
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

PART I

SECTION 1. Findings; purpose. (a) The legislature finds that:

(1) Because of the policies guiding the management of public lands with commercial, industrial, hotel, and resort uses, there has been little incentive for the lessees of those properties to make major investments in improvements to their infrastructure, resulting in the deterioration of infrastructure and facilities;

(2) The lack of improvement to property in many of these areas has resulted in dilapidation, deterioration, age, or obsolescence of the buildings and structures in those areas; and

(3) The department of land and natural resources has the responsibility of planning for the disposition of commercial, industrial, hotel, and resort classes of public lands to determine:



- 1 (A) Specific use or uses;
- 2 (B) Minimum size of parcels;
- 3 (C) Required building construction or improvements;
- 4 and
- 5 (D) Lease terms and requirements.

6 (b) The purpose of this Act is to establish a ten-year
7 pilot project for the redevelopment of the Kanoelehua Industrial
8 Area and Banyan Drive region and establish and implement
9 guidelines for the redevelopment of the Kanoelehua Industrial
10 Area and Banyan Drive region that will:

- 11 (1) Define the policies for the management of public lands
12 in the designated area;
- 13 (2) Establish a plan for the designated area, including
14 district-wide improvements, that is coordinated with
15 state and county land use and planning policies; and
- 16 (3) Implement asset and property management concepts that
17 can optimize income from the properties and evolve in
18 response to changing principles of property
19 administration.

20 SECTION 2. Definitions. As used in this Act, unless the
21 context indicates otherwise:



1 "Department" means the department of land and natural
2 resources.

3 "Board" means the board of land and natural resources.

4 "Planning committee" or "committee" means the policy-making
5 committee established for the redevelopment district.

6 "Public facilities" include streets and highways, storm
7 drainage systems, water systems, street lighting systems, off-
8 street parking facilities, and sanitary sewerage systems.

9 "Redevelopment district" or "designated district" means the
10 area of public lands designated for redevelopment within the
11 Kanoelehua Industrial Area and Banyan Drive region.

12 SECTION 3. Redevelopment district pilot project;
13 Kanoelehua industrial area and Banyan Bay Drive region;
14 established. The Kanoelehua Industrial Area and Banyan Drive
15 region shall be established as a redevelopment district until
16 June 30, 2028.

17 SECTION 4. Planning committee; district administrator;
18 repeal. (a) A planning committee for the redevelopment
19 district shall be established and placed in the department for
20 administrative purposes.



1 (b) The committee shall be a policy-making committee for
2 the designated district and shall consist of nine members. The
3 members shall consist of:

4 (1) The chairperson of the board of land and natural
5 resources and the director of planning of the county
6 in which the designated district is located, or their
7 designated representatives who shall be ex-officio,
8 voting members of the committee; and

9 (2) Seven public, voting members appointed by the governor
10 pursuant to section 26-34, Hawaii Revised Statutes;
11 provided that of the members appointed pursuant to
12 this paragraph:

13 (A) Three members shall be selected from a list of
14 six names submitted by the president of the
15 senate and speaker of the house of
16 representatives in collaboration with the
17 legislators from the county in which the
18 designated district is located;

19 (B) Seven members shall be selected on the basis of
20 their knowledge, experience, and expertise in:

21 (i) Management of small or large businesses;



1 (ii) Economics, banking, investment, or finance;
2 (iii) Real estate development;
3 (iv) Real estate management;
4 (v) Marketing; or
5 (vi) Hotel and resort management; and
6 (C) All seven members shall be residents of the
7 county of Hawaii.
8 (c) The committee shall elect its chairperson from among
9 its public, voting members.
10 (d) The members of the committee shall serve without
11 compensation but shall be reimbursed for reasonable expenses,
12 including travel expenses, incurred in the performance of their
13 duties.
14 (e) The committee shall appoint a district administrator,
15 who shall be the chief executive officer for the designated
16 district. The district administrator shall have experience and
17 expertise in engineering, planning, architecture, real estate,
18 or law. The committee shall set the district administrator's
19 duties, responsibilities, holidays, vacations, leaves, hours of
20 work, and working conditions. The committee shall set the
21 salary of the district administrator, who shall serve at the



1 pleasure of the committee and shall be exempt from chapter 76,
2 Hawaii Revised Statutes.

