
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY PRODUCERS.

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

1 SECTION 1. Section 171-95, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-95 Disposition to governments, governmental
4 agencies, public utilities, and renewable energy producers. (a)

5 Notwithstanding any limitations to the contrary, except as
6 provided in subsection (d) with regard to leases for renewable
7 energy producers, the board [~~of land and natural resources~~]
8 may~~[7]~~ without public auction:

9 (1) Sell public lands at [~~such~~] a price and on [~~such~~]
10 other terms and conditions as the board may deem
11 proper to governments, including the United States,
12 city and county, counties, other governmental agencies
13 authorized to hold lands in fee simple and public
14 utilities;

15 (2) Lease to the governments, agencies, public utilities,
16 and renewable energy producers public lands for terms
17 up to, but not in excess of, sixty-five years at



1 [~~such~~] rental and on [~~such~~] other terms and conditions
2 as the board may determine;

3 (3) Grant licenses and easements to the governments,
4 agencies, public utilities, and renewable energy
5 producers on [~~such~~] terms and conditions as the board
6 may determine for road, pipeline, utility,
7 communication cable, and other rights-of-way;

8 (4) Exchange public lands with the governments and
9 agencies;

10 (5) Execute quitclaim deeds to the governments and
11 agencies, with or without consideration, releasing any
12 claim to the property involved made upon disputed
13 legal or equitable grounds, whenever the board in its
14 discretion deems it beneficial to the State; and

15 (6) Waive or modify building and other requirements and
16 conditions contained in deeds, patents, sales
17 agreements, or leases held by the governments and
18 agencies whenever [~~such~~] the waiver or modification is
19 beneficial to the State.

20 (b) In any disposition to public utilities under this
21 section:



- 1 (1) The sale price or lease rental shall be no less than
2 the value determined in accordance with section
3 171-17(b); provided that [~~such~~] the sale price or
4 lease rental may be on a nominal basis, if the board
5 finds that [~~such~~] an easement is required in
6 connection with a government project;
- 7 (2) The board shall provide that in case the land ceases
8 to be used at any future time for the use for which
9 the disposition was made, the board shall have the
10 right to repurchase the land at the original sale
11 price or fair market value, whichever is lower, and to
12 purchase improvements thereon at the depreciated value
13 or fair market value, whichever is lower;
- 14 (3) Disposition shall not be made to any public utility if
15 the utility has suitable lands of its own;
- 16 (4) The disposition to public utilities shall be subject
17 to disapproval by the legislature by two-thirds vote
18 of either the senate or the house of representatives
19 or by majority vote of both, in any regular or special
20 session next following the date of the disposition;
21 and



1 (5) For the purposes of this section, the definition of
2 "public utility" as defined in section 269-1 is hereby
3 incorporated herein by reference.

4 (c) For the purposes of this section, "renewable energy
5 producer" means:

6 (1) Any producer of electrical or thermal energy produced
7 by wind, solar energy, hydropower, landfill gas,
8 waste-to-energy, ocean thermal energy conversion, cold
9 seawater, wave energy, biomass, including municipal
10 solid waste, biofuels or fuels derived from organic
11 sources, hydrogen fuels derived primarily from
12 renewable energy, or fuel cells where the fuel is
13 derived primarily from renewable sources that sell all
14 of the net power produced from the demised premises to
15 an electric utility company regulated under chapter
16 269 or that sells all of the thermal energy it
17 produces to customers of district cooling systems;
18 provided that up to twenty-five per cent of the power
19 produced by a renewable energy producer and sold to
20 the utility or to district cooling system customers
21 may be derived from fossil fuels; or



1 (2) Any grower or producer of plant or animal materials
2 used primarily for the production of biofuels or other
3 fuels; provided that nothing herein is intended to
4 prevent the waste product or byproduct of the plant or
5 animal material grown or produced for the production
6 of biofuel, other fuels, electrical energy, or thermal
7 energy, from being used for other useful purposes.

8 (d) The board may lease or renew a lease of public lands
9 to renewable energy producers under subsection (a) (2) only
10 pursuant to a public process that includes public notice under
11 section 1-28.5 providing other interested renewable energy
12 producers opportunity to participate in the process; provided
13 that nothing in this subsection shall be construed to prevent
14 the board from conducting direct negotiations; provided further
15 that the renewable energy producer shall be required to submit
16 as part of the proposal for the board's evaluation, as assisted
17 by the department of business, economic development, and
18 tourism, the following:

- 19 (1) A timeline for completion of the project;
20 (2) A description of a financial plan for project
21 financing;
22 (3) A description of the conceptual design of the project;



1 (4) A description of the business concept for the project;
2 and

3 (5) A description of landscape and acreage requirements
4 including public and private lands.

5 Upon completion of the board's evaluation and determination
6 to award or not award a lease to a renewable energy producer,
7 the board shall prepare a report outlining the reasons for the
8 decision.

9 As to a lease of public land held by an existing lessee who
10 is currently in compliance with the terms of the lease, a lease
11 to a renewable energy producer under this subsection shall not
12 result in the involuntary termination of the lease or the
13 withdrawal of property from the lease resulting in a twenty-five
14 per cent or more reduction from the previous year's production
15 attributable to the leased land as evidenced by documents
16 required to be submitted to the appropriate county. Nothing in
17 this subsection shall authorize the board to terminate or impose
18 new conditions on a lease of public land held by an existing
19 lessee who is currently in compliance with the terms of the
20 lease.

21 To inform the public prior to the lease of public land or
22 the renewal of a lease of public land for a proposed renewable



1 energy project under this subsection, the department of land and
2 natural resources shall conduct at least one public hearing on
3 the island where the public land to be leased for the proposed
4 renewable energy project is located; provided that the notice of
5 the hearing shall be published as provided in section 1-28.5.
6 The board shall prepare and distribute an outline of the
7 proposals for the renewable energy project and receive testimony
8 from interested parties and the general public at any public
9 hearing.

10 For any lease issued pursuant to this subsection, the
11 renewable energy producer shall have the right of first refusal
12 upon renewal of the lease."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 2020.



Report Title:

DLNR; Renewable Energy Producer; Public Notice; Public Lands;
Lease

Description:

Sets terms and conditions for leases of public lands to renewable energy producers, including requiring a public hearing, project completion, design, and financing documentation, and limitations on terminating or altering existing leases of public lands affected. (SB50 HD2)

