
A BILL FOR AN ACT

RELATING TO LAND MANAGEMENT.

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

PART I

SECTION 1. The legislature finds that Act 90, Session Laws of Hawaii 2003 (Act 90), was enacted to ensure the long-term, productive use of public lands leased, or available to be leased, for agricultural purposes by transferring certain non-agricultural park lands from the department of land and natural resources to the department of agriculture. While a small percentage of those lands have been transferred over the last eighteen years, many lands have not been transferred to the department of agriculture.

Now, more than ever, the public and Hawaii leadership recognize the importance of greater food self-sufficiency and the need to encourage agricultural activity and to diversify the economy. The Hawaii State Constitution, Hawaii State Plan, New Day Plan, Hawaii Comprehensive Economic Development Strategy, and other state policy documents all support increasing Hawaii's food self-sufficiency.



1 The legislature further finds that article XI, section 10,
2 of the Hawaii State Constitution, establishes that "[t]he public
3 lands shall be used for the development of farm and
4 homeownership on as a widespread a basis as possible, in
5 accordance with procedures and limitations prescribed by law."

6 The final report from the Act 90 working group, established
7 by Act 139, Session Laws of Hawaii 2021, finds that lands under
8 the department of land and natural resources used for the
9 primary and substantial management objective of agricultural
10 production should be transferred to the department of
11 agriculture.

12 The Act 90 working group final report additionally finds
13 that improved collaborative working relationships between the
14 department of land and natural resources, the department of
15 agriculture, and lessees of multi-use agricultural lands will
16 facilitate the management or co-management of department of land
17 and natural resources multi-use parcels to benefit public
18 values, including food production, conservation, and natural
19 resource management.

20 The legislature also finds that agricultural activities and
21 natural resource management are not mutually exclusive. The



1 department of land and natural resources continues to regulate
2 and manage natural resources statewide, such as dam safety,
3 invasive species control, and hunting access, regardless of
4 where these needs or threats are found. Both the department of
5 agriculture and the department of land and natural resources
6 collaborate to address management needs.

7 Therefore, the legislature finally finds that certain
8 public lands classified for agricultural use, including pasture
9 use, by the department of land and natural resources should be
10 transferred to the department of agriculture for the purposes
11 and in a manner consistent with article XI, section 10, of the
12 Hawaii State Constitution. Both the department of land and
13 natural resources and the department of agriculture will
14 continue to collaborate on access easements and other natural
15 resource conservation activity needs of the department of land
16 and natural resources on the transferred lands.

17 PART II

18 SECTION 2. The purpose of this part is to facilitate the
19 transfer of certain non-agricultural park lands from the
20 department of land and natural resources to the department of
21 agriculture, including pasture leases, pursuant to Act 90,



1 Session Laws of Hawaii 2003, and chapter 166E, Hawaii Revised
2 Statutes, regarding non-agricultural park lands, by:

3 (1) Repealing the requirements that transfers of certain
4 public lands classified for agricultural use by the
5 department of land and natural resources shall receive
6 approval of the board of land and natural resources
7 and the board of agriculture prior to transfer to the
8 department of agriculture;

9 (2) Requiring the department of agriculture to accept the
10 transfer of and manage certain qualifying non-
11 conservation, non-agricultural park lands, including
12 pasture leases; and

13 (3) Requiring the department of agriculture, prior to
14 offering a lease, to inquire with the department of
15 land and natural resources regarding any necessary and
16 reasonable easements required for the department of
17 land and natural resources to access its landlocked
18 forest reserves or other department of land and
19 natural resources assets on the lands subject to the
20 lease.



SECTION 3. Section 166E-1, Hawaii Revised Statutes, is amended to read as follows:

"~~[§166E-1]~~ **Legislative findings.** The legislature finds that article XI, section 10, of the Hawaii State Constitution establishes that "the public lands shall be used for the development of farm and homeownership on as widespread a basis as possible, in accordance with procedures and limitations prescribed by law".

Therefore, the legislature finds that certain public lands classified for agricultural use, including all lands designated as intensive agricultural use, special livestock use, and pasture use under paragraphs (1) to (3) of section 171-10, by the department of land and natural resources should be transferred to the department of agriculture~~[, with the approval of the board of land and natural resources and the board of agriculture,]~~ for purposes and in a manner consistent with article XI, section 10, of the ~~[state constitution.]~~ Hawaii State Constitution.

