.

15 The purpose of this Act is to establish a visitor green fee
16 program, administered by the board of land and natural
17 resources, that includes a license and assessment of a visitor
18 green fee on visitors for the usage of Hawaii's state-owned
19 designated public beaches, parks, trails, and coastlines, to:

- 20 (1) Provide sustained funding for the protection,
21 restoration, regeneration, enhancement, and care of

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1 Hawaii's natural and cultural recreational resources;
2 and
3 (2) Build resilience of these resources to the impacts of
4 increased visitor use.

5 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
6 amended by adding a new part to be appropriately designated and
7 to read as follows:

8 "PART . VISITOR GREEN FEE PROGRAM

9 §171-A Definitions. For purposes of this part:

10 "Board" means the board of land and natural resources.

11 "Commission" means the environmental legacy commission.

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

14 "License" means a license issued pursuant to this part.

15 "Licensee" means a person who is issued a license pursuant
16 to this part.

17 "Nonprofit organization" means a private, nonprofit
18 organization, with nonprofit status acknowledged by the United
19 States Internal Revenue Service, that qualifies under section
20 501(c)(3) of the Internal Revenue Code of 1986, as amended, and
21 has among its charitable purposes the preservation, restoration,
22 management, or interpretation of natural or cultural resources

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1 for scientific, historic, educational, recreational, scenic,
2 wildlife, or open-space purposes; protection of the natural
3 environment or biological resources, or both; preservation or
4 enhancement of wildlife, or both; and protection or
5 interpretation, or both, of Native Hawaiian cultural resources
6 and practices related thereto.

7 "Program" means the visitor green fee program.

8 "Resident of Hawaii" means an individual who has:

- 9 (1) Filed or paid state income taxes for the previous tax
10 year; or
- 11 (2) Established domicile in the State, as evidenced by
12 documentation showing the individual's address,
13 including any of the following:
- 14 (A) A valid Hawaii driver's license;
 - 15 (B) A valid Hawaii state identification card;
 - 16 (C) A valid school identification card; or
 - 17 (D) Any other official document issued to the
18 individual within the last thirty days by a
19 government agency, financial institution,
20 insurance company, or utility company in the
21 State.

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1 "Special fund" means the visitor green fee special fund
2 established pursuant to section 171-G.

3 "Visitor" means a person in Hawaii who is not a resident of
4 Hawaii.

5 **§171-B Visitor green fee program; establishment. (a)**

6 There is established within the department the visitor green fee
7 program, to be administered by the board, to collect a fee from
8 visitors through an environmental license and allocate that
9 revenue to protect, restore, and manage natural and cultural
10 resources impacted by visitors.

11 (b) Beginning on a date established by the board by rule,
12 each visitor who is fifteen years of age or older and visits a
13 state-owned park, beach, forest, trail, or other state-owned
14 recreational natural area, as designated by rule by the board,
15 shall first pay a visitor green fee to obtain a license pursuant
16 to this part.

17 (c) The department shall place signs at designated state-
18 owned parks, beaches, forests, trail heads, and other state-
19 owned recreational natural areas, that inform visitors of the
20 requirement to pay a visitor green fee and obtain a license
21 pursuant to this section.

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1 **§171-C License; purchase.** (a) The board shall establish
2 convenient opportunities, including through a mobile application
3 or internet website, for visitors to pay a visitor green fee. A
4 visitor shall be issued a license by the department; provided
5 that the visitor meets the requirements pursuant to this part
6 for obtaining a license.

7 (b) The board may authorize retail establishments and
8 nonprofit organizations to accept payment of a visitor green fee
9 and issue a license.

10 (c) The amount of the visitor green fee shall be \$50.

11 (d) The board may adjust the fee no more than once every
12 five years if the board finds that the current fee is
13 insufficient to offset visitor impacts to Hawaii's natural and
14 cultural resources.

15 (e) Each license shall be effective for one year from the
16 date of purchase, including the date of issuance.

