

JAN 25 2012

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY REVENUE.

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

1 SECTION 1. Pursuant to section 1 of article XII of the
2 Hawaii Constitution, thirty per cent of the state receipts,
3 derived from lands previously cultivated as sugarcane lands
4 under any other provision of law and from water licenses are
5 allocated to the native Hawaiian rehabilitation fund. This fund
6 is designated in the Hawaiian Homes Commission Act of 1920, as
7 amended, to be used for for the rehabilitation of native
8 Hawaiians, native Hawaiian families, and Hawaiian homestead
9 communities, which shall include the educational, economic,
10 political, social, and cultural processes by which the general
11 welfare and conditions of native Hawaiians are thereby improved
12 and perpetuated. Since 1994, these lands previously cultivated
13 as sugarcane lands have been managed by the agribusiness
14 development corporation, a public corporation with a mission
15 that is not aimed at revenue generation. The decline of
16 sugarcane production in Hawaii coupled with the change in
17 management of these lands has resulted in a sixty-seven per cent

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1 decline in deposits to the native Hawaiian rehabilitation fund
2 from 1994 to 2007.

3 The legislature finds that an additional revenue stream for
4 the native Hawaiian rehabilitation fund must be identified to
5 continue existing programs for native Hawaiians, native Hawaiian
6 families, and Hawaiian homestead communities.

7 SECTION 2. Section 213, Hawaiian Homes Commission Act,
8 1920, as amended, is amended by amending subsection (i) to read
9 as follows:

10 "(i) Native Hawaiian rehabilitation fund. Pursuant to
11 Article XII, Section 1, of the Hawaii Constitution, thirty per
12 cent of the state receipts, derived from lands previously
13 cultivated as sugarcane lands under any other provision of law
14 and from water licenses, ~~[and]~~ fifteen per cent of all revenues
15 from lease agreements granted lease extensions pursuant to
16 section 228, twenty per cent of geothermal royalties collected
17 by the State pursuant to sections 182-7 and 182-18, Hawaii
18 Revised Statutes, and thirty per cent of all revenues from the
19 disposition of state lands to other renewable energy producers
20 pursuant to section 171-95, Hawaii Revised Statutes, shall be
21 deposited into this fund. The department shall use this money
22 for the rehabilitation of native Hawaiians, native Hawaiian

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1 families, and Hawaiian homestead communities, which shall
2 include the educational, economic, political, social, and
3 cultural processes by which the general welfare and conditions
4 of native Hawaiians are thereby improved and perpetuated.

5 The native Hawaiian rehabilitation fund shall be subject to
6 the following conditions:

7 (1) All moneys received by the fund shall be deposited
8 into the state treasury and kept separate and apart
9 from all other moneys in the state treasury;

10 (2) The director of finance shall serve as a custodian of
11 the fund. All payments from the fund shall be made by
12 the director of finance only upon vouchers approved by
13 the commission;

14 (3) The commission shall develop guidelines for the
15 investment of moneys in the fund;

16 (4) The commission may invest and reinvest in investments
17 authorized by chapter 88, Hawaii Revised Statutes.

18 The commission may hold, purchase, sell, assign,
19 transfer, or dispose of any securities and investments
20 in which any of the moneys shall have been invested,
21 as well as the proceeds of such investments; and

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1 (5) The commission may pay out of any of the moneys held
2 for investment, a reasonable amount to any person for
3 supplying investment advisory or consultive services;
4 and to meet such other costs incident to the prudent
5 investment of moneys as the commission may approve.

6 Any payment of principal, interest, or other earnings
7 arising out of the loan or investment of money from this fund
8 shall be credited to and deposited into this fund.

9 Sections 214, 215, 216, and 217 shall not apply to
10 administration of this fund. The department is authorized to
11 adopt rules under chapter 91, Hawaii Revised Statutes, necessary
12 to administer and carry out the purposes of this fund.

13 The department shall submit an annual report to the
14 legislature and the United States Department of the Interior, no
15 later than twenty days prior to the convening of each regular
16 session of the legislature, beginning with the regular session
17 of 2011, on expenditures from this fund that are derived from
18 the amounts deposited from commercial and multipurpose project
19 lease extensions pursuant to section 228(e), including the
20 amount expended, the recipient of the moneys expended, and the
21 purpose of the expenditure."

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SECTION 3. Section 171-95, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction:

(1) Sell public lands at such price and on such other terms and conditions as the board may deem proper to governments, including the United States, city and county, counties, other governmental agencies authorized to hold lands in fee simple and public utilities;

(2) Lease to the governments, agencies, public utilities, and renewable energy producers public lands for terms up to, but not in excess of, sixty-five years at such rental and on such other terms and conditions as the board may determine[+], provided that thirty per cent of any revenue from any disposition to a renewable energy producer made after July 1, 2012, shall be paid to the department of Hawaiian home lands and shall be deposited into the native Hawaiian rehabilitation fund.

(3) Grant licenses and easements to the governments, agencies, public utilities, and renewable energy

producers on such terms and conditions as the board may determine for road, pipeline, utility, communication cable, and other rights-of-way;

(4) Exchange public lands with the governments and agencies;

(5) Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State; and

(6) Waive or modify building and other requirements and conditions contained in deeds, patents, sales agreements, or leases held by the governments and agencies whenever such waiver or modification is beneficial to the State."

