
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. The legislature finds that following the
2 illegal overthrow and annexation of Hawaii's constitutional
3 government, the United States seized control of approximately
4 1,200,000 acres of crown and government lands, commonly referred
5 to as the "ceded lands". Of this acreage, the United States
6 retained 466,000 acres after statehood, without compensation or
7 restitution to the State of Hawaii or to Native Hawaiians.

8 The legislature further finds that the Admission Act of
9 1959, Public Law 86-3, provided a process for federally
10 controlled lands to be returned to Hawaii and identified the
11 State as trustee of these lands, charged with administering them
12 for certain purposes under section 5(f) of the Admission Act,
13 including public education, farm and home ownership, public
14 improvements, and the betterment of the conditions of Native
15 Hawaiians.

16 The legislature also finds that Public Law 103-150, the
17 Apology Resolution of 1993, acknowledges that Native Hawaiians



1 have unrelinquished claims to sovereignty and lands,
2 particularly the crown and government lands. Congress
3 acknowledged that the overthrow of the Kingdom of Hawaii
4 occurred with the active participation of agents and citizens of
5 the United States and that the Native Hawaiian people never
6 directly relinquished their claims to their inherent sovereignty
7 or to the crown and government lands.

8 The legislature additionally finds that the State of Hawaii
9 and the Native Hawaiian people have shared, but also competing,
10 interests with respect to the crown and government lands. Their
11 shared interests include: the restoration of local management
12 and control of federally held lands to benefit Hawaii's people;
13 the remediation of environmental contamination caused by federal
14 activities; the pursuit of fair compensation for decades of
15 federal use; and the long-term stewardship of these lands for
16 future generations. Their competing interests include:
17 questions of ultimate title and beneficial ownership; the
18 distribution of any monetary compensation or rents received;
19 control over land use decisions and dispositional authority; and
20 the relationship of land claims to broader questions of Native
21 Hawaiian sovereignty.



1 Furthermore, the legislature finds that a partnership
2 between the State and Native Hawaiian people is essential to the
3 future of the crown and government lands. Such a partnership
4 must recognize both the shared and competing interests of the
5 parties, provide mechanisms for transparent negotiation and
6 resolution of differences, and ensure that neither party acts
7 unilaterally in matters affecting the lands to which both have
8 claims.

9 Moreover, the legislature finds that according to the
10 Hawaii State Constitution and chapter 10, Hawaii Revised
11 Statutes, the office of Hawaiian affairs, as the body of elected
12 trustees representing the Native Hawaiian people, is the
13 appropriate entity to represent Native Hawaiian interests in
14 this partnership.

15 In addition, the legislature finds that Hawaii has sought
16 to recover these crown and government lands since the admission
17 of the State to the Union. In a 1963 statement before the
18 United States Senate Subcommittee on Public Lands, United States
19 Senator Daniel K. Inouye stated: "These lands were held in
20 trust by the federal government for the people of Hawaii, with
21 the eventual hope that they would be returned" at the end of



1 federal use. United States Senator Hiram L. Fong similarly
2 stated: "Justice is on our side. We are asking for the return
3 of lands not needed by the federal government -- lands that
4 represent a tiny fraction compared with the 1,275,000 acres the
5 Territory of Hawaii gave to the federal government without cost
6 at annexation."

7 The legislature further finds that Hawaii has borne
8 significant burdens from military activities on its lands,
9 including but not limited to: fuel leaks from the Red Hill Bulk
10 Fuel Storage Facility, which have contaminated groundwater in
11 the southern Oahu basal aquifer; Superfund sites at Pearl Harbor
12 Naval Shipyard; depleted uranium contamination at Pohakuloa
13 Training Area and Schofield Barracks; elevated housing costs
14 attributable to military competition for scarce housing
15 resources; and restrictions on civilian access to crown and
16 government lands held for military purposes.

17 The legislature also finds that military leases of crown
18 and government lands will begin to expire in 2029, presenting an
19 opportunity to renegotiate the terms under which federal
20 agencies use Hawaii's lands. The existing lease terms, which
21 were negotiated decades ago, do not reflect fair market value,



1 do not adequately address environmental remediation obligations,
2 and do not account for the interests of the State of Hawaii or
3 Native Hawaiians.

4 The legislature additionally finds that it is in the
5 State's interests for the military lands to be returned,
6 remediated, and made available for peaceful use. Military land
7 use poses moral and ethical questions for the State, in
8 instances in which these lands are used to support and enable
9 presidential actions that violate the War Powers Act,
10 international law, and posse comitatus. The legislature
11 memorializes the words of Pilahi Paki: "The world will turn to
12 Hawai'i as they search for world peace because Hawai'i has the
13 key, and that key is aloha."