17 **§171-D Penalties.** (a) Any visitor who enters a state-
18 owned park, beach, forest, trail, or other state-owned
19 recreational natural areas, designated pursuant to section 171-
20 B(b) as an area requiring a license, without first paying a
21 visitor green fee and obtaining a license in violation of
22 section 171-B(b) shall be liable for a civil fine not to exceed

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1 § . Penalties may be assessed no sooner than July 1,
2 2028, in the interest of effective implementation, public
3 education, and enforcement.

4 (b) Any civil fine provided under this section may be
5 imposed by the circuit court or by the board after an
6 opportunity for a hearing under chapter 91. Imposition of a
7 civil fine shall not be a prerequisite to any civil fine or
8 other injunctive relief ordered by the circuit court.

9 **§171-E Environmental legacy commission; establishment;**
10 **powers; duties; members.** (a) There is established within the
11 department the environmental legacy commission. The commission
12 shall:

- 13 (1) Determine the appropriate term limits, rules, and
14 regulations for the commission;
- 15 (2) Recommend to the board the disbursement of revenues
16 collected pursuant to this part;
- 17 (3) Monitor the program and advise the department and the
18 board on all matters concerning the program; and
- 19 (4) Recommend to the board for adoption of rules relating
20 to the criteria the commission applies in advising the
21 department and the board and recommending
22 disbursements of revenue.

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- 1 (b) The commission shall comprise:
- 2 (1) The following ex officio members:
- 3 (A) The chairperson of the board or the chairperson's
- 4 designee, who shall serve as the chairperson of
- 5 the commission;
- 6 (B) The director of the office of planning and
- 7 sustainable development or the director's
- 8 designee; and
- 9 (C) The chief executive officer of the Hawaii tourism
- 10 authority or the chief executive officer's
- 11 designee; and
- 12 (2) The following members, who shall be recommended by the
- 13 department and appointed by the governor as provided
- 14 in section 26-34:
- 15 (A) One representative of a nonprofit environmental
- 16 organization having expertise on the protection,
- 17 restoration, and care of terrestrial natural
- 18 resources;
- 19 (B) One representative of a nonprofit environmental
- 20 organization having expertise on the protection,
- 21 restoration, and care of marine and coastal
- 22 natural resources;

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- 1 (C) One representative of a nonprofit environmental
2 organization having expertise on climate change
3 mitigation, adaptation, and resiliency;
 - 4 (D) One representative of the agency working on State
5 climate change mitigation, adaptation, and
6 resiliency;
 - 7 (E) Two representatives who have expertise in the
8 protection, restoration, care, and interpretation
9 of Native Hawaiian cultural resources;
 - 10 (F) One representative between eighteen and twenty-
11 five years, inclusive, who works or has worked in
12 the field of environmental sustainability or
13 restoration, or both; and
 - 14 (G) One representative from the private sector
15 working to advance environmental solutions in the
16 State as a green business that is locally owned
17 and operated.
- 18 (c) A simple majority of the members shall establish a
19 quorum.
- 20 (d) The members shall serve without compensation but shall
21 be reimbursed for expenses, including travel expenses, necessary
22 for the performance of their duties.

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1 §171-F Visitor green fee special fund; established. (a)

2 There is established within the state treasury the visitor green
3 fee special fund, to be administered by the board.

4 (b) The following moneys shall be deposited into the
5 special fund:

6 (1) All revenue from licenses issued pursuant to section
7 171-B;

8 (2) All fines collected pursuant to section 171-D;

9 (3) Appropriations made by the legislature;

10 (4) Earnings on moneys in the special fund.

11 (c) Moneys in the special fund shall be used for the
12 following purposes:

13 (1) The operations of the program, including hiring
14 employees, specialists, and consultants to evaluate
15 and further projects related to the purposes of the
16 program; and

17 (2) The administration of the program pursuant to section
18 171-B.

19 (d) With the permission of the governor, the board may
20 transfer moneys from the special fund to other state departments
21 and agencies to carry out the purposes of the program.

