



GOV. MSG. NO. 911

EXECUTIVE CHAMBERS
HONOLULU

July 9, 2008

LINDA LINGLE
GOVERNOR

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2872 SD2 CD2

On July 8, 2008, House Bill No. 2872, entitled "A Bill for an Act Relating to Public Lands" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require the Board of Land and Natural Resources to issue new twenty-year leases to existing lessees or permittees at locations in State parks or State forest reserves on islands with a population of less than 100,000. Although nominally cast in general terms, the bill has applicability only in State parks at Koke'e and Waimea Canyon on Kauai and was specifically tailored to that situation. Previous twenty-year leases there expired. The former lessees now occupy the premises pursuant to revocable permits.

I have received many petitions arguing that it is unfair for the previous lessees to monopolize the opportunity to lease these unique properties. I understand these concerns and have weighed them heavily in my deliberations on this measure. This bill recognizes that if the existing lessee does not accept the State's new market-based lease offer, the property should be auctioned with a preference given to those who are full-time residents of this state. As such, this bill attempts to balance the interests of the taxpayers, current lessees, and other interested parties.

For the foregoing reasons, I allowed House Bill No. 2872 to become law as Act 223, effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Lingle".

LINDA LINGLE

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 or permittees
13 of recreation-residence use leases in locations at state parks
14 or state forest reserves in counties with a population of less
15 than 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 or permittees may provide a counter-
10 offer based upon their own certified appraisal and the board of
11 land and natural resources shall negotiate in good faith based
12 upon the two appraisals.

13 (c) The board of land and natural resources shall provide
14 each lessee or permittee with proposed new lease terms and rates
15 within three months of the effective date of this Act and shall
16 negotiate final terms of each lease within four months of the
17 effective date of this Act. The lessee or permittee shall have
18 thirty days following the final notification to the lessee or
19 permittee by the board of new lease terms, to agree to and sign
20 the renegotiated lease, or the lease or permit shall expire on
21 December 31, 2008, and the recreation-residence use lease shall
22 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.

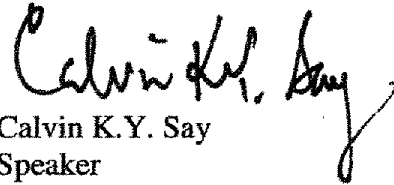


HB No. 2872, SD 2, CD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 01, 2008
Honolulu, Hawaii

We hereby certify that the foregoing Bill on this day passed Final Reading in the House of Representatives of the Twenty-Fourth Legislature of the State of Hawaii, Regular Session of 2008.



Calvin K.Y. Say
Speaker
House of Representatives




Patricia Mau-Shimizu
Chief Clerk
House of Representatives

H.B. No. 2872, S.D. 2, C.D. 2


THE SENATE OF THE STATE OF HAWAII

Date: May 1, 2008
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-fourth Legislature of the State of Hawaii, Regular Session of 2008.



President of the Senate



Clerk of the Senate