

# SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. 4 Date MAR 06 2012

TO: S.B. No. 2792, S.D. 2

SECTION 1. Section 2 of Senate Bill No. 2792, S.D. 2, is amended by amending subsection (i) of section 213, Hawaiian Homes Commission Act, 1920, as amended, by changing the proposed percentages of geothermal royalties and revenues to be deposited into the native Hawaiian rehabilitation fund to unspecified amounts, and to read as follows:

"(i) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the Hawaii Constitution, thirty per cent of the state receipts[7] derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, [and] fifteen per cent of all revenues from lease agreements granted lease extensions pursuant to section 228, per cent of geothermal royalties collected by the State pursuant to sections 182-7 and 182-18, Hawaii Revised Statutes, from mining leases executed after July 1, 2012, and per cent of all revenues collected by the State from the disposition of state lands to nongeothermal renewable energy producers made after July 1, 2012, pursuant to section 171-95, Hawaii Revised Statutes, shall be deposited into this fund. The department shall use this money for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities, which shall include the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

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

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



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

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

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

The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session of the legislature, beginning with the regular session of 2011, on expenditures from this fund that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section 228(e), including the amount expended, the recipient of the moneys expended, and the purpose of the expenditure."

SECTION 2. Section 3 of Senate Bill No. 2792, S.D. 2, is amended by amending subsection (a) of section 171-95, Hawaii Revised Statutes, by changing the proposed percentage of revenue to be deposited into the native Hawaiian rehabilitation fund to an unspecified amount, and to read as follows:

- "(a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction:
- (1) Sell public lands at such price and on such other terms and conditions as the board may deem proper to governments, including the United States, city and county, counties, other governmental agencies authorized to hold lands in fee simple and public utilities;
  - (2) Lease to the governments, agencies, public utilities, and renewable energy producers public lands for terms up to, but not in excess of, sixty-five years at such rental and on such other terms and conditions as the board may determine; provided that \_\_\_\_\_ per cent of any revenue from any disposition to a nongeothermal renewable energy producer made after July 1, 2012, shall be paid to the department of Hawaiian home lands and shall be deposited into the native Hawaiian rehabilitation fund;

- (3) Grant licenses and easements to the governments, agencies, public utilities, and renewable energy producers on such terms and conditions as the board may determine for road, pipeline, utility, communication cable, and other rights-of-way;
- (4) Exchange public lands with the governments and agencies;
- (5) Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State; and
- (6) Waive or modify building and other requirements and conditions contained in deeds, patents, sales agreements, or leases held by the governments and agencies whenever such waiver or modification is beneficial to the State."

SECTION 3. Section 4 of Senate Bill No. 2792, S.D. 2, is amended by amending subsection (c) of section 182-7, Hawaii Revised Statutes, by changing the proposed percentage of royalties to be paid to the counties and to be deposited into the native Hawaiian rehabilitation fund to unspecified amounts, and to read as follows:

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

- (1) In the case of bauxite, bauxitic clay, gibbsite, diaspore, boehmite, and all ores of aluminum, the amount of royalties for each long dry ton of ore as beneficiated shall not be less than twenty-five cents or the equivalent of the price of one pound of virgin pig aluminum, whichever is higher, nor shall it exceed the equivalent of the price of three pounds of virgin pig aluminum;
- (2) The rate of royalty for ore processed into aluminous oxide in the State shall be set at eighty per cent of the rate of royalty for ore not processed to aluminous oxide in the State; and
- (3) The royalty shall be fixed at a rate [~~which~~] that will tend to encourage the establishment and continuation of the mining industry in the State.

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



renegotiating for and during the first twenty years of the lease term.

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

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

Any other law to the contrary notwithstanding, and contingent upon the receipt by the appropriate county in which mining operations are situated of \_\_\_\_\_ per cent of all royalties received by the State, \_\_\_\_\_ per cent of all royalties received by the State from geothermal resources produced under a state geothermal resource mining lease made after July 1, 2012, shall be paid to the department of Hawaiian home lands and shall be deposited into the native Hawaiian rehabilitation fund."

SECTION 4. Section 5 of Senate Bill No. 2792, S.D. 2, is amended by amending subsection (a) of section 182-18, Hawaii Revised Statutes, by changing the proposed minimum percentage to be paid to the State to an unspecified amount, and to read as follows:

"(a) The board shall fix the payment of royalties to the State for the utilization of geothermal resources at a rate [~~which~~] that will encourage the initial and continued production of [~~such~~] the resources[-]; provided that the rate fixed by the board shall be no less than \_\_\_\_\_ per cent of the gross amount or value of the geothermal resources produced under the lease. With respect to all geothermal mining leases previously issued or to be issued, where the board determines that it is necessary to encourage the initial or continued production of geothermal resources, the board [~~shall have the authority to~~] may waive royalty payments to the State for any fixed period of time up to but not exceeding eight years."

Offered by: Arvid J. Ige (  ) Carried

( ) Failed to Carry

( ) Withdrawn