SECTION 4. Section 182-7, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The payments to the State as fixed by the board shall be specified; provided that:

(1) In the case of bauxite, bauxitic clay, gibbsite, diaspore, boehmite, and all ores of aluminum, the amount of royalties for each long dry ton of ore as

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1 beneficiated shall not be less than twenty-five cents
2 or the equivalent of the price of one pound of virgin
3 pig aluminum, whichever is higher, nor shall it exceed
4 the equivalent of the price of three pounds of virgin
5 pig aluminum;

6 (2) The rate of royalty for ore processed into aluminous
7 oxide in the State shall be set at eighty per cent of
8 the rate of royalty for ore not processed to aluminous
9 oxide in the State; and

10 (3) The royalty shall be fixed at a rate which will tend
11 to encourage the establishment and continuation of the
12 mining industry in the State.

13 The prices of virgin pig aluminum for the purpose of
14 determining the royalties under this section shall be the basic
15 price on the mainland United States market for virgin pig, not
16 refined, f.o.b. factory. The royalties shall be in lieu of any
17 severance or other similar tax on the extracting, producing,
18 winning, beneficiating, handling, storing, treating, or
19 transporting of the mineral or any product into which it may be
20 processed in the State, and shall not be subject to reopening or
21 renegotiating for and during the first twenty years of the lease
22 term.

1 In the event the lessee desires to mine other minerals, the
2 lessee, before mining the minerals, shall so notify the board in
3 writing, and the board and the lessee shall negotiate and fix
4 the royalties for the minerals.

5 Any other law to the contrary notwithstanding, [~~thirty~~] not
6 less than twenty per cent of all royalties received by the State
7 from geothermal resources shall be paid to the county in which
8 mining operations covered under a state geothermal resource
9 mining lease are situated.

10 Any other law to the contrary notwithstanding, twenty per
11 cent of all royalties received by the State from geothermal
12 resources produced under a state geothermal resource mining
13 lease made after July 1, 2012, shall be paid to the department
14 of Hawaiian home lands and shall be deposited into the native
15 Hawaiian rehabilitation fund."

16 SECTION 5. Section 182-18, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) The board shall fix the payment of royalties to the
19 State for the utilization of geothermal resources at a rate
20 which will encourage the initial and continued production of
21 such resources. The rate fixed by the board shall not be less
22 than twelve per cent of the gross amount or value of the

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1 geothermal resources produced under the lease. With respect to
2 all geothermal mining leases previously issued or to be issued,
3 where the board determines that it is necessary to encourage the
4 initial or continued production of geothermal resources, the
5 board shall have the authority to waive royalty payments to the
6 State for any fixed period of time up to but not exceeding eight
7 years."

8 SECTION 6. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 7. This Act shall take effect on July 1, 2012.

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INTRODUCED BY: 

14

BY REQUEST

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Report Title:

Department of Hawaiian Home Lands; Native Hawaiian
Rehabilitation Fund

Description:

Identifies geothermal royalties and revenue from public land
dispositions to renewable energy producers as supplemental
sources of revenue for the Native Hawaiian Rehabilitation Fund.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Hawaiian Home Lands

TITLE: A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY REVENUE.

PURPOSE: To identify supplemental sources of revenue from renewable energy for the Native Hawaiian Rehabilitation Fund.

MEANS: Amend section 213(i), Hawaiian Homes Commission Act, 1920, as amended, and sections 171-95(a), 182-7 (c), and 182-18(a), Hawaii Revised Statutes.

JUSTIFICATION: The intent of the amendment to section 1 of article XII of the State Constitution in 1978 was to secure a reliable source of revenue for the DHHL to serve the purposes of the Hawaiian Homes Commission Act. Today, the annual sum from this source of revenue paid to DHHL is less than \$160,000. This figure compares to \$523,000, the same annual sum paid to DHHL twenty years ago. The sharp decline in revenues to the Native Hawaiian Rehabilitation Fund (NHRF) has limited the resources available for programs for native Hawaiians like higher education scholarships, financial literacy training and counseling, agricultural and pastoral technical assistance, and grants for Hawaiian homestead communities. These kinds of programs are directly aligned with "A New Day in Hawaii," specifically its objective to invest in Hawaii's working families. This proposal identifies sources of renewable energy revenue to supplement current sources for the Native Hawaiian Rehabilitation Fund (NHRF) to ensure the sustainability of this fund and the continuation of these programs. These potential new sources of revenue for the NHRF are derived from renewable energy development activities that are expected to grow over the next decade, compared to the

declining revenues generated on former sugar cane lands and from water licenses.

Impact on the Public: There is a positive impact on the public as this proposal helps ensure that the department will have resources to support programs that promote the well being of Hawaiian Home Lands lessees and applicants, and other native Hawaiians.

Impact on the Department and other agencies: The department recognizes that revenues from renewable energy, including geothermal royalties and dispositions to other renewable energy producers that will be deposited into the NHRF ultimately mean fewer resources available for the Department of Land and Natural Resources. However, there are limited alternatives to ensure resources are available to carry out the intent of the Hawaiian Homes Commission Act. In past sessions, legislators have proposed that a portion of ceded lands revenue be allocated to the department to sustain our trust, but these proposals were met with opposition from other agencies that depend on ceded land revenues for existing programs.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: Land and Natural Resources; Budget and Finance

EFFECTIVE DATE: July 1, 2012.