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# A BILL FOR AN ACT

RELATING TO HAPUNA BEACH PARK.

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

1           SECTION 1.   **Purpose.**   The purpose of this Act is to require  
2 the department of land and natural resources to enter into  
3 negotiations with the county of Hawaii for the lease of Hapuna  
4 beach park to the county.

5           The legislature finds that the county of Hawaii would be a  
6 better steward of this public land than the department of land  
7 and natural resources.   Consequently, the legislature finds that  
8 the responsibility for managing Hapuna beach park should be  
9 transferred to the county of Hawaii.

10           Notwithstanding these findings, the legislature does not  
11 authorize or support the transfer by sale or otherwise of the  
12 fee simple title to Hapuna beach park.   In general, the  
13 legislature does not support alienating permanently the State's  
14 public land assets.   The legislature believes that public land  
15 should be held, managed, and operated for the public's best  
16 interest.   Furthermore, the legislature does not intend to  
17 diminish the ceded land corpus or cause the State to abdicate  
18 its fiduciary responsibility to native Hawaiians.



1           The legislature notes that this Act requires a portion of  
2 the gross revenues derived by the county of Hawaii from the  
3 leased public land to be transmitted to the State to become  
4 state realizations. The legislature intends that the revenues,  
5 whether or not generated from activity on ceded land, be deemed  
6 part of the pro rata portion of public land trust revenues  
7 transmitted to the office of Hawaiian affairs.

8           **SECTION 2. Definitions.** For the purposes of this Act:

9           "Board" means the board of land and natural resources.

10          "County" means the county of Hawaii.

11          "Department" means the department of land and natural  
12 resources.

13          "Subject public land" means Hapuna beach park, identified  
14 as tax map key SRA 6-6-02:35 and 6-06-02:41 por., located in the  
15 county of Hawaii. Notwithstanding section 171-2(3), Hawaii  
16 Revised Statutes, or any other law to the contrary, "subject  
17 public land" includes land located within Hapuna beach park that  
18 is used for roads, streets, or highways.

19          **SECTION 3. Long-term lease of subject public land;**

20 **negotiations, approval.** (a) Notwithstanding chapter 171,  
21 Hawaii Revised Statutes, or any other law to the contrary, the



1 department shall in good faith negotiate with the county to  
2 lease the subject public land to the county.

3 (b) If the department and the county reach an agreement  
4 pursuant to subsection (a), the department shall submit the  
5 proposed lease to the board for its review and approval. The  
6 county shall submit the proposed lease to the appropriate county  
7 officer or body, the review and approval of which is required  
8 under county charter or ordinance.

9 The lease shall take effect only upon the approval of the  
10 board and appropriate county officer or body.

11 Notwithstanding any law to the contrary, legislative  
12 approval of the lease shall not be required.

13 SECTION 4. **Conditions of lease.** (a) The lease entered  
14 into pursuant to section 3 of this Act shall conform with the  
15 following conditions:

- 16 (1) The term of the lease shall be at least \_\_\_\_\_ years, but  
17 not more than \_\_\_\_\_ years; except that the lease may  
18 provide for termination before \_\_\_\_\_ years for any  
19 violation of the lease;
- 20 (2) The lease rent to be charged to the county shall be \$1  
21 per year;



- 1           (3) The lease and subject public land shall be subject to  
2           chapter 171, Hawaii Revised Statutes; provided that,  
3           in the lease, the board and department may delegate  
4           any of their authority under chapter 171, Hawaii  
5           Revised Statutes, over the subject public land to the  
6           county;
- 7           (4) Of the gross revenues derived by the county from any  
8           sublease or rental of or concession on the subject  
9           public land, or sale, lease, rental, or other  
10          disposition of property or services on or flowing from  
11          the subject public land,           per cent shall be  
12          transmitted by the county to the state director of  
13          finance. The county shall transmit the revenues  
14          within thirty days after the end of each fiscal  
15          quarter. The transmitted revenues shall be deposited  
16          by the state director of finance into the state parks  
17          special fund established by section 184-3.4, Hawaii  
18          Revised Statutes. For the purposes of this paragraph,  
19          "gross revenues" shall not include any taxes or  
20          improvement district assessments imposed by the county  
21          and collected from any person subleasing or otherwise  
22          using the leased public land or fees imposed and



1 collected by the county for county governmental or  
2 utility services;

3 (5) The county shall assume all leases and other  
4 encumbrances on the subject public land that are  
5 unexpired on the date of execution of the lease; and

6 (6) The subject public land shall be subject to applicable  
7 state and county land use, planning, and building  
8 laws; provided that this paragraph shall not be deemed  
9 to prohibit the amendment of any law subsequent to the  
10 approval of the lease.

11 (b) The lease may include any other terms or conditions  
12 not inconsistent with subsection (a) or other provisions of this  
13 Act.

14 (c) The lease may be modified by agreement of the board  
15 and county, but shall not be renewed for a term longer than the  
16 initial term.

17 SECTION 5. **Report to legislature.** (a) If a lease of the  
18 subject public land is approved by all relevant parties pursuant  
19 to section 3 of this Act before January 1, 2014, the department  
20 shall notify the legislature within ten days of the last party's  
21 approval of the lease.



1           (b) If a lease is not approved before January 1, 2014, the  
2 department shall submit a report to the legislature prior to the  
3 convening of the regular session of 2014 on the action taken  
4 pursuant to this Act, progress made to reach agreement on a  
5 lease of the subject public land, problems encountered during  
6 negotiations, and proposed solutions to the problems.

7           SECTION 6. **Non-impairment intent.** It is the intent of  
8 this Act not to jeopardize the receipt of any federal aid or to  
9 impair the obligation of the State or county of Hawaii, or any  
10 agency respectively thereof, to the holders of any bond issued  
11 by the State or by any agency, and to the extent, and only to  
12 the extent, necessary to effectuate this intent, the governor  
13 may modify the strict provisions of this Act, but shall promptly  
14 report any modification with reasons thereof to the legislature  
15 at its next session thereafter for review by the legislature.

16           SECTION 7. This Act shall take effect on July 1, 2013, and  
17 shall be repealed on December 31, .



**Report Title:**

Hapuna Beach Park; DLNR; Lease; County of Hawaii

**Description:**

Requires DLNR to enter into negotiations with the county of Hawaii for the lease of Hapuna Beach Park to the county. Requires DLNR to report to the legislature a lease agreement, or progress made if no agreement has been reached by 01/01/2014. Effective 07/01/2013. (SD2)

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

