

MAR 07 2014

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO DEFINE "BEST USE" OF LANDS UNDER LEASES FOR AGRICULTURE, BASE AGRICULTURAL LEASE RENTS ON THE VALUE OF THE LAND FOR THE INTENDED AGRICULTURAL PRODUCTION ACTIVITY, GRANT RIGHT OF FIRST REFUSAL TO RENEW OR EXTEND AN AGRICULTURAL LEASE OF TWENTY YEARS OR MORE TO THE LESSEE PRIOR TO THE DISPOSITION OF THE LEASE AT PUBLIC AUCTION, AND TRANSFER EXPEDITIOUSLY ALL OF ITS MANAGED LANDS LEASED OR UNDER REVOCABLE PERMIT FOR AGRICULTURAL PURPOSES TO THE DEPARTMENT OF AGRICULTURE.

1 WHEREAS, article XI, section 3, of the Hawaii State
2 Constitution mandates, in part, "The State shall conserve and
3 protect agricultural lands, promote diversified agriculture,
4 increase agricultural self-sufficiency and assure the
5 availability of agriculturally suitable lands. The legislature
6 shall provide standards and criteria to accomplish the
7 foregoing"; and

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9 WHEREAS, many of Hawaii's lands classified as agricultural
10 or conservation are leased by the Department of Land and Natural
11 Resources for agricultural purposes; and

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13 WHEREAS, long-term leases at affordable rates are essential
14 for the viability of farms and ranches on these lands; and

15
16 WHEREAS, chapter 171, Hawaii Revised Statutes, relating to
17 management and disposition of public lands, is silent on any
18 requirements to set lease rents at the "best use" of public land
19 or for agricultural use; and

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21 WHEREAS, the only reference to "best use" in chapter 171,
22 Hawaii Revised Statutes, is in section 171-18.5, Hawaii Revised
23 Statutes, relating to sugarcane lands conveyed for the
24 development of housing projects, which provides a definition for



1 "highest and best use" as the most profitable, probable, and
2 legal use to which the land can be put; and
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4 WHEREAS, if the most profitable use standard is used in
5 determining the best use of agricultural lands, resultant prices
6 may not accurately reflect best agricultural uses, which should
7 be the primary purpose of agricultural lands; and
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9 WHEREAS, in fact, under current economic conditions in
10 Hawaii, lands classified as agricultural are often sold for
11 prices far above the value of the land in actual agricultural
12 production, which results in lease rents based on inflated land
13 prices rather than agricultural productivity that many farmers
14 and ranchers are unable to afford; and
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16 WHEREAS, the Department of Land and Natural Resources'
17 leases are subject to public auction upon expiration, subjecting
18 farmers or farm families who have farmed or ranched successfully
19 and paid their rent faithfully for many years to the potential
20 loss of their farms and their livelihoods; and
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22 WHEREAS, long-term agricultural operations are essential to
23 Hawaii's goal of increased long-term food security; and
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25 WHEREAS, section 166E-1, Hawaii Revised Statutes, expresses
26 the Legislature's finding that the Department of Land and
27 Natural Resources should transfer certain public lands
28 classified for agricultural use by the Department of Land and
29 Natural Resources to the Department of Agriculture to ensure the
30 long-term productive use of public lands; now, therefore,
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32 BE IT RESOLVED by the Senate of the Twenty-seventh
33 Legislature of the State of Hawaii, Regular Session of 2014, the
34 House of Representatives concurring, that the Department of Land
35 and Natural Resources is requested to:
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- 37 (1) Define "best use" of lands under leases for
38 agriculture or offered for lease for agricultural
39 purposes based on agricultural production for which
40 the lands are suited, such as ranching on pasture
41 land, crop production in areas of suitable soil, and
42 aquaculture or aquaponics where such facilities are
43 appropriate;
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- 1 (2) Base agricultural lease rents on the value of the land
- 2 for the intended agricultural production activity,
- 3 using current production values from the land under
- 4 consideration and from nearby similar agricultural
- 5 activities as necessary, without consideration of land
- 6 sale prices or of improvements made to the land by the
- 7 lessee;
- 8
- 9 (3) Grant right of first refusal to renew or extend an
- 10 agricultural lease of twenty years or more to the
- 11 lessee prior to the disposition of the lease at public
- 12 auction; provided that:
- 13
- 14 (A) The lessee is engaged in agricultural production,
- 15 including crop production, livestock production,
- 16 or aquacultural or aquaponic production;
- 17
- 18 (B) The lessee is not in arrears in the payment of
- 19 taxes, rents, or other obligations owing the
- 20 State or any county; and
- 21
- 22 (C) The lessee has not had, during the five years
- 23 preceding the expiration of the lease, a previous
- 24 sale, lease, license, permit, or easement
- 25 covering other public lands canceled for failure
- 26 to satisfy the terms and conditions thereof; and
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- 28 (4) Pursuant to the Legislature's findings codified in
- 29 section 166E-1, Hawaii Revised Statutes, expeditiously
- 30 transfer all Department of Land and Natural Resources
- 31 managed lands leased or under revocable permit for
- 32 agricultural purposes to the Department of
- 33 Agriculture; and
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35 BE IT FURTHER RESOLVED that certified copies of this
 36 Concurrent Resolution be transmitted to the Chairperson of the
 37 Board of Land and Natural Resources and Chairperson of the Board
 38 of Agriculture.

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Clarence M. Mikiha

OFFERED BY: Malu Jo
Daniel Kabele
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S.C.R. NO. 137

Greg H. Bell

[Signature]

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