3 (f) The committee shall be dissolved on June 30, 2028.

4 SECTION 5. Planning committee; powers and duties;
5 generally. The committee shall have the powers and duties
6 related to its functions in the designated district that are
7 delegated to the committee by the board. In addition, the
8 committee may:

9 (1) Through its district administrator, appoint staff and
10 employees, prescribe their duties and qualifications,
11 and fix their salaries, without regard to chapter 76,
12 Hawaii Revised Statutes;

13 (2) Through its district administrator, allocate space or
14 spaces that are to be occupied by the committee and
15 appropriate staff, and purchase necessary supplies,
16 equipment, or furniture;

17 (3) Prepare a redevelopment plan for the designated
18 district;

19 (4) Notwithstanding any other law to the contrary, renew
20 or renegotiate any lease in connection with any
21 project contained in the redevelopment plan for the



1 designated district, on terms and conditions as the
2 committee deems advisable;

3 (5) Prepare or cause to be prepared plans, design
4 criteria, landscaping, and estimates of costs for the
5 construction, rehabilitation, or repair of any project
6 contained in the redevelopment plan for the designated
7 district, and from time to time to modify the plans or
8 estimates;

9 (6) Conduct studies in conjunction with county and state
10 agencies necessary to determine the appropriate
11 activities for redevelopment in the designated
12 district;

13 (7) Reduce or waive the lease rental on any lease of
14 public land for any project in the designated district
15 that requires substantial improvements; provided that
16 the reduction or waiver shall not exceed one year in
17 duration;

18 (8) Make and execute all contracts and instruments that
19 are necessary for the exercise of the committee's
20 powers and functions relating to the designated
21 district, including the engaging of the services of



1 consultants for the rendering of professional and
2 technical assistance and advice;

3 (9) Enter into a redevelopment agreement with a developer
4 or developers for any project contained in the
5 redevelopment plan; provided that the redevelopment
6 agreement shall contain:

7 (A) The location, area, and size of the parcel to be
8 redeveloped;

9 (B) The use or uses to which the parcel shall be put
10 in conformance with the redevelopment plan, and
11 with applicable state and county laws and
12 ordinances;

13 (C) The period of time for the construction and
14 completion of the redevelopment; and

15 (D) Other terms and conditions that the committee
16 deems necessary;

17 (10) Work closely and communicate with the county
18 government to coordinate the execution of the
19 designated district's planning, incremental projects,
20 work schedules, public works, and budget; and



1 (11) Do any and all things necessary to carry out the
2 committee's purposes and exercise the powers
3 established pursuant to this Act.

4 SECTION 6. District redevelopment plan. (a) The
5 committee shall prepare a redevelopment plan for the designated
6 district, including district development policies, the district
7 improvement program, necessary public facilities, and the
8 development guidelines and rules for the designated district.
9 In carrying out its planning activities, the committee shall
10 comply with applicable state and county statutes, ordinances,
11 and rules.

12 (b) The committee shall prepare a redevelopment plan for
13 the designated district that:

14 (1) Establishes, if applicable, areas principally for:

15 (A) Commercial activities;

16 (B) Processing, construction, manufacturing,
17 transportation, wholesaling, storage, and similar
18 industrial activities;

19 (C) Resort and hotel activities, including uses that
20 provide facilities and services for visitors; or



(D) Public facilities and recreational facilities,
with detailed standards for height, bulk, size,
and location of buildings;

(2) Includes a district-wide improvement program for
necessary district-wide public facilities within the
designated district;

(3) Includes plans, specifications, and estimates of the
costs for the development, construction,
reconstruction, or improvement of any project in the
designated district; provided that the committee may
from time to time modify the plans, specifications, or
estimates;

