

JAN 23 2026

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## A BILL FOR AN ACT

RELATING TO PUBLIC LAND DISPOSITIONS.

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

1 SECTION 1. The legislature finds that Article XI,  
2 Section 1 of the Hawaii State Constitution provides that: "For  
3 the benefit of present and future generations, the State and its  
4 political subdivisions shall conserve and protect Hawaii's  
5 natural beauty and all natural resources, including land, water,  
6 air, minerals and energy sources, and shall promote the  
7 development and utilization of these resources in a manner  
8 consistent with their conservation and in furtherance of the  
9 self-sufficiency of the State. All public natural resources are  
10 held in trust by the State for the benefit of the people."  
11 Additionally, Article XII, Section 4 of the Hawaii State  
12 Constitution provides that: "The lands granted to the State of  
13 Hawaii by Section 5(b) of the Admission Act and pursuant to  
14 Article XVI, Section 7, of the State Constitution, excluding  
15 therefrom lands defined as 'available lands' by Section 203 of  
16 the Hawaiian Homes Commission Act, 1920, as amended, shall be



1 held by the State as a public trust for native Hawaiians and the  
2 general public."

3 The legislature further finds that as the Hawaii Supreme  
4 Court recognized in the landmark *Ching v. Case* decision, the  
5 State's duty of care as trustee of the public lands trust is  
6 especially heightened in the context of ceded land held in trust  
7 for the benefit of native Hawaiians and the public under  
8 Article XII, Section 4 of the Hawaii State Constitution. The  
9 ceded lands recognized by this section are comprised of the  
10 former crown and government lands of the Hawaiian Kingdom.

11 In 1993, both the United States Congress and the  
12 legislature recognized the Native Hawaiian community's  
13 unrelinquished claims to the former crown and government lands  
14 of the Hawaiian Kingdom - the United States Congress through the  
15 "Apology Resolution" (Public Law 103-150, November 23, 1993),  
16 and the legislature through Acts 354, 359, 329, and 340, Session  
17 Laws of Hawaii 1993. With respect to the overthrow of the  
18 Hawaiian Kingdom, the legislature found that "the actions by the  
19 United States were illegal and immoral" and pledged "its  
20 continued support to the native Hawaiian community by taking



1 steps to promote the restoration of the rights and dignity of  
2 native Hawaiians."

3 The legislature additionally finds that in 1997, the  
4 legislature again found that the events of history relating to  
5 the State and native Hawaiians, including those set forth in the  
6 Apology Resolution, continue to contribute today to a deep sense  
7 of injustice among many native Hawaiians and others. The  
8 legislature also recognized that the lasting reconciliation so  
9 desired by all people of the State is possible only if it fairly  
10 acknowledges the past while moving into the State's future.

11 Additionally, the legislature finds that "[O]ver the last few  
12 decades, the people of Hawaii through amendments to their state  
13 constitution, the acts of their legislature, and other means,  
14 have moved substantially toward this permanent reconciliation.

15 Foremost among these achievements have been the creation of the  
16 office of Hawaiian affairs and the allocation by legislative  
17 action to the office of Hawaiian affairs of substantial funds  
18 out of a portion of the public lands trust established by  
19 section 5(f) of the Admission Act. The overriding purpose of  
20 this Act is to continue this momentum, through further executive



1 and legislative action in conjunction with the people of Hawaii,  
2 toward a comprehensive, just, and lasting resolution."

3 The legislature finds that, consistent with the Hawaii  
4 State Constitution, decisions of the Hawaii Supreme Court, and  
5 recognized principles of prudent fiduciary care and action,  
6 public lands should be managed in the spirit of mālama 'āina and  
7 in a manner that does not cause the permanent alienation of  
8 ceded lands prior to resolution of native Hawaiians'  
9 unrelinquished claims to those lands. The legislature believes  
10 that the bombing of public land and other live-fire activities  
11 are inconsistent with the principle of mālama 'āina and other  
12 constitutional rights. The legacy of military use of Kaho'olawe,  
13 Waikāne, Mākua, and Pōhakuloa illustrate the tragic effects of  
14 live-fire training and bombing on public lands, including  
15 precluding Native Hawaiians and members of the public from  
16 freely accessing those lands for, among other purposes, the  
17 exercise of traditional and customary rights.

