
A BILL FOR AN ACT

RELATING TO A STATE BOATING FACILITY LEASE PROGRAM.

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

- 1 SECTION 1. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:
- 3 "(b) The civil service to which this chapter applies shall
4 comprise all positions in the State now existing or hereafter
5 established and embrace all personal services performed for the
6 State, except the following:
- 7 (1) Commissioned and enlisted personnel of the Hawaii
8 National Guard as such, and positions in the Hawaii
9 National Guard that are required by state or federal
10 laws or regulations or orders of the National Guard to
11 be filled from those commissioned or enlisted
12 personnel;
- 13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel



- 1 to perform the service cannot be obtained through
2 normal civil service recruitment procedures. Any such
3 contract may be for any period not exceeding one year;
- 4 (3) Positions that must be filled without delay to comply
5 with a court order or decree if the director
6 determines that recruitment through normal recruitment
7 civil service procedures would result in delay or
8 noncompliance, such as the Felix-Cayetano consent
9 decree;
- 10 (4) Positions filled by the legislature or by either house
11 or any committee thereof;
- 12 (5) Employees in the office of the governor and office of
13 the lieutenant governor, and household employees at
14 Washington Place;
- 15 (6) Positions filled by popular vote;
- 16 (7) Department heads, officers, and members of any board,
17 commission, or other state agency whose appointments
18 are made by the governor or are required by law to be
19 confirmed by the senate;
- 20 (8) Judges, referees, receivers, masters, jurors, notaries
21 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special
2 temporary service;

- 3 (9) One bailiff for the chief justice of the supreme court
4 who shall have the powers and duties of a court
5 officer and bailiff under section 606-14; one
6 secretary or clerk for each justice of the supreme
7 court, each judge of the intermediate appellate court,
8 and each judge of the circuit court; one secretary for
9 the judicial council; one deputy administrative
10 director of the courts; three law clerks for the chief
11 justice of the supreme court, two law clerks for each
12 associate justice of the supreme court and each judge
13 of the intermediate appellate court, one law clerk for
14 each judge of the circuit court, two additional law
15 clerks for the civil administrative judge of the
16 circuit court of the first circuit, two additional law
17 clerks for the criminal administrative judge of the
18 circuit court of the first circuit, one additional law
19 clerk for the senior judge of the family court of the
20 first circuit, two additional law clerks for the civil
21 motions judge of the circuit court of the first



1 circuit, two additional law clerks for the criminal
2 motions judge of the circuit court of the first
3 circuit, and two law clerks for the administrative
4 judge of the district court of the first circuit; and
5 one private secretary for the administrative director
6 of the courts, the deputy administrative director of
7 the courts, each department head, each deputy or first
8 assistant, and each additional deputy, or assistant
9 deputy, or assistant defined in paragraph (16);

10 (10) First deputy and deputy attorneys general, the
11 administrative services manager of the department of
12 the attorney general, one secretary for the
13 administrative services manager, an administrator and
14 any support staff for the criminal and juvenile
15 justice resources coordination functions, and law
16 clerks;

17 (11) (A) Teachers, principals, vice-principals, complex
18 area superintendents, deputy and assistant
19 superintendents, other certificated personnel,
20 not more than twenty noncertificated



- 1 administrative, professional, and technical
2 personnel not engaged in instructional work;
- 3 (B) Effective July 1, 2003, teaching assistants,
4 educational assistants, bilingual/bicultural
5 school-home assistants, school psychologists,
6 psychological examiners, speech pathologists,
7 athletic health care trainers, alternative school
8 work study assistants, alternative school
9 educational/supportive services specialists,
10 alternative school project coordinators, and
11 communications aides in the department of
12 education;
- 13 (C) The special assistant to the state librarian and
14 one secretary for the special assistant to the
15 state librarian; and
- 16 (D) Members of the faculty of the University of
17 Hawaii, including research workers, extension
18 agents, personnel engaged in instructional work,
19 and administrative, professional, and technical
20 personnel of the university;



- 1 (12) Employees engaged in special, research, or
2 demonstration projects approved by the governor;
- 3 (13) (A) Positions filled by inmates, patients of state
4 institutions, persons with severe physical or
5 mental disabilities participating in the work
6 experience training programs;
- 7 (B) Positions filled with students in accordance with
8 guidelines for established state employment
9 programs; and
- 10 (C) Positions that provide work experience training
11 or temporary public service employment that are
12 filled by persons entering the workforce or
13 persons transitioning into other careers under
14 programs such as the federal Workforce Investment
15 Act of 1998, as amended, or the Senior Community
16 Service Employment Program of the Employment and
17 Training Administration of the United States
18 Department of Labor, or under other similar state
19 programs;
- 20 (14) A custodian or guide at Iolani Palace, the Royal
21 Mausoleum, and Hulihee Palace;



1 (15) Positions filled by persons employed on a fee,
2 contract, or piecework basis, who may lawfully perform
3 their duties concurrently with their private business
4 or profession or other private employment and whose
5 duties require only a portion of their time, if it is
6 impracticable to ascertain or anticipate the portion
7 of time to be devoted to the service of the State;

8 (16) Positions of first deputies or first assistants of
9 each department head appointed under or in the manner
10 provided in section 6, article V, of the Hawaii State
11 Constitution; three additional deputies or assistants
12 either in charge of the highways, harbors, and
13 airports divisions or other functions within the
14 department of transportation as may be assigned by the
15 director of transportation, with the approval of the
16 governor; four additional deputies in the department
17 of health, each in charge of one of the following:
18 behavioral health, environmental health, hospitals,
19 and health resources administration, including other
20 functions within the department as may be assigned by
21 the director of health, with the approval of the



