

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. Section 171-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§171-6 Powers. Except as otherwise provided by law, the  
4 board of land and natural resources shall have the powers and  
5 functions granted to the heads of departments and the board of  
6 land and natural resources under chapter 26.

7           In addition to the foregoing, the board may:

- 8           (1) Adopt a seal;
- 9           (2) Administer oaths;
- 10          (3) Prescribe forms of instruments and documents;
- 11          (4) Adopt rules which, upon compliance with chapter 91,  
12             shall have the force and effect of law;
- 13          (5) Set, charge, demand, and collect reasonable fees for  
14             the preparation of documents to be issued, for the  
15             surveying of public lands, and for the issuing of  
16             certified copies of its government records, which  
17             fees, when collected, shall be deposited into the



1 state general fund, unless otherwise specified in this  
2 chapter;

3 (6) Establish additional restrictions, requirements, or  
4 conditions, not inconsistent with those prescribed in  
5 this chapter, relating to the use of particular land  
6 being disposed of, the terms of sale, lease, license,  
7 or permit, and the qualifications of any person to  
8 draw, bid, or negotiate for public land;

9 (7) Reduce or waive the lease rental at the beginning of  
10 the lease on any lease of public land to be used for  
11 any agricultural or pastoral use, or for resort,  
12 commercial, industrial, or other business use where  
13 the land being leased requires substantial  
14 improvements to be placed thereon; provided that such  
15 reduction or waiver shall not exceed two years for  
16 land to be used for any agricultural or pastoral use,  
17 or exceed one year for land to be used for resort,  
18 commercial, industrial, or other business use;

19 (8) Delegate to the chairperson or employees of the  
20 department of land and natural resources, subject to  
21 the board's control and responsibility, such powers



- 1 and duties as may be lawful or proper for the  
2 performance of the functions vested in the board;
- 3 (9) Utilize arbitration under chapter 658A to settle any  
4 controversy arising out of any existing or future  
5 lease;
- 6 (10) Set, charge, and collect reasonable fees in an amount  
7 sufficient to defray the cost of performing or  
8 otherwise providing for the inspection of activities  
9 permitted upon the issuance of a land license  
10 involving a commercial purpose;
- 11 (11) Appoint masters or hearing officers to conduct public  
12 hearings as provided by law and under such conditions  
13 as the board by rules shall establish;
- 14 (12) Bring such actions as may be necessary to remove or  
15 remedy encroachments upon public lands. Any person  
16 causing an encroachment upon public land shall:
- 17 (A) Be fined not more than \$1,000 a day for the first  
18 offense;
- 19 (B) Be fined not less than \$1,000 nor more than  
20 \$4,000 per day upon the second offense and  
21 thereafter;



1 (C) If required by the board, restore the land to its  
2 original condition if altered and assume the  
3 costs thereof;

4 (D) Assume such costs as may result from adverse  
5 effects from such restoration; and

6 (E) Be liable for administrative costs incurred by  
7 the department and for payment of damages;

8 (13) Set, charge, and collect interest and a service charge  
9 on delinquent payments due on leases, sales, or other  
10 accounts. The rate of interest shall not exceed one  
11 per cent a month and the service charge shall not  
12 exceed \$50 a month for each delinquent payment;  
13 provided that the contract shall state the interest  
14 rate and the service charge and be signed by the party  
15 to be charged;

16 (14) Set, charge, and collect additional rentals for the  
17 unauthorized use of public lands by a lessee,  
18 licensee, grantee, or permittee who is in violation of  
19 any term or condition of a lease, license, easement,  
20 or revocable permit, retroactive to the date of the  
21 occurrence of the violation. Such amounts shall be  
22 considered delinquent payments and shall be subject to

1 interest and service charges as provided in paragraph  
2 (13);

3 (15) Set, charge, and collect reasonable fines for  
4 violation of this chapter or any rule adopted  
5 thereunder. Any person engaging in any prohibited use  
6 of public lands or conducting any prohibited activity  
7 on public lands, or violating any of the other  
8 provisions of this chapter or any rule adopted  
9 thereunder, for which violation a penalty is not  
10 otherwise provided, shall be:

11 (A) Fined not more than \$5,000 per violation for a  
12 first violation or a violation beyond five years  
13 of the last violation, provided that, after  
14 written or verbal notification from the  
15 department, an additional \$1,000 per day per  
16 violation may be assessed for each day in which  
17 the violation persists;

