

JAN 23 2009

A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. The purpose of this Act is to transfer from
2 department of land and natural resources to department of
3 Hawaiian home lands all authority to manage, administer, and
4 exercise control over Kahana valley state park.

5 SECTION 2. Section 204.5 of the Hawaiian Homes Commission
6 Act, 1920, as amended, is amended to read as follows:

7 "**§204.5. Additional powers.** In addition and supplemental
8 to the powers granted to the department by law, and
9 notwithstanding any law to the contrary, the department may:
10 (1) With the approval of the governor, undertake and carry
11 out the development of any Hawaiian home lands
12 available for lease under and pursuant to section 207
13 of this Act by assembling these lands in residential
14 developments and providing for the construction,
15 reconstruction, improvement, alteration, or repair of
16 public facilities therein, including, without
17 limitation, streets, storm drainage systems,



1 pedestrian ways, water facilities and systems,
2 sidewalks, street lighting, sanitary sewerage
3 facilities and systems, utility and service corridors,
4 and utility lines, where applicable, sufficient to
5 adequately service developable improvements therein,
6 sites for schools, parks, off-street parking
7 facilities, and other community facilities;

- 8 (2) With the approval of the governor, undertake and carry
9 out the development of available lands for homestead,
10 commercial, and multipurpose projects as provided in
11 section 220.5 of this Act, as a developer under this
12 section or in association with a developer agreement
13 entered into pursuant to this section by providing for
14 the construction, reconstruction, improvement,
15 alteration, or repair of public facilities for
16 development, including, without limitation, streets,
17 storm drainage systems, pedestrian ways, water
18 facilities and systems, sidewalks, street lighting,
19 sanitary sewerage facilities and systems, utility and
20 service corridors, and utility lines, where
21 applicable, sufficient to adequately service
22 developable improvements therein, sites for schools,



1 parks, off-street parking facilities, and other
2 community facilities;

3 (3) With the approval of the governor, designate by
4 resolution of the commission all or any portion of a
5 development or multiple developments undertaken
6 pursuant to this section an "undertaking" under part
7 III of chapter 39, Hawaii Revised Statutes; [and]

8 (4) Manage Kahana valley state park, described as being in
9 tax map key parcels 5-2-01:1, 5-2-02:all, and 5-2-5:1,
10 3, and 21, with the terms and conditions for long-term
11 lessees under leases in effect on July 1, 2009, to
12 remain in effect until expiration of the leases, and
13 new leases to be entered into as deemed necessary
14 pursuant to Act 5, Session Laws of Hawaii 1987, as
15 amended; and

16 [~~4~~] (5) Exercise the powers granted under section 39-53,
17 Hawaii Revised Statutes, including the power to issue
18 revenue bonds from time to time as authorized by the
19 legislature.

20 All provisions of part III of chapter 39, Hawaii Revised
21 Statutes, shall apply to the department and all revenue bonds
22 issued by the department shall be issued pursuant to the



1 provisions of that part, except these revenue bonds shall be
2 issued in the name of the department, and not in the name of the
3 State.

4 As applied to the department, the term "undertaking" as
5 used in part III of chapter 39 shall include a residential
6 development or a development of homestead, commercial, or
7 multipurpose projects under this Act. The term "revenue" as
8 used in part III of chapter 39, shall include all or any portion
9 of the rentals derived from the leasing of Hawaiian home lands
10 or available lands, whether or not the property is a part of the
11 development being financed."

12 SECTION 3. Section 171-3, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§171-3 Department of land and natural resources. (a)**
15 The department of land and natural resources shall be headed by
16 an executive board to be known as the board of land and natural
17 resources. The department shall manage, administer, and
18 exercise control over public lands, the water resources, ocean
19 waters, navigable streams, coastal areas (excluding commercial
20 harbor areas), and minerals and all other interests therein and
21 exercise [~~such~~] powers of disposition thereof as may be
22 authorized by law. The department shall also manage and



1 administer the state parks, historical sites, forests, forest
2 reserves, aquatic life, aquatic life sanctuaries, public fishing
3 areas, boating, ocean recreation, coastal programs, wildlife,
4 wildlife sanctuaries, game management areas, public hunting
5 areas, natural area reserves, and other functions assigned by
6 law.