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1 §171-G Visitor green fee special fund; purpose;
2 priorities. (a) The special fund shall be administered by the
3 board as follows:

- 4 (1) With transparency and accountability; and
5 (2) In a manner that maximizes the effectiveness of the
6 program.

7 (b) The board shall allocate moneys in the special fund to
8 be expended directly by state agencies for projects that are
9 intended to offset adverse environmental impacts caused by
10 licensees and ensure that the State's natural resources are
11 maintained for continued use by licensees, such as projects that
12 directly restore, enhance, and protect natural resources and the
13 State's unique and fragile ecological status, including projects
14 that:

- 15 (1) Protect, restore, or enhance terrestrial and marine
16 natural resources impacted by heavy usage of
17 licensees;
18 (2) Increase the resilience and adaptation of Hawaii's
19 natural resources with environmentally beneficial
20 strategies to reduce the adverse impacts of climate
21 change, including coastal erosion, sea level rise,
22 damage to reefs, ocean acidification, coral bleaching,

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1 damage to land resources, and other impacts
2 exacerbated by licensees; or

3 (3) Remove and control invasive species and propagate and
4 plant native species in state-owned recreational areas
5 utilized by licensees.

6 (c) The board may allocate moneys in the special fund to
7 be expended directly by the department for administration of the
8 program including the:

9 (1) Establishment of the commission pursuant to section
10 171-E; and

11 (2) Creation and implementation of a visitor green fee
12 strategic plan.

13 (d) The board shall allocate moneys to provide grants to
14 nonprofit organizations not exceeding fifty per cent of fee
15 revenue annually pursuant to this section. In awarding grants,
16 the board shall only approve projects that offset the impact to
17 natural and cultural resources caused by the licensees.

18 In approving projects, the board may prioritize projects
19 that:

20 (1) Implement nature-based solutions to environmental and
21 climate issues exacerbated by licensees;

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1 (2) Provide significant protection, restoration, and
2 enhancement of Hawaii's natural resources in areas
3 impacted by licensees; or

4 (3) Increase the resilience of state-owned natural
5 resources impacted by licensees.

6 (e) The board may allocate moneys to provide grants to
7 local governments for projects approved by the board that offset
8 the impact to natural and cultural resources caused by the
9 licenses.

10 In approving projects, the board may prioritize projects
11 that:

12 (1) Implement nature-based solutions to environmental and
13 climate issues exacerbated by licensees;

14 (2) Provide significant protection, restoration, and
15 enhancement of Hawaii's natural resources in areas
16 impacted by licensees; or

17 (3) Increase the resilience of state-owned natural
18 resources impacted by licensees.

19 (f) The board may allocate moneys to provide cost-matching
20 funding for federal grants for projects approved by the board
21 that offset the impact to natural and cultural resources caused

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1 by the licensees. In approving projects, the board may
2 prioritize projects that:

- 3 (1) Implement nature-based solutions to environmental and
4 climate issues exacerbated by licensees;
- 5 (2) Provide significant protection, restoration, and
6 enhancement of Hawaii's natural resources in areas
7 impacted by licensees; or
- 8 (3) Increase the resilience of state-owned natural
9 resources impacted by licensees.

10 **§171-H Grants; qualifications and conditions.** (a) For
11 purposes of grants awarded pursuant to section 171-G, any
12 organization requesting a grant shall:

- 13 (1) Be licensed and accredited, as applicable, under the
14 laws of the State;
- 15 (2) Have been determined and designated to be a section
16 501(c)(3) nonprofit organization by the Internal
17 Revenue Service;
- 18 (3) Have at least one year's experience with the project
19 or in the program area for which the request or
20 proposal is being made; and

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1 (4) Employ or have under contract persons who are
2 qualified to engage in the program or activity to be
3 funded by the State.

