

JAN 24 2019

A BILL FOR AN ACT

RELATING TO STATE BOATING FACILITIES.

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

1 SECTION 1. Section 200-2.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Notwithstanding any law to the contrary, the board
4 may lease any existing state boating facility in its entirety,
5 and fast lands and submerged lands within [an] any existing
6 state boating facility, by public auction, a request for
7 proposals, or by direct negotiation pursuant to section 171-
8 59 and chapter 190D, for private development, management, and
9 operation; provided that ~~[any lease of fast lands or submerged~~
10 ~~lands pursuant to a request for proposals shall be subject~~
11 ~~to section 200-2.6, regardless to which state boating facility~~
12 ~~the fast or submerged lands are attached.]~~ no lease shall be
13 approved by the board unless the board has first found that:

14 (1) The lessee has considered the risk of sea level rise
15 on the area of the land to be leased; and

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1 (2) The effect of sea level rise on the area of the land
2 to be leased will be minimal during the term of the
3 lease;
4 provided further that prior authorization from the legislature
5 shall not be required for a lease pursuant to this subsection,
6 except that the board may request authorization from the
7 legislature of, and the legislature may authorize by concurrent
8 resolution, a lease that does not satisfy the criteria under
9 paragraphs (1) and (2) where the board demonstrates the existence
10 of extraordinary circumstances necessitating the lease.

11 As used in this section, the term "state boating facility"
12 means a state small boat harbor, launching ramp, offshore
13 mooring, pier, wharf, landing, or any other area under the
14 jurisdiction of the department pursuant to this chapter."

15 SECTION 2. Section 200-2.6, Hawaii Revised Statutes, is
16 repealed.

17 [~~"§200-2.6~~] ~~Ala Wai boat harbor; leases.~~ The fast lands
18 and submerged lands of the Ala Wai boat harbor that may be
19 leased include the following:

20 ~~(1) All fast lands and submerged lands described in the~~
21 ~~request for qualifications or request for proposals~~

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Report Title:

State Boating Facilities; Disposition

Description:

Allows the Board of Land and Natural Resources (Board) to lease any existing state boating facility in its entirety, and fast lands and submerged lands within any existing state boating facility, by public auction, request for proposals, or direct negotiation for private development, management, and operation. Requires the Board to make a finding regarding certain sea level rise factors before awarding any such lease. Clarifies that legislative approval is not required to award a lease, except that the Board may request approval from the Legislature in extraordinary circumstances, by concurrent resolution, where the Board has not made findings regarding sea level rise factors. Repeals fast lands and submerged lands lease requirements specific to Ala Wai Boat Harbor.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO STATE BOATING FACILITIES.

PURPOSE: To allow the Board of Land and Natural Resources (Board) to lease any existing state boating facility in its entirety, and fast lands and submerged lands within any existing state boating facility, by public auction, request for proposals, or direct negotiation for private development, management, and operation; to require the Board to make a finding regarding certain sea level rise factors before awarding any such lease; to clarify that legislative approval is not required to award a lease, except that the Board may request approval from the Legislature in extraordinary circumstances, by concurrent resolution, where the Board has not made findings regarding sea level rise factors; and to repeal fast lands and submerged lands lease requirements specific to Ala Wai Boat Harbor.

MEANS: Amend section 200-2.5(a) and repeal section 200-2.6, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Climate change and sea level rise are not only real phenomena but are also two of the most preeminent challenges of the twenty-first century and are pivotal issues for the State. Recognizing that shorelines are one of the State's most dynamic and important cultural and economic resources, the Legislature in 2017 created the Hawaii Climate Change Mitigation and Adaptation Commission (Commission) and tasked the Commission, as a first step, to focus on sea level rise and develop a report identifying vulnerabilities and recommending adaptations. The Commission subsequently recommended that state and county departments and agencies review approval

processes for new developments in areas susceptible to sea level rise; update design standards to limit urban growth and increase flood resiliency; develop guidance to help developers cope with climate change; encourage the purchase of flood insurance; incorporate sea level rise into hazard mitigation planning; develop pre-disaster recovery frameworks; prioritize the preservation of coral reefs; inventory and assess the vulnerability of critical infrastructure; develop a financing strategy to deal with the expected costs of sea level rise; and explore potential public-private partnerships as a way to preserve coastal resources. This bill seeks to require that the applicant for a lease of fast land or submerged land within an existing state boating facility has considered the risk of sea level rise on the area of the land to be leased and the effect of sea level rise on the area of the land to be leased will be minimal during the term of the lease. This bill also seeks to provide that the Legislature may authorize the lease of any fast lands and submerged lands within any existing state boating facility, by concurrent resolution, for extraordinary circumstances

Currently, section 200-2.5(a), HRS, authorizes the Board to lease "fast lands and submerged lands within an existing state boating facility" by public auction, a request for proposals, or by direct negotiation pursuant to section 171-59, HRS, and chapter 190D, HRS, for private development, management, and operation, provided that any lease of fast lands or submerged lands pursuant to a request for proposals shall be subject to section 200-2.6, HRS, regardless to which state boating facility the fast or submerged lands are attached. In turn, however, section 200-2.6, HRS, only addresses leases of the Ala Wai Boat Harbor. The reference to section 200-2.6, HRS, within section 200-2.5(a),

HRS, is ambiguous and confusing. This proposal seeks to remove the reference to section 200-2.6, HRS, within section 200-2.5, HRS, to not limit the fast lands and submerged lands of the Ala Wai Boat Harbor that may be leased.

Impact on the public: This bill would provide the Department with more flexibility and options to upgrade and improve state boating facilities to the benefit of boaters.

Impact on the department and other agencies: This bill would provide the Department with more flexibility and options in managing, maintaining, and improving state boating facilities.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.