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# A BILL FOR AN ACT

RELATING TO LAND DISPOSITIONS.

**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 provided that the board may delegate to the director  
 4 of transportation the authority to approve revocable  
 5 permits for public lands set aside to the department  
 6 of transportation pursuant to section 171-11;

7 (9) Use arbitration under chapter 658A to settle any  
 8 controversy arising out of any existing or future  
 9 lease;

10 (10) Set, charge, and collect reasonable fees in an amount  
 11 sufficient to defray the cost of performing or  
 12 otherwise providing for the inspection of activities  
 13 permitted upon the issuance of a land license  
 14 involving a commercial purpose;

15 (11) Appoint masters or hearing officers to conduct public  
 16 hearings as provided by law and under such conditions  
 17 as the board by rules shall establish;

18 (12) Bring such actions as may be necessary to remove or  
 19 remedy encroachments upon public lands. Any person  
 20 causing an encroachment upon public land shall:



- 1 (A) Be fined not more than \$1,000 a day for the first
- 2 offense;
- 3 (B) Be fined not less than \$1,000 nor more than
- 4 \$4,000 per day upon the second offense and
- 5 thereafter;
- 6 (C) If required by the board, restore the land to its
- 7 original condition if altered and assume the
- 8 costs thereof;
- 9 (D) Assume such costs as may result from adverse
- 10 effects from such restoration; and
- 11 (E) Be liable for administrative costs incurred by
- 12 the department and for payment of damages;
- 13 (13) Set, charge, and collect interest and a service charge
- 14 on delinquent payments due on leases, sales, or other
- 15 accounts. The rate of interest shall not exceed one
- 16 per cent a month and the service charge shall not
- 17 exceed \$50 a month for each delinquent payment;
- 18 provided that the contract shall state the interest
- 19 rate and the service charge and be signed by the party
- 20 to be charged;



1           (14) Set, charge, and collect additional rentals for the  
2                    unauthorized use of public lands by a lessee,  
3                    licensee, grantee, or permittee who is in violation of  
4                    any term or condition of a lease, license, easement,  
5                    or revocable permit, retroactive to the date of the  
6                    occurrence of the violation. Such amounts shall be  
7                    considered delinquent payments and shall be subject to  
8                    interest and service charges as provided in paragraph  
9                    (13);

10           (15) Set, charge, and collect reasonable fines for  
11                    violation of this chapter or any rule adopted  
12                    thereunder. Any person engaging in any prohibited use  
13                    of public lands or conducting any prohibited activity  
14                    on public lands, or violating any of the other  
15                    provisions of this chapter or any rule adopted  
16                    thereunder, for which violation a penalty is not  
17                    otherwise provided, shall be:

18                    (A) Fined not more than \$5,000 per violation for a  
19                            first violation or a violation beyond five years  
20                            of the last violation; provided that, after  
21                            written or verbal notification from the

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

4 (B) Fined not more than \$10,000 per violation for a  
5 second violation within five years of the last  
6 violation; provided that, after written or verbal  
7 notification from the department, an additional  
8 \$2,000 per day per violation may be assessed for  
9 each day in which the violation persists;

10 (C) Fined not more than \$20,000 per violation for a  
11 third or subsequent violation within five years  
12 of the last violation; provided that, after  
13 written or verbal notification from the  
14 department, an additional \$4,000 per day per  
15 violation may be assessed for each day in which  
16 the violation persists; and

17 (D) Liable for administrative costs and expenses  
18 incurred by the department and for payment for  
19 damages, including but not limited to natural  
20 resource damages.



1           In addition to the fines, administrative costs, and  
2           damages provided for hereinabove, for damage to or  
3           theft of natural resources, the board may also set,  
4           charge, and collect a fine that, in its discretion, is  
5           appropriate considering the value of the natural  
6           resource that is damaged or the subject of the theft.  
7           In arriving at an appropriate fine, the board may  
8           consider the market value of the natural resource  
9           damaged or taken and any other factor it deems  
10          appropriate, such as the loss of the natural resource  
11          to its natural habitat and environment and the cost of  
12          restoration or replacement. The remedies provided for  
13          in this paragraph are cumulative and in addition to  
14          any other remedies allowed by law.  
15          No person shall be sanctioned pursuant to this section  
16          for the exercise of native Hawaiian gathering rights  
17          and traditional cultural practices as authorized by  
18          law or as permitted by the department pursuant to  
19          article XII, section 7, of the Hawaii state  
20          constitution;



- 1       (16) Issue revenue bonds, subject to the approval of the  
2           legislature. All revenue bonds shall be issued  
3           pursuant to part III of chapter 39, except as provided  
4           in this chapter. All revenue bonds shall be issued in  
5           the name of the department and not in the name of the  
6           State. The final maturity date of the revenue bonds  
7           may be any date not exceeding thirty years from the  
8           date of issuance;
- 9       (17) Pledge or assign all or any part of the receipts and  
10          revenues of the department. The revenue bonds shall  
11          be payable from and secured solely by the revenue  
12          derived by the department from the industrial park or  
13          parks for which the bonds are issued;
- 14       (18) Reimburse the state general fund for debt service on  
15          general obligation bonds or reimbursable general  
16          obligation bonds issued by the State for purposes of  
17          this chapter;
- 18       (19) Notwithstanding part II of chapter 205A to the  
19          contrary, plan, design, construct, operate, and  
20          maintain any lands or facilities under the  
21          jurisdiction of the division of boating and ocean





1 recreation of the department without the need to  
2 obtain a special management area minor permit or  
3 special management area use permit; and

4 (20) Do any and all things necessary to carry out its  
5 purposes and exercise the powers granted in this  
6 chapter."

