

A Bill for an Act Relating to Hearings Before the Board of Land and Natural Resources.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to permit the board of land and natural resources to appoint masters to conduct public hearings on behalf of the full board for both subdivision and commercial use conservation district use applications. The board would be required to promulgate rules setting forth criteria and standards for the master and the situations in which a master may be appointed.

SECTION 2. Section 171-6, Hawaii Revised Statutes is amended to read:¹

"§171-6 Powers. Except as otherwise provided by law, the board of land and natural resources shall have the powers and functions granted to the heads of departments and the board of land and natural resources under chapter 26.

In addition to the foregoing, the board may:

- (1) Adopt a seal;
- (2) Administer oaths;
- (3) Prescribe forms of instruments and documents;
- (4) Promulgate rules and regulations, which rules and regulations, upon compliance with chapter 91, shall have the force and effect of law;
- (5) Set, charge, demand, and collect reasonable fees for the preparation of documents to be issued, for the surveying of public lands, and for the issuing of certified copies of its public documents and records, which fees, when collected, shall be deposited into the state general fund, unless otherwise specified in this chapter;
- (6) Establish additional restrictions, requirements, or conditions, not inconsistent with those prescribed in this chapter, relating to the use of particular land being disposed of, the terms of sale, lease, license, or permit, and the qualifications of any person to draw, bid, or negotiate for public land;
- (7) Reduce or waive the lease rental at the beginning of the lease on any lease of public land to be used for any agricultural or pastoral use, or for resort, commercial, industrial, or other business use where the land being leased requires substantial improvements to be placed thereon; provided that such reduction or waiver shall not exceed two years for land to be used for any agricultural or pastoral use; or exceed one year for land to be used for resort, commercial, industrial, or other business use;
- (8) Delegate to the chairman or employees of the department of land and natural resources, subject to the board's control and responsibility, such powers and duties as may be lawful or proper for the performance of the functions vested in the board; [and]
- (9) Utilize arbitration under chapter 658 to settle any controversy arising out of any existing or future lease[.];

[[(10)]] Set, charge and collect reasonable fees in an amount sufficient to defray the cost of performing or otherwise providing for the inspection of activities permitted upon the issuance of a land license involving a commercial purpose[.];² and

(11) Appoint masters or hearing officers to conduct public hearings as provided by law and under such conditions as the board by rules shall establish."

SECTION 3. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (a) to read:

"(a) There are hereby established forest and water reserve zones in each of the counties. These zones shall initially encompass all of those areas in the various counties, either government or privately owned, contained within the forest reserve boundaries as established on January 21, 1957. No use, except a nonconforming use as defined in subsection (b), shall be made of such areas unless such use is in accord with a zoning regulation adopted pursuant to subsection (c)(3), or unless such use is allowed under a temporary variance granted by the department of land and natural resources; provided that any owner of land within the forest reserve boundaries who shall desire to establish a use or uses for his land, or a greater or different use or uses, if his land is classed as nonconforming shall make application in accordance with subsection (d), and if within one hundred eighty days after receipt of the application the department shall fail to give notice, hold a hearing, and render a decision consistent with the standards set forth in subsection (c)(1), the owner may automatically put his land to the use or uses requested in his application. When an environmental impact statement is required pursuant to chapter 343 [of the Hawaii Revised Statutes], or when a contested case hearing is requested pursuant to chapter 91, the one hundred eighty days may be extended to an additional ninety days at the request of the applicant. Any [requests] request for additional extensions in either case shall be subject to the approval of the board."

SECTION 4. Section 183-41, Hawaii Revised Statutes, is amended by amending subsection (d) to read:

"(d) Notice, hearings. Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries or permitted uses of any subzone, or to establish a subzone with certain permitted uses, or where the department proposes to make the change or changes itself, the change or changes shall be put in the form of a proposed regulation by the applicant and the department shall then give notice by publication at least once in a newspaper of general circulation in the State and in the county in which the property is located and by mail to all landowners whose property is directly affected by any proposed change. The notice shall be given not less than twenty days prior to the date set for hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed regulation and the necessary maps shall be made available for inspection by interested members of the public. The hearing [shall be a full hearing before the board,] shall be held in the county in which the land is located[, and may [not] be delegated to an agent or representative of the board as may otherwise be provided by law[.] and in accordance with rules adopted by the board.

ACT 170

For the purpose of its public hearing or hearings, the department shall have power to summon witnesses, administer oaths, and require the giving of testimony.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

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

(Approved June 4, 1983.)

Notes

1. Wrong version of section is amended.
2. Underscoring missing.