

ACT 162

S.B. NO. 3161

A Bill for an Act Relating to Public Lands.

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

PART I.

SECTION 1. Chapter 171, Hawaii Revised Statutes, is amended by adding two new sections to part VII to be appropriately designated and to read as follows:

“§171- Rate policy. The board may:

- (1) Charge fees to eligible lessees of public lands within industrial parks in an amount sufficient to cover the costs of operation, maintenance, and debt service on revenue bonds and reasonable reserves, in compliance with part III of chapter 39; and
- (2) Charge eligible lessees as may be necessary to cover capital costs or other costs incurred in connection with the industrial parks.

§171- Issuance of revenue bonds. (a) The board may issue revenue bonds in the name of the department in such amounts as may be authorized by the legislature. Except as provided in this chapter, all revenue bonds shall be issued

pursuant to part III of chapter 39 to finance, in whole or in part, the costs of construction, acquisition, or maintenance of any industrial park and to pledge or assign for the punctual payment of the revenue bonds, and interest thereon, any and all revenues derived from any industrial park or parks undertaken by the board, in an amount sufficient to pay the principal and interest of the revenue bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in preparation for the issuance of the revenue bonds. The board may take any other appropriate action in connection with the issuance of revenue bonds.

(b) All revenue bonds issued pursuant to this chapter shall be issued in the name of the department and not in the name of the State.

(c) The board, with the approval of the governor, may designate by resolution one or more industrial parks undertaken pursuant to this chapter as an "undertaking" as defined in section 39-51 and for purposes of part III of chapter 39."

SECTION 2. Section 171-6, Hawaii Revised Statutes, is amended to read as follows:

"§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Adopt rules which, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its government records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use, or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairperson or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board;
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease;

- (10) Set, charge, and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose;
- (11) Appoint masters or hearing officers to conduct public hearings as provided by law and under such conditions as the board by rules shall establish;
- (12) Bring such actions as may be necessary to remove or remedy encroachments upon public lands. Any person causing an encroachment upon public land shall be subject to a fine of not more than \$500 a day for the first offense and shall be liable for administrative costs incurred by the department and for payment of damages. Upon the second offense and thereafter, the violator shall (A) be fined not less than \$500 nor more than \$2,000 per day; (B) if required by the board, restore the land to its original condition if altered and assume the costs thereof; and (C) assume such costs as may result from adverse effects from such restoration;
- (13) Set, charge, and collect interest and a service charge on delinquent payments due on leases, sales, or other accounts. The rate of interest shall not exceed one per cent a month and the service charge shall not exceed \$50 a month for each delinquent payment; provided that the contract shall state the interest rate and the service charge and be signed by the party to be charged;
- (14) Set, charge, and collect additional rentals for the unauthorized use of public lands by a lessee, licensee, grantee, or permittee who is in violation of any term or condition of a lease, license, easement, or revocable permit, retroactive to the date of the occurrence of the violation. Such amounts shall be considered delinquent payments and shall be subject to interest and service charges as provided in paragraph (13); [and]
- (15) Set, charge, and collect reasonable fines for violation of this chapter or any rule adopted thereunder. Any person violating any of the provisions of this chapter or any rule adopted thereunder, for which violation a penalty is not otherwise provided, shall be fined not more than \$500 a day and shall be liable for administrative costs incurred by the department and for payment for damages[.];
- (16) Issue revenue bonds, subject to the approval of the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter. All revenue bonds shall be issued in the name of the department and not in the name of the State. The final maturity date of the revenue bonds may be any date not exceeding thirty years from the date of issuance;
- (17) Pledge or assign all or any part of the receipts and revenues of the department. The revenue bonds shall be payable from and secured solely by the revenue derived by the department from the industrial park or parks for which the bonds are issued;
- (18) Reimburse the state general fund for debt service on general obligation bonds or reimbursable general obligation bonds issued by the State for purposes of this chapter; and
- (19) Do any and all things necessary to carry out its purposes and exercise the powers granted in this chapter."

SECTION 3. Section 171-138, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established within the treasury of the State the industrial park special fund. The proceeds of the special fund shall be used for the following purposes:

- (1) Planning, design, improvement, construction, land acquisition, and equipment necessary for the development or maintenance of industrial parks;
- (2) Constructing, operating, maintaining, and improving infrastructure and other public or common facilities within industrial parks; [and]
- (3) Payment of debt service on revenue bonds issued by the department for industrial park purposes, and the establishment of debt service and other reserves deemed necessary by the board;
- (4) Reimbursement of the general fund for debt service on general obligation bonds issued to finance industrial park projects, where the bonds are designated to be reimbursable out of the industrial park special fund; and
- [(3)] (5) Any other purpose deemed necessary by the board for the purpose of planning, improving, developing, operating, and maintaining industrial parks.”

SECTION 4. The department of land and natural resources, with the approval of the director of finance and the governor, is authorized to issue revenue bonds in an aggregate principal amount not to exceed \$20,000,000, at such times and in such amounts as it deems advisable for the purpose of financing and refinancing any industrial park developed or acquired by the department of land and natural resources under chapter 171, Hawaii Revised Statutes. These industrial park revenue bonds shall be issued pursuant to the provisions of part III of chapter 39, Hawaii Revised Statutes, except as provided for in chapter 171, Hawaii Revised Statutes.

PART II.

SECTION 5. Act 237, Session Laws of Hawaii 1988, as amended by Act 249, Session Laws of Hawaii 1990; as amended by Act 69, Session Laws of Hawaii 1991, and as amended by Act 177, Session Laws of Hawaii 1993, is amended by:

1. Amending section 4 to read as follows:

“SECTION 4. In negotiating and executing a lease as authorized by section 2, the board of land and natural resources shall:

- (1) Require appraisal of the parcel in accordance with section 171-17(b);
- (2) Impose such other lease provisions, restrictions, and conditions provided by sections 171-35, 171-36, and 171-37 as may be required to protect the State’s interests;
- (3) Recover from the lessee the cost of subdividing the parcel; and
- (4) Require the payment of annual lease rent based on fair market value and a premium, computed at twenty-five per cent of annual lease rent, with the premium to be added to the annual lease rent for each year of the lease equal to the number of years that the lessee had

occupied the land under revocable permit[, as illustrated by the following example: if a lessee had occupied the land under revocable permit for ten continuous years, the twenty-five per cent premium shall be part of the annual lease rent for the first ten years of the lease.] not to exceed four years.”

2. Adding a new section to read as follows:

“SECTION 7A. The department of land and natural resources shall establish policies to expedite the completion of lease negotiations under this Act, by the sunset date of this Act.”

3. Amending section 7 to read as follows:

“SECTION 7. This Act shall take effect on July 1, 1988, and shall be repealed on July 1, [1994.] 1995.”

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon approval; provided that sections 1, 2, 3, and 4 shall take effect on July 1, 1994.

(Approved June 9, 1994.)

Note

1. Edited pursuant to HRS §23G-16.5.