

ACT 222

H.B. NO. 2273-86

A Bill for an Act Relating to Agricultural Parks.

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

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
AGRICULTURAL PARKS**

§ -1 **Legislative findings.** The legislature finds that important agricultural lands should be preserved for productive purposes; the contribution of diversified agriculture and aquaculture to export and local markets should be expanded, thereby increasing its importance in the State’s economy; and continued use of the State’s agricultural land resources should be ensured by providing lands to new farmers, displaced farmers, and other qualified farmers. In order to meet these goals, the objectives of the State shall include the provision of: lands of appropriate size and productive potential, with an adequate supply of water, to ensure economically viable farm operations; lands at reasonable cost with long-term tenure and security from urbanization pressure; and lands with common facilities and activities to encourage farm production and distribution economies.

§ -2 **Definitions.** For the purpose of this chapter:

“Agricultural activities” means the care and production of livestock, livestock products, poultry, or poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops or trees, including tree farms.

“Agricultural park” means any agricultural or aquacultural complex so designated by the board, for which state land or state funds are used, in order to meet the goals and objectives stated in section -1. Agricultural buildings, farm residences, and employee dwellings necessary to the production and distribution of agricultural and aquacultural commodities may be considered part of the agricultural park.

“Aquacultural activities” means the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment; provided that such farm or ranch is on or directly adjacent to land.

“Board” means the board of agriculture.

“Department” means the department of agriculture.

§ -3 **Authority to plan, develop, and manage agricultural parks.** After June 30, 1986, the department of agriculture shall plan, develop, and manage agricultural parks in accordance with this chapter, on public lands set aside by the governor for use as agricultural parks pursuant to section 171-11.

§ -4 **Park development.** Except as herein provided, the department may develop, on behalf of the State or in partnership with a federal agency, a county, or a private party, agricultural parks which, at the option of the board, shall be exempt from all statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning, subdivision, construction, or building standards, provided that:

- (1) The agricultural park is situated within a state land use agricultural district;
- (2) The agricultural park does not contravene any safety standard or tariff approved by the public utilities commission for public utilities;
- (3) The department shall have first presented the plans and specifications for the agricultural park to the legislative body of the county where the agricultural park is proposed, which shall have the right to approve or disapprove the agricultural park within forty-five days after presentment. If no action is taken by the legislative body involved within forty-five days after presentment, the agricultural park shall be deemed approved;
- (4) The final plans and specifications for the agricultural park approved by the legislative body of the county involved shall constitute the zoning, building, construction, and subdivision standards for the agricultural park. No action shall be prosecuted or maintained against any county, or its officials or employees, on account of actions taken by them in reviewing, approving, or disapproving such plans and specifications. For purposes of sections 501-85 and 502-17, the chairperson of the board of agriculture or the responsible county official may certify maps and plans of lands connected with the agricultural park as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and such maps and plans shall be accepted for registration or recordation by the land court and the registrar;

- (5) The State shall assume the responsibility of maintaining all roads within the agricultural park, using the proceeds of the agricultural park special fund established under section -10.

§ -5 **Joint ventures.** Any agricultural park developed by the State in partnership with a federal agency, a county, or a private party shall be subject to a partnership agreement executed by the chairperson of the board of agriculture, which agreement shall provide, at a minimum:

- (1) A determination by the board that it is in the public interest to enter into the partnership agreement;
- (2) Long-term assurance that the land will be utilized for agricultural purposes;
- (3) State approval of the agricultural park development plans and specifications;
- (4) State review of selection and management of lessees;
- (5) Conditions to ensure a public benefit from any state funds expended for the project.

§ -6 **Disposition.** Any provision of this chapter to the contrary notwithstanding, the board may directly dispose of public lands set aside and designated for use as agricultural parks, by negotiation, drawing of lot, or public auction; provided that a reasonable portion of such disposition may be to farmers who qualify under the new farmer program pursuant to section 155-1(3). All such dispositions shall be by lease only and shall be subject to the requirements set forth in rules adopted by the board in conformance to section -9, and subject also to the following limitations:

- (1) The property shall be disposed of for agricultural purposes only;
- (2) The lessee shall derive the major portion of the lessee's total annual income from the lessee's activities on the premises;
- (3) The lessee shall comply with all federal and state laws regarding environmental quality control;
- (4) The board shall determine the specific uses for which the disposition is intended; parcel the land into minimum size economic units sufficient for the intended uses; make, or require the lessee to make, such improvements as are required to achieve the intended uses; set the upset price or lease rent based upon fair market value for the intended use of a lot; set the term of the lease, which shall be not less than fifteen years nor more than fifty-five years, including any extension granted for mortgage lending or guarantee purposes; and establish such other terms and conditions as it may deem necessary including, but not limited to, restrictions against alienation and provisions for withdrawal by the board;
- (5) No lease shall be made to any person who is in arrears in the payment of taxes, rents, or other obligations owing the State or any of its political subdivisions.

