
A BILL FOR AN ACT

RELATING TO LAND DISPOSITIONS.

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

1 SECTION 1. Section 171-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-6 Powers. Except as otherwise provided by law, the
4 board of land and natural resources shall have the powers and
5 functions granted to the heads of departments and the board of
6 land and natural resources under chapter 26.

7 In addition to the foregoing, the board may:

- 8 (1) Adopt a seal;
- 9 (2) Administer oaths;
- 10 (3) Prescribe forms of instruments and documents;
- 11 (4) Adopt rules which, upon compliance with chapter 91,
12 shall have the force and effect of law;
- 13 (5) Set, charge, demand, and collect reasonable fees for
14 the preparation of documents to be issued, for the
15 surveying of public lands, and for the issuing of
16 certified copies of its government records, which
17 fees, when collected, shall be deposited into the



1 state general fund, unless otherwise specified in this
2 chapter;

3 (6) Establish additional restrictions, requirements, or
4 conditions, not inconsistent with those prescribed in
5 this chapter, relating to the use of particular land
6 being disposed of, the terms of sale, lease, license,
7 or permit, and the qualifications of any person to
8 draw, bid, or negotiate for public land;

9 (7) Reduce or waive the lease rental at the beginning of
10 the lease on any lease of public land to be used for
11 any agricultural or pastoral use, or for resort,
12 commercial, industrial, or other business use where
13 the land being leased requires substantial
14 improvements to be placed thereon; provided that such
15 reduction or waiver shall not exceed two years for
16 land to be used for any agricultural or pastoral use,
17 or exceed one year for land to be used for resort,
18 commercial, industrial, or other business use;

19 (8) Delegate to the chairperson or employees of the
20 department of land and natural resources, subject to
21 the board's control and responsibility, such powers



1 and duties as may be lawful or proper for the
2 performance of the functions vested in the board;
3 provided that the board may delegate to the director
4 of transportation the authority to approve revocable
5 permits for public lands set aside to the department
6 of transportation pursuant to section 171-11;

7 (9) Use arbitration under chapter 658A to settle any
8 controversy arising out of any existing or future
9 lease;

10 (10) Set, charge, and collect reasonable fees in an amount
11 sufficient to defray the cost of performing or
12 otherwise providing for the inspection of activities
13 permitted upon the issuance of a land license
14 involving a commercial purpose;

15 (11) Appoint masters or hearing officers to conduct public
16 hearings as provided by law and under such conditions
17 as the board by rules shall establish;

18 (12) Bring such actions as may be necessary to remove or
19 remedy encroachments upon public lands. Any person
20 causing an encroachment upon public land shall:



1 (A) Be fined not more than \$1,000 a day for the first
2 offense;

3 (B) Be fined not less than \$1,000 nor more than
4 \$4,000 per day upon the second offense and
5 thereafter;

6 (C) If required by the board, restore the land to its
7 original condition if altered and assume the
8 costs thereof;

9 (D) Assume such costs as may result from adverse
10 effects from such restoration; and

11 (E) Be liable for administrative costs incurred by
12 the department and for payment of damages;

13 (13) Set, charge, and collect interest and a service charge
14 on delinquent payments due on leases, sales, or other
15 accounts. The rate of interest shall not exceed one
16 per cent a month and the service charge shall not
17 exceed \$50 a month for each delinquent payment;
18 provided that the contract shall state the interest
19 rate and the service charge and be signed by the party
20 to be charged;



1 (14) Set, charge, and collect additional rentals for the
2 unauthorized use of public lands by a lessee,
3 licensee, grantee, or permittee who is in violation of
4 any term or condition of a lease, license, easement,
5 or revocable permit, retroactive to the date of the
6 occurrence of the violation. Such amounts shall be
7 considered delinquent payments and shall be subject to
8 interest and service charges as provided in paragraph
9 (13);

10 (15) Set, charge, and collect reasonable fines for
11 violation of this chapter or any rule adopted
12 thereunder. Any person engaging in any prohibited use
13 of public lands or conducting any prohibited activity
14 on public lands, or violating any of the other
15 provisions of this chapter or any rule adopted
16 thereunder, for which violation a penalty is not
17 otherwise provided, shall be:

18 (A) Fined not more than \$5,000 per violation for a
19 first violation or a violation beyond five years
20 of the last violation; provided that, after
21 written or verbal notification from the



