
A BILL FOR AN ACT

RELATING TO CONCESSIONS ON PUBLIC PROPERTY.

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

1 SECTION 1. The legislature finds that section 102-2,
2 Hawaii Revised Statutes, appropriately provides that concessions
3 on public property are to be granted by sealed top-dollar bid,
4 with some exceptions.

5 Section 102-2, Hawaii Revised Statutes, also allows some
6 concessions to be exempt from bidding requirements because a
7 person or entity offering the most money may not be the best
8 suited or qualified to serve the needs of the public, including
9 the enhancement of customer and visitor experiences. Thus, the
10 legislature finds that cost and whether a concession is a for
11 profit or nonprofit entity should not be the controlling factors
12 in awarding some concessions.

13 The legislature also finds that construction costs pose
14 challenges. While public leases may be granted for up to sixty-
15 five years, concession contracts may not exceed fifteen years,
16 making it difficult for agencies to find concessionaires who are
17 willing to provide satisfactory concession services to visitors



1 and residents of the State. At various locations where
2 concessions are needed or warranted, it is difficult for
3 potential concessionaires to generate sufficient revenues to
4 support and amortize the concessions' construction and other
5 costs at the current lease and contract lengths of fifteen
6 years. Accordingly, the legislature believes that it is in the
7 public's best interests to provide flexibility and to authorize
8 the increase of the maximum length of a concession contract by
9 five years, from fifteen years to twenty years. Further,
10 determination as to whether a county zoo, botanic garden, or
11 other county park is environmentally, culturally, historically,
12 or operationally unique for the purpose of determining whether a
13 concession should be exempt from sealed bidding requirements
14 should be made by the director of parks and recreation of the
15 respective county.

16 The legislature also finds there is a need to provide more
17 historical and cultural information to address the needs of, and
18 to enhance, visitor experiences within the Hawaii capital
19 historic district and the increasing number of tourists and
20 residents visiting this district each year.



1 The purpose of this Act is to facilitate the provision of
2 concession services to the public by:

3 (1) Increasing the maximum length of concession contracts
4 from fifteen years to twenty years;

5 (2) Replacing requirements that certain concessions shall
6 be operated by nonprofit corporations in order to be
7 exempt from the sealed bid requirements of section
8 102-2(a), Hawaii Revised Statutes, with a requirement
9 that state and county agencies give preference to
10 nonprofit corporations pursuant to rules adopted by
11 the respective agency;

12 (3) Providing that a county director of parks and
13 recreation shall designate which county zoos, botanic
14 gardens, or other county parks are environmentally,
15 culturally, historically, or operationally unique for
16 the purpose of determining whether a concession at the
17 zoo, botanic garden, or other park is exempt from the
18 sealed bid requirements of section 102-2(a), Hawaii
19 Revised Statutes; and

20 (4) Exempting concessions that provide historical and
21 cultural information, goods, and services to visitors



1 and residents within the Hawaii capital historic
2 district from the sealed bid requirements of section
3 102-2(a), Hawaii Revised Statutes.

4 SECTION 2. Section 102-2, Hawaii Revised Statutes, is
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) Except as otherwise specifically provided by law, no
7 concession or concession space shall be leased, let, licensed,
8 rented out, or otherwise disposed of either by contract, lease,
9 license, permit or any other arrangement, except under contract
10 let after public notice for sealed bids in the manner provided
11 by law; provided that the duration of the grant of the
12 concession or concession space shall be related to the
13 investment required but in no event to exceed [~~fifteen~~] twenty
14 years for the initial term, and if amended, any then remaining
15 term plus any agreed extension thereof awarded or granted by the
16 government agency making a lease or contract or other
17 arrangement relating to a concession; provided further that and
18 subject to approval by county council resolution, the [~~fifteen-~~
19 ~~year~~] twenty-year limit shall not apply to nonprofit
20 corporations organized pursuant to chapter 414D.



