

**ACT 312**

S.B. NO. 1311

A Bill for an Act Relating to Parks.

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

**PART I.**

**SECTION 1.** The legislature finds that the State and the counties have discussed the transfer of certain parks for a number of years and that they have reached a general agreement on these transfers.

The purpose of this Act is to provide for the transfer of certain state parks to the counties and certain county parks to the State in order to better utilize the resources of each jurisdiction. This Act also appropriates funds for the master planning of the old Kona airport state recreation area on the Big Island.

The legislature is aware that Article VIII, section 5, of the Constitution of the State of Hawaii requires that if any new program or increase in the level of service of an existing program is mandated to any of the counties by the legislature, the State shall share in the cost. Under this requirement, the transfer of parks provided for in this Act would require increased funding support to the counties.

However, the legislature further finds that Act 185, Session Laws of Hawaii 1990, allocated among the counties the revenues generated by the transient accommodations tax. The sharing of these revenues, which previously had been deposited into the state general fund, was intended to provide the counties with a stable source of funds and increased the level of state funding support. The legislature believes that the dedication of the revenues generated by the transient accommodations tax to the counties, in providing this increased level of support, was intended to coincide with the transfer of additional responsibilities to the counties and would fulfill the requirement of Article VIII, section 5, of the Constitution of the State of Hawaii. The legislature therefore finds that the transfer of parks provided for in this Act can be executed with no concomitant funding support without violating constitutional requirements.

SECTION 2. (a) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the State relating to:

- (1) Sans Souci state recreation area;
- (2) Aina Moana (Magic Island) state recreation area;
- (3) Waimanalo bay state recreation area;
- (4) 16th avenue park (TMK nos. 3-3-14:15, 16, and 17; 3-3-17:1; and 3-3-19:2 and 5); and
- (5) Kaiaka state recreation area,

shall be vested in the city and county of Honolulu; provided that, as a condition of its transfer to the city and county of Honolulu, the 16th avenue park shall be utilized for recreational uses only.

(b) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the city and county of Honolulu relating to Kahana bay beach park and Kalihi valley park (TMK nos. 1-4-16:03; and 1-4-14:1 and 26) shall be vested in the State; provided that the estate, right, title, and interest, and any appurtenance thereto, of the city and county of Honolulu relating to Kaihi valley park shall be vested in the State only as long as the same is maintained for passive and meditative uses.

(c) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the State relating to Lydgate and Wailua Beach sections of Wailua River state park (except the Hikinaakala heiau and refuge areas) shall be vested in the county of Kauai.

(d) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the State relating to:

- (1) Wahikuli state wayside;
- (2) Launiupoko state wayside;
- (3) Papalaua state wayside; and
- (4) Kihei beach reserve,

shall be vested in the county of Maui.

(e) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the State relating to Wailoa River state recreation area (soccer/archery area only), shall be vested in the county of Hawaii.

(f) On January 1, 1992, the estate, right, title, and interest, and any appurtenance thereto, of the county of Hawaii relating to Napoopoo beach park (Kealakekua bay park) shall be vested in the State.

(g) On January 1, 1992, any employee of the department of land and natural resources who is on a full-time basis assigned to or services the state lands and appurtenances listed in subsections (a), (c), (d), and (e) shall be transferred to the appropriate county in order to continue to be assigned to or service the listed lands and appurtenances and to perform their regular duties upon their transfer, subject to personnel laws and this Act.

All personnel transferred shall acquire county civil service status without any loss of salary, seniority, prior service credits, vacation, sick leave, or other employee benefits or privileges as a consequence of the transfer; provided that subsequent changes in status may be made pursuant to applicable personnel laws of the respective counties.

If an office or position held by any employee having tenure is affected by workload changes or is abolished, the employee shall not thereby be separated from public employment, but shall remain in the employment of the State in accordance with the state civil service law, the applicable bargaining unit contract, or the state personnel rules, whichever is applicable.

(h) On January 1, 1992, any employee of the counties who is on a full-time basis assigned to or services the county lands and appurtenances listed in subsections (b) and (f) shall be transferred to the department of land and natural resources in order to continue to be assigned to or service the listed lands and appurtenances and to perform their regular duties upon their transfer, subject to personnel laws and this Act.

All personnel transferred shall acquire state civil service status without any loss of salary, seniority, prior service credits, vacation, sick leave, or other employee benefits or privileges as a consequence of the transfer; provided that subsequent changes in status may be made pursuant to applicable state personnel laws.

