

ACT 7

S.B. NO. 1473

A Bill for an Act Relating to Waimano Ridge.

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

SECTION 1. The legislature finds that certain uses of state-owned lands in the Waimano ridge area of Oahu have created unnecessary friction between the state administration and the surrounding community residents. Over the past five years, the state administration has systematically increased the use of state-owned lands in the Waimano ridge area in ways that have disenfranchised the surrounding community residents and placed them in potential harm's way.

In 2000, the state administration announced that it would be operating a juvenile sex offender treatment facility at the site of the former Waimano home for the developmentally disabled. The announcement was given without prior notice to the community. In fact, there are reports that the department of health selected the site as early as 1998, without informing the community of its intentions.

After consistent public pressure, the state administration consented to holding public hearings in the Waimano ridge community. After receiving overwhelming community opposition to the project, then-governor Cayetano promised the Waimano ridge community that the siting of the treatment facility would only be temporary.

In 2001, in anticipation of Governor Cayetano proceeding with the relocation of the sex offender treatment facility, the legislature appropriated funds to move the treatment facility to another location. However, the move never occurred, leaving area residents to believe that they had been misled.

In 2003, rather than follow through with the administration's promise to relocate the facility, the department of health announced that it planned on expanding the facility and its uses to include a drug treatment center. The administration also stated that it would not guarantee that the juvenile sex offender treatment center would ever be relocated.

More recently, testing of viruses and other potentially dangerous specimens have occurred at the department of health's laboratory located on state-owned Waimano ridge lands. While the original master plan for the area did envision the laboratory being built there, area residents were led to believe that the laboratory was to be used primarily to test water quality and food samples. Due to the heightened state of terrorism awareness and recent outbreaks of Norovirus, West Nile virus, and bird flu, testing for these potentially fatal diseases have been occurring without the knowledge of area residents. In fact, the Waimano community has not been briefed by the department of health on the safety protocols it is using to safeguard the health and safety of the surrounding community, nor has the department been forthcoming in exactly what it is testing in its laboratory.

The legislature also finds that all these potentially dangerous activities are being conducted within a close proximity to public schools. These activities place children at risk, and the legislature believes that the concerns of these students and their parents have gone unheeded by the department of health and the state administration for too long.

The legislature further finds that in the early 1990s, there was a collaborative government and community effort to establish a master plan for the Waimano ridge area. This master plan was formulated by the department of health with community input and was designed to create a "totally integrated community" where activities on the state-owned Waimano ridge lands would be community-friendly. Unfortunately, the legislature finds that the department of health and the state administration have strayed from the original intent of the master plan and have approved uses of the Waimano ridge lands without the consent of and without regard to the Waimano community. As such, the legislature finds it necessary to arrest the development of the state-owned Waimano ridge lands until such time as the department of health and the area residents can come to an accord on its use.

The legislature further finds that the jurisdiction of the department of health over the Waimano ridge area lands was conferred pursuant to Executive Order No. 1020, dated May 10, 1943, as amended by Executive Order No. 1319, dated March 30, 1949, as amended by Executive Order No. 1334, dated July 14, 1949, as amended by Executive Order No. 2273, dated May 2, 1966, as amended by Executive Order No. 2287, dated September 7, 1966. Article XI, section 5 of the state constitution provides that the "legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by

general laws, *except in respect to transfers . . . for the use of the State, or a political subdivision, or any department or agency thereof.*" (emphasis added). Therefore, your Committee further finds that the Waimano ridge lands are subject to legislation to regulate the use of those lands, since those lands are state-owned and are used by the department of health.

The purpose of this Act is to require the department of health to:

- (1) Give prior notice to the local neighborhood board and the members of the legislature from the affected districts and obtain approval of the governor for any use of state-owned land under its jurisdiction in the Waimano ridge area prior to use of the land as a sex offender treatment facility, drug treatment facility, state laboratory, or any other uses; and
- (2) Prepare an updated master plan for the Waimano ridge lands.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§171- Nonconventional uses; department of health; approval and authorization; Waimano ridge. The department of health shall provide at least ninety days notification to the affected neighborhood boards and legislators that represent the district where Waimano ridge is located, and obtain the approval of the governor prior to new uses or the expanded use of the land as a sex offender treatment facility, drug treatment facility, state laboratory, or other uses."

SECTION 3. (a) The department of health, in consultation with the department of land and natural resources, residents of Pearl City, the Pearl City Community Association, and Pearl City Neighborhood Board No. 21, shall prepare an updated master plan for the future use of the state-owned Waimano ridge lands.

(b) The department of health shall conduct not less than two public hearings, duly noticed at least two weeks in advance, in the Waimano ridge community to obtain public input on formulating the updated master plan. The department of health shall incorporate any recommendations, to the extent practicable, for changes or additions to the master plan as submitted by the Pearl City Community Association or Pearl City Neighborhood Board No. 21. The department of health shall submit an updated master plan to the legislature at the next regular session of the legislature.

SECTION 4. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 2005.

(Vetoed by Governor and veto overridden by Legislature on July 12, 2005.)

Note

1. Edited pursuant to HRS §23G-16.5.