
A BILL FOR AN ACT

RELATING TO PUBLIC LAND DISPOSITIONS.

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

1 SECTION 1. The legislature finds that the public trust
2 lands must be properly stewarded for future generations and that
3 rigorous procedures are required to protect the public interest
4 before public lands are dedicated to private uses.

5 The purpose of this Act is to prohibit the board of land
6 and natural resources from issuing a lease for the use of public
7 land if doing so could adversely impact the public.

8 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
9 amended by adding a new section to part II, subpart A, to be
10 appropriately designated and to read as follows:

11 "§171- Disposition of public lands; prohibitions. The
12 board of land and natural resources shall not dispose of public
13 lands if the disposition:

14 (1) Would adversely impact any trail, historic site,
15 cultural site, traditional practice, or natural
16 resource;

17 (2) Would impair public access to a recreational area; or



1 (3) Is by lease or sale to a person who, within the past
2 twenty years, has:

3 (A) Violated any law related to land use,
4 environmental protection, historic and cultural
5 property or resources, civil rights, occupational
6 safety, or labor; or

7 (B) Breached any agreement made with a government
8 agency relating to land use entitlement."

9 SECTION 3. Section 171-33, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§171-33 Planning; generally.** (a) Prior to any notice of
12 intended disposition, the board of land and natural resources
13 shall:

14 (1) Classify the land according to its use or uses as
15 provided in this chapter;

16 (2) Determine the specific use or uses for which the
17 disposition is intended;

18 (3) Parcel land into units of minimum size areas related
19 to the intended specific use or uses and sufficient
20 for an economic operation, hereinafter called an
21 "economic unit";



- 1 (4) Determine the requirements for the construction of
2 building or other improvements, which are necessary or
3 desirable to encourage the highest use of the land;
- 4 (5) Determine the upset price or lease rental, based upon
5 the fair market value of the land employed to the
6 specific use or uses for which the disposition is
7 being made, with due consideration for all of the
8 terms and conditions of the disposition;
- 9 (6) Determine the necessary conditions of disposition
10 which will discourage speculation;
- 11 (7) In the case of leases, determine the minimum tenure
12 necessary to support the intended use or uses and the
13 necessity for periodic rent openings in long-term
14 leases to assure the State a fair return;
- 15 (8) Prepare the proposed documents and make them available
16 for public inspection;
- 17 (9) Determine, two years before the expiration of the term
18 of any lease, whether the premises are to be demised
19 for the same use or uses under a new lease or whether
20 all or any part thereof is to be reserved for other



1 use or uses and then promptly notify the lessee of the
2 determination.

3 (b) Within ninety days of receipt of any notice of
4 intended disposition and prior to issuing any lease, the board
5 of land and natural resources shall complete an analysis of the
6 intended disposition. At a minimum, the analysis shall include:

7 (1) Alternative uses of the land and alternatives
8 available to the prospective lessee; and

9 (2) A review of documents submitted by the prospective
10 lessee regarding the amounts that the lessee would
11 otherwise pay for a lease to use comparable private
12 land."

13 SECTION 4. Section 171-59, Hawaii Revised Statutes, is
14 amended by amending subsections (a) and (b) to read as follows:

15 "(a) A lease of public land may be disposed of through
16 negotiation upon a finding by the board of land and natural
17 resources that the public interest demands it[-] and that the
18 disposition would comply with section 171- (1) and (2). Where
19 the public land is being sought under this section by a sugar or
20 pineapple company, and the company is the owner or operator of a
21 mill or cannery, then, for the purposes of this section, the



1 economic unit shall be that acreage of public land which when
2 taken together with the lands already owned or controlled or
3 available to the company, when cultivated is found by the board
4 to be necessary for the company's optimum mill or cannery
5 operation. In all other cases, public land to be sold under
6 this section shall be an economic unit as provided in section
7 171-33(3).