18 Moreover, the legislature finds that the effects of  
19 live-fire activities are long-lasting and have generational  
20 effects that are often irreparable even when returned and after  
21 the cessation of live-fire activities. For example, the Navy



1 failed to clear all unexploded ordnance from Kaho'olawe, which  
2 has rendered free-ranging access unsafe to this day.  
3 Additionally, a federal court determined that in Mākua Valley,  
4 the Army "failed to use good faith efforts to develop a plan and  
5 secure funding for clearing UXO from the high priority sites  
6 that the Army was supposed to identify" as required by a  
7 settlement agreement limiting even hosted access to sacred and  
8 historical sites. Portions of the state public lands at  
9 Pōhakuloa are, according to a state circuit court, heavily  
10 contaminated on the surface with material potentially presenting  
11 an explosive hazard which poses a significant danger to public  
12 health and welfare.

13 The legislature finds that it is time to ensure the proper  
14 stewardship of public lands and preservation of Hawaiian Kingdom  
15 crown and government lands by prohibiting live-fire training  
16 activities and requiring the board of land and natural resources  
17 to consult with the office of Hawaiian affairs prior to  
18 approving lease dispositions to other governments, governmental  
19 agencies, public utilities, and renewable energy producers.

20 Accordingly, the purpose of this Act is to:



- 1       (1) Require the board of land and natural resources to
- 2            consult with the office of Hawaiian affairs before
- 3            approving a long-term lease of public lands to another
- 4            government, governmental agency, utility, or renewable
- 5            energy developer;
- 6       (2) Prohibit the board of land and natural resources from
- 7            extending leases allowing the live-fire training and
- 8            bombing of public lands, except for a one-time
- 9            extension of up to five years to phase out existing
- 10           leases allowing the live-fire training and bombing of
- 11           public lands; and
- 12       (3) Exclude lands set aside to the department of Hawaiian
- 13           home lands or lands designated for return to the State
- 14           from the one-time extension.

15           SECTION 2. Section 171-95, Hawaii Revised Statutes, is  
16           amended to read as follows:

17           **"§171-95 Disposition to governments, governmental**  
18           **agencies, public utilities, and renewable energy producers.** (a)  
19           Notwithstanding any limitations to the contrary, the board of  
20           land and natural resources 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                    governments, including the United States, city and  
4                    county, counties, other governmental agencies  
5                    authorized to hold lands in fee simple and public  
6                    utilities[+] after consultation with the office of  
7                    Hawaiian affairs;  
8       (2) Lease to the governments, agencies, public utilities,  
9                    and renewable energy producers public lands for terms  
10                  up to, but not in excess of, sixty-five years at such  
11                  rental and on such other terms and conditions as the  
12                  board may determine[+] after consultation with the  
13                  office of Hawaiian affairs;  
14       (3) Grant licenses and easements to the governments,  
15                  agencies, public utilities, and renewable energy  
16                  producers on such terms and conditions as the board  
17                  may determine for road, pipeline, utility,  
18                  communication cable, and other rights-of-way;  
19       (4) Exchange public lands with the governments and  
20                  agencies;



- 1 (5) Execute quitclaim deeds to the governments and
- 2 agencies, with or without consideration, releasing any
- 3 claim to the property involved made upon disputed
- 4 legal or equitable grounds, whenever the board in its
- 5 discretion deems it beneficial to the State; and
- 6 (6) Waive or modify building and other requirements and
- 7 conditions contained in deeds, patents, sales
- 8 agreements, or leases held by the governments and
- 9 agencies whenever such waiver or modification is
- 10 beneficial to the State.
- 11 (b) In any disposition to public utilities under this
- 12 section:
- 13 (1) The sale price or lease rental shall be no less than
- 14 the value determined in accordance with section
- 15 171-17(b); provided that such sale price or lease
- 16 rental may be on a nominal basis, if the board finds
- 17 that such easement is required in connection with a
- 18 government project;
- 19 (2) The board shall provide that in case the land ceases
- 20 to be used at any future time for the use for which
- 21 the disposition was made, the board shall have the



1 right to repurchase the land at the original sale  
2 price or fair market value, whichever is lower, and to  
3 purchase improvements thereon at the depreciated value  
4 or fair market value, whichever is lower;

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

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

16 (c) For the purposes of this section, "renewable energy  
17 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 ot



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           (d) The board of land and natural resources shall not  
14          approve any land disposition that allows for or facilitates the  
15          bombing of public land or any live-fire training activity,  
16          except as authorized under section 171-95.1."

