

MAR 07 2014

SENATE 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

8
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

12
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

20
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
25 "highest and best use" as the most profitable, probable, and
26 legal use to which the land can be put; and

27



S.R. NO. 73

1 WHEREAS, if the most profitable use standard is used in
2 determining the best use of agricultural lands, resultant prices
3 may not accurately reflect best agricultural uses, which should
4 be the primary purpose of agricultural lands; and

5
6 WHEREAS, in fact, under current economic conditions in
7 Hawaii, lands classified as agricultural are often sold for
8 prices far above the value of the land in actual agricultural
9 production, which results in lease rents based on inflated land
10 prices rather than agricultural productivity that many farmers
11 and ranchers are unable to afford; and

12
13 WHEREAS, the Department of Land and Natural Resources'
14 leases are subject to public auction upon expiration, subjecting
15 farmers or farm families who have farmed or ranched successfully
16 and paid their rent faithfully for many years to the potential
17 loss of their farms and their livelihoods; and

18
19 WHEREAS, long-term agricultural operations are essential to
20 Hawaii's goal of increased long-term food security; and

21
22 WHEREAS, section 166E-1, Hawaii Revised Statutes, expresses
23 the Legislature's finding that the Department of Land and
24 Natural Resources should transfer certain public lands
25 classified for agricultural use by the Department of Land and
26 Natural Resources to the Department of Agriculture to ensure the
27 long-term productive use of public lands; now, therefore,

28
29 BE IT RESOLVED by the Senate of the Twenty-seventh
30 Legislature of the State of Hawaii, Regular Session of 2014,
31 that the Department of Land and Natural Resources is requested
32 to:

- 33
34 (1) Define "best use" of lands under leases for
35 agriculture or offered for lease for agricultural
36 purposes based on agricultural production for which
37 the lands are suited, such as ranching on pasture
38 land, crop production in areas of suitable soil, and
39 aquaculture or aquaponics where such facilities are
40 appropriate;
- 41
42 (2) Base agricultural lease rents on the value of the land
43 for the intended agricultural production activity,
44 using current production values from the land under



S.R. NO. 73

1 consideration and from nearby similar agricultural
2 activities as necessary, without consideration of land
3 sale prices or of improvements made to the land by the
4 lessee;

5
6 (3) Grant right of first refusal to renew or extend an
7 agricultural lease of twenty years or more to the
8 lessee prior to the disposition of the lease at public
9 auction; provided that:

10
11 (A) The lessee is engaged in agricultural production,
12 including crop production, livestock production,
13 or aquacultural or aquaponic production;

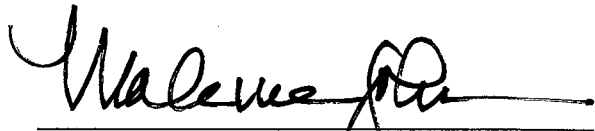
14
15 (B) The lessee is not in arrears in the payment of
16 taxes, rents, or other obligations owing the
17 State or any county; and

18
19 (C) The lessee has not had, during the five years
20 preceding the expiration of the lease, a previous
21 sale, lease, license, permit, or easement
22 covering other public lands canceled for failure
23 to satisfy the terms and conditions thereof; and
24

25 (4) Pursuant to the Legislature's findings codified in
26 section 166E-1, Hawaii Revised Statutes, expeditiously
27 transfer all Department of Land and Natural Resources
28 managed lands leased or under revocable permit for
29 agricultural purposes to the Department of
30 Agriculture; and
31

32 BE IT FURTHER RESOLVED that certified copies of this
33 Resolution be transmitted to the Chairperson of the Board of
34 Land and Natural Resources and Chairperson of the Board of
35 Agriculture.
36
37
38

OFFERED BY:






Clarence K. Oshiro