The violation of any provision contained herein shall be sufficient cause for the board, after due notice of breach or default as provided in rules adopted by the board in conformance to section -9, to cancel the lease and take possession of the land.

§ -7 **Applicants.** A person, including an agricultural cooperative organized under chapter 421 at least seventy-five per cent of the members of which qualify individually, shall be eligible to apply for an agricultural park lease if that person meets the qualifications for bona fide farmer as set forth

in section 171-68(a) and (c), or for new farmer as set forth in section 155-1(3), and as further provided in rules adopted by the board in conformance to section -9.

§ -8 **Preference right.** A displaced farmer who is otherwise qualified to take a farm lot, any farmer whose farm is located in a zoning district where such use is a nonconforming use, or any farmer who qualifies under the new farmer program pursuant to section 155-1(3), shall be given preference in obtaining an agricultural park lot.

§ -9 **Rules.** The board shall adopt rules in accordance with chapter 91 in order to effectuate the purposes of this chapter. Such rules shall provide, without limitation, for definitions; planning generally and for intensive agricultural uses; general eligibility requirements; qualifications of applicants; preference rights; disposition of leases; lease provisions; lease restrictions generally and for intensive agricultural uses; and notice of breach or default. Rules adopted by the board for the purpose of this chapter shall be consistent with sections 155-1, 155-10, 171-20, 171-33, 171-34, 171-35, 171-36, 171-37, 171-65, 171-66, 171-67, 171-68, and 171-69.

§ -10 **Agricultural park special fund.** (a) There is created in the state treasury a special fund to be designated as the agricultural park special fund. The proceeds in the fund shall be used for the following purposes:

- (1) Payment of agricultural park lease rents of privately owned lands under lease to the State pursuant to sections 171-112 and -3;
- (2) Establishing, operating, maintaining, and improving infrastructure improvements in agricultural parks designated by the department pursuant to section -3; and
- (3) Any other purposes deemed necessary by the department for the purpose of maintaining and operating those agricultural parks designated by the department pursuant to section -3.

For the purpose of paragraph (2), infrastructure improvements may include, but shall not be limited to: irrigation water system projects, wind power or hydro power and pumping systems, waste disposal systems, domestic water systems, roads, street lights, land and roads drainage, and bridges.

(b) Moneys appropriated for the purpose of the fund; any other provision of the law to the contrary notwithstanding, all moneys received or collected from an agricultural park project designated pursuant to section -3, including residential and agricultural lot lease rents; and all money collected or received by the department for the use and maintenance of a domestic and irrigation water system and other system enumerated in subsection (a) shall be deposited into the agricultural park special fund. All interest earned or accrued on moneys deposited in the fund shall become a part of the fund. Moneys in the fund shall be expended upon warrants drawn by the comptroller.”

SECTION 2. Section 171-112, Hawaii Revised Statutes, is amended to read as follows:

“§171-112 **Acquisition.** The board of land and natural resources is [hereby] authorized to acquire by lease, exchange, direct purchase, or eminent domain private property for disposition for agricultural purposes, including but not limited to agricultural parks. After June 30, 1986, any lands acquired for the foregoing purposes may be designated and set aside under section 171-11 to the department of agriculture upon its request for use as an agricultural park.”

SECTION 3. Section 171-117, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§171-117]]~~ **Public lands; agricultural park lands.** (a) Public lands may be used for agricultural parks under this part.

(b) Public lands designated or in use as agricultural parks on June 30, 1986, may be set aside under section 171-11 to the department of agriculture upon its request for use as agricultural parks. Notwithstanding any lease term to the contrary, after June 30, 1986, revenues from the rent, use, or maintenance of leased lots in agricultural parks set aside under this subsection shall be deposited into the agricultural park special fund established under section -10.”

SECTION 4. Section 171-111, Hawaii Revised Statutes, is repealed.

SECTION 5. Sections 171-113 to 171-116.5, Hawaii Revised Statutes, are repealed.

SECTION 6. Section 171-118, Hawaii Revised Statutes, is repealed.

SECTION 7. The balance of any funds remaining on June 30, 1986, in the agricultural park special fund created by section 171-116.5 shall be transferred to the agricultural park special fund created by section -10 of section 1 of this Act as of the effective date of this Act.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 9. This Act shall take effect on July 1, 1986.

(Approved May 27, 1986.)

Note

1. Edited pursuant to HRS §23G-16.5.