17           SECTION 3. Section 171-95.1, Hawaii Revised Statutes, is  
18          amended to read as follows:

19           "~~[f]§171-95.1[ ]~~ **Authority of board to extend leases under**  
20          **certain circumstances.** (a) Notwithstanding the lease  
21          restrictions established pursuant to section 171-36, the board



1 may, without public auction, extend a public land lease that is  
2 issued to a school or government entity pursuant to section  
3 171-95 beyond the sixty-five year maximum lease term. The  
4 authority established pursuant to this section to extend a lease  
5 shall not apply to [any]:

6 (1) Any lease to the University of Hawaii of lands within  
7 a conservation district of which the University of  
8 Hawaii has subleased a portion for the purpose of  
9 constructing an astronomical observatory[-]; or  
10 (2) Any lease that allows for or facilitates bombing of  
11 public land or live-fire training activity, except as  
12 provided in subsection (b).

13 (b) The board may authorize a one-time extension of an  
14 existing lease that allows for or facilitates bombing of public  
15 lands or live-fire training activity for a period not to exceed  
16 five years for the sole purpose of enabling the lessee to  
17 conduct further due diligence and community consultation  
18 including as required by chapter 343; provided that:  
19 (1) Prior to the extension, the lessee provides a detailed  
20 description of the type of training activities the



1                   lessee plans to conduct to the board, the office of  
2                   Hawaiian affairs, and the public; and  
3                   (2) The lessee provides to the board, the office of  
4                   Hawaiian affairs, and the public an annual report on  
5                   December 1 of each year of the lease extension that  
6                   describes and documents for the prior year:  
7                   (A) The training activities conducted on the leased  
8                   lands, including the type, frequency, and  
9                   duration of such activities and the reason any  
10                   bombing or live-fire training activities could  
11                   not have been conducted in another location;  
12                   (B) Compliance with all conditions of the lease  
13                   including environmental, cultural, and access  
14                   requirements;  
15                   (C) Any stewardship expenditures made;  
16                   (D) Any violations, incidents, or adverse impacts  
17                   occurring on the leased lands, and any corrective  
18                   measures undertaken;  
19                   (E) Additional studies, due diligence, and community  
20                   consultation conducted to comply with  
21                   chapter 343, if any; and



1                   (F) The estimated timeframe for the lessee to submit  
2                   the final environmental impact statement to the  
3                   accepting authority pursuant to section 343-5.

4                   (c) The authority of the board to authorize a one-time  
5                   extension for existing leases pursuant to subsection (b) shall  
6                   expire on January 1, 2029, and shall not apply to:

7                   (1) Lands already identified by the lessee for return to  
8                   the State at the end of the current lease term; or  
9                   (2) Lands that are defined as "available lands" by section  
10                   203 of the Hawaiian Homes Commission Act, 1920, as  
11                   amended;

12                   provided that the lands described in paragraphs (1) and (2)  
13                   shall be immediately returned to the State at the expiration of  
14                   the current lease term, subject to other governing law."

15                   SECTION 4. Statutory material to be repealed is bracketed  
16                   and stricken. New statutory material is underscored.

17                   SECTION 5. This Act shall take effect upon its approval.

18

INTRODUCED BY: 

# S.B. NO. 2758

**Report Title:**

BLNR; OHA; Public Lands; Military Leases; Extension; Live-Fire Training; Bombing; Prohibition

**Description:**

Requires the Board of Land and Natural Resources to consult with the Office of Hawaiian Affairs before approving a long-term lease of public lands to another government, governmental agency, utility, or renewable energy developer. Prohibits the Board from extending leases allowing the live-fire training and bombing of public lands, except for a one-time extension of up to five years to phase out existing leases allowing the live-fire training and bombing of public lands. Excludes lands set aside to the Department of Hawaiian Home Lands or lands designated for return to the State from the one-time extension.

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