1 (b) The bidding requirements of subsection (a) shall not
2 apply to concessions or space on public property set aside for
3 the following purposes:

4 (1) For operation of ground transportation services and
5 parking lot operations at airports, except for motor
6 vehicle rental operations under chapter 437D;

7 (2) For lei vendors;

8 (3) For airline and aircraft operations;

9 (4) For automated teller machines and vending machines,
10 except vending machines located at public schools
11 operated by blind or visually handicapped persons in
12 accordance with section 302A-412;

13 (5) For operation of concessions set aside without any
14 charge;

15 (6) For operation of concessions by handicapped or blind
16 persons; except concessions operated in the public
17 schools by blind or visually handicapped persons in
18 accordance with section 302A-412;

19 (7) For operation of concessions on permits revocable on
20 notice of thirty days or less; provided that no such



1 permits shall be issued for more than a one year
2 period;

3 (8) For operation of concessions or concession spaces for
4 a beach service association dedicated to the
5 preservation of the Hawaii beach boy tradition,
6 [~~incorporated as a nonprofit~~] by a corporation or
7 other entity formed in accordance with state law, and
8 whose members are appropriately licensed or certified
9 as required by law;

10 (9) For operation of concessions at county zoos, botanic
11 gardens, or other county parks [~~which~~] that are
12 designated by the respective county director of parks
13 and recreation, in the director's sole discretion, as
14 environmentally, culturally, historically, or
15 operationally unique, and are supported, by
16 [~~nonprofit~~] corporations [~~incorporated~~] or other
17 entities formed in accordance with state law solely
18 for purposes of supporting county aims and goals of
19 the zoo, botanic garden, or other county park, and
20 operating under agreement with the appropriate agency
21 solely for [~~such~~] those purposes, aims, and goals;



- 1 (10) For operation of concessions that furnish goods or
- 2 services for which there is only one source, as
- 3 determined by the head of the awarding government
- 4 agency in writing that shall be included in the
- 5 contract file;
- 6 (11) For any of the operations of the Hawaii health systems
- 7 corporation and its regional system boards;
- 8 (12) For airport operation of concessions;
- 9 (13) For the stadium authority operation of concessions
- 10 providing electronic communication services;
- 11 (14) For the stadium authority operation of concessions
- 12 consisting solely of advertising; [~~and~~]
- 13 (15) For the operations of the natural energy laboratory of
- 14 Hawaii authority[-]; and
- 15 (16) For the operation of concessions that provide
- 16 historical or cultural information, goods, or services
- 17 within the Hawaii capital historic district;
- 18 provided that any state or county department or agency, before
- 19 awarding any contract or entering into any lease for a
- 20 concession or concession space described in paragraph (8) or
- 21 (9), shall first adopt rules pursuant to chapter 91 that



1 establish a preference for the award of contracts to nonprofit
2 corporations; provided further that the rules shall include
3 criteria for determining whether a potential concessionaire is a
4 nonprofit corporation."

5 SECTION 3. Section 171-56, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§171-56 Contract or license for concessions or concession
8 space. The board of land and natural resources may, subject to
9 chapter 102, dispose of concessions, as defined in chapter 102,
10 and shall enter into contracts or issue licenses for such
11 concessions; provided that the duration of the contract or
12 license shall be related to the investment required, but in no
13 event to exceed [~~fifteen~~] twenty years."

14 SECTION 4. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

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

19 SECTION 6. This Act shall take effect on July 1, 2019;
20 provided that the amendments made to section 102-2(b), Hawaii
21 Revised Statutes, under section 2 of this Act shall not be



- 1 repealed when section 102-2(b), Hawaii Revised Statutes, is
- 2 repealed and reenacted on June 30, 2021, pursuant to section 4,
- 3 Act 141, Session Laws of Hawaii 2014.



Report Title:

Concessions; Public Property; Bids; Proposals

Description:

Increases the maximum length of concession contracts from 15 years to 20 years. Replaces requirements that certain concessions shall be operated by nonprofit corporations in order to be exempt from the sealed bid requirements of section 102-2(a), Hawaii Revised Statutes, with a requirement that state and county agencies give preference to nonprofit corporations pursuant to rules. Provides that a county director of parks and recreation shall designate which county zoos, botanic gardens, or other county parks are environmentally, culturally, historically, or operationally unique for the purpose of determining whether a concession at the zoo, botanic garden, or other park is exempt from the sealed bid requirements of section 102-2(a), Hawaii Revised Statutes. Exempts from sealed bid requirements of section 102-2(a), Hawaii Revised Statutes, concessions on public property whose operations provide historical and cultural information, goods, and services within the Hawaii Capital Historic District. (SD1)

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

