
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 authorize the transfer
3 of certain non-agricultural park lands from the department of
4 land and natural resources to the department of agriculture and
5 biosecurity.

6 The legislature further finds that Act 139, Session Laws of
7 Hawaii 2021, established a working group to assess the process,
8 status, challenges, and potential remedies regarding the
9 transfer of non-agricultural park lands to fulfill the purposes
10 of Act 90. A key finding of the working group is that lands
11 under the department of land and natural resources that are used
12 primarily for agricultural production should be transferred to
13 the department of agriculture and biosecurity according to the
14 processes and conditions established in Act 90.

15 Accordingly, the purpose of this Act is to:

16 (1) Require, rather than authorize, the department of
17 agriculture and biosecurity to accept the transfer of



1 and manage certain qualifying non-agricultural park
2 lands;

3 (2) Authorize the department of agriculture and
4 biosecurity to request from the department of land and
5 natural resources, before any transfer of certain
6 qualifying non-agricultural park lands, any
7 information related to the establishment of necessary
8 and reasonable easements; and

9 (3) Require the department of land and natural resources
10 to obtain approval from the board of land and natural
11 resources and board of agriculture and biosecurity
12 before removing any pasture lands for reforestation or
13 other public purposes.

14 SECTION 2. Section 166E-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**S166E-1 Legislative findings.** The legislature finds that
17 article XI, section 10, of the [~~state constitution~~] Hawaii State
18 Constitution establishes that "the public lands shall be used
19 for the development of farm and [~~homeownership~~] home ownership
20 on as widespread a basis as possible, in accordance with
21 procedures and limitations prescribed by law."



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

12 The purpose of this chapter is to ensure the long-term
13 productive use of public lands leased or available to be leased
14 by the department of land and natural resources for agricultural
15 purposes, including pasture use, by allowing these lands to be
16 transferred to and managed by the department of agriculture and
17 biosecurity."

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

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



1 **and biosecurity.** (a) Upon [~~mutual agreement and~~] approval of
2 the board [~~and the board of land and natural resources~~]:

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

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

12 provided that any designated conservation lands not in current
13 agricultural use shall remain under the jurisdiction of the
14 department of land and natural resources.

15 (b) The department shall administer a program to manage
16 the transferred non-agricultural park lands under rules adopted
17 by the board pursuant to chapter 91. The program and its rules
18 shall be separate and distinct from the agricultural park
19 program and its rules. Non-agricultural park lands are not the
20 same as, and shall not be selected or managed as are lands under
21 agricultural park leases. Notwithstanding any other law to the



1 contrary, the program shall include the following conditions
2 pertaining to encumbered non-agricultural park lands:

- 3 (1) The lessee or permittee shall perform in full
4 compliance with the existing lease or permit;
- 5 (2) The lessee or permittee shall not be in arrears in the
6 payment of taxes, rents, or other obligations owed to
7 the State or any county;
- 8 (3) The lessee's or permittee's agricultural operation
9 shall be economically viable as specified by the
10 board; and
- 11 (4) No encumbered or unencumbered non-agricultural park
12 lands with soils classified by the land study bureau's
13 detailed land classification as overall (master)
14 productivity rating class A or B shall be transferred
15 for the use or development of golf courses, golf
16 driving ranges, [~~and~~] or country clubs.

17 The transfer of non-agricultural park lands shall be done in a
18 manner to be determined by the board of agriculture and
19 biosecurity.

20 (c) For any encumbered or unencumbered non-agricultural
21 park lands transferred to the department that are not being



1 utilized or required for the public purpose stated, the order
2 setting aside the lands shall be withdrawn and the lands shall
3 be returned to the department of land and natural resources.

4 (d) Before the transfer of certain qualifying
5 non-agricultural park lands, the department may request from the
6 department of land and natural resources information related to
7 the establishment of necessary and reasonable easements upon the
8 lands.

9 (e) Before the withdrawal of any land designated for
10 pasture leases for reforestation or other public purposes:

11 (1) The department of land and natural resources shall:

12 (A) Obtain approval from the board of land and
13 natural resources and board of agriculture and
14 biosecurity; and

15 (B) If withdrawal is approved pursuant to
16 subparagraph (A) and paragraph (2), provide
17 adequate notice of not less than one year to the
18 then-current lessee or permittee; and

19 (2) The division of forestry and wildlife shall obtain
20 from the board of land and natural resources approval
21 of a feasible and funded action plan for reforestation



1 or other conservation purposes on current pasture
2 lease lands."

3 SECTION 4. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect on July 1, 2050.

9



Report Title:

DAB; DLNR; Non-Agricultural Park Lands; Transfer; Easements

Description:

Requires the Department of Agriculture and Biosecurity to accept the transfer of and manage certain qualifying non-agricultural park lands. Authorizes the Department of Agriculture and Biosecurity to request information related to easements prior to any transfer of certain qualifying non-agricultural park lands. Requires the Department of Land and Natural Resources to obtain approval from the Board of Land and Natural Resources and Board of Agriculture and Biosecurity before pasture lands are removed for reforestation or other public purposes. Effective 7/1/2050. (SD1)

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