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# A BILL FOR AN ACT

RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM.

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

1           SECTION 1. Chapter 200, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§200-       State boating facility lease pilot program.   (a)

5           There is established a state boating facility lease pilot  
6 program within the department to be implemented and managed by  
7 the division of boating and ocean recreation to allow the board  
8 to lease one small boat harbor in its entirety, and fast lands  
9 and submerged lands within it, by public auction, request for  
10 proposals, or direct negotiation, for private development,  
11 management, and operation.

12           (b) Prior authorization from the legislature shall not be  
13 required for issuance of a lease under this pilot program.

14           (c) All employees of the division of boating and ocean  
15 recreation of the department who occupy civil service positions  
16 and whose functions are replaced as a result of this section  
17 shall retain their civil service status, whether permanent or



1 temporary. Employees shall be reassigned within the division of  
2 boating and ocean recreation without loss of salary, seniority  
3 (except as prescribed by applicable collective bargaining  
4 agreements), retention points, prior service credit, any  
5 vacation and sick leave credits previously earned, and other  
6 rights, benefits, and privileges, in accordance with state  
7 personnel laws, provided that subsequent changes in status may  
8 be made pursuant to applicable civil service and compensation  
9 laws.

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

16 (e) The state boating facility lease pilot program shall  
17 terminate on June 30, 2043."

18 SECTION 2. Section 76-16, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20 "(b) The civil service to which this chapter applies shall  
21 comprise all positions in the State now existing or hereafter



1 established and embrace all personal services performed for the  
2 State, except the following:

3 (1) Commissioned and enlisted personnel of the Hawaii  
4 National Guard as such, and positions in the Hawaii  
5 National Guard that are required by state or federal  
6 laws or regulations or orders of the National Guard to  
7 be filled from those commissioned or enlisted  
8 personnel;

9 (2) Positions filled by persons employed by contract where  
10 the director of human resources development has  
11 certified that the service is special or unique or is  
12 essential to the public interest and that, because of  
13 circumstances surrounding its fulfillment, personnel  
14 to perform the service cannot be obtained through  
15 normal civil service recruitment procedures. Any such  
16 contract may be for any period not exceeding one year;

17 (3) Positions that must be filled without delay to comply  
18 with a court order or decree if the director  
19 determines that recruitment through normal recruitment  
20 civil service procedures would result in delay or



- 1 noncompliance, such as the Felix-Cayetano consent  
2 decree;
- 3 (4) Positions filled by the legislature or by either house  
4 or any committee thereof;
- 5 (5) Employees in the office of the governor and office of  
6 the lieutenant governor, and household employees at  
7 Washington Place;
- 8 (6) Positions filled by popular vote;
- 9 (7) Department heads, officers, and members of any board,  
10 commission, or other state agency whose appointments  
11 are made by the governor or are required by law to be  
12 confirmed by the senate;
- 13 (8) Judges, referees, receivers, masters, jurors, notaries  
14 public, land court examiners, court commissioners, and  
15 attorneys appointed by a state court for a special  
16 temporary service;
- 17 (9) One bailiff for the chief justice of the supreme court  
18 who shall have the powers and duties of a court  
19 officer and bailiff under section 606-14; one  
20 secretary or clerk for each justice of the supreme  
21 court, each judge of the intermediate appellate court,



1 and each judge of the circuit court; one secretary for  
2 the judicial council; one deputy administrative  
3 director of the courts; three law clerks for the chief  
4 justice of the supreme court, two law clerks for each  
5 associate justice of the supreme court and each judge  
6 of the intermediate appellate court, one law clerk for  
7 each judge of the circuit court, two additional law  
8 clerks for the civil administrative judge of the  
9 circuit court of the first circuit, two additional law  
10 clerks for the criminal administrative judge of the  
11 circuit court of the first circuit, one additional law  
12 clerk for the senior judge of the family court of the  
13 first circuit, two additional law clerks for the civil  
14 motions judge of the circuit court of the first  
15 circuit, two additional law clerks for the criminal  
16 motions judge of the circuit court of the first  
17 circuit, and two law clerks for the administrative  
18 judge of the district court of the first circuit; and  
19 one private secretary for the administrative director  
20 of the courts, the deputy administrative director of  
21 the courts, each department head, each deputy or first



