

ACT 292

H.B. NO. 3022

A Bill for an Act Relating to Youth Facility.

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

SECTION 1. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending section 1 to read as follows:

“SECTION 1. The purpose of this Act is to exempt the [department of public safety and the] office of youth services from state and county requirements relating to planning, land use, and construction for the renovation or expansion of existing facilities or construction of minimum new facilities on [their] its property located in Kailua, Oahu.

[In 1985, the State of Hawaii entered into a consent decree with the American Civil Liberties Union (ACLU) to improve conditions at the Oahu community correctional center (OCCC) and the women’s community correctional center (WCCC). The State has substantially complied with conditions at the OCCC. However, expert monitors appointed by the United States District Court have stated that the State will not be able to comply with consent decree requirements at the WCCC because of its inadequate and deteriorated physical plant. Therefore, the department of public safety has developed plans to rebuild the WCCC at its existing site in Kailua. The legislature authorized this construction through an appropriation in Act 316, Session Laws of Hawaii 1989.

In view of the State’s good faith efforts to rebuild the WCCC, the ACLU and the court monitors have tolerated conditions at the WCCC. However, the State’s efforts have been stalled because of the city planning commission’s denial of the request for a special use permit to allow the rebuilding of the facility on Mt. Olomana. Any challenge to this denial may cause a significant delay which is unacceptable to the ACLU and the court monitors. The ACLU, in fact, has served notice that it will petition the United States District Court for relief which may include closing down the WCCC unless the State can provide a firm plan for construction.

In order to avoid delay and possible litigation by the ACLU over this issue, the State has an alternative plan to relocate the existing women’s facility across the highway to the present Hawaii Youth Correctional Facility (HYCF) and to subsequently construct a new youth facility on the grounds of the present women’s facility. This alternative plan requires the renovation of the existing structures and the construction of new structures at both the present HYCF and WCCC facilities.

Obtaining all approvals relating to planning and/or land use reclassification would be a time-consuming and expensive process. Time, as the ACLU and court monitors have indicated, is something the State can little afford.

The legislature finds that a new WCCC is urgently needed.] A new youth correctional facility has been completed. However, the office of youth services only recently obtained funding to complete the construction and renovation of other necessary structures. The legislature authorized this construction through an appropriation in Act 328, Session Laws of Hawaii 1997. The purpose of this Act is to provide [a three-year] an exemption to the [department of public safety and the] office of youth services from planning, land use classification, and construction requirements, either state or county, otherwise applicable to the [relocation of the WCCC to the makai side of Kalaniana’ole highway, and the renovation and expansion of existing buildings and addition of other needed structures there, and the] relocation of the [HYCF] Hawaii youth correctional facility to the mauka side of Kalaniana’ole highway, and the renovation of existing buildings [and construction of other needed structures there]. In conjunction with this exemption, however, it is the intent of the legislature that the [department of public safety and the] office of youth services shall work closely with the community regarding concerns in the renovation [and expansion] of existing structures, as well as the construction of new structures, and address with sensitivity[,] the needs and aesthetic preferences of the community and the pristine appearance of Mt. Olomana. The piggery/barn area may be renovated for existing purposes but not for other purposes.”

SECTION 2. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending sections 4 and 5 to read as follows:

“SECTION 4. For the purposes of this Act only, notwithstanding the provisions in section 205-8, Hawaii Revised Statutes, the lawful use of land or buildings for correctional purposes that qualify as nonconforming uses under section 205-8, Hawaii Revised Statutes, may continue as lawful nonconforming uses, even if a nonconforming building is replaced, reconstructed, renovated, enlarged, changed, or additional nonconforming buildings are constructed, so long as the land and buildings continue to be used for correctional purposes; provided that such use is strictly limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes; and provided further that such lawful nonconformity in use shall apply to this land only so long as the land and buildings continue to be used for correctional purposes. The [department of public safety and the] office of youth services shall advise [their] its consultants and contractors that in the design and construction of all lawful nonconforming uses, such design and construction, to the extent practicable and as long as it does not delay construction or renovation, shall blend into the pristine natural environment surrounding the [facilities] facility and be minimally intrusive, if at all, as to the surrounding communities. The [department of public safety and the] office of youth services shall submit to the legislature an annual status report regarding the [HYCF and WCCC] Hawaii youth correctional facility at least twenty days prior to the convening of each regular session which shall include:

- (1) A breakdown of the population incarcerated at [each] the facility, including the numbers of serious or violent offenders incarcerated at [each] the facility;
- (2) An assessment of [each] the facility’s ability to accommodate the numbers of serious or violent offenders committed to [each] the facility;
- (3) An assessment of the implementation of programs providing alternatives to incarceration, including whether the numbers and types of programs have been adequate to meet the needs of persons under the jurisdiction of the facility; and
- (4) All plans and designs, except for security details, for the renovation of existing structures and the building of new structures at [each] the facility, including the status of implementation and the costs of such plans, designs, and implementation.

SECTION 5. Notwithstanding any other law to the contrary, the [department of public safety and the] office of youth services shall be exempt from the necessity of obtaining any state or county approvals, permits, or licenses, including planning, land use classification, and environmental approvals which relate to the construction, improvement, use, reconstruction, renovation, [replacement,] enlargement, or relocation of buildings, facilities, or land used or to be used for correctional purposes[.]; provided that such exemption is limited to the subject properties under this Act presently owned by the State of Hawaii and located in Kailua, Oahu and specifically set aside for correctional purposes[.]; provided further that any water tank to be constructed at the base of Mt. Olomana shall not be exempt from the necessity of obtaining any state or county approvals, permits, or licenses including an environmental impact statement and shall be within the boundaries of the Hawaii youth correctional facility property. The office of youth services will work closely with the department of accounting and general services for the timely completion of planned improvements and construction of facilities.’’

SECTION 3. Act 151, Session Laws of Hawaii 1991, as amended by Act 61, Session Laws of Hawaii 1993, as amended by Act 112, Session Laws of Hawaii 1995, is amended by amending section 7 to read as follows:

“SECTION 7. This Act shall take effect upon its approval; provided that no new construction or development shall be initiated at the Kailua [sites,] site, for correctional or any other purpose, after [July 1, 1998] July 1, 1999, without prior legislative approval.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect on June 30, 1998.

(Approved July 20, 1998.)