(4) If possible, identifies specific uses for areas in the
designated district and the required parceling of land
into minimum size areas related to the specific uses;

(5) Determines the lease rental that should be established
for the specific uses and the terms and conditions of
the leases; and

(6) Establishes interim development controls to be
implemented during the transition to the execution of
the provisions of the redevelopment plan, such as



1 recommending the holdover of a lessee pursuant to
2 section 171-40, Hawaii Revised Statutes, or issuance
3 of permits pursuant to section 171-55, Hawaii Revised
4 Statutes, to existing lessees upon the expiration of
5 their lease terms.

6 (c) The district redevelopment plan may provide for the
7 withdrawal or taking for public purposes of the public land or
8 portion of the public land under a lease. The rental shall be
9 reduced in proportion to the value of the portion of the
10 premises condemned, and the lessee shall be entitled to receive
11 the proportionate value of the permanent improvements legally
12 made to or constructed upon the land by the lessee taken in the
13 proportion that it bears to the unexpired term of the lease.

14 (d) The committee shall hold a public hearing on a
15 proposed redevelopment plan for the designated district, and
16 shall consider the comments received and incorporate any
17 revisions to the plan that may be necessary.

18 (e) Two years after the date the committee is established,
19 the committee shall submit a report to the board with the
20 redevelopment plan recommended by the committee along with
21 recommendations for appropriations by the legislature, the



1 authorization of bonds, or both, to implement the redevelopment
2 plan in a timely manner. The board shall submit the report to
3 the governor and the legislature, not later than twenty days
4 prior to the convening of the 2020 regular session, with a
5 request for the required appropriations, bond authorization, or
6 both.

7 (f) The designated district redevelopment plan shall
8 supersede all other inconsistent ordinances and rules relating
9 to the use, planning, development, and construction on public
10 land in the designated district.

11 SECTION 7. Transfer of documents and property. (a) Upon
12 the repeal of this Act, all leases, contracts, agreements,
13 permits, or other documents executed or entered into, by or on
14 behalf of the redevelopment district planning committee shall
15 remain in full force and effect and shall be administered by the
16 department of land and natural resources.

17 (b) Upon the repeal of this Act, all appropriations,
18 records, equipment, machines, files, supplies, contracts, books,
19 papers, documents, maps, and other personal property held by the
20 redevelopment district planning committee shall be transferred
21 to the department of land and natural resources.



1 SECTION 8. There is appropriated out of the special land
2 and development fund the sum of \$ or so much thereof as
3 may be necessary for fiscal year 2018-2019 to carry out the
4 purposes of this Act.

5 The sum appropriated shall be expended by the department of
6 land and natural resources for the purposes of this Act.

7 PART II

8 SECTION 9. Section 171-36, Hawaii Revised Statutes, is
9 amended as follows:

10 1. By amending subsection (b) to read:

11 "(b) The board, from time to time, upon the issuance or
12 during the term of any intensive agricultural, aquaculture,
13 commercial, mariculture, special livestock, pasture, hotel,
14 resort, or industrial lease, may:

15 ~~[-(1) Modify]~~ modify or eliminate any of the restrictions
16 specified in subsection (a) ~~[+]~~ ,

17 ~~[-(2) Extend]~~ extend or modify the fixed rental period of
18 the lease~~[-, provided that the aggregate of the initial~~
19 ~~term and any extension granted shall not exceed sixty~~
20 ~~five years,]~~ upon approval by the board of a
21 development agreement proposed by the lessee to make