1 assistant, and each additional deputy, or assistant  
2 deputy, or assistant defined in paragraph (16);

3 (10) First deputy and deputy attorneys general, the  
4 administrative services manager of the department of  
5 the attorney general, one secretary for the  
6 administrative services manager, an administrator and  
7 any support staff for the criminal and juvenile  
8 justice resources coordination functions, and law  
9 clerks;

10 (11) (A) Teachers, principals, vice-principals, complex  
11 area superintendents, deputy and assistant  
12 superintendents, other certificated personnel,  
13 not more than twenty noncertificated  
14 administrative, professional, and technical  
15 personnel not engaged in instructional work;

16 (B) Effective July 1, 2003, teaching assistants,  
17 educational assistants, bilingual/bicultural  
18 school-home assistants, school psychologists,  
19 psychological examiners, speech pathologists,  
20 athletic health care trainers, alternative school  
21 work study assistants, alternative school



1 educational/supportive services specialists,  
2 alternative school project coordinators, and  
3 communications aides in the department of  
4 education;

5 (C) The special assistant to the state librarian and  
6 one secretary for the special assistant to the  
7 state librarian; and

8 (D) Members of the faculty of the University of  
9 Hawaii, including research workers, extension  
10 agents, personnel engaged in instructional work,  
11 and administrative, professional, and technical  
12 personnel of the university;

13 (12) Employees engaged in special, research, or  
14 demonstration projects approved by the governor;

15 (13) (A) Positions filled by inmates, patients of state  
16 institutions, persons with severe physical or  
17 mental disabilities participating in the work  
18 experience training programs;

19 (B) Positions filled with students in accordance with  
20 guidelines for established state employment  
21 programs; and



- 1 (C) Positions that provide work experience training  
2 or temporary public service employment that are  
3 filled by persons entering the workforce or  
4 persons transitioning into other careers under  
5 programs such as the federal Workforce Investment  
6 Act of 1998, as amended, or the Senior Community  
7 Service Employment Program of the Employment and  
8 Training Administration of the United States  
9 Department of Labor, or under other similar state  
10 programs;
- 11 (14) A custodian or guide at Iolani Palace, the Royal  
12 Mausoleum, and Hulihee Palace;
- 13 (15) Positions filled by persons employed on a fee,  
14 contract, or piecework basis, who may lawfully perform  
15 their duties concurrently with their private business  
16 or profession or other private employment and whose  
17 duties require only a portion of their time, if it is  
18 impracticable to ascertain or anticipate the portion  
19 of time to be devoted to the service of the State;
- 20 (16) Positions of first deputies or first assistants of  
21 each department head appointed under or in the manner



1 provided in section 6, article V, of the Hawaii State  
2 Constitution; three additional deputies or assistants  
3 either in charge of the highways, harbors, and  
4 airports divisions or other functions within the  
5 department of transportation as may be assigned by the  
6 director of transportation, with the approval of the  
7 governor; four additional deputies in the department  
8 of health, each in charge of one of the following:  
9 behavioral health, environmental health, hospitals,  
10 and health resources administration, including other  
11 functions within the department as may be assigned by  
12 the director of health, with the approval of the  
13 governor; two additional deputies in charge of the law  
14 enforcement programs, administration, or other  
15 functions within the department of law enforcement as  
16 may be assigned by the director of law enforcement,  
17 with the approval of the governor; an administrative  
18 assistant to the state librarian; and an  
19 administrative assistant to the superintendent of  
20 education;



- 1       (17) Positions specifically exempted from this part by any
- 2           other law; provided that:
- 3           (A) Any exemption created after July 1, 2014, shall
- 4                expire three years after its enactment unless
- 5                affirmatively extended by an act of the
- 6                legislature; and
- 7           (B) All of the positions defined by paragraph (9)
- 8                shall be included in the position classification
- 9                plan;
- 10       (18) Positions in the state foster grandparent program and
- 11           positions for temporary employment of senior citizens
- 12           in occupations in which there is a severe personnel
- 13           shortage or in special projects;
- 14       (19) Household employees at the official residence of the
- 15           president of the University of Hawaii;
- 16       (20) Employees in the department of education engaged in
- 17           the supervision of students during meal periods in the
- 18           distribution, collection, and counting of meal
- 19           tickets, and in the cleaning of classrooms after
- 20           school hours on a less than half-time basis;