7 (b) Notwithstanding subsection (a), beginning January 1,
8 2010, the authority to manage, administer, and exercise control
9 over any public lands that are designated important agricultural
10 lands pursuant to section 205-44.5, shall be transferred to the
11 department of agriculture.

12 (c) Notwithstanding subsection (a), beginning July 1,
13 2009, all authority to manage, administer, and exercise control
14 over Kahana valley state park shall be transferred to the
15 department of Hawaiian home lands."

16 SECTION 4. Act 5, Session Laws of Hawaii 1987, as amended
17 by Act 238, Session Laws of Hawaii 1988, as amended by Act 23,
18 Session Laws of Hawaii 1989, as amended by Act 106, Session Laws
19 of Hawaii 1991, as amended by Act 58, Session Laws of Hawaii
20 1992, as amended by Act 177, Session Laws of Hawaii 1993, is
21 amended by amending sections 1, 2, 3, 4, 5, and 6 to read as
22 follows:



1 "SECTION 1. Findings and purpose. The legislature finds
2 that Kahana Valley State Park possesses unique historical and
3 natural resources and persons long associated with Kahana Valley
4 who are knowledgeable and qualified to interpret for the general
5 public the significance of these resources for the public's
6 benefit and enjoyment. Accordingly, the purpose of this Act is
7 to authorize the [~~department of land and natural resources~~]
8 department of Hawaiian home lands to directly issue long-term
9 residential leases to those qualified persons now residing in
10 Kahana Valley on the condition that these qualified persons
11 participate in Kahana Valley State Park's interpretive programs
12 for the public.

13 SECTION 2. The [~~department of land and natural resources~~]
14 department of Hawaiian home lands is hereby authorized to
15 negotiate and enter into long-term residential leases not to
16 exceed sixty-five years in duration with persons who meet the
17 following criteria:

- 18 (1) Persons who at the time of enactment of this Act
19 reside in Kahana Valley on land acquired for Kahana
20 Valley State Park and have lived continuously on this
21 land since before 1970; or



1 (2) Persons who on [~~the effective date of this Act have~~]
2 April 13, 1987 had permits issued by the department of
3 land and natural resources allowing them to reside on
4 designated parcels of land acquired for Kahana Valley
5 State Park.

6 SECTION 3. In exchange for the State's long-term leases,
7 all qualified persons shall agree to be an essential part of the
8 interpretive programs in Kahana Valley State Park as directed by
9 the [~~department of land and natural resources.~~] department of
10 Hawaiian home lands. All qualified persons so agreeing shall
11 provide services in interpretive program activities pursuant to
12 this Act as volunteers and not as employees of the State. The
13 [~~department of land and natural resources~~] department of
14 Hawaiian home lands is required to establish a monitoring system
15 and enforcement mechanism to insure compliance with these
16 agreements.

17 SECTION 4. The lands eligible for long-term residential
18 lease negotiations under the provisions of this Act are limited
19 to those located in tax map key parcels 5-2-01:1, 5-2-02:all,
20 and 5-2-05:1 [~~and~~], 3, and 21, [~~situate~~] situated at Kahana
21 Valley and as further determined by the [~~board of land and~~
22 ~~natural resources.~~] department of Hawaiian home lands.



1 SECTION 5. The [~~department of land and natural resources~~]
2 department of Hawaiian home lands is authorized to subdivide and
3 provide for the creation of a residential subdivision in Kahana
4 Valley for persons who receive long-term leases under the
5 provisions of this Act, which shall be exempt from all statutes,
6 ordinances, charter provisions, and rules of any governmental
7 agency relating to zoning and construction standards for
8 subdivisions, the development and improvement of land, and the
9 construction of units thereon; provided that the [~~department of~~
10 ~~land and natural resources~~] department of Hawaiian home lands
11 finds the project is consistent with the findings and purpose of
12 this Act and the project meets minimum requirements of health
13 and safety.

