



GOV. MSG. NO. 702

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 7, 2010

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

Dear Madam President and Members of the Senate:

Re: House Bill No. 1665 HD1 SD2 CD1

On July 6, 2010, House Bill No. 1665, entitled "A Bill for an Act Relating to Hawaiian Fishponds" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

Under current law (171-52 HRS) land acquired by condemnation that is in excess of the needs for which condemned, may be disposed of by the Board of Land and Natural Resources. This bill would prevent the Department of Transportation from asking the Board to dispose of two parcels that contain fishponds even though they were acquired by condemnation and are excess to the Department's needs.

While I understand the cultural and economic significance of preserving existing Hawaiian fishponds, I am concerned this bill will require the Department of Transportation to continue to maintain these properties when it has limited resources to do so.

The Department of Transportation has not been successful in convincing other government agencies to assume responsibility for these fishponds which require considerable maintenance. Federal law requires the Department to be compensated at fair market value for parcels which are acquired using federal funds. When a parcel is transferred, the fair market value must be recouped via another piece of land of equal or greater value. This bill did not address the fair market value issue and does not provide a mechanism to allow the transfer of these fishponds to another entity.

Given that the sale of state lands is currently subject to approval by the Legislature through concurrent resolution pursuant to chapter 171-64.7, Hawaii Revised

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Statutes, this measure also does not increase the protections for government-owned Hawaiian fishponds since the Legislature already retained the power to preserve them through their authority to approve or disapprove land sales.

For the foregoing reasons, I allowed House Bill No. 1665 to become law as Act 210, effective July 6, 2010, without my signature.

Sincerely,



LINDA LINGLE

A BILL FOR AN ACT

RELATING TO HAWAIIAN FISHPONDS.

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

1 SECTION 1. Section 171-28, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-28 Government-owned Hawaiian [~~fish ponds~~]
4 fishponds; sale prohibition. (a) The board may investigate and
5 develop scientific commercial management practices for
6 government-owned Hawaiian [~~fish ponds~~] fishponds and
7 reconstruct, rehabilitate, improve, and stock the [~~fish ponds~~]
8 fishponds; and expend moneys from the special land and
9 development fund. All revenues derived from any government-
10 owned Hawaiian [~~fish pond~~] fishpond shall be deposited in the
11 fund.

12 (b) The board may lease government-owned Hawaiian [~~fish~~
13 ~~ponds~~] fishponds with legislative authorization as provided
14 under section 171-53(c); provided that in lieu of legislative
15 authorization, the board may lease such [~~fish ponds~~] fishponds
16 if:

17 (1) A public hearing is conducted on the proposed lease on
18 the island where the [~~fish pond~~] fishpond is located;



1 (2) The board finds that the proposed lease does not cause
2 a substantial adverse environmental or ecological
3 impact on the [~~fish pond~~] fishpond or surrounding
4 area; and

5 (3) The proposed lease is not in violation of applicable
6 federal, state, or county laws.

7 (c) Any law to the contrary notwithstanding, the board may
8 not sell the fee interest in public lands on which government-
9 owned Hawaiian fishponds are located."

10 SECTION 2. This Act does not affect rights and duties that
11 matured, penalties that were incurred; and proceedings that were
12 begun, before its effective date.

13 SECTION 3. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 4. This Act shall take effect upon its approval.

APPROVED this day of , 2010

GOVERNOR OF THE STATE OF HAWAII

