
A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY REVENUE.

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

1 SECTION 1. Pursuant to section 1 of article XII of the
2 Hawaii Constitution, thirty per cent of the state receipts,
3 derived from lands previously cultivated as sugarcane lands
4 under any other provision of law and from water licenses are
5 allocated to the native Hawaiian rehabilitation fund. This fund
6 is designated in the Hawaiian Homes Commission Act of 1920, as
7 amended, to be used for the rehabilitation of native Hawaiians,
8 native Hawaiian families, and Hawaiian homestead communities,
9 which shall include the educational, economic, political,
10 social, and cultural processes by which the general welfare and
11 conditions of native Hawaiians are thereby improved and
12 perpetuated.

13 Since 1994, these lands previously cultivated as sugarcane
14 lands have been managed by the agribusiness development
15 corporation, a public corporation with a mission that is not
16 aimed at revenue generation. The decline of sugarcane
17 production in Hawaii coupled with the change in management of
18 these lands has resulted in a sixty-seven per cent decline in



1 deposits to the native Hawaiian rehabilitation fund from 1994 to
2 2007.

3 The legislature finds that an additional revenue stream for
4 the native Hawaiian rehabilitation fund must be identified to
5 continue existing programs for native Hawaiians, native Hawaiian
6 families, and Hawaiian homestead communities.

7 SECTION 2. Section 213, Hawaiian Homes Commission Act,
8 1920, as amended, is amended by amending subsection (i) to read
9 as follows:

10 "(i) Native Hawaiian rehabilitation fund. Pursuant to
11 Article XII, Section 1, of the Hawaii Constitution, thirty per
12 cent of the state receipts, derived from lands previously
13 cultivated as sugarcane lands under any other provision of law
14 and from water licenses, [~~and~~] fifteen per cent of all revenues
15 from lease agreements granted lease extensions pursuant to
16 section 228, fifteen per cent of geothermal royalties collected
17 by the State pursuant to sections 182-7 and 182-18, Hawaii
18 Revised Statutes, from mining leases executed after July 1,
19 2012, and thirty per cent of all revenues collected by the State
20 from the disposition of state lands to nongeothermal renewable
21 energy producers made after July 1, 2012, pursuant to section
22 171-95, Hawaii Revised Statutes, shall be deposited into this



1 fund. The department shall use this money for the
2 rehabilitation of native Hawaiians, native Hawaiian families,
3 and Hawaiian homestead communities, which shall include the
4 educational, economic, political, social, and cultural processes
5 by which the general welfare and conditions of native Hawaiians
6 are thereby improved and perpetuated.

7 The native Hawaiian rehabilitation fund shall be subject to
8 the following conditions:

- 9 (1) All moneys received by the fund shall be deposited
10 into the state treasury and kept separate and apart
11 from all other moneys in the state treasury;
- 12 (2) The director of finance shall serve as a custodian of
13 the fund. All payments from the fund shall be made by
14 the director of finance only upon vouchers approved by
15 the commission;
- 16 (3) The commission shall develop guidelines for the
17 investment of moneys in the fund;
- 18 (4) The commission may invest and reinvest in investments
19 authorized by chapter 88, Hawaii Revised Statutes.
20 The commission may hold, purchase, sell, assign,
21 transfer, or dispose of any securities and investments



1 in which any of the moneys shall have been invested,
2 as well as the proceeds of such investments; and
3 (5) The commission may pay out of any of the moneys held
4 for investment, a reasonable amount to any person for
5 supplying investment advisory or consultive services;
6 and to meet such other costs incident to the prudent
7 investment of moneys as the commission may approve.

8 Any payment of principal, interest, or other earnings
9 arising out of the loan or investment of money from this fund
10 shall be credited to and deposited into this fund.

11 Sections 214, 215, 216, and 217 shall not apply to
12 administration of this fund. The department is authorized to
13 adopt rules under chapter 91, Hawaii Revised Statutes, necessary
14 to administer and carry out the purposes of this fund.

15 The department shall submit an annual report to the
16 legislature and the United States Department of the Interior, no
17 later than twenty days prior to the convening of each regular
18 session of the legislature, beginning with the regular session
19 of 2011, on expenditures from this fund that are derived from
20 the amounts deposited from commercial and multipurpose project
21 lease extensions pursuant to section 228(e), including the



1 amount expended, the recipient of the moneys expended, and the
2 purpose of the expenditure."

