

A Bill for an Act Relating to Industrial Parks.

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

SECTION 1. Section 171-131, Hawaii Revised Statutes, is amended by amending the definition of "eligible lessee" to read:

"Eligible lessee" means a person who is:

- (1) Engaged or proposing to engage in [a business, of which at least ninety per cent of the gross income is derived from] an industrial use; and
- (2) Qualified to lease public lands under this chapter."

SECTION 2. Section 171-135, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§171-135]]~~ **Joint venture.] or development agreement.** An industrial park may be developed under section 171-134 by the department in partnership or under a development agreement with a federal agency, county, or private party. The department shall be] subject to a partnership or development agreement executed by the chairperson of the board. At a minimum, the agreement shall provide for:

- (1) A determination by the board that the partnership agreement or the development agreement is for a public purpose;
- (2) Long-term assurance that the public land within the industrial park will be utilized for industrial uses;
- (3) Final approval by the board of the plans and specifications for the industrial park;
- (4) Exclusive authority by the board to issue leases or master leases within the industrial park; and
- (5) Conditions to ensure a public benefit from any state funds expended for the industrial park."

SECTION 3. Section 171-136, Hawaii Revised Statutes, is amended to read as follows:

"~~[[§171-136]]~~ **Disposition of public lands within industrial park.** The board shall dispose of economic units within an industrial park only by lease to eligible lessees or lessees engaged in commercial uses as provided under paragraph (1)(B). The leases shall be issued by the board in accordance with this chapter, subject to the following:

- (1) Only industrial uses shall be allowed on the public lands leased; provided that:
 - (A) The eligible lessee may be allowed to engage in nonindustrial uses and activities ancillary and necessary to the eligible lessee's industrial use; and
 - (B) The board may lease public lands within the industrial park for commercial uses if the uses are necessary or desirable to serve other lessees in the industrial park or their employees;
- (2) Each eligible lessee shall derive a substantial portion of the eligible

- lessee's total annual gross income from the eligible lessee's activities within the industrial park;
- (3) (2) Each eligible lessee shall be subject to a development plan formulated pursuant to section 171-41 and make the improvements to the leased public lands required under the development plan; and
- [(4)] (3) Each eligible lessee shall pay all assessments for improvements of infrastructure or other public or common facilities within the industrial park, if the board requires the improvements or assessments as conditions of the lease."

SECTION 4. Section 171-141, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Notwithstanding any other provision of law to the contrary:
- (1) A parcel of the public lands within an industrial park which had been occupied and used under a permit on the day before the date of designation of that industrial park shall be an economic unit in that industrial park. For the purpose of this section:
- (A) “Date of designation” means the effective date of the resolution or law which designates an industrial park; and
- (B) “Eligible economic unit” means an economic unit referred to under this paragraph;
- (2) A person with a permit to use an eligible economic unit on the day before the date of designation of that industrial park shall be given first preference to lease that unit after the date of designation if the person is an eligible lessee. For the purpose of this section, an “eligible permittee” means a person referred to under this paragraph;
- (3) The board shall issue a lease to an eligible permittee for an eligible economic unit under mutually agreeable terms, conditions, and lease rent. The lease shall be issued through negotiations, without regard to the limitations set forth in section 171-16(c) and section 171-59(a). The terms, conditions, and rent under the lease shall be in conformance with this chapter, and the board shall include lease covenants in each lease for the placement and construction of improvements in accordance with minimum standards established by applicable county building codes; [and]
- (4) The board shall negotiate in good faith with each eligible permittee. If the board and eligible permittee cannot agree to a lease within one hundred eighty days from the date of designation, the board shall have no further obligation to negotiate with or issue a lease to the eligible permittee and may issue a lease for the eligible economic unit to another person after the one hundred eighty-day period; provided that any lease for the eligible economic unit issued subsequent to the termination of the one hundred eighty-day period shall not include terms and conditions which are less restrictive, and a lease rent which is less, than the terms, conditions, and lease rent last offered in writing by the eligible permittee and received by the board[.]; and
- (5) The board, in lieu of issuing a lease under paragraph (3), may issue a master lease to a corporation whose members or shareholders are all eligible permittees of the industrial park through negotiations, without regard to the limitations provided in section 171-16(c) and section 171-59(a). The master lease shall provide for the issuance of

ACT 173

subleases to eligible permittees and other sublessees approved by the board on terms and conditions approved by the board. The terms and conditions of a master lease concerning the authority to sublease shall supersede any contrary term or condition in a development agreement executed prior to the issuance of the master lease; provided that all other terms and conditions of the development agreement shall be incorporated and made a part of the master lease. All terms, conditions, and rents under the master lease and subleases shall be in conformance with this chapter, and the board shall include lease covenants in the master lease and each sublease for the placement and construction of improvements in accordance with minimum standards established by applicable county building codes. The lessee under the master lease shall assume the responsibility of administering and monitoring permittee compliance with all sublease obligations.”

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

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

(Approved May 23, 1991.)