8 After a determination is made to negotiate the disposition
9 of a lease, the board shall:

10 (1) Give public notice as in public auction, in accordance
11 with the procedure set forth in section 171-16(a), of
12 its intention to lease public land through negotiation
13 setting forth the minimum conditions thereunder, the
14 use for which the public land will be leased. Any
15 person interested in securing the lease shall file an
16 application with the board not later than forty-five
17 days after the first publication of the notice[+],
18 which shall include information regarding the amounts
19 that the person would otherwise pay for a lease to use
20 comparable private land;



- 1 (2) Establish reasonable criteria for the selection of the
2 lessee; provided that where the intended use of the
3 land is agriculture, the department of agriculture
4 shall establish the criteria;
- 5 (3) Determine the applicants who meet the criteria for
6 selection set by section 171- (3) and the board or
7 the department of agriculture, as the case may be, and
8 notify all applicants of its determination. Any
9 applicant may examine the basis of the determination,
10 which shall be in writing, to ascertain whether or not
11 the conditions and criteria established by the board
12 or the department of agriculture were followed;
13 provided that if any applicant does not notify the
14 board of the applicant's objections, and the grounds
15 therefor, in writing, within twenty days of the
16 receipt of the notice, the applicant shall be barred
17 from proceeding to seek legal remedy for any alleged
18 failure of the board to follow the conditions and
19 criteria.



1 If only one applicant meets the criteria for selection of
2 the lessee, the board may, after notice as provided in (3),
3 above, dispose of the lease by negotiation.

4 If two or more applicants meet the criteria for the
5 selection of the lessee, the board shall select the lessee who
6 submits the highest offer contained in a sealed bid deposited
7 with the board.

8 (b) Disposition of public lands for airline, aircraft,
9 airport-related, agricultural processing, cattle feed
10 production, aquaculture, marine, maritime, and maritime-related
11 operations may be negotiated without regard to the limitations
12 set forth in subsection (a) and section 171-16(c); provided
13 that:

14 (1) The disposition encourages competition within the
15 aeronautical, airport-related, agricultural,
16 aquaculture, maritime, and maritime-related
17 operations;

18 (2) The disposition shall not exceed a maximum term of
19 thirty-five years, except in the case of:



1 (A) Maritime and maritime-related operations, which
2 may provide for a maximum term of seventy years;
3 and

4 (B) Aquaculture operations, which may provide for a
5 maximum term of sixty-five years; provided that
6 aquaculture operations in good standing may seek
7 to renew a lease issued under this section and,
8 during the lease term, may engage in supportive
9 activities that are related to or integrated with
10 aquaculture; [~~and~~]

11 (3) The method of disposition of public lands for cattle
12 feed production as set forth in this subsection shall
13 not apply after December 31, 1988[-]; and

14 (4) The disposition does not violate section 171- .

15 For the purposes of this subsection:

16 "Agricultural processing" means the processing of
17 agricultural products, including dairying, grown, raised, or
18 produced in Hawaii.

19 "Airport-related" means a purpose or activity that requires
20 air transportation to achieve that purpose or activity; or an



1 activity that generates revenue for the airport system as
2 provided in section 261-7.

3 "Aquaculture" means the propagation, cultivation, or
4 farming of aquatic plants and animals in controlled or selected
5 environments for research, commercial, or stocking purposes,
6 including aquaponics or any growing of plants or animals with
7 aquaculture effluents.

8 "Maritime-related" means a purpose or activity that
9 requires and is directly related to the loading, off-loading,
10 storage, or distribution of goods and services of the maritime
11 industry."

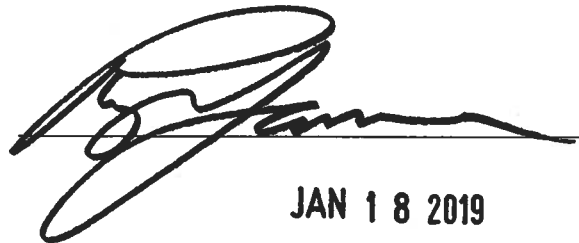
12 SECTION 5. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 6. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:



JAN 18 2019



H.B. NO. 596

Report Title:

Public Lands; DLNR; Leases

Description:

Requires the Board of Land and Natural Resources to analyze an intended lease disposition within 90 days. Prohibits the board from issuing any lease that would impact certain cultural, historical, or recreational areas. Prohibits the board from issuing any lease to a person that has previously violated certain laws.

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