14 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
15 amended by adding a new section to be appropriately designated
16 and to read as follows:

17 "§171- Disposition to public utilities and renewable
18 energy producers. (a) Notwithstanding any limitations to the
19 contrary, the board may, without public auction:



1 (1) Sell public lands at such price and on such other
2 terms and conditions as the board may deem proper to
3 public utilities;

4 (2) Lease to public utilities and renewable energy
5 producers public lands for terms up to, but not in
6 excess of, sixty-five years at such rental and on such
7 other terms and conditions as the board may determine;
8 and

9 (3) Grant licenses and easements to public utilities and
10 renewable energy producers on such terms and
11 conditions as the board may determine for road,
12 pipeline, utility, communication cable, and other
13 rights-of-way.

14 (b) In any disposition to public utilities under this
15 section:

16 (1) The sale price or lease rental shall be no less than
17 the value determined in accordance with section 171-
18 17(b); provided that such sale price or lease rental
19 may be on a nominal basis, if the board finds that
20 such easement is required in connection with a
21 government project;



1 (2) The board shall provide that in case the land ceases
2 to be used at any future time for the use for which
3 the disposition was made, the board shall have the
4 right to repurchase the land at the original sale
5 price or fair market value, whichever is lower, and to
6 purchase improvements thereon at the depreciated value
7 or fair market value, whichever is lower;

8 (3) Disposition shall not be made to any public utility if
9 the utility has suitable lands of its own; and

10 (4) The disposition to public utilities shall be subject
11 to disapproval by the legislature by two-thirds vote
12 of either the senate or the house of representatives
13 or by majority vote of both, in any regular or special
14 session next following the date of the disposition.

15 (c) As used in this section:

16 "Public utility" has the same meaning as in section 269-1.

17 "Renewable energy producer" means:

18 (1) Any producer or developer of renewable energy, as
19 defined in section 269-91;

20 (2) Any grower or producer of plant or animal materials
21 used primarily for the production of biofuels or other



1 fuels; provided that nothing herein is intended to
2 prevent the waste product or byproduct of the plant or
3 animal material grown or produced for the production
4 of biofuel, biogas, hydrogen, or other fuels from
5 being used for other useful purposes; or

6 (3) Any producer of renewable energy, as defined in
7 section 269-91, that uses the renewable energy to
8 provide district heating or cooling services;
9 provided that nothing in this definition shall be construed to
10 allow wheeling of electricity over electric public utility lines
11 or infrastructure that is not otherwise authorized by law or
12 rule or order of the public utilities commission."

13 SECTION 3. Section 171-95, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~§171-95 Disposition to governments[7] and governmental~~
16 ~~agencies[, public utilities, and renewable energy producers].~~

17 (a) Notwithstanding any limitations to the contrary, the board
18 ~~[of land and natural resources]~~ may, without public auction[+] and with the prior two-thirds approval of each house of the
19 legislature via concurrent resolution and with a supporting
20 resolution from the office of Hawaiian affairs:



- (1) Sell public lands at such price and on such other terms and conditions as the board may deem proper to governments, including the United States, city and county, counties, other governmental agencies authorized to hold lands in fee simple and public utilities;
- (2) Lease to ~~[the]~~ governments~~[,]~~ and agencies~~[, public utilities, and renewable energy producers]~~ public lands for terms up to, but not in excess of, sixty-five years at such rental and on such other terms and conditions as the board may determine~~[,]~~, subject to the limitations of subsection (b);
- (3) Grant licenses and easements to ~~[the]~~ governments~~[,]~~ and agencies~~[, public utilities, and renewable energy producers]~~ on such terms and conditions as the board may determine for road, pipeline, utility, communication cable, and other rights-of-way;
- (4) Exchange public lands with the governments and agencies;
- (5) Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any



1 claim to the property involved made upon disputed
2 legal or equitable grounds, whenever the board in its
3 discretion deems it beneficial to the State; and

4 (6) Waive or modify building and other requirements and
5 conditions contained in deeds, patents, sales
6 agreements, or leases held by the governments and
7 agencies whenever such waiver or modification is
8 beneficial to the State.

