

**ACT 117**

H.B. NO. 444

A Bill for an Act Relating to Beach Protection.

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

**PART I**

SECTION 1. The legislature finds that Hawaii's beaches are important and unique components of the array of natural resources that make our islands a special place for our residents and an attractive destination for visitors. Recent studies by researchers at the University of Hawaii indicate that our beaches are

disappearing at an alarming rate, with seventy per cent of beaches undergoing chronic erosion, over thirteen miles of beach completely lost to erosion, and inappropriate shoreline development over the past century. Because of the growing demand for the use of beaches, the State needs to reinvest in its beaches, as one of its important and valuable natural resources, to conserve and restore these important assets by more efficiently distributing limited financial resources.

The purpose of this part is to allocate transient accommodations tax revenues to the special land and development fund to finance beach restoration and conservation and other activities authorized under section 237D-6.5(b)(5), Hawaii Revised Statutes. This part takes effect on July 1, 2016.

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

“(a) There is created in the department a special fund to be designated as the “special land and development fund”. Subject to the Hawaiian Homes Commission Act of 1920, as amended, and section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments; all moneys collected under section 171-58 for mineral and water rights; all rents from leases, licenses, and permits derived from public lands; all moneys collected from lessees of public lands within industrial parks; all fees, fines, and other administrative charges collected under this chapter and chapter 183C; a portion of the highway fuel tax collected under chapter 243; all moneys collected by the department for the commercial use of public trails and trail accesses under the jurisdiction of the department; transient accommodations tax revenues collected pursuant to section ~~[237D-6.5(b)(2);]~~ 237D-6.5(b)(5); and private contributions for the management, maintenance, and development of trails and accesses shall be set apart in the fund and shall be used only as authorized by the legislature for the following purposes:

- (1) To reimburse the general fund of the State for advances made that are required to be reimbursed from the proceeds derived from sales, leases, licenses, or permits of public lands;
- (2) For the planning, development, management, operations, or maintenance of all lands and improvements under the control and management of the board, including but not limited to permanent or temporary staff positions who may be appointed without regard to chapter 76;
- (3) To repurchase any land, including improvements, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided that all fees reimbursed to the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter; provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules adopted by the board;
- (6) For the management, maintenance, and development of trails and trail accesses under the jurisdiction of the department;
- (7) For the payment to private land developers who have contracted with the board for development of public lands under section 171-60;
- (8) For the payment of debt service on revenue bonds issued by the department, and the establishment of debt service and other reserves deemed necessary by the board;

- (9) To reimburse the general fund for debt service on general obligation bonds issued to finance departmental projects, where the bonds are designated to be reimbursed from the special land and development fund;
- (10) For the protection, planning, management, and regulation of water resources under chapter 174C; and
- (11) For other purposes of this chapter.”

SECTION 3. Section 237D-6.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Revenues collected under this chapter shall be distributed as follows, with the excess revenues to be deposited into the general fund:

- (1) \$26,500,000 shall be allocated to the convention center enterprise special fund established under section 201B-8;
- (2) \$82,000,000 shall be allocated to the tourism special fund established under section 201B-11; provided that:
  - (A) Beginning on July 1, 2012, and ending on June 30, 2015, \$2,000,000 shall be expended from the tourism special fund for development and implementation of initiatives to take advantage of expanded visa programs and increased travel opportunities for international visitors to Hawaii;
  - (B) Of the \$82,000,000 allocated:
    - (i) \$1,000,000 shall be allocated for the operation of a Hawaiian center and the museum of Hawaiian music and dance at the Hawaii convention center; and
    - (ii) 0.5 per cent of the \$82,000,000 shall be transferred to a sub-account in the tourism special fund to provide funding for a safety and security budget, in accordance with the Hawaii tourism strategic plan 2005-2015; and
  - (C) Of the revenues remaining in the tourism special fund after revenues have been deposited as provided in this paragraph and except for any sum authorized by the legislature for expenditure from revenues subject to this paragraph, beginning July 1, 2007, funds shall be deposited into the tourism emergency trust fund, established in section 201B-10, in a manner sufficient to maintain a fund balance of \$5,000,000 in the tourism emergency trust fund;
- (3) \$103,000,000 for fiscal year 2014-2015, \$103,000,000 for fiscal year 2015-2016, and \$93,000,000 for each fiscal year thereafter shall be allocated as follows: Kauai county shall receive 14.5 per cent, Hawaii county shall receive 18.6 per cent, city and county of Honolulu shall receive 44.1 per cent, and Maui county shall receive 22.8 per cent; provided that commencing with fiscal year 2018-2019, a sum that represents the difference between a county public employer’s annual required contribution for the separate trust fund established under section 87A-42 and the amount of the county public employer’s contributions into that trust fund shall be retained by the state director of finance and deposited to the credit of the county public employer’s annual required contribution into that trust fund in each fiscal year, as provided in section 87A-42, if the respective county fails to remit the total amount of the county’s required annual contributions, as required under section 87A-43;
- (4) \$3,000,000 shall be allocated to the Turtle Bay conservation easement special fund established under section 201B-8.6 for the pay-