7 SECTION 2. Section 171-11, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§171-11 Public purposes, lands set aside by the governor;  
10 management. The governor may, with the prior approval of the  
11 board of land and natural resources, set aside public lands to  
12 any department or agency of the State, the city and county,  
13 county, or other political subdivisions of the State for public  
14 use or purpose. All withdrawals of the lands or portions  
15 thereof so set aside shall be made by the governor.

16 Any public lands set aside by the governor prior to the  
17 enactment of this chapter, or any public lands set aside by the  
18 governor of the Territory of Hawaii, shall be subject to the  
19 provisions of this section.

20 Lands while so set aside for such use or purpose or when  
21 acquired for roads and streets shall be managed by the



1 department, agency, city and county, county, or other political  
2 subdivisions of the State having jurisdiction thereof, unless  
3 otherwise provided by law. Such department, agency of the  
4 State, the city and county, county, or other political  
5 subdivisions of the State in managing such lands shall be  
6 authorized to exercise all of the powers vested in the board in  
7 regard to the issuance of leases, easements, licenses, revocable  
8 permits, concessions, or rights of entry covering such lands for  
9 such use as may be consistent with the purposes for which the  
10 lands were set aside on the same terms, conditions, and  
11 restrictions applicable to the disposition of public lands, as  
12 provided by this chapter all such dispositions being subject to  
13 the prior approval of the board; provided that any nonrenewable  
14 dispositions granting rights for a period not in excess of  
15 fourteen days, or revocable permits for public lands set aside  
16 to the department of transportation and issued by the department  
17 of transportation, shall not require (1) the approval of the  
18 board or (2) public auction or public advertisement for sealed  
19 tenders; and provided further that disposition of lands set  
20 aside for use as agricultural parks pursuant to chapter 166  
21 shall not be subject to the prior approval of the board. If at



1 the time of the disposition of any such leases the board shall  
 2 have approved the same, any order withdrawing or setting aside  
 3 any or all of such lands for any other public purpose shall be  
 4 made subject to such leases. Subject to section 5(f) of the Act  
 5 of March 18, 1959 (73 Stat. 6), all proceeds from such lands  
 6 shall be deposited into the appropriate funds provided by law.

7 This section shall also apply where the purposes are the  
 8 uses and purposes of the United States; provided that all  
 9 revenues derived from the lands and improvements thereon shall  
 10 be paid to the department of land and natural resources by the  
 11 United States.

12 Whenever lands set aside for a public purpose to the  
 13 various departments and agencies of the State, or to any city  
 14 and county, county, or other political subdivisions of the  
 15 State, or to the United States, are not being utilized or  
 16 required for the public purpose stated, the order setting aside  
 17 the lands shall be withdrawn and the lands shall be returned to  
 18 the department. The governor may withdraw public lands and,  
 19 with the prior approval of the board of land and natural  
 20 resources, set aside the withdrawn lands to another department  
 21 or agency of the State, the city and county, county, or



1 political subdivision of the State, or to the United States for  
2 public use or purpose, provided that no structure on such lands  
3 shall be built, demolished or altered until after the  
4 legislative action or inaction as hereinbelow provided.

5       The power granted to the governor in this section to set  
6 aside or withdraw or withdraw and set aside public lands shall  
7 be exercised subject to disapproval by the legislature by two-  
8 thirds vote of either the senate or the house of representatives  
9 or by the majority vote of both, in any regular or special  
10 session next following the date of the setting aside or  
11 withdrawal, or withdrawal and setting aside.

12       Whenever portions of lands set aside for a public purpose  
13 to the various departments and agencies of the State, or to any  
14 city and county, county, or other political subdivision of the  
15 State are not presently utilized or required for the public  
16 purpose stated, the board shall have the power, without  
17 withdrawing the order setting aside the lands, to dispose of any  
18 and all real property interest less than the fee in the portions  
19 of such lands where the disposition is for a use which is  
20 consistent or inconsistent with the purpose for which the land  
21 was set aside. All funds derived from disposition by the board



1 shall be deposited in the general fund of the State or be paid  
2 to the appropriate account; provided that all such dispositions  
3 shall be with the prior written approval of the department,  
4 agency, city and county, county, or other political subdivisions  
5 of the State and the governor, and shall be undertaken in  
6 compliance with all other applicable sections of this chapter."

7 SECTION 3. Section 171-55, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§171-55 Permits. Notwithstanding any other law to the  
10 contrary, the board of land and natural resources, or the  
11 department of transportation with respect to revocable permits  
12 issued for public land under its jurisdiction pursuant to  
13 section 171-11, may issue permits for the temporary occupancy of  
14 state lands or an interest therein on a month-to-month basis by  
15 direct negotiation without public auction, under conditions and  
16 rent which will serve the best interests of the State, subject,  
17 however, to those restrictions as may from time to time be  
18 expressly imposed by the board[-], except for revocable permits  
19 that are issued by the department of transportation. A permit  
20 on a month-to-month basis may continue for a period not to  
21 exceed one year from the date of its issuance; provided that the



1 board or the department of transportation may allow the permit  
2 to continue on a month-to-month basis for additional one year  
3 periods."

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

6 SECTION 5. This Act shall take effect on July 1, 2050;  
7 provided that on July 1, 2019, this Act shall be repealed and  
8 sections 171-6, 171-11, and 171-55, Hawaii Revised Statutes,  
9 shall be reenacted in the form in which they read on the day  
10 prior to the effective date of this Act.



**Report Title:**

Disposition of Land; Department of Transportation

**Description:**

Authorizes the Department of Transportation to issue revocable permits without approval of the Board of Land and Natural Resources. Effective July 1, 2050. Repealed on July 1, 2019 (HB2408 HD1)

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

