
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. In the interests of quickly effectuating the
2 setting aside of public lands between state departments and
3 agencies and the conservation of government resources, the
4 purpose of this Act is to:

5 (1) Provide that a survey of the land to be set aside
6 shall not be a condition precedent to the setting
7 aside of public lands to any department or agency of
8 the State; and

9 (2) Clarify survey requirements for the transfer of public
10 lands.

11 SECTION 2. Section 171-11, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§171-11 Public purposes, lands set aside by the governor;**
14 **management[-]; land surveys; requirements; public land registry;**

15 **dispute resolution.** (a) The governor may, with the prior
16 approval of the board of land and natural resources, set aside
17 public lands to any department or agency of the State, the city



1 and county, county, or other political subdivisions of the State
2 for public use or purpose. All withdrawals of the lands or
3 portions thereof so set aside shall be made by the governor.

4 Any public lands set aside by the governor prior to the
5 enactment of this chapter, or any public lands set aside by the
6 governor of the Territory of Hawaii, shall be subject to the
7 provisions of this section.

8 Lands while so set aside for [~~such~~] public use or purpose
9 or when acquired for roads and streets shall be managed by the
10 department, agency, city and county, county, or other political
11 subdivisions of the State having jurisdiction thereof, unless
12 otherwise provided by law. [~~Such~~] The department, agency of the
13 State, the city and county, county, or other political
14 subdivisions of the State in managing [~~such~~] these lands shall
15 be authorized to exercise all of the powers vested in the board
16 in regard to the issuance of leases, easements, licenses,
17 revocable permits, concessions, or rights of entry covering
18 [~~such~~] the lands for [~~such~~] the use as may be consistent with
19 the purposes for which the lands were set aside on the same
20 terms, conditions, and restrictions applicable to the
21 disposition of public lands, as provided by this chapter all



1 [such] dispositions being subject to the prior approval of the
2 board; provided that any nonrenewable dispositions granting
3 rights for a period not in excess of fourteen days shall not
4 require:

5 (1) [~~the~~] The approval of the board; or

6 (2) [~~public~~] Public auction or public advertisement for
7 sealed tenders; [~~and~~]

8 provided further that disposition of lands set aside for use as
9 agricultural parks pursuant to chapter 166 shall not be subject
10 to the prior approval of the board. If at the time of the
11 disposition of any such leases the board shall have approved the
12 same, any order withdrawing or setting aside any or all of such
13 lands for any other public purpose shall be made subject to such
14 leases. Subject to section 5(f) of the Act of March 18, 1959
15 (73 Stat. 6), all proceeds from such lands shall be deposited
16 into the appropriate funds provided by law.

17 A survey of the land to be set aside shall not be a
18 condition precedent to set aside public lands to a department or
19 agency of the State; provided that a subsequent survey of the
20 land set aside shall be binding if ratified by the board of land
21 and natural resources and the governor; provided further that



1 the State, its departments and agencies, and its officials and
2 employees shall be immune from all suits of whatever character,
3 whether sounding in law or in equity, relating to the boundaries
4 of land set aside without a survey.

5 This section shall also apply where the purposes are the
6 uses and purposes of the United States; provided that all
7 revenues derived from the lands and improvements thereon shall
8 be paid to the department of land and natural resources by the
9 United States.

10 Whenever lands set aside for a public purpose to the
11 various departments and agencies of the State, or to any city
12 and county, county, or other political subdivisions of the
13 State, or to the United States, are not being utilized or
14 required for the public purpose stated, the order setting aside
15 the lands shall be withdrawn and the lands shall be returned to
16 the department. The governor may withdraw public lands and,
17 with the prior approval of the board of land and natural
18 resources, set aside the withdrawn lands to another department
19 or agency of the State, the city and county, county, or
20 political subdivision of the State, or to the United States for
21 public use or purpose[~~r~~]; provided that no structure on [~~such~~]



1 these lands shall be built, demolished or altered until after
2 the legislative action or inaction as hereinbelow provided.