18 (B) Fined not more than \$10,000 per violation for a  
19 second violation within five years of the last  
20 violation, provided that, after written or verbal  
21 notification from the department, an additional



1                   \$2,000 per day per violation may be assessed for  
2                   each day in which the violation persists;

3                   (C) Fined not more than \$20,000 per violation for a  
4                   third or subsequent violation within five years  
5                   of the last violation, provided that, after  
6                   written or verbal notification from the  
7                   department, an additional \$4,000 per day per  
8                   violation may be assessed for each day in which  
9                   the violation persists; and

10                  (D) Liable for administrative costs and expenses  
11                  incurred by the department and for payment for  
12                  damages, including but not limited to natural  
13                  resource damages.

14                  In addition to the fines, administrative costs, and  
15                  damages provided for hereinabove, for damage to or  
16                  theft of natural resources, the board may also set,  
17                  charge, and collect a fine that, in its discretion, is  
18                  appropriate considering the value of the natural  
19                  resource that is damaged or the subject of the theft.

20                  In arriving at an appropriate fine, the board may  
21                  consider the market value of the natural resource  
22                  damaged or taken and any other factor it deems



1 appropriate, such as the loss of the natural resource  
2 to its natural habitat and environment and the cost of  
3 restoration or replacement." The remedies provided for  
4 in this paragraph are cumulative and in addition to  
5 any other remedies allowed by law.

6 No person shall be sanctioned pursuant to this section  
7 for the exercise of native Hawaiian gathering rights  
8 and traditional cultural practices as authorized by  
9 law or as permitted by the department pursuant to  
10 article XII, section 7, of the Hawaii state  
11 constitution;

12 (16) Issue revenue bonds, subject to the approval of the  
13 legislature. All revenue bonds shall be issued  
14 pursuant to part III of chapter 39, except as provided  
15 in this chapter. All revenue bonds shall be issued in  
16 the name of the department and not in the name of the  
17 State. The final maturity date of the revenue bonds  
18 may be any date not exceeding thirty years from the  
19 date of issuance;

20 (17) Pledge or assign all or any part of the receipts and  
21 revenues of the department. The revenue bonds shall  
22 be payable from and secured solely by the revenue



1 derived by the department from the industrial park or  
2 parks for which the bonds are issued;

3 (18) Reimburse the state general fund for debt service on  
4 general obligation bonds or reimbursable general  
5 obligation bonds issued by the State for purposes of  
6 this chapter; [and]

7 (19) Enter into agreements with state agencies for the  
8 development and management of vacant public land for  
9 agricultural purposes or uses; and

10 [~~(19)~~] (20) Do any and all things necessary to carry out its  
11 purposes and exercise the powers granted in this  
12 chapter."

13 SECTION 2. Section 171-55.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]§171-55.5[+] Agricultural [plots-] uses. (a) The  
16 department of land and natural resources, in cooperation with  
17 the department of agriculture and the city and county of  
18 Honolulu, shall adopt rules in accordance with chapter 91 to  
19 allow for use of vacant public lands for farming or agricultural  
20 recreation.

21 (b) The department of land and natural resources may enter  
22 into cooperative agreements with any state department, including

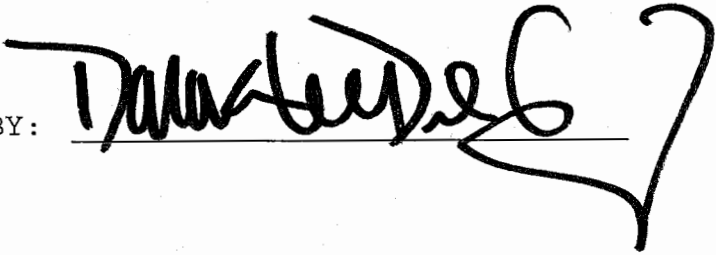


1 the department of agriculture, to manage and develop vacant  
2 public lands for agricultural purposes or uses."

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

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

6

INTRODUCED BY: 



**Report Title:**

Public Lands; DLNR; Cooperative Agreements; Agricultural Uses

**Description:**

Authorizes the board and department of land and natural resources to enter into cooperative agreements with any state department to manage and develop vacant public lands for agricultural purposes or uses.

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

