

JAN 21 2009

A BILL FOR AN ACT

RELATING TO LAND USE.

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

1 SECTION 1. The legislature believes that there exist,
2 within the State, certain unique traditional services that
3 perpetuate and exemplify the rich cultural heritage of Hawaii
4 and that the potential loss of purveyors of these traditional
5 services would detrimentally impact not only the State's
6 economic well-being, but the social fabric of Hawaii as well.
7 The legislature finds that beach boy services provided in
8 the Hawaiian tradition enjoy an iconic status throughout the
9 history of modern Hawaii and around the world. Anecdotal and
10 historical accounts abound regarding tales of famous persons
11 being instructed by Hawaiian beach boys in the ways of the water
12 and the Hawaiian lifestyle, as well as being enthralled by their
13 tales of local history and lore. It can be argued that more
14 than any other single endemic vocation in the State, the
15 Hawaiian beach boy has been the most effective ambassador of
16 aloha and the Hawaiian way of life to the world over the past
17 century.



1 The legislature further finds that the services customarily
2 provided by beach boys in the Hawaiian tradition are a valued,
3 economic and cultural resource and that the State should support
4 efforts to perpetuate this resource by ensuring that beach boy
5 concessions maintain a consistent level of service and are
6 operated by personnel that not only are knowledgeable in
7 traditional Hawaiian beach boy services, but have a proven
8 record of financial responsibility and service to the community
9 as well.

10 The legislature notes that the most famous beach in the
11 State, Duke Kahanamoku beach in Waikiki, Oahu, owned by the
12 State, is not subject to any long-term traditional Hawaiian
13 beach boy lease or concession.

14 The purpose of this Act is to perpetuate the Hawaii beach
15 boy tradition by requiring the board of land and natural
16 resources to negotiate a direct lease for a traditional Hawaiian
17 beach boy concession to be located at Duke Kahanamoku beach in
18 Waikiki, Oahu.

19 SECTION 2. Notwithstanding any law to the contrary and
20 pursuant to section 102-2(b)(8), Hawaii Revised Statutes, the
21 board of land and natural resources, as soon as practicable,
22 shall negotiate a direct lease for not less than fifteen years



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1 for a traditional Hawaiian beach boy concession to be located at
2 Duke Kahanamoku beach in Waikiki, Oahu, with a prospective
3 lessee that shall be subject to the following:

4 (1) The beach service concession shall be operated by a
5 beach service association dedicated to the
6 preservation of the Hawaii beach boy tradition,
7 incorporated as a non-profit corporation in accordance
8 with state law, and whose members and employees are
9 appropriately licensed or certified as required by
10 law;

11 (2) The prospective lessee shall provide documentation
12 that demonstrates an effective "no drug" policy;

13 (3) The prospective lessee shall have a demonstrated
14 knowledge of Hawaii's ocean currents, wave actions,
15 canoeing, surfing, ocean survival techniques, and the
16 inter relationship of the sea/ocean conditions
17 relative to the mountains;

18 (4) The principal or responsible person for the
19 prospective lessee shall possess a valid canoe captain
20 license and a valid surfing instructor license;

21 (5) The principal or responsible person for the
22 prospective lessee shall have at least three years of



1 experience in ocean survival within the State and city
2 and county of Honolulu;

3 (6) The principal or responsible person for the
4 prospective lessee shall provide documentation showing
5 that the prospective lessee or its predecessor has
6 been a responsible traditional beach boy lessee for at
7 least twenty years and has met all financial lessee
8 responsibilities, including the timely payment of
9 lease rents;

10 (7) The prospective lessee shall provide documentation of
11 the ability to obtain or possess a general liability
12 insurance policy of not less than \$1,000,000 to
13 operate at Duke Kahanamoku beach;

14 (8) The prospective lessee shall possess a demonstrated
15 , record of longevity, commitment to serve the public,
16 (both local residents and tourists), and current and
17 past efforts to promote educational endeavors to all
18 individuals;

19 (9) The principal or responsible person for the
20 prospective lessee shall have completed training with
21 American Red Cross in the following:

22 (A) Lifeguard training and first aid;



- 1 (B) Cardiopulmonary resuscitation training;
- 2 (C) Prevention in disease transmission; and
- 3 (D) Oxygen administration for professional rescue;
- 4 (10) The principal or responsible person of the prospective
- 5 lessee shall provide documentation showing that the
- 6 prospective lessee or its predecessor has the
- 7 requisite experience by having operated a beach
- 8 services concession on public lands for at least
- 9 fifteen years;
- 10 (11) If a new lease is issued, then the following may be
- 11 contained in the lease:
 - 12 (A) Fair market rent, determined by independent
 - 13 appraisal, for non-profit corporations;
 - 14 (B) Percentage rent where gross receipts exceed a
 - 15 certain level;
 - 16 (C) Assignment premium;
 - 17 (D) Requirements to substantially improve the
 - 18 property; and
 - 19 (E) A requirement that the lessee's non-profit
 - 20 corporation be in existence for at least one
 - 21 year;
 - 22 and



1 (12) The new lease shall contain any other conditions
 2 deemed appropriate by the board to carry out the
 3 purposes of this Act.

4 SECTION 3. It is the expressed intent of this Act to
 5 ensure that:

6 (1) The legislature not interfere with market forces by
 7 subsidizing beach services uses;

8 (2) The State is receiving a fair return from public
 9 lands; and

10 (3) Investment is made in the infrastructure associated
 11 with the lease.

12 SECTION 4. All costs for the issuance of a new lease,
 13 including determining the current fair market value and any
 14 request for proposals, shall be paid for by a prospective lessee
 15 interested in acquiring a new lease.

16 SECTION 5. This Act shall take effect upon its approval.

17

INTRODUCED BY:

R. J. O'Neil
by request



Report Title:

Land Use; Traditional Hawaiian Beach Boy Lease

Description:

Requires the department of land and natural resources to negotiate a direct lease with a traditional Hawaiian beach boy association for a beach boy concession on Duke Kahanamoku Beach at Waikiki, Oahu, subject to certain conditions.