3 The power granted to the governor in this section to set
4 aside or withdraw or withdraw and set aside public lands shall
5 be exercised subject to disapproval by the legislature by
6 two-thirds vote of either the senate or the house of
7 representatives or by the majority vote of both, in any regular
8 or special session next following the date of the setting aside
9 or withdrawal, or withdrawal and setting aside.

10 Whenever portions of lands set aside for a public purpose
11 to the various departments and agencies of the State, or to any
12 city and county, county, or other political subdivision of the
13 State are not presently utilized or required for the public
14 purpose stated, the board shall have the power, without
15 withdrawing the order setting aside the lands, to dispose of any
16 and all real property interest less than the fee in the portions
17 of [~~such~~] the lands where the disposition is for a use which is
18 consistent or inconsistent with the purpose for which the land
19 was set aside. All funds derived from disposition by the board
20 shall be deposited in the general fund of the State or be paid
21 to the appropriate account; provided that all such dispositions



1 shall be with the prior written approval of the department,
2 agency, city and county, county, or other political subdivisions
3 of the State and the governor, and shall be undertaken in
4 compliance with all other applicable sections of this chapter.

5 (b) If a land survey is not completed before the setting
6 aside of public lands, the department may utilize geographic
7 information system map data, existing tax parcel maps, and
8 aerial imagery to define approximate boundaries for
9 administrative purposes; provided that any boundary assessments
10 made according to geographic information systems map data shall
11 be subject to the review and approval of the land survey
12 division of the department of accounting and general services.

13 (c) If a land survey is not completed before the setting
14 aside of public lands, the recipient agency shall complete a
15 land survey within five years of the land transfer; provided
16 that the board may exempt the recipient agency from the land
17 survey requirement if the board determines that a land survey is
18 not necessary based on sufficient pre-existing documentation or
19 geographic information system map data.



1 (d) Before any transfer of public lands, the board, in
2 consultation with the department, shall determine whether the
3 subject lands are:

4 (1) High-risk lands, including but not limited to
5 conservation areas, lands adjacent to private
6 property, and lands with existing infrastructure; or

7 (2) Low-risk lands, including but not limited to existing
8 state-leased lands and agricultural lands under clear
9 historical records.

10 If the board determines that the subject lands are high-risk
11 lands, the department shall complete a land survey. If the
12 board determines that the subject lands are low-risk lands, a
13 land survey shall not be required; provided that the board
14 determines sufficient pre-existing documentation or geographic
15 information system data is available.

16 (e) The department shall establish a digital registry
17 accessible to state and county agencies compiling:

18 (1) All transfers of public lands;

19 (2) Maps generated using geographic information system map
20 data;

21 (3) Land survey records;



- 1 (4) Historical descriptions of public lands; and
- 2 (5) Any related documentation.
- 3 (f) The board shall establish a mediation process to
- 4 resolve any dispute that arises regarding the boundaries of
- 5 public lands set aside pursuant to this section before any legal
- 6 action is taken. The mediation process shall include:
- 7 (1) Consultation with affected stakeholders; and
- 8 (2) When necessary, review of geographic information
- 9 system map data."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect on July 1, 3000.



Report Title:

BLNR; DLNR; DAGS; Land Survey Division; Public Lands; Lands Set Aside; Survey; State Agencies; Dispute Resolution; Transfer; GIS; Risk Category

Description:

Provides that a survey of the land to be set aside shall not be a condition precedent to the setting aside of public lands to any department or agency of the State. Authorizes the Department of Land and Natural Resources to use Geographic Information System (GIS) map data, existing tax parcel maps, and aerial imagery to define approximate boundaries. Requires the Land Survey Division of the Department of Accounting of General Services to review and approve of any boundary assessments made using GIS data by DLNR. Requires a recipient agency to conduct a land survey within five years of a transfer of public lands. Authorizes the Board of Land and Natural Resources to exempt a recipient agency from the land survey requirement. Requires the BLNR, in consultation with DLNR, to determine the risk category of public lands before transfer. Requires a land survey for the transfer of high-risk lands. Requires DLNR to establish a digital registry to record all transfers of public lands. Requires BLNR to establish a mediation process to resolve potential boundary disputes. Effective 7/1/3000. (SD1)

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