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111TH CONGRESS
1ST SESSION

S. 359

To establish the Hawai'i Capital National Heritage Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2009

Mr. INOUYE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To establish the Hawai'i Capital National Heritage Area, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hawai'i Capital National Heritage Area Establishment Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) HERITAGE AREA.—The term ''Heritage Area'' means the Hawai'i Capital National Heritage Area established by section 3(a).

(2) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the local coordinating entity for the Heritage Area designated by section 3(d).

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area required under section 5.

(4) MAP.—The term ''map'' means the map entitled ''Hawai'i Capital National Heritage Area Proposed Boundary'', numbered T17/90,000B, and dated January 2009.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Hawai'i.

SEC. 3. HAWAI'I CAPITAL NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Hawai'i Capital National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of portions of Honolulu and the Honolulu Ahupua'a, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and the Hawai'i Capital Cultural Coalition.

(d) LOCAL COORDINATING ENTITY.—The Hawai'i Capital Cultural Coalition shall be the local coordinating entity for the Heritage Area.

SEC. 4. DUTIES AND AUTHORITIES OF THE LOCAL COORDINATING ENTITY.

(a) DUTIES OF THE LOCAL COORDINATING ENTITY.—To further the purposes of the Heritage Area, the local coordinating entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 5;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of, and appreciation for, natural, historic, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with the themes of the Heritage Area;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semiannually regarding the development and implementation of the management plan;

(5) for any fiscal year for which the local coordinating entity receives Federal funds under this Act—

(A) submit to the Secretary an annual report that describes, for the fiscal year—

(i) the accomplishments, expenses, income, amounts, and sources of matching funds;

(ii) the amounts leveraged with Federal funds and sources of the leveraged funds; and

(iii) grants made to any other entities;

(B) make available to the Secretary for audit all information relating to the expenditure of Federal funds and any matching funds for the fiscal year; and

(C) require, in all agreements authorizing the expenditure of Federal funds by other organizations, that the organizations receiving the Federal funds make available to the Secretary for audit all records and other information relating to the expenditure of the funds; and

(6) encourage, by appropriate means, economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The local coordinating entity may, subject to the prior approval of the Secretary, for the purposes of preparing and implementing the manage-

ment plan for the Heritage Area, use Federal funds made available under this Act to—

(1) make grants to the State or a political subdivision of the State, nonprofit organizations, and other persons;

(2) enter into cooperative agreements with, or provide technical assistance to, the State or a political subdivision of the State, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff;

(4) obtain money or services from any source, including under any other Federal law or program;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that—

(A) further the purposes of the Heritage Area; and

(B) are consistent with the approved management plan.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—The local coordinating entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the local coordinating entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for—

(A) conveying the heritage of the region; and

(B) encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development and implementation of the management plan;

(3) include a description of actions and commitments that governments, private organizations, and individuals have agreed to take to protect, enhance, and interpret the natural, historic, scenic, and cultural resources of the Heritage Area;

(4) specify existing and potential sources of funding or economic development strategies to pro-

tect, enhance, interpret, fund, manage, and develop the Heritage Area;

(5) include an inventory of the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area related to the stories and themes of the region that should be protected, enhanced, managed, or developed;

(6) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect the natural, historic, cultural, educational, scenic, and recreational resources of the Heritage Area;

(7) describe a program of implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, and interpretation; and

(C) specific commitments for implementation of the management plan that have been made by the local coordinating entity or any government, organization, business, or individual;

(8) include an analysis of, and recommendations for, ways in which Federal, tribal, State, and

local programs may best be coordinated to carry out the purposes of this Act, including recommendations for the role of the National Park Service and other Federal agencies associated with the Heritage Area;

(9) include an interpretive plan for the Heritage Area; and

(10) include a business plan that—

(A) describes the role, operation, financing, and functions of—

(i) the local coordinating entity; and

(ii) each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the Heritage Area.

(c) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this Act, the local coordinating entity shall be ineligible to receive additional funding under this Act until the date on which the Secretary approves the management plan.

(d) APPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of receipt of the management plan

under subsection (a), the Secretary, in consultation with the Governor of the State and any applicable tribal government, shall approve or disapprove the management plan.