1 governor; an administrative assistant to the state
2 librarian; and an administrative assistant to the
3 superintendent of education;

4 (17) Positions specifically exempted from this part by any
5 other law; provided that:

6 (A) Any exemption created after July 1, 2014, shall
7 expire three years after its enactment unless
8 affirmatively extended by an act of the
9 legislature; and

10 (B) All of the positions defined by paragraph (9)
11 shall be included in the position classification
12 plan;

13 (18) Positions in the state foster grandparent program and
14 positions for temporary employment of senior citizens
15 in occupations in which there is a severe personnel
16 shortage or in special projects;

17 (19) Household employees at the official residence of the
18 president of the University of Hawaii;

19 (20) Employees in the department of education engaged in
20 the supervision of students during meal periods in the
21 distribution, collection, and counting of meal



1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;

3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;

9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;

13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;

17 (24) The sheriff;

18 (25) A gender and other fairness coordinator hired by the
19 judiciary;

20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs;



- 1 (27) In the state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts;
- 5 (28) Administrative appeals hearing officers in the
6 department of human services;
- 7 (29) In the Med-QUEST division of the department of human
8 services, the division administrator, finance officer,
9 health care services branch administrator, medical
10 director, and clinical standards administrator;
- 11 (30) In the director's office of the department of human
12 services, the enterprise officer, information security
13 and privacy compliance officer, security and privacy
14 compliance engineer, and security and privacy
15 compliance analyst;
- 16 (31) The Alzheimer's disease and related dementia services
17 coordinator in the executive office on aging;
- 18 [†] (32) [†] In the Hawaii emergency management agency, the
19 executive officer, public information officer, civil
20 defense administrative officer, branch chiefs, and
21 emergency operations center state warning point



1 personnel; provided that, for state warning point
2 personnel, the director shall determine that
3 recruitment through normal civil service recruitment
4 procedures would result in delay or noncompliance;
5 ~~[and]~~

6 ~~[+]~~ (33) ~~[+]~~ The executive director and seven full-time
7 administrative positions of the school facilities
8 authority~~[-]~~; and

9 (34) Positions at a state small boat harbor filled by
10 persons employed by any lessee of the department of
11 land and natural resources for private development,
12 management, and maintenance of a state boating
13 facility.

14 The director shall determine the applicability of this
15 section to specific positions.

16 Nothing in this section shall be deemed to affect the civil
17 service status of any incumbent as it existed on July 1, 1955."

18 SECTION 2. Section 200-2.5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:



1 "(a) Notwithstanding any law to the contrary, the board
2 may lease fast lands and submerged lands within ~~[an]~~ any
3 existing state boating facility ~~[by]~~:

4 (1) By public auction~~[r]~~;

5 (2) By a request for proposals~~[r]~~; or ~~[by]~~

6 (3) By direct negotiation pursuant to section 171-59,
7 and pursuant to chapter 190D~~[r]~~ for private development,
8 management, and operation~~[- provided that any lease of fast~~
9 ~~lands or submerged lands pursuant to a request for proposals~~
10 ~~shall be subject to section 200-2.6, regardless to which state~~
11 ~~boating facility the fast or submerged lands are attached].~~

12 As used in this section, the term "state boating facility"
13 means a state small boat harbor, launching ramp, offshore
14 mooring, pier, wharf, landing, or any other area under the
15 jurisdiction of the department pursuant to this chapter."

16 SECTION 3. Section 200-2.6, Hawaii Revised Statutes, is
17 repealed.

18 ~~["**\$200-2.6** **Ala Wai boat harbor; leases.** The fast lands~~
19 ~~and submerged lands of the Ala Wai boat harbor that may be~~
20 ~~leased include the following:-~~



~~(1) All fast lands and submerged lands described in the request for qualifications or request for proposals issued by the division of boating and ocean recreation of the department on November 25, 2008;~~

~~(2) The fast land described as a portion of tax map key:~~

~~(1) 2-3-37-12, composed of approximately 112,580 square feet, presently used for harbor offices and permitted vehicular parking; and~~

~~(3) The fast land described as a portion of tax map key:~~

~~(1) 2-3-37-12, which is a triangular area located Diamond Head of Mole B, presently used for permitted vehicular parking."]~~

SECTION 4. (a) There is established a state boating facility lease pilot program within the department of land and natural resources to be implemented and managed by the division of boating and ocean recreation to allow the board of land and natural resources to lease one small boat harbor in its entirety, and fast lands and submerged lands within it, by public auction, request for proposals, or direct negotiation, for private development, management, and operation.



1 (b) Notwithstanding any law to the contrary, prior
2 authorization from the legislature shall not be required for
3 issuance of a lease under this pilot program.

4 (c) Alternatively, the board of land and natural resources
5 may enter into a qualified management agreement, to be
6 implemented and managed by the division of boating and ocean
7 recreation of the department of land and natural resources, for
8 private management and operation of one small boat harbor either
9 partially or in its entirety, and fast lands and submerged lands
10 within it.

11 (d) The department of land and natural resources shall
12 submit a report of its findings and recommendations, including
13 any proposed legislation, to the legislature no later than
14 twenty days prior to the convening of each regular session until
15 the pilot program terminates. The final report shall include a
16 recommendation on whether the pilot program should be continued,
17 modified, or terminated.

18 (e) The state boating facility lease pilot program shall
19 terminate on June 30, 2042.



1 SECTION 5. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2050.

7



H.B. NO. 2163 H.D. 1

Report Title:

State Boating Facility Lease Program Pilot Program

Description:

Establishes a state boating facility lease pilot program within the department of land and natural resources. Clarifies that a private partner under lease with the department may assist with development, management, and maintenance of a state boating facility. Effective 7/1/2050. (HD1)

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