

ACT 189

H. B. 872.

A Bill for an Act Relating to Dispositions Involving Public Property and Amending Chapters 7B and 103A, Revised Laws of Hawaii 1955.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subsection 7B-1(a), Revised Laws of Hawaii 1955, is amended to read as follows:

“(a) Except as otherwise specifically provided by law, no concession or concession space shall be leased, let, licensed, rented out or otherwise disposed of either by contract, lease, license, permit or any other arrangement, except under contract let after public advertisement for sealed tenders in the manner provided by law; provided, that the duration of the grant of the concession or concession space shall be related to the investment required but in no event to exceed fifteen years.”

SECTION 2. Section 7B-1, Revised Laws of Hawaii 1955, as amended, is further amended by adding the following:

“(c) The bidding requirements of subsection (a) shall not apply to any nonrenewable dispositions granting rights for a period not in excess of fourteen days.”

SECTION 3. Section 7B-1.5, Revised Laws of Hawaii 1955, is amended to read as follows:

“**Sec. 7B-1.5. Definition.** The word ‘concession’ as used in this chapter means the grant to a person of the privilege to conduct operations which are essentially retail in nature, involving the sale of goods, wares, merchandise or services to the general public, such as restaurants, cocktail lounges, soda fountains and retail stores in or on buildings under the jurisdiction of any government agency.”

SECTION 4. The second sentence of the second paragraph of section 103A-11, Revised Laws of Hawaii 1955, as amended, is further amended to read as follows:

“Such department, agency of the State, the city and county, county or other political subdivision of the State in managing such lands shall be authorized to exercise all of the powers vested in the board in regard to the issuance of leases, easements, licenses, revocable permits, concessions or rights of entry covering such lands for such use as may be consistent with the purposes for which the lands were set aside on the same terms, conditions and restrictions applicable to the disposition of public lands, all such dispositions being subject to the approval of the board; provided that any nonrenewable dispositions granting rights for a period not in excess of fourteen days shall not require (1) the approval of the board or (2) public auction or public advertisement for sealed tenders.”

SECTION 5. Section 103A-53, Revised Laws of Hawaii 1955, as amended, is further amended by replacing the word “ten” appearing in the last line thereof with the word “fifteen.”

SECTION 6. Section 103A-56, Revised Laws of Hawaii 1955, is amended to read as follows:

“**Sec. 103A-56. Disposition by negotiation.** (a) A lease of public

land may be disposed of through negotiation upon a finding by the board that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and such company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which, when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be necessary for the company's optimum mill or cannery operation. In all other cases, public land to be sold under this section shall be an economic unit as provided in section 103A-33(c).

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

(1) Give public notice as in public auction, in accordance with the procedure set forth in section 103A-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;

(2) Establish reasonable criteria for the selection of the lessee;

(3) Determine the applicants who meet the criteria for selection set by the board, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board were followed; provided that, if any applicant does not notify the board of his objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, he shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.

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

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

(b) Dispositions of public lands for airline and aircraft operations may be negotiated without regard to the limitations set forth in subsection (a) above, and section 103A-16(c); provided that such disposition shall not exceed a maximum term of thirty-five years."

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

(Approved June 2, 1967.)