(2) CRITERIA FOR APPROVAL.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the Heritage Area, including governments, natural and historical resource protection organizations, educational institutions, businesses, community residents, and recreational organizations;

(B) the local coordinating entity has afforded adequate opportunity for public and governmental involvement, including workshops and public meetings, in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historic, and cultural resources of the Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Fed-

eral or tribal land under applicable laws or land use plans;

(E) the Secretary has received adequate assurances from the appropriate State, tribal, and local officials, the support of which is necessary to ensure the effective implementation of the State, tribal, and local aspects of the management plan; and

(F) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary—

(A) shall advise the local coordinating entity in writing of the reasons for the disapproval;

(B) may make recommendations to the local coordinating entity for revisions to the management plan; and

(C) not later than 180 days after the receipt of any proposed revision of the management plan from the local coordinating entity, shall approve or disapprove the proposed revised management plan.

(4) AMENDMENTS.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines would make a substantial change to the management plan in accordance with this subsection.

(5) USE OF FUNDS.—The local coordinating entity shall not use Federal funds authorized by this Act to carry out any amendments to the management plan until the Secretary has approved the amendments.

SEC. 6. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the local coordinating entity, the Secretary may provide to the local coordinating entity technical and financial assistance on a reimbursable or nonreimbursable basis, as determined by the Secretary, to develop and implement the management plan.

(2) PRIORITY ACTIONS.—In providing assistance under this subsection, the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the local coordinating entity and other public or private entities for the purposes of carrying out this subsection.

(b) EVALUATION.—

(1) IN GENERAL.—Not later than 3 years before the date on which authority for Federal funding terminates for the Heritage Area under section 10, the Secretary shall—

(A) conduct an evaluation of the accomplishments of the Heritage Area; and

(B) prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(2) EVALUATION COMPONENTS.—An evaluation conducted under paragraph (1)(A) shall—

(A) assess the progress of the local coordinating entity with respect to—

(i) accomplishing the purposes of this Act for the Heritage Area; and

(ii) achieving the goals and objectives of the approved management plan for the Heritage Area;

(B) analyze the Federal, State, local, and private investments in the Heritage Area to determine the leverage and impact of the investments; and

(C) review the management structure, partnership relationships, and funding of the Heritage Area for purposes of identifying the critical components for sustainability of the Heritage Area.

(3) REPORT.—

(A) IN GENERAL.—Based on the evaluation conducted under paragraph (1)(A), the Secretary shall prepare a report with recommendations for the future role of the National Park Service, if any, with respect to the Heritage Area.

(B) REQUIRED ANALYSIS.—If the report prepared under subparagraph (A) recommends that Federal funding for the Heritage Area be reauthorized, the report shall include an analysis of—

(i) ways in which Federal funding for the Heritage Area may be reduced or eliminated; and

(ii) the appropriate time period necessary to achieve the recommended reduction or elimination.

(C) SUBMISSION TO CONGRESS.—On completion of the report, the Secretary shall submit the report to—

(i) the Committee on Energy and Natural Resources of the Senate; and

(ii) the Committee on Natural Resources of the House of Representatives.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—To the maximum extent practicable, the head of any Federal agency planning to conduct activities that may have an impact on the Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any laws (including regulations) authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of the Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY OWNERS AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any owner of public or private property, including the right to refrain from participating in any plan, project, program, or activity conducted within the Heritage Area;

(2) requires any property owner to permit public access (including access by any Federal, tribal, State, or local agency) to the property;

(3) modifies any provisions of Federal, tribal, State, or local law with regard to public access to, or use of, private land;

(4) alters any land use regulation, approved land use plan, or other regulatory authority of any Federal, tribal, State, or local agency;

(5) conveys any land use or other regulatory authority to the local coordinating entity;

(6) authorizes or implies the reservation or appropriation of water or water rights;

(7) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the Heritage Area; or

(8) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be made available for any fiscal year.

(b) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—The Federal share of the cost of any activity provided assistance or a grant under this Act shall not exceed 50 percent of the total cost of the activity.

(2) FORM OF NON-FEDERAL SHARE.—The non-Federal share—

(A) shall be from non-Federal sources; and

(B) may be in the form of in-kind contributions of goods and services fairly valued.

SEC. 10. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide financial assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

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