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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. For many decades, the State has granted permits  
2 or leases for recreation-residence use on public lands such as  
3 state parks and forest reserves for a term not to exceed 20  
4 years. Some of these permits and leases have recently expired  
5 in state parks at Koke'e and Waimea canyon, Kaua'i, and have  
6 caused uncertainty in the process of leasing these sites.

7           The purpose of this Act is to establish a one-time process  
8 for the leasing of public lands for recreation-residence use  
9 leases in locations at state parks or state forest reserves in  
10 counties with a population of less than 100,000.

11           SECTION 2. (a) The board of land and natural resources  
12 shall negotiate directly with all existing lessees of  
13 recreation-residence use leases in locations at state parks or  
14 state forest reserves in counties with a population of less than  
15 100,000, for lease renewals; provided that the renegotiated  
16 lease:

17           (1) Shall be for a period not less than twenty years on  
18           such terms and conditions as may be prescribed by the



1 board, pursuant to section 171-44, Hawaii Revised  
2 Statutes;

3 (2) Shall be based on market rates for land and buildings,  
4 pursuant to section 171-17(b), Hawaii Revised  
5 Statutes; and

6 (3) Is a "one time only" negotiation and does not ensure  
7 that there will be direct negotiations at the  
8 expiration of the renegotiated lease.

9 (b) Existing lessees may provide a counter-offer based  
10 upon their own certified appraisal and the board of land and  
11 natural resources shall negotiate in good faith based upon the  
12 two appraisals.

13 (c) The board of land and natural resources shall provide  
14 each lessee with proposed new lease terms and rates within three  
15 months of the effective date of this Act and shall negotiate  
16 final terms of each lease within four months of the effective  
17 date of this Act. The lessee shall have thirty days following  
18 the final notification to the lessee by the board of new lease  
19 terms, to agree to and sign the renegotiated lease, or the lease  
20 shall expire on December 31, 2008, and the recreation-residence  
21 use lease shall be auctioned by the board.



1 (d) Any recreation-residence use lease for a cabin that is  
2 vacant and owned by the State on the effective date of this Act  
3 or that expires on December 31, 2008, pursuant to subsection  
4 (c), shall be auctioned by the board pursuant to section 171-14,  
5 Hawaii Revised Statutes; provided that the board of land and  
6 natural resources shall first provide bona fide full-time  
7 residents of a county in the state with a population of less  
8 than 100,000 with the opportunity to obtain any such lease by  
9 auction. If any leases remain after such an auction, the board  
10 may offer remaining available leases at auction to bidders who  
11 are bona fide full-time residents of the State of Hawaii, and  
12 then at auction to nonresidents of the State.

13 SECTION 3. (a) There is established a Koke'e state park  
14 advisory council, to be placed within the department of land and  
15 natural resources for administrative purposes only. The  
16 advisory council shall consist of nine voting members appointed  
17 in equal numbers by the governor, the speaker of the house of  
18 representatives and the president of the senate in accordance  
19 with section 26-34, Hawaii Revised Statutes, and four ex-officio  
20 nonvoting members.



1 (b) The voting members of the advisory council shall be  
2 Kaua'i residents and shall possess general knowledge of at least  
3 one of the four strategic areas listed below:

4 (1) Education;

5 (2) Cultural resources;

6 (3) The environment; or

7 (4) Native plants, animals, and ecosystems.

8 (c) The ex-officio nonvoting members shall be as follows:

9 (1) A representative of the United States Fish and  
10 Wildlife Service;

11 (2) A representative of the department of land and natural  
12 resources forestry and wildlife division, as  
13 designated by the chairperson of the board of land and  
14 natural resources;

15 (3) A representative of the department of land and natural  
16 resources state parks division, as designated by the  
17 chairperson of the board of land and natural  
18 resources; and

19 (4) A representative of the county of Kauai, as designated  
20 by the Kauai county council.

21 (d) The voting members of the advisory council shall serve  
22 not more than two consecutive three-year terms, with each term



1 beginning on July 1; provided that the initial terms of the  
2 appointed members that commence after June 30, 2008, shall be  
3 staggered as follows:

- 4 (1) Three members to serve three-year terms;
- 5 (2) Three members to serve two-year terms; and
- 6 (3) Three members to serve a one-year term.

7 For the initial appointments, the governor, the president  
8 of the senate, and the speaker of the house of representatives  
9 shall designate each of their appointees to serve a one, two, or  
10 three-year term.

11 (e) The members of the advisory council shall not receive  
12 compensation for their services but shall be reimbursed for  
13 expenses, including travel expenses, incurred in their duties  
14 relating to the council.

15 (f) A chairperson shall be elected annually by the  
16 advisory council from among the council's voting members;  
17 provided that no member may serve as chairperson for more than  
18 two consecutive years.

19 (g) Five voting members of the advisory council shall  
20 constitute a quorum to do business and any action taken by the  
21 advisory council shall be validated by a simple majority of the  
22 quorum.



- 1 (h) The advisory council's responsibilities shall include:
- 2 (1) Reviewing and assisting in updating and revising the
- 3 Koke'e state park master plan;
- 4 (2) Advising and assisting in the management of the Koke'e
- 5 recreational cabin leases;
- 6 (3) Enhancing community education and cultural awareness
- 7 of Koke'e state park;
- 8 (4) Participating in the protection and preservation of
- 9 Koke'e state park's natural and cultural resources; and
- 10 (5) Advising and assisting in the overall implementation
- 11 of the Koke'e state park master plan.

12 SECTION 4. The department of land and natural resources

13 shall enforce all provisions of recreation-residential use lease

14 agreements and shall establish a schedule of penalties and fines

15 for any breach of the provisions of a recreation-residential use

16 lease agreement unless penalties and fines are specified in the

17 lease agreement.

18 SECTION 5. If any provision of this Act, or the

19 application thereof to any person or circumstance is held

20 invalid, the invalidity does not affect other provisions or

21 applications of the Act, which can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 6. This Act shall take effect on July 1, 2008.



**Report Title:**

Department of Land and Natural Resources; Recreational-Residence  
Use Leases

**Description:**

Requires the board of land and natural resources to negotiate directly with all existing leaseholders of recreation-residence use leases in locations at state parks or state forest reserves in counties with a population of less than 100,000, for lease renewals; establishes a Koke'e state park advisory council.

(HB2872 CD1)