1 substantial improvements to the existing improvements
2 or to construct new improvements, or
3 ~~[-(3) Extend]~~ extend the term and modify any provisions of
4 the lease,
5 to the extent necessary to qualify the lease for mortgage
6 lending or guaranty purposes with any federal mortgage lending
7 agency~~[-]~~i to qualify the lessee for any state or private
8 lending institution loan, private loan guaranteed by the State,
9 or any loan in which the State and any private lender
10 participates~~[-]~~i or to amortize the cost of substantial
11 improvements to the demised premises that are paid for by the
12 lessee without institutional financing~~[-, such]~~. An extension
13 ~~[being]~~ of the fixed rental period or term of the lease shall be
14 based on the economic life of the improvements as determined by
15 the board or an independent appraiser; provided that the
16 approval of any extension shall be subject to the following:
17 (1) The demised premises have been used substantially for
18 the purpose for which they were originally leased;
19 ~~[-(2) The aggregate of the initial term and any extension~~
20 ~~granted shall not be for more than sixty five years,]~~



1 (2) The length of the extension granted for the lease or
2 the fixed rental period of the lease shall not extend
3 the fixed rental period of the original lease by more
4 than twenty years;

5 (3) ~~[In the event of]~~ If a reopening~~[7]~~ occurs, the rental
6 for any ensuing period shall be the fair market rental
7 at the time of reopening;

8 (4) Any federal or private lending institution shall be
9 qualified to do business in the State;

10 (5) Proceeds of any mortgage or loan shall be used solely
11 for the operations or improvements on the demised
12 premises;

13 (6) Where improvements are financed by the lessee, the
14 lessee shall submit receipts of expenditures within a
15 time period specified by the board, otherwise the
16 lease extension shall be canceled; and

17 (7) The rules of the board, setting forth any additional
18 terms and conditions, which shall ensure and promote
19 the purposes of the demised lands."

20 2. By amending subsections (d) and (e) to read:



1 "(d) The board, from time to time, during the term of any
2 agriculture, intensive agriculture, aquaculture, commercial,
3 mariculture, special livestock, pasture, hotel, resort, or
4 industrial lease, may modify or eliminate any of the
5 [†]restrictions[†] specified in subsection (a), extend or modify
6 the fixed rental period of the lease, or extend the term of the
7 lease upon a showing of significant economic hardship directly
8 caused by:

9 (1) State disaster, pursuant to chapter 209, including
10 seismic or tidal wave, tsunami, hurricane, volcanic
11 eruption, typhoon, earthquake, flood, or severe
12 drought; or

13 (2) A taking of a portion of the area of the lease by
14 government action by eminent domain, withdrawal, or
15 conservation easement; provided that the portion taken
16 shall not be less than ten per cent of the entire
17 leased area unless otherwise approved by the board;
18 and provided that the board determines that the lessee
19 will not be adequately compensated pursuant to the
20 lease provisions.



1 (e) The approval of any extension granted pursuant to
2 subsection (d) shall be subject to the following:

3 (1) The demised premises has been used substantially for
4 the purposes for which they were originally leased;

5 ~~[(2) The aggregate of the initial term and any extension~~
6 ~~granted shall not be for more than fifty five years;~~

7 ~~+(3)]~~ (2) The rental shall not be less than the rental for
8 the preceding term;

9 ~~[(4)]~~ (3) The rules of the board, setting forth any
10 additional terms and conditions which shall ensure and
11 promote the purposes of the demised lands; and

12 ~~[(5)]~~ (4) The length of the extension shall not exceed a
13 reasonable length of time for the purpose of providing
14 relief and shall in no case ~~[exceed five years.]~~
15 extend the original lease's fixed rental period by
16 more than twenty years."

17 PART III

18 SECTION 10. If any provision of this Act, or the
19 application thereof to any person or circumstance, is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 11. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 12. This Act shall take effect on July 1, 2050;
6 provided that this Act shall be repealed on June 30, 2028.



Report Title:

Public Lands; Redevelopment; Lease Restrictions; Appropriation;
Kanoelehua Industrial Area Pilot Program

Description:

Establishes a ten-year redevelopment district pilot project within the Kanoelehua Industrial Area and Banyan Drive region until 6/30/2028. Modifies public land lease restrictions. Appropriates funds. (HB2641 HD1)

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