9 ~~[(b) In any disposition to public utilities under this~~
10 ~~section:~~

11 ~~(1) The sale price or lease rental shall be no less than~~
12 ~~the value determined in accordance with section 171-~~
13 ~~17(b); provided that such sale price or lease rental~~
14 ~~may be on a nominal basis, if the board finds that~~
15 ~~such easement is required in connection with a~~
16 ~~government project;~~

17 ~~(2) The board shall provide that in case the land ceases~~
18 ~~to be used at any future time for the use for which~~
19 ~~the disposition was made, the board shall have the~~
20 ~~right to repurchase the land at the original sale~~
21 ~~price or fair market value, whichever is lower, and to~~



~~purchase improvements thereon at the depreciated value
or fair market value, whichever is lower;~~

~~(3) Disposition shall not be made to any public utility if
the utility has suitable lands of its own;~~

~~(4) The disposition to public utilities shall be subject
to disapproval by the legislature by two-thirds vote
of either the senate or the house of representatives
or by majority vote of both, in any regular or special
session next following the date of the disposition;~~

~~and~~

~~(5) For the purposes of this section, the definition of
"public utility" as defined in section 269-1 is hereby
incorporated herein by reference.~~

~~(c) For the purposes of this section, "renewable energy
producer" means:~~

~~(1) Any producer or developer of renewable energy, as
defined in section 269-91;~~

~~(2) Any grower or producer of plant or animal materials
used primarily for the production of biofuels or other
fuels; provided that nothing herein is intended to
prevent the waste product or byproduct of the plant or~~



~~animal material grown or produced for the production
of biofuel, biogas, hydrogen, or other fuels from
being used for other useful purposes; or
(3) Any producer of renewable energy, as defined in
section 269-91, that uses the renewable energy to
provide district heating or cooling services;
provided that nothing in this definition shall be construed to
allow wheeling of electricity over electric public utility lines
or infrastructure that is not otherwise authorized by law or
rule or order of the public utilities commission.]~~

(b) Notwithstanding any law to the contrary:

(1) No land disposition to the United States military
shall exceed twenty-five years in duration;

(2) Any new land disposition to the United States military
shall require a clean-up and remediation bond from the
United States military to be deposited into the
treasury of the State; and

(3) The board shall not issue any new land disposition to
the United States military until the military, State,
and office of Hawaiian affairs reach an agreement in
principle on:



1 (A) The return to the State and office of Hawaiian
2 affairs of all unused, surplus, and recreational-
3 use lands; and

4 (B) A payment schedule for unpaid just compensation
5 for the use of the crown and government lands by
6 the United States military since July 7, 1898."

7 SECTION 4. Section 171-95.3, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) The board may lease or renew a lease of public lands
10 to renewable energy producers, as defined in section [~~171-95,~~]
11 171- , without public auction only pursuant to a public
12 process that includes public notice under section 1-28.5
13 providing other interested renewable energy producers
14 opportunity to participate in the process; provided that nothing
15 in this section shall be construed to prevent the board from
16 conducting direct negotiations; provided further that the
17 renewable energy producer shall be required to submit as part of
18 the proposal for the board's evaluation, as assisted by the
19 department of business, economic development, and tourism, the
20 following:

21 (1) A timeline for completion of the project;



- 1 (2) A description of a financial plan for project
2 financing;
3 (3) A description of the conceptual design of the project;
4 (4) A description of the business concept for the project;
5 and
6 (5) A description of landscape and acreage requirements
7 including public and private lands.

8 Upon completion of the board's evaluation and determination
9 to award or not award a lease to a renewable energy producer,
10 the board shall prepare a report outlining the reasons for the
11 decision."

12 SECTION 5. The board of land and natural resources shall
13 require that all future land dispositions with the United States
14 military comply with the holding of *Ching v. Case*, 145 Hawaii
15 148, 449 P.3d 1146 (2019).

16 SECTION 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



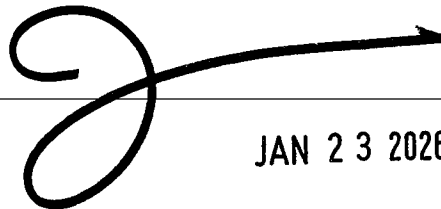
1 SECTION 7. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 8. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

7

INTRODUCED BY:


JAN 23 2026

H.B. NO. 2048

Report Title:

Crown and Government Lands; Public Lands; Disposition; State and Office of Hawaiian Affairs; United States Military; Public Utilities; Renewable Energy Producers

Description:

Establishes new requirements for the disposition of public lands, including requiring two-thirds approval of each house of the Legislature via concurrent resolution and with a supporting resolution from the Office of Hawaiian Affairs, and applies this requirement to the disposition of public lands to public utilities and renewable energy producers as well. Limits the duration of public land disposition to the United States military to twenty-five years. Requires any new land disposition to the United States military to be accompanied by a clean-up and remediation bond from the United States military to be deposited into the state treasury. Prohibits the Board of Land and Natural Resources from issuing any new land disposition to the United States military until the military, State, and Office of Hawaiian Affairs reach an agreement in principle on certain matters.

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