1 department, an additional \$1,000 per day per
2 violation may be assessed for each day in which
3 the violation persists;

4 (B) Fined not more than \$10,000 per violation for a
5 second violation within five years of the last
6 violation; provided that, after written or verbal
7 notification from the department, an additional
8 \$2,000 per day per violation may be assessed for
9 each day in which the violation persists;

10 (C) Fined not more than \$20,000 per violation for a
11 third or subsequent violation within five years
12 of the last violation; provided that, after
13 written or verbal notification from the
14 department, an additional \$4,000 per day per
15 violation may be assessed for each day in which
16 the violation persists; and

17 (D) Liable for administrative costs and expenses
18 incurred by the department and for payment for
19 damages, including but not limited to natural
20 resource damages.



1 In addition to the fines, administrative costs, and
2 damages provided for hereinabove, for damage to or
3 theft of natural resources, the board may also set,
4 charge, and collect a fine that, in its discretion, is
5 appropriate considering the value of the natural
6 resource that is damaged or the subject of the theft.

7 In arriving at an appropriate fine, the board may
8 consider the market value of the natural resource
9 damaged or taken and any other factor it deems
10 appropriate, such as the loss of the natural resource
11 to its natural habitat and environment and the cost of
12 restoration or replacement. The remedies provided for
13 in this paragraph are cumulative and in addition to
14 any other remedies allowed by law.

15 No person shall be sanctioned pursuant to this section
16 for the exercise of native Hawaiian gathering rights
17 and traditional cultural practices as authorized by
18 law or as permitted by the department pursuant to
19 article XII, section 7, of the Hawaii state
20 constitution;



1 (16) Issue revenue bonds, subject to the approval of the
2 legislature. All revenue bonds shall be issued
3 pursuant to part III of chapter 39, except as provided
4 in this chapter. All revenue bonds shall be issued in
5 the name of the department and not in the name of the
6 State. The final maturity date of the revenue bonds
7 may be any date not exceeding thirty years from the
8 date of issuance;

9 (17) Pledge or assign all or any part of the receipts and
10 revenues of the department. The revenue bonds shall
11 be payable from and secured solely by the revenue
12 derived by the department from the industrial park or
13 parks for which the bonds are issued;

14 (18) Reimburse the state general fund for debt service on
15 general obligation bonds or reimbursable general
16 obligation bonds issued by the State for purposes of
17 this chapter;

18 (19) Notwithstanding part II of chapter 205A to the
19 contrary, plan, design, construct, operate, and
20 maintain any lands or facilities under the
21 jurisdiction of the division of boating and ocean



1 recreation of the department without the need to
2 obtain a special management area minor permit or
3 special management area use permit; and
4 (20) Do any and all things necessary to carry out its
5 purposes and exercise the powers granted in this
6 chapter."

7 SECTION 2. Section 171-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§171-11 Public purposes, lands set aside by the governor;
10 management. The governor may, with the prior approval of the
11 board of land and natural resources, set aside public lands to
12 any department or agency of the State, the city and county,
13 county, or other political subdivisions of the State for public
14 use or purpose. All withdrawals of the lands or portions
15 thereof so set aside shall be made by the governor.

16 Any public lands set aside by the governor prior to the
17 enactment of this chapter, or any public lands set aside by the
18 governor of the Territory of Hawaii, shall be subject to the
19 provisions of this section.

20 Lands while so set aside for such use or purpose or when
21 acquired for roads and streets shall be managed by the



1 department, agency, city and county, county, or other political
2 subdivisions of the State having jurisdiction thereof, unless
3 otherwise provided by law. Such department, agency of the
4 State, the city and county, county, or other political
5 subdivisions of the State in managing such lands shall be
6 authorized to exercise all of the powers vested in the board in
7 regard to the issuance of leases, easements, licenses, revocable
8 permits, concessions, or rights of entry covering such lands for
9 such use as may be consistent with the purposes for which the
10 lands were set aside on the same terms, conditions, and
11 restrictions applicable to the disposition of public lands, as
12 provided by this chapter all such dispositions being subject to
13 the prior approval of the board; provided that any nonrenewable
14 dispositions granting rights for a period not in excess of
15 fourteen days and revocable permits for public lands set aside
16 to the department of transportation and issued by the department
17 of transportation shall not require (1) the approval of the
18 board or (2) public auction or public advertisement for sealed
19 tenders; and provided further that disposition of lands set
20 aside for use as agricultural parks pursuant to chapter 166
21 shall not be subject to the prior approval of the board. If at



1 the time of the disposition of any such leases the board shall
2 have approved the same, any order withdrawing or setting aside
3 any or all of such lands for any other public purpose shall be
4 made subject to such leases. Subject to section 5(f) of the Act
5 of March 18, 1959 (73 Stat. 6), all proceeds from such lands
6 shall be deposited into the appropriate funds provided by law.