- 1 (21) Employees hired under the tenant hire program of the  
2 Hawaii public housing authority; provided that not  
3 more than twenty-six per cent of the authority's  
4 workforce in any housing project maintained or  
5 operated by the authority shall be hired under the  
6 tenant hire program;
- 7 (22) Positions of the federally funded expanded food and  
8 nutrition program of the University of Hawaii that  
9 require the hiring of nutrition program assistants who  
10 live in the areas they serve;
- 11 (23) Positions filled by persons with severe disabilities  
12 who are certified by the state vocational  
13 rehabilitation office that they are able to perform  
14 safely the duties of the positions;
- 15 (24) The sheriff;
- 16 (25) A gender and other fairness coordinator hired by the  
17 judiciary;
- 18 (26) Positions in the Hawaii National Guard youth and adult  
19 education programs;
- 20 (27) In the state energy office in the department of  
21 business, economic development, and tourism, all



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



1 recruitment through normal civil service recruitment  
2 procedures would result in delay or noncompliance;

3 (33) The executive director and seven full-time  
4 administrative positions of the school facilities  
5 authority;

6 (34) Positions in the Mauna Kea stewardship and oversight  
7 authority[-]; [~~and~~

8 +] (35) [+] In the office of homeland security of the department  
9 of defense, the statewide interoperable communications  
10 coordinator[-]; and

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

16 The director shall determine the applicability of this  
17 section to specific positions.

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

20 SECTION 3. Section 200-2.5, Hawaii Revised Statutes, is  
21 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 public auction, a request for  
4 proposals, or by direct negotiation pursuant to section 171-59  
5 and chapter 190D, for private development, management, and  
6 operation~~;~~ ~~provided that any lease of fast lands or submerged~~  
7 ~~lands pursuant to a request for proposals shall be subject to~~  
8 ~~section 200-2.6, regardless to which state boating facility the~~  
9 ~~fast or submerged lands are attached].~~

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

14           SECTION 4. Section 200-2.6, Hawaii Revised Statutes, is  
15 amended to read as follows:

16           "~~{}~~**\$200-2.6**~~{}~~ **Ala Wai boat harbor; leases.** ~~[The fast~~  
17 ~~lands and submerged lands of the Ala Wai boat harbor that may be~~  
18 ~~leased include the following:~~

19           ~~(1) All fast lands and submerged lands described in the~~  
20           ~~request for qualifications or request for proposals~~



1 ~~issued by the division of boating and ocean recreation~~  
2 ~~of the department on November 25, 2008;~~

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

4 ~~(1) 2-3-37-12, composed of approximately 112,580~~  
5 ~~square feet, presently used for harbor offices and~~  
6 ~~permitted vehicular parking; and~~

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

8 ~~(1) 2-3-37-12, which is a triangular area located~~  
9 ~~Diamond Head of Mole B, presently used for permitted~~  
10 ~~vehicular parking.] Repealed."~~

11 SECTION 5. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect on June 30, 3000;  
17 provided that:

18 (1) The amendments made to section 76-16(b), Hawaii  
19 Revised Statutes, by section 2 of this Act shall not  
20 be repealed when section 24 of Act 278, Session Laws  
21 of Hawaii 2022, takes effect; and



1           (2) On June 30, 2043, this Act shall be repealed and  
2           sections 76-16(b), 200-2.5(a), and 200-2.6, Hawaii  
3           Revised Statutes, shall be reenacted in the form in  
4           which they read on the day prior to the effective date  
5           of this Act.

6



**Report Title:**

State Small Boating Facility Lease; Public-private Partnership;  
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 or contract with the department may assist with development, management, and maintenance of a state small boat harbor. Effective 6/30/3000. (HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