The purpose of this chapter is to ensure the long-term productive use of public lands leased or available to be leased by the department of land and natural resources for agricultural



1 purposes, including pasture use, by allowing these lands to be
2 transferred to and managed by the department of agriculture."

3 SECTION 4. Section 166E-3, Hawaii Revised Statutes, is
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) Upon ~~[mutual agreement and]~~ approval of the board
6 ~~[and the board of land and natural resources]~~ :

7 (1) The department ~~[may]~~ shall accept the transfer of and
8 manage encumbered ~~[certain qualifying]~~ non-
9 agricultural park lands~~[+]~~ subject to the suitability
10 of the land for agricultural activities and use, as
11 determined by the board; [and]

12 (2) Certain assets, including position counts, related to
13 the management of existing encumbered and unencumbered
14 non-agricultural park lands and related facilities
15 shall be transferred to the department~~[-]~~; and

16 (3) Provided that designated conservation lands not in
17 current agricultural use shall remain under the
18 jurisdiction of the department of land and natural
19 resources.

20 (b) The department shall administer a program to manage
21 the transferred non-agricultural park lands under rules adopted



1 by the board pursuant to chapter 91. The program and its rules
2 shall be separate and distinct from the agricultural park
3 program and its rules. Non-agricultural park lands are not the
4 same as, and shall not be selected or managed as ~~[are]~~, lands
5 under agricultural park leases. Prior to offering a lease, the
6 department shall inquire with the department of land and natural
7 resources regarding any easements required by the department of
8 land and natural resources to access landlocked forest reserves
9 or other assets of the department of land and natural resources
10 on the lands subject to the lease. Notwithstanding any other
11 law to the contrary, the program shall include the following
12 conditions pertaining to encumbered non-agricultural park lands:

- 13 (1) The lessee or permittee shall perform in full
14 compliance with the existing lease or permit;
- 15 (2) The lessee or permittee shall not be in arrears in the
16 payment of taxes, rents, or other obligations owed to
17 the State or any county;
- 18 (3) The lessee's or permittee's agricultural operation
19 shall be economically viable as specified by the
20 board; and



1 (4) No encumbered or unencumbered non-agricultural park
2 lands with soils classified by the land study bureau's
3 detailed land classification as overall (master)
4 productivity rating class A or B shall be transferred
5 for the use or development of golf courses, golf
6 driving ranges, and country clubs.

7 The transfer of non-agricultural park lands shall be done in a
8 manner to be determined by the board of agriculture."

9 PART III

10 SECTION 5. The purpose of this part is to balance the
11 State's commitment to agriculture as a priority and the State's
12 dedication to land and stewardship and reforestation by
13 requiring approval by the board of land and natural resources
14 and the board of agriculture prior to removal of pasture lands
15 for reforestation or other public purposes.

16 SECTION 6. The department of land and natural resources
17 shall seek approval from the board of land and natural resources
18 and the board of agriculture prior to the removal of any land
19 designated for pasture leases for reforestation or other public
20 purposes. If withdrawal is approved by both boards, adequate



1 notice of not less than one year to the then-current lessee or
2 permittee shall be provided.

3 The division of forestry and wildlife shall submit a
4 realistic and funded action plan for reforestation purposes on
5 current pasture lease lands to the board of land and natural
6 resources for approval.

7 PART IV

8 SECTION 7. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 8. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Department of Agriculture; Department of Land and Natural Resources; Pasture Leases; Land Transfers; Division of Forestry and Wildlife; Reforestation

Description:

Repeals certain board approval requirements for transfers of certain public lands classified for agricultural use by the Department of Land and Natural Resources to the Department of Agriculture. Clarifies lands classified for agricultural use to include intensive agricultural, special livestock, and pasture uses. Requires the Department of Agriculture to accept the transfer of lands in pasture use by the Department of Agriculture. Retains the Department of Agriculture's authority to determine the manner of transferring non-agricultural park lands. Requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires approval from the Board of Land and Natural Resources and the Board of Agriculture before removing pasture lands for reforestation, or other public purposes. Requires the Department of Land and Natural Resources Division of Forestry and Wildlife to submit a realistic and funded action plan for reforestation on current pasture lands. Requires a one-year notice to land lessees or permittees prior to approved withdrawal. (SD1)

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