14 SECTION 6. Notwithstanding any other law to the contrary,
15 [~~including chapter 171, Hawaii Revised Statutes, the department~~
16 ~~of land and natural resources~~] the department of Hawaiian home
17 lands is authorized to negotiate and enter into lease agreements
18 in accordance with the provisions and limitations of this Act [~~+~~
19 ~~provided that the authority granted by this Act shall expire (1)~~
20 ~~when leases have been negotiated and recorded in the bureau of~~
21 ~~conveyances for all parcels meeting the criteria in this Act, or~~



1 ~~(2) on January 1, 1994, whichever occurs first.] and the~~
2 Hawaiian Homes Commission Act, 1920, as amended."

3 SECTION 5. All rights, powers, functions, and duties of
4 management of Kahana valley state park of the department of land
5 and natural resources are transferred to the department of
6 Hawaiian home lands.

7 All officers and employees whose functions are transferred
8 by this Act shall be transferred with their functions and shall
9 continue to perform their regular duties upon their transfer,
10 subject to the state personnel laws and this Act.

11 No officer or employee of the State having tenure shall
12 suffer any loss of salary, seniority, prior service credit,
13 vacation, sick leave, or other employee benefit or privilege as
14 a consequence of this Act, and such officer or employee may be
15 transferred or appointed to a civil service position without the
16 necessity of examination; provided that the officer or employee
17 possesses the minimum qualifications for the position to which
18 transferred or appointed; and provided that subsequent changes
19 in status may be made pursuant to applicable civil service and
20 compensation laws.

21 An officer or employee of the State who does not have
22 tenure and who may be transferred or appointed to a civil



1 service position as a consequence of this Act shall become a
2 civil service employee without the loss of salary, seniority,
3 prior service credit, vacation, sick leave, or other employee
4 benefits or privileges and without the necessity of examination;
5 provided that such officer or employee possesses the minimum
6 qualifications for the position to which transferred or
7 appointed.

8 If an office or position held by an officer or employee
9 having tenure is abolished, the officer or employee shall not
10 thereby be separated from public employment, but shall remain in
11 the employment of the State with the same pay and classification
12 and shall be transferred to some other office or position for
13 which the officer or employee is eligible under the personnel
14 laws of the State as determined by the head of the department or
15 the governor.

16 SECTION 6. All appropriations, records, equipment,
17 machines, files, supplies, contracts, books, papers, documents,
18 maps, and other personal property heretofore made, used,
19 acquired, or held by the department of land and natural
20 resources relating to the functions transferred to the
21 department of Hawaiian home lands shall be transferred with the
22 functions to which they relate.



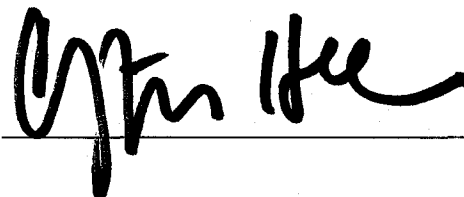
1 SECTION 7. The provisions of the amendments made by this
2 Act to the Hawaiian Homes Commission Act, 1920, as amended, are
3 declared to be severable, and if any section, sentence, clause,
4 or phrase, or the application thereof to any person or
5 circumstances is held ineffective because there is a requirement
6 of having the consent of the United States to take effect, then
7 that portion only shall take effect upon the granting of consent
8 by the United States and effectiveness of the remainder of these
9 amendments or the application thereof shall not be affected.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on July 1, 2009.

13

INTRODUCED BY:





Report Title:

DLNR; DHHL; Transfer of Management; Kahana Valley State Park

Description:

Transfers management of Kahana valley state park from the department of land and natural resources to the department of Hawaiian home lands.

