

ACT 326

H.B. NO. 1697

A Bill for an Act Relating to Natural Area Partnerships.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 195, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§195- Natural area partnership program. (a) There is established in the department, a natural area partnership program to provide state funds on a two-for-one basis with private funds for the management of private lands that are dedicated to conservation. Payments shall be made from the natural area reserve fund with funds specifically appropriated for this purpose.

(b) In order to qualify under this program, the applicant shall be a landowner or a cooperating entity of private lands of natural area reserve quality and agree to the following conditions:

- (1) Dedicate the private lands in perpetuity through a transfer of fee title or a conservation easement to the State or a cooperating entity;
- (2) Have the private lands managed by the cooperating entity according to management plans approved by the board that meet the standards established by the department for the natural area reserves system. The management plans shall include provisions to allow public hunting wherever feasible; provided that hunting activities shall be in compliance with applicable laws; and provided further, that game animals shall not be introduced to any partnership area and hunting shall be conducted as part of the conservation purposes of this program. In-kind services such as heavy equipment and existing sources of labor may be utilized as a portion of the private contribution in implementing the management plan;
- (3) Agree to have a penalty payback provision apply in the event a landowner or cooperating entity ceases to implement the approved management plan unless the board approves modifications to the plan or state funding lapses;
- (4) Along with the cooperating entity, submit an annual report to the board detailing the year’s management accomplishments, areas needing technical advice, proposed modifications to the plan, and objectives and budget for the coming year. To facilitate the review, the department shall have the right to make inspections of the private lands after prior landowner notification. The board may approve alteration of the management plan to adapt to current conditions. Amendments to the management plan shall be available for public review; and
- (5) Any other conditions the department shall require by rules adopted pursuant to chapter 91.

§195- Reports. The department shall submit annually a comprehensive status report on the natural area reserves system and the natural area partnership program to include, but not be limited to:

- (1) Description of activities and accomplishments;
- (2) Compliance with chapter 42 requirements;
- (3) Analysis of the problems and issues encountered in meeting or failing to meet the objectives as set forth in the management plans;
- (4) Status of public hunting opportunities;
- (5) Financial condition of the fund, including receipts and expenditures for the fund for the previous fiscal year; and
- (6) Plans and management objectives for the next fiscal year.

The report shall be submitted to the governor and the legislature no later than twenty days prior to the convening of each regular legislative session.”

SECTION 2. Section 195-2, Hawaii Revised Statutes, is amended by adding three new definitions to be appropriately inserted and to read as follows:

“Board” means the board of land and natural resources.

“Heritage program” means a comprehensive natural resource inventory data base for public information that includes the location of rare plants, animals, and natural communities (ecosystems) in the State.

“Landowner” means any person or entity having the fee simple interest in land in the State.”

SECTION 3. Section 195-4, Hawaii Revised Statutes, is amended to read as follows:

“§195-4 Powers and duties of the department. (a) To preserve, manage, and protect the reserves system, the department is authorized, in addition to any other powers, to:

- (1) Designate and bring under its control and management, as part of the reserves system, any [and various] areas as follows:
 - (A) State [of Hawaii] owned land under the jurisdiction of the department may be set aside as a natural area reserve by resolution of the department, subject to the approval of the governor by executive order setting the land aside for [such purposes.] that purpose;
 - (B) New natural area reserves may be established:
 - (i) By gift, devise, grant, reimbursement to cooperators, exchange, or purchase of land or any interest therein, including, but not limited to, conservation easements;
 - (ii) By eminent domain pursuant to chapter 101; or
 - (iii) By the setting aside of [State of Hawaii] state owned land for [such purposes] that purpose by the governor, as provided [by] in section 171-11[.];
- (2) Cooperate or contract with any federal, state, or county governmental agency, quasi-governmental agency, private organization, or individual in carrying out the purpose of this chapter[.];
- (3) Acquire by gift, devise, grant, or donation any personal property to be used in the acquisition or management, or both, of natural area reserves[.];
- (4) Implement, after consultation with the commission and based on the

most comprehensive up-to-date compilation of scientific data, the acquisition, management, protection, and use of natural area reserves[.]; and

- (5) Prepare and take the necessary steps to implement the management plan set forth in section 195-11.

(b) The department, with at least twenty days notice, shall conduct one or more public hearings before having the governor revoke or modify an executive order that sets aside lands for the reserves system, or prior to the designation of the following types of lands into the reserves system:

- (1) State lands under the jurisdiction of the department;
- (2) State lands that are removed from other uses or modified by the governor through an executive order that sets aside land for the natural area reserves system;
- (3) Lands acquired by eminent domain pursuant to chapter 101; and
- (4) State lands proposed by the governor for inclusion into the reserves system, as provided in section 171-11.

The notice shall be published in a newspaper of general circulation in the county where the proposed natural area reserve is located and also in a newspaper of general circulation in the State. The notice shall contain, but not be limited to, the time and place of the hearing, the location of the land, and the proposed changes.”

SECTION 4. Section 195-9, Hawaii Revised Statutes, is amended to read as follows:

“§195-9 Natural area reserve fund; heritage program; established; reports]. (a) There is hereby established in the state treasury a special fund known as the natural area reserve fund to implement the purposes of this chapter, including the identification, establishment, and management of natural area reserves [and], the acquisition of private lands for new natural area reserves, [and for] the operation of the heritage program[. As used in this section the “heritage program”, means a program with a comprehensive natural resource inventory data base for public information which shall include the location of rare plants, animals and natural communities (ecosystems) in the State.], and the provision of matching funds for the natural area partnership program. The fund shall be administered by the department [of land and natural resources].

(b) The fund shall consist of moneys received from any public or private sources. The fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury[;], except that any moneys received from the federal government or from private contributions shall be deposited and accounted for in accordance with conditions established by the agencies or persons from whom the moneys are received. Investment earnings credited to the assets of the fund shall become a part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund for the next fiscal year.

[(c) The department shall submit annually a detailed report to the governor and legislature setting forth the financial condition of the fund, including receipts and expenditures for the fund for the previous fiscal year.]”

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary for fiscal year 1991-1992, and the same sum, or so much thereof as may be necessary for fiscal year 1992-1993, to be deposited into the natural area reserve fund for

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payment under the natural area partnership program. The sums appropriated shall be expended by the department of land and natural resources for the purposes of this Act.

SECTION 6. The appropriation in section 5 of this Act shall be expended as provided in this Act, except that the provisions of sections 42-4 to 42-6(a), Hawaii Revised Statutes, are waived when making the expenditures for fiscal year 1991-1992.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 1991.

(Approved July 2, 1991.)

Note

1. Edited pursuant to HRS §23G-16.5.