3 SECTION 3. Section 171-95, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Notwithstanding any limitations to the contrary, the
6 board of land and natural resources may, without public auction:

- 7 (1) Sell public lands at such price and on such other
8 terms and conditions as the board may deem proper to
9 governments, including the United States, city and
10 county, counties, other governmental agencies
11 authorized to hold lands in fee simple and public
12 utilities;
- 13 (2) Lease to the governments, agencies, public utilities,
14 and renewable energy producers public lands for terms
15 up to, but not in excess of, sixty-five years at such
16 rental and on such other terms and conditions as the
17 board may determine[+], provided that thirty per cent
18 of any revenue from any disposition to a nongeothermal
19 renewable energy producer made after July 1, 2012,
20 shall be paid to the department of Hawaiian home lands
21 and shall be deposited into the native Hawaiian
22 rehabilitation fund;



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

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

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

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

19 SECTION 4. Section 182-7, Hawaii Revised Statutes, is
 20 amended by amending subsection (c) to read as follows:

21 "(c) The payments to the State as fixed by the board shall
 22 be specified; provided that:



1 (1) In the case of bauxite, bauxitic clay, gibbsite,
2 diaspore, boehmite, and all ores of aluminum, the
3 amount of royalties for each long dry ton of ore as
4 beneficiated shall not be less than twenty-five cents
5 or the equivalent of the price of one pound of virgin
6 pig aluminum, whichever is higher, nor shall it exceed
7 the equivalent of the price of three pounds of virgin
8 pig aluminum;

9 (2) The rate of royalty for ore processed into aluminous
10 oxide in the State shall be set at eighty per cent of
11 the rate of royalty for ore not processed to aluminous
12 oxide in the State; and

13 (3) The royalty shall be fixed at a rate which will tend
14 to encourage the establishment and continuation of the
15 mining industry in the State.

16 The prices of virgin pig aluminum for the purpose of
17 determining the royalties under this section shall be the basic
18 price on the mainland United States market for virgin pig, not
19 refined, f.o.b. factory. The royalties shall be in lieu of any
20 severance or other similar tax on the extracting, producing,
21 winning, beneficiating, handling, storing, treating, or
22 transporting of the mineral or any product into which it may be



1 processed in the State, and shall not be subject to reopening or
2 renegotiating for and during the first twenty years of the lease
3 term.

4 In the event the lessee desires to mine other minerals, the
5 lessee, before mining the minerals, shall so notify the board in
6 writing, and the board and the lessee shall negotiate and fix
7 the royalties for the minerals.

8 Any other law to the contrary notwithstanding, [~~thirty~~
9 twenty-five per cent of all royalties received by the State from
10 geothermal resources shall be paid to the county in which mining
11 operations covered under [a] an existing state geothermal
12 resource mining lease or new state geothermal resource mining
13 lease made after July 1, 2012, are situated.

14 Any other law to the contrary notwithstanding and
15 contingent upon the county in which mining operations are
16 situated receiving twenty-five per cent of all royalties
17 received by the State, fifteen per cent of all royalties
18 received by the State from geothermal resources produced under a
19 state geothermal resource mining lease made after July 1, 2012,
20 shall be paid to the department of Hawaiian home lands and shall
21 be deposited into the native Hawaiian rehabilitation fund."



1 SECTION 5. Section 182-18, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The board shall fix the payment of royalties to the
4 State for the utilization of geothermal resources at a rate
5 which will encourage the initial and continued production of
6 such resources. The rate fixed by the board shall not be less
7 than twelve per cent of the gross amount or value of the
8 geothermal resources produced under the lease. With respect to
9 all geothermal mining leases previously issued or to be issued,
10 where the board determines that it is necessary to encourage the
11 initial or continued production of geothermal resources, the
12 board shall have the authority to waive royalty payments to the
13 State for any fixed period of time up to but not exceeding eight
14 years."

15 SECTION 6. Nothing in this Act shall diminish the office
16 of Hawaiian affairs' pro rata portion of the public trust lands,
17 pursuant to article XII, section 6, of the Hawaii state
18 constitution.

19 SECTION 7. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 8. This Act shall take effect on July 1, 2012.



Report Title:

Department of Hawaiian Home Lands; Native Hawaiian
Rehabilitation Fund

Description:

Identifies geothermal and nongeothermal royalties and revenue from mining leases and public land dispositions as supplemental sources of revenue for the Native Hawaiian Rehabilitation Fund. Decreases the percentage of those royalties and revenues to the appropriate counties and allocates a percentage of those royalties and revenues to the Department of Hawaiian Home Lands. Effective July 1, 2012. (HB2530 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