7 This section shall also apply where the purposes are the
8 uses and purposes of the United States; provided that all
9 revenues derived from the lands and improvements thereon shall
10 be paid to the department of land and natural resources by the
11 United States.

12 Whenever lands set aside for a public purpose to the
13 various departments and agencies of the State, or to any city
14 and county, county, or other political subdivisions of the
15 State, or to the United States, are not being utilized or
16 required for the public purpose stated, the order setting aside
17 the lands shall be withdrawn and the lands shall be returned to
18 the department. The governor may withdraw public lands and,
19 with the prior approval of the board of land and natural
20 resources, set aside the withdrawn lands to another department
21 or agency of the State, the city and county, county, or



1 political subdivision of the State, or to the United States for
2 public use or purpose, provided that no structure on such lands
3 shall be built, demolished, or altered until after the
4 legislative action or inaction as hereinbelow provided.

5 The power granted to the governor in this section to set
6 aside or withdraw or withdraw and set aside public lands shall
7 be exercised subject to disapproval by the legislature by two-
8 thirds vote of either the senate or the house of representatives
9 or by the majority vote of both, in any regular or special
10 session next following the date of the setting aside or
11 withdrawal, or withdrawal and setting aside.

12 Whenever portions of lands set aside for a public purpose
13 to the various departments and agencies of the State, or to any
14 city and county, county, or other political subdivision of the
15 State are not presently utilized or required for the public
16 purpose stated, the board shall have the power, without
17 withdrawing the order setting aside the lands, to dispose of any
18 and all real property interest less than the fee in the portions
19 of such lands where the disposition is for a use which is
20 consistent or inconsistent with the purpose for which the land
21 was set aside. All funds derived from disposition by the board



1 shall be deposited in the general fund of the State or be paid
2 to the appropriate account; provided that all such dispositions
3 shall be with the prior written approval of the department,
4 agency, city and county, county, or other political subdivisions
5 of the State and the governor, and shall be undertaken in
6 compliance with all other applicable sections of this chapter."

7 SECTION 3. Section 171-55, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§171-55 Permits. Notwithstanding any other law to the
10 contrary, the board of land and natural resources may issue
11 permits, except for revocable permits issued for public land set
12 aside to the department of transportation pursuant to section
13 171-11, for the temporary occupancy of state lands or an
14 interest therein on a month-to-month basis by direct negotiation
15 without public auction, under conditions and rent which will
16 serve the best interests of the State, subject, however, to
17 those restrictions as may from time to time be expressly imposed
18 by the board. The department of transportation may issue
19 revocable permits for public land set aside to the department of
20 transportation pursuant to section 171-11 for the temporary
21 occupancy of state lands or an interest therein on a month-to-



1 month basis by direct negotiation without public auction, under
2 conditions and rent which will serve the best interests of the
3 State, not subject to restrictions imposed by the board. A
4 permit on a month-to-month basis may continue for a period not
5 to exceed one year from the date of its issuance; provided that
6 the board or the department of transportation may allow the
7 permit to continue on a month-to-month basis for additional one
8 year periods."

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 2050, and
11 shall be repealed on July 1, 2021; provided that sections 171-6,
12 171-11, and 171-55, Hawaii Revised Statutes, shall be reenacted
13 in the form in which they read on the day before the effective
14 date of this Act.

15



Report Title:

Disposition of Land; Department of Transportation

Description:

Authorizes the BLNR to delegate to the director of transportation authority to issue revocable permits for public land set aside to the department of transportation, under certain conditions. Exempts revocable permits issued for public land set aside to the department of transportation from BLNR approval and public auction or public advertisement for concealed tenders. Takes effect 7/1/2050. Repeals 7/1/2021. (SD1)

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