ment of debt service on revenue bonds, the proceeds of which were used to acquire the conservation easement in Turtle Bay, Oahu, until the bonds are fully amortized; and

- (5) ~~[Of the excess revenues deposited into the general fund pursuant to this subsection,]~~ \$3,000,000 shall be allocated ~~[subject to the mutual agreement of the board of land and natural resources and the board of directors of the Hawaii tourism authority]~~ 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."

## PART II

SECTION 4. The purpose of this part is to appropriate general funds to be expended in fiscal year 2014-2015 in accordance with section 237D-6.5(b)(5), Hawaii Revised Statutes, for visitor industry-related programs and projects.

The legislature finds that, for technical reasons, the \$3,000,000 in general funds set aside from the transient accommodations tax revenues under section 237D-6.5(b)(5), Hawaii Revised Statutes, for fiscal year 2014-2015 for visitor industry-related programs and projects cannot be expended. The legislature further finds that the moneys set aside for fiscal year 2014-2015 should be expended to implement the legislature's policy decision to commence the set aside.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2014-2015 for the following:

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

The sum appropriated shall be expended by the board of land and natural resources, subject to mutual agreement with the board of directors of the Hawaii tourism authority, in accordance with the Hawaii tourism authority strategic plan.

SECTION 6. The appropriation in section 5 shall be deemed an appropriation of the \$3,000,000 in general funds set aside under section 237D-6.5(b)(5), Hawaii Revised Statutes, for fiscal year 2014-2015.

**PART III**

SECTION 7. The purpose of this part is to appropriate general funds to be expended in fiscal year 2015-2016 in accordance with section 237D-6.5(b)(5), Hawaii Revised Statutes, for visitor industry-related programs and projects.

The legislature finds that, for technical reasons, the \$3,000,000 in general funds set aside from the transient accommodations tax revenues under section 237D-6.5(b)(5), Hawaii Revised Statutes, for visitor industry-related programs and projects cannot be expended. The legislature further finds that the moneys set aside for fiscal year 2015-2016 should be expended to implement the policy decision of the legislature to commence the set aside.

In part I of this Act, the legislature amends section 237D-6.5(b)(5), Hawaii Revised Statutes, to deposit the \$3,000,000 into the special land and development fund for expenditure on visitor industry-related programs and projects. The amendments take effect on July 1, 2016. The legislature has delayed the effective date in order to review the special land and development fund during the interim between the regular sessions of 2015 and 2016. The legislature finds that depositing the revenues into the special land and development fund from July 1, 2015, may complicate the planned review of the fund.

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$3,000,000 or so much thereof as may be necessary for fiscal year 2015-2016 for the following:

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

The sum appropriated shall be expended by the board of land and natural resources in accordance with the Hawaii tourism authority strategic plan.

Notwithstanding section 237D-6.5(b)(5), Hawaii Revised Statutes, the board of land and natural resources may expend the appropriation without the agreement of the board of directors of the Hawaii tourism authority.

SECTION 9. The appropriation in section 8 shall be deemed an appropriation of the \$3,000,000 in general funds set aside under section 237D-6.5(b)(5), Hawaii Revised Statutes, for fiscal year 2015-2016.

**PART IV**

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval; provided that part I shall take effect on July 1, 2016.

(Approved June 12, 2015.)