

JAN 21 2022

A BILL FOR AN ACT

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

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

1 SECTION 1. The legislature finds that Act 90, Session Laws
2 of Hawaii 2003 (Act 90), was enacted to ensure the long-term,
3 productive use of public lands leased or available to be leased
4 for agricultural purposes by allowing these lands to be
5 transferred from the department of land and natural resources to
6 be managed by the department of agriculture.

7 Act 90 was deemed necessary as the department of
8 agriculture had the expert resource base "more in tune with the
9 needs of the agricultural community and with the policy set by
10 the State Constitution." Article XI, section 10, of the Hawaii
11 State Constitution, established that "the public lands shall be
12 used for the development of farm and homeownership on as
13 widespread a basis as possible, in accordance with procedures
14 and limitations prescribed by law." Article XI, section 3, of
15 the Hawaii State Constitution, further mandates that "the State
16 shall conserve and protect agricultural lands, promote
17 diversified agriculture, increase agricultural self-sufficiency,



1 and assure the availability of agriculturally suitable lands.
2 The legislature shall provide standards and criteria to
3 accomplish the foregoing."

4 Now, more than ever, the public and Hawaii's leadership
5 recognize the importance of greater food self-sufficiency and
6 the need to encourage agricultural activity to promote the
7 diversification of the economy. The Hawaii State Constitution,
8 the Hawaii state plan, the new day plan, Hawaii comprehensive
9 economic development strategy, and other state policy documents
10 all support increasing Hawaii's food self-sufficiency. The
11 State's distance from the continental United States and the high
12 percentage of imported food makes the State particularly
13 vulnerable to natural disasters and global events that disrupt
14 supply chains and food supply.

15 Increasing food self-sufficiency will keep money
16 circulating in Hawaii's economy by supporting local farmers and
17 businesses rather than agribusiness in other states or
18 countries. Programs and projects which support greater food
19 self-sufficiency will result in economic, social, and
20 environmental benefits to the State of Hawaii.



1 However, the legislature further finds that absent
2 appropriate legislative action, a decrease in food production on
3 public lands may occur as producers continue to face the
4 insecurity and instability of short-term leases and other lease
5 terms under the management of the department of land and natural
6 resources. Agricultural lands are more appropriately managed by
7 the department of agriculture which has the mission and
8 flexibility to support increased local food production.

9 Additionally, lands historically zoned "agricultural" may
10 have the potential for natural and cultural resource protection
11 and other potential purposes. However, when agricultural lands
12 are utilized for active agricultural use, public policy dictates
13 that the lands should not be withdrawn from production and
14 limited to non-agricultural uses. These lands should be
15 transferred to the department of agriculture. Once agricultural
16 lands are converted to non-agricultural use, they are unlikely
17 to return to agricultural production.

18 Since the enactment of Act 90, less than fourteen per cent
19 of the agricultural acreage inventory within the department of
20 land and natural resources has been transferred to the
21 department of agriculture. Although the department of land and



1 natural resources has identified thirty-one per cent of lands
2 for transfer, the inventoried lands have not been transferred.
3 Furthermore, the department of land and natural resources has
4 stated that it intends to retain fifty-four per cent of its
5 public agricultural lands for non-agricultural potential
6 purposes.

7 Despite the purpose and intent of Act 90, agricultural
8 lessees under the department of land and natural resources
9 continue to be in an untenable state of limbo. Many lessees are
10 unable to conduct long-term planning and invest into
11 agricultural ventures due to uncertainty over land leases.

12 Therefore, the purpose of this Act is to expedite and set
13 criteria for the transfer of agricultural land to the department
14 of agriculture to ensure long-term agricultural use of public
15 lands, including pasture lands used for livestock production,
16 and to set a deadline for land transfers.

17 SECTION 2. Section 166E-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§166E-3 Transfer and management of non-agricultural park
20 lands and related facilities to the department of agriculture.

21 (a) ~~[Upon mutual agreement and approval of the board and the~~



1 ~~board of land and natural resources:]~~ The department of land and
2 natural resources shall transfer lands suitable or appropriate
3 for agricultural use, including livestock pasture lands, to the
4 department; provided that:

5 (1) ~~[The department may accept the transfer of and manage~~
6 ~~certain qualifying non-agricultural park lands;]~~

7 Initial priority shall be given to existing
8 agricultural operations; provided further that
9 unencumbered but potentially suitable lands shall also
10 be considered for transfer; [and]

11 (2) Parcels in whole or in part in active agricultural use
12 that also have the potential conservation value or
13 other potential value shall be transferred to the
14 department. These lands or portions thereof may be
15 returned to the department of land and natural
16 resources upon approval of the board of agriculture of
17 a funded action plan under the department of land and
18 natural resources for the proposed potential non-
19 agricultural use, after a two-year notice to the
20 existing lessee; and



1 ~~[(+2)]~~ (3) Certain assets, including position counts,
2 related to the management of existing encumbered and
3 unencumbered non-agricultural park lands and related
4 facilities shall be transferred to the department.

5 (b) The department shall administer a program to manage
6 the transferred non-agricultural park lands under rules adopted
7 by the board pursuant to chapter 91. The program and its rules
8 shall be separate and distinct from the agricultural park
9 program and its rules. Non-agricultural park lands are not the
10 same as, and shall not be selected or managed as are lands under
11 agricultural park leases. Prior to offering a lease, the
12 department shall inquire with the department of land and natural
13 resources regarding any easements required by the department of
14 land and natural resources on the lands subject to the lease.

15 Notwithstanding any other law to the contrary, the program shall
16 include the following conditions pertaining to encumbered non-
17 agricultural park lands:

18 (1) The lessee or permittee shall perform in full
19 compliance with the existing lease or permit;



1 (2) The lessee or permittee shall not be in arrears in the
2 payment of taxes, rents, or other obligations owed to
3 the State or any county;

4 (3) The lessee's or permittee's agricultural operation
5 shall be economically viable as specified by the
6 board; and

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

13 The transfer of non-agricultural park lands shall be done [~~in a~~
14 ~~manner to be determined by the board of agriculture.~~] pursuant
15 to this section.

16 (c) For any encumbered or unencumbered non-agricultural
17 park lands transferred to the department that are not being
18 utilized or required for the public purpose stated, the order
19 setting aside the lands shall be withdrawn and the lands shall
20 be returned to the department of land and natural resources.



1 (d) No later than one year after the effective date of
2 this Act, the department and the department of land and natural
3 resources shall effectuate the transfer of the non-agricultural
4 park lands under the jurisdiction of the department of land and
5 natural resources that are in whole or in part of agricultural
6 use, including pasture use.

7 (e) No later than five years after the effective date of
8 Act Session Laws of Hawaii 2022, the department and the
9 department of land and natural resources shall effectuate the
10 transfer of non-agricultural park lands under the jurisdiction
11 of the department of land and natural resources that are
12 suitable for agricultural use, including pasture use, and not
13 previously transferred pursuant to subsection (d)."

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

17
INTRODUCED BY:

Clark K. Kishihara



S.B. NO. 2781

Report Title:

Department of Agriculture; Department of Land and Natural Resources; Non-Agricultural Park Lands; Pastoral Lands

Description:

Requires the Department of Land and Natural Resources to transfer non-agricultural lands to the Department of Agriculture. Requires the Department of Agriculture to accept the transfer of non-agricultural park lands in agricultural use, including pasture use or lands suitable for agricultural use. Provides deadlines for land transfers. Requires the Department of Agriculture to inquire about any easements needed by the Department of Land and Natural Resources prior to offering a lease.

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