4 (b) Recipients of grants shall be subject to the following
5 conditions:

6 (1) Any organization requesting a grant shall submit its
7 request together with the information required by the
8 board on an application form provided by the
9 department;

10 (2) The recipient of a grant shall not use public funds
11 for purposes of entertainment or perquisites;

12 (3) The recipient of a grant shall comply with applicable
13 federal, state, and county laws;

14 (4) The recipient of a grant shall comply with any other
15 requirements the board may prescribe;

16 (5) The recipient of a grant shall allow the department,
17 legislature, and the legislative auditor full access
18 to records, reports, files, and other related
19 documents so that the program, management, and fiscal
20 practices of the grant recipient may be monitored and
21 evaluated to assure the proper and effective
22 expenditure of public funds;

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1 (6) Every grant shall be monitored pursuant to rules or
2 policies established by the board to ensure compliance
3 with this part; and

4 (7) Any recipient of a grant under this section who
5 withholds or omits any material fact or deliberately
6 misrepresents facts to the board or who violates the
7 terms of the recipient's contract shall be in
8 violation of this section and, in addition to any
9 other penalties provided by law, shall be prohibited
10 from applying for a grant under this section for a
11 period of five years from the date of termination.

12 (c) The department shall provide grant recipients with
13 access to any state-owned lands or natural resources necessary
14 to effectuate the project for which the grant is awarded.

15 **§171-I Report to legislature.** (a) No later than twenty
16 days prior to the convening of the regular session of 2025 and
17 each year thereafter, the board shall submit a report to the
18 legislature.

19 (b) The report shall contain information on:

20 (1) Ways that the special fund restored, enhanced, and
21 protected Hawaii's state-owned natural resources and

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1 its unique and vulnerable ecosystem during the
2 previous fiscal year; and

3 (2) The benefits that accrue or will accrue from those
4 expenditures to the benefit of the State's natural
5 resources.

6 §171-J Rules. (a) The board shall adopt rules pursuant
7 to chapter 91 necessary for the purposes of this part."

8 SECTION 3. There is appropriated out of the general
9 revenues of the State of Hawaii the sum of \$3,000,000 or so much
10 thereof as may be necessary for fiscal year 2023-2024 for
11 deposit into the visitor green fee special fund."

12 SECTION 4. There is appropriated out of the visitor green
13 fee special fund the sum of \$3,000,000 or so much thereof as may
14 be necessary for fiscal year 2023-2024 for the establishment of
15 the environmental legacy commission under this Act and a visitor
16 green fee strategic plan, including a timetable that indicates
17 how the established objectives and policies will be pursued and
18 implemented pursuant to this Act.

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

21 SECTION 5. There is appropriated out of the general
22 revenues of the State of Hawaii the sum of \$250,000 or so much

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1 thereof as may be necessary for fiscal year 2023-2024 and the
2 same sum or so much thereof as may be necessary for fiscal year
3 2024-2025 for the establishment of the following positions:

4	Position	Twelve-Month Salary
5	1.00 FTE green fee coordinator, (SR)	\$90,000
6	1.00 FTE office assistant IV (SR10),	\$70,000
7	1.00 FTE accountant IV (SR22);	\$90,000

8 to support the establishment of the green fee and the
9 environmental legacy commission.

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

12 SECTION 6. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 and referring to the new sections in this Act.

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. Every provision in this Act and every
20 application of each provision in this Act is severable from each
21 other. If any application of any provision in this Act to any
22 person or group of persons or circumstances is determined by any

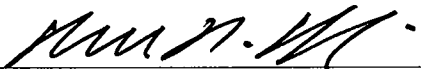
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1 court to be invalid, the remainder of this Act and the
2 application of the Act's provisions to all other persons and
3 circumstances shall not be affected. All constitutionally valid
4 applications of this Act shall be severed from any applications
5 that a court determines to be invalid or unenforceable, leaving
6 the valid applications in force, because it is the legislature's
7 intent that all valid applications shall remain in force.

8 SECTION 9. This Act shall take effect upon its approval;
9 provided that sections 4 and 5 shall take effect on July 1,
10 2023.

