

S.B. NO. 3157

JAN 24 2024

A BILL FOR AN ACT

RELATING TO DIRECT NEGOTIATION FOR PUBLIC LAND LEASES.

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

1 SECTION 1. The legislature finds that the public auction
2 process that is normally used to dispose of public land leases
3 has become too protracted, cumbersome, and uncertain to the
4 extent that it has deterred participation by potential lessees.
5 Therefore, the result is that properties have remained vacant,
6 generating no income and serving no public benefit.

7 The legislature also finds that expediting the leasing
8 process would potentially make properties more attractive to
9 prospective lessees, and result in the creation of a long-term
10 income stream.

11 The purpose of this Act is to expand the disposition of
12 public land leases through direct negotiation to include
13 agricultural, commercial, industrial, resort, and hotel
14 purposes.

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

17 "(b) Disposition of public lands for uses related to
18 airline, aircraft, and airport-related[7] operations;

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1 agricultural processing[~~τ~~]; cattle feed production[~~τ~~];
2 aquaculture[~~τ~~]; agriculture; commercial use; industrial use;
3 hotels; resorts; and marine, maritime, and maritime-related
4 operations may be negotiated without regard to the limitations
5 set forth in subsection (a) and section 171-16(c); provided
6 that:

- 7 (1) The disposition encourages competition within the
8 [~~aeronautical, airport-related, agricultural,~~
9 ~~aquaculture, maritime, and maritime-related~~
10 ~~operations;~~] relevant industries;
- 11 (2) The disposition shall not exceed a maximum term of
12 thirty-five years, except in the case of:
- 13 (A) Maritime and maritime-related operations, which
14 may provide for a maximum term of seventy years;
15 and
- 16 (B) Aquaculture operations, which may provide for a
17 maximum term of sixty-five years; provided that
18 aquaculture operations in good standing may seek
19 to renew a lease issued under this section and,
20 during the lease term, may engage in supportive
21 activities that are related to or integrated with
22 aquaculture; and

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

4 For the purposes of this subsection:

5 "Agricultural processing" means the processing of
6 agricultural products, including dairying, grown, raised, or
7 produced in Hawaii.

8 "Airport-related" means a purpose or activity that requires
9 air transportation to achieve that purpose or activity; or an
10 activity that generates revenue for the airport system as
11 provided in section 261-7.

12 "Aquaculture" means the propagation, cultivation, or
13 farming of aquatic plants and animals in controlled or selected
14 environments for research, commercial, or stocking purposes,
15 including aquaponics or any growing of plants or animals with
16 aquaculture effluents.

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

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1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

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 upon its approval.

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INTRODUCED BY: *AMN. 111*

9

BY REQUEST

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Report Title:

Public Land; Leases; Direct Negotiation

Description:

Authorizes disposition of public land leases for agricultural, commercial, industrial, hotel, and resort purposes through direct negotiation.

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO DIRECT NEGOTIATION FOR PUBLIC LAND LEASES.

PURPOSE: To authorize disposition of public land leases for agricultural, commercial, industrial, hotel, and resort purposes through direct negotiation.

MEANS: Amend section 171-59(b), Hawaii Revised Statutes (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 agricultural, commercial, industrial, hotel, and 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 lease 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 agricultural, commercial, industrial, hotel, and 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.