

S.B. NO. 3133

JAN 26 2022

A BILL FOR AN ACT

RELATING TO DISPOSITION OF PUBLIC LANDS BY NEGOTIATION.

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

1 SECTION 1. Section 171-59, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Disposition of public lands for commercial,
4 industrial, hotel or resort, airline, aircraft, airport-related,
5 agricultural processing, cattle feed production, aquaculture,
6 marine, maritime, and maritime-related operations may be
7 negotiated without regard to the limitations set forth in
8 subsection (a) and section 171-16(c); provided that:

9 (1) The disposition encourages competition within the
10 commercial, industrial, hotel or resort, aeronautical,
11 airport-related, agricultural, aquaculture, maritime,
12 and maritime-related operations;

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

15 (A) Maritime and maritime-related operations, which
16 may provide for a maximum term of seventy years;
17 and

18 (B) Aquaculture operations, which may provide for a

1 maximum term of sixty-five years; provided that
2 aquaculture operations in good standing may seek
3 to renew a lease issued under this section and,
4 during the lease term, may engage in supportive
5 activities that are related to or integrated with
6 aquaculture; and

7 (3) The method of disposition of public lands for cattle
8 feed production as set forth in this subsection shall
9 not apply after December 31, 1988.

10 For the purposes of this subsection:

11 "Agricultural processing" means the processing of
12 agricultural products, including dairying, grown, raised, or
13 produced in Hawaii.

14 "Airport-related" means a purpose or activity that requires
15 air transportation to achieve that purpose or activity; or an
16 activity that generates revenue for the airport system as
17 provided in section 261-7.

18 "Aquaculture" means the propagation, cultivation, or
19 farming of aquatic plants and animals in controlled or selected
20 environments for research, commercial, or stocking purposes,
21 including aquaponics or any growing of plants or animals with
22 aquaculture effluents.

"Hotel or resort" means a development that provides transient accommodations as defined in section 237D-1 and related services, which may include a front desk, housekeeping, food and beverage, room service, and other services customarily associated with transient accommodations; provided that no development shall qualify as a hotel or resort under this section unless at least seventy-five per cent of the living or sleeping quarters in the development are used solely for transient accommodations for the term of any lease.

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

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

INTRODUCED BY:

BY REQUEST

Report Title:

Public Lands; Disposition by Negotiation

Description:

Includes leases for commercial, industrial, and hotel or resort purposes eligible for disposition by negotiation pursuant to section 171-59(b), Hawaii Revised Statutes.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO DISPOSITION OF PUBLIC LAND BY NEGOTIATION.

PURPOSE: To include leases for commercial, industrial, and hotel or resort purposes eligible for disposition by negotiation pursuant to section 171-59(b), Hawaii Revised Statutes (HRS).

MEANS: Amend section 171-59(b), HRS.

JUSTIFICATION: Currently, section 171-59(b), HRS, allows for the disposition of leases for certain uses such as aeronautical and airport purposes, aquaculture, cattle feed production, and marine and maritime related purposes via direct negotiation rather than public auction, provided that the disposition encourages competition within those industries.

This bill proposes to include leases for commercial, industrial, and hotel or resort purposes to those eligible for direct negotiation pursuant to section 171-59(b), HRS. The public auction process that is normally used to dispose of leases for these uses has become too protracted, cumbersome and uncertain to the extent that it has deterred participation by potential lessees. Therefore, the result is that properties have remained vacant, generating no income and serving no public benefit.

The bill would serve to assist in expediting the leasing process, potentially making properties more attractive to prospective lessees, and resulting in the creation of long-term income stream. Furthermore, the rent from these leases would be determined at fair market value, ensuring that the State receives appropriate compensation for

these leases. Finally, any decision to award a direct lease would be subject to approval by the Board of Land and Natural Resources in an open, public meeting, providing the public, including any potential competing parties to review the proposed lease and provide testimony.

Impact on the public: The bill would facilitate the productive use of public lands for commercial, industrial, and hotel or resort purposes to create economic development and growth, additional jobs, and increased public and private revenues. Additionally, having more tenants via direct leases would result in more participants in the relevant markets, resulting in greater competition that benefits the public.

Impact on the department and other agencies: This bill would benefit the Department and the State by increasing revenues to fund its resource management and protection programs and reducing the need to rely on general funds. Conversely, having land under management of tenants paying fair market rent would alleviate the burden on the Department from managing vacant lands, which significantly impact staff and financial resources. Finally, the authority granted under this bill is similar to that which other state agencies that hold fee title to land already possess.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LNR 101.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.