11

12

INTRODUCED BY: 

13

BY REQUEST

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Report Title:

Board of Land and Natural Resources; Department of Land and Natural Resources; Visitor Green Fee Program; Visitor Green Fee Special Fund; Environmental Legacy Commission; Appropriation

Description:

Establishes within the Department of Land and Natural Resources the visitor green fee program to collect a fee from visitors through an environmental license and allocate the revenue to protect, restore, and manage natural and cultural resources. Establishes the visitor green fee special fund. Establishes the Environmental Legacy Commission to make recommendations to the Board of Land and Natural Resources regarding the use of revenues in the special fund. Requires a report to the legislature, including a visitor green fee strategic plan. 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.

JUSTIFICATION SHEET

DEPARTMENT: Governor

TITLE: A BILL FOR AN ACT RELATING TO NATURAL RESOURCES MANAGEMENT.

PURPOSE: To establish within the Department of Land and Natural Resources (Department) the visitor green fee program to collect a fee from visitors through an environmental license and allocate the revenue to protect, restore, and manage natural and cultural resources. Establishes the visitor green fee special fund. Establishes the Environmental Legacy Commission to make recommendations to the Board of Land and Natural Resources regarding the use of revenues in the special fund. The bill also requires a report to the legislature, including a visitor green fee strategic plan, and appropriates funds.

MEANS: Add a new part to chapter 171, Hawaii Revised Statutes.

JUSTIFICATION: The Hawai'i State Constitution makes clear that Hawaii's natural and cultural resources are the essence of the public trust, and therefore must be managed and protected for the benefit of present and future generations. The Hawai'i State Constitution also recognizes the importance of a clean and healthful environment and requires the State and its agencies to protect traditional and customary rights, which are dependent upon carefully managed and abundant natural resources.

Hawaii's natural environment and relationship to those resources face significant environmental pressure from the heavy usage they receive from persons traveling to enjoy the State's natural resources. Underinvestment in Hawaii's natural resources poses a significant

liability to its visitor industry, and the stability of its natural systems, including its food systems and water quality, ecosystem services, fisheries, economic resilience, and health and safety of the citizens of the State.

Hawai'i residents contribute to the protection and management of the State's natural resources through taxes, environmental care, subsistence and cultural practices, and the values and practices embodied in the Hawai'i State Constitution. With escalating visitor impacts and the increasing global threat to the State's island ecosystem, there is an immediate need to fairly allocate the burden to protect, restore, sustain, manage, and conserve Hawaii's natural resources. Furthermore, a regenerative tourism fee has been suggested as a solution by the Hawaii tourism authority. It is timely to ask visitors who enjoy and reap the benefits of Hawaii's natural resources to contribute to the protection, care, and restoration of these resources.

A license requirement for visitors who enjoy Hawaii's unique, world-class public beaches, trails, parks, and ecosystems could generate necessary funding each year to offset the adverse impacts of visitors and conserve Hawaii's irreplaceable green infrastructure.

Environmental protection fees, commonly referred to as green fees, have been successfully implemented at visitor destinations around the world, including the Galapagos Islands, New Zealand, and Palau, and demonstrate compounding benefits for visitors, residents, and the land and seascapes.

Establishing a visitor green fee in the State is a significant and effective way to raise additional revenues to offset visitor

impacts and ensure a healthy and functioning environment for future generations.

Impact on the public: Offset visitor environmental pressure from the heavy usage the State's natural resources receive from persons traveling to enjoy the natural resources.

Impact on the department and other agencies: The Department will require additional staffing to stand up and manage the program.

GENERAL FUND: \$3,250,000.

OTHER FUNDS: \$3,000,000 from the visitor green fee special fund.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: Department of Health, Department of Education, Office of Hawaiian Affairs, Hawaii Tourism Authority, Department of Business, Economic and Tourism.

EFFECTIVE DATE: Upon approval, provided that sections 4 and 5 of this Act shall take effect on July 1, 2023.