If an office or position held by any employee having tenure is affected by workload changes or is abolished, the employee shall not thereby be separated from public employment, but shall remain in the employment of the county from which the employee was transferred in accordance with applicable collective bargaining agreements and county civil service and personnel laws and rules.

(i) All records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other property heretofore made, used, acquired, or held by the department of land and natural resources or by a county concerning the lands and appurtenances transferred by this Act shall be transferred with those lands and appurtenances on January 1, 1992, under the direction of the governor or the mayor of the appropriate county.

**SECTION 3.** The costs associated with the transfer of personnel, records, equipment, and other personal property and all other costs involved in effectuating the purposes of this Act shall be borne by the State or the county making the transfer.

**SECTION 4.** County funding requirements for operations, maintenance, and capital improvement costs for parks transferred from the state to the counties shall be from each county's share of the revenues generated by the transient accommodations tax according to Act 185, Session Laws of Hawaii 1990.

**SECTION 5.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000, or so much thereof as may be necessary for fiscal year 1991-1992, for the development of a master plan for the old Kona

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airport state recreation area on the Big Island. The sum appropriated shall be expended by the department of land and natural resources.

SECTION 6. It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State, the city and county of Honolulu, or the counties of Kauai, Maui, or Hawaii, or any agency thereof, to the holder of any bond issued by the State, the city and county of Honolulu, or the counties of Kauai, Maui, or Hawaii, or any agency thereof, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

### PART II.

SECTION 7. The Legislature finds that Hawaii's natural beauty and environment are priceless resources that should be protected for the public benefit as a trust pursuant to Article XI, section 1 of the Hawaii State Constitution. The state park system offers the State the opportunity to create parks of distinctions, 'AINA HOOMALU (places to seek peace), that will offer users a variety of experiences that will enhance their appreciation for Hawaii's unique cultural, ecological, and recreational resources.

This system of parks will include opportunities not only for traditional hiking, picnicking, fishing, and stream and shoreline swimming or camping, but they would also offer:

- (1) Educational tours of ancient Hawaiian cultural features with unparalleled interpretive value;
- (2) Opportunities to explore the terrain and ecology of a traditional ahupua'a;
- (3) Guided tours of areas containing unique or rare plants and animals; and
- (4) Nature museums, outdoor interpretive exhibits, and native arts and crafts centers.

The legislature intends to revitalize the state park system by committing sufficient resources to create safe and clean parks that will provide users with a variety of cultural, recreational, and ecological activities.

The legislature finds that Hawaii's people and visitors have increasingly encountered crowding, congestion, and decay in our public parks. In past years, administration of our parks has not received the priority in funding and management necessary to create and maintain a park system marked by distinction and excellence. With a permanent source of funding from a special interpretive program fund, 'AINA HOOMALU will provide Hawaii residents and visitors options that will enhance our quality of life and build our reputation for protecting our precious natural resources. The special fund can be financed by revenue generated directly by the parks themselves whose revenues now total over \$1,200,000 per year.

SECTION 8. Chapter 184, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

#### **"PART . 'AINA HOOMALU STATE PARKS**

**§184- 'Aina hoomalu state parks program established; designation**

**of 'aina hoomalu sites.** The department shall establish and manage a state parks interpretive program to be known as the, "'aina hoomalu state parks program". The 'aina hoomalu state parks program shall consist of those parks which contain unique and significant natural or cultural history or features. The department shall designate those state parks throughout the State which are to be included in the 'aina hoomalu state parks program and shall develop interpretive programs for these parks.

**§184- 'Aina hoomalu special fund.** (a) There is established within the state treasury a special fund to be known as the 'aina hoomalu special fund. All proceeds collected by the state parks program involving park user fees or any leases or concession agreements shall be deposited into this fund, provided that proceeds derived from the operation of 'Iolani Palace shall be used to supplement its educational and interpretive programs.

(b) The department shall expend the moneys from the 'aina hoomalu special fund after July 1, 1992. The funds shall be used for the following purposes:

- (1) Permanent staff positions;
- (2) Planning and development of interpretive programs;
- (3) Construction of interpretive facilities;
- (4) Repairs, replacements, additions, and extensions; and
- (5) Operation and maintenance costs of programs."

SECTION 9. Section 184-4, Hawaii Revised Statutes, is repealed.

SECTION 10. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 11. Statutory material to be repealed is bracketed.<sup>1</sup>

SECTION 12. This Act shall take effect upon approval; provided that sections 5, 7, 8, and 9 shall take effect on July 1, 1991.

(Approved June 26, 1991.)

**Note**

1. Edited pursuant to HRS §23G-16.5.