

ACT 102

S.B. NO. 2802

A Bill for an Act Relating to Leasing of Public Lands to Renewable Energy Producers.

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

SECTION 1. Section 171-95, Hawaii Revised Statutes, is amended to read as follows:

“§171-95 Disposition to governments, governmental agencies, [and] public utilities[-], and renewable energy producers. (a) Notwithstanding any limitations to the contrary, the board of land and natural resources may, without public auction:

- (1) Sell public lands at such price and on such other terms and conditions as the board may deem proper to governments, including the United States, city and county, counties, other governmental agencies authorized to hold lands in fee simple and public utilities;
 - (2) Lease to the governments, agencies, [and] public utilities, and renewable energy producers public lands for terms up to, but not in excess of, sixty-five years at such rental and on such other terms and conditions as the board may determine;
 - (3) Grant licenses and easements to the governments, agencies, [and] public utilities, and renewable energy producers on such terms and conditions as the board may determine for road, pipeline, utility, communication cable, and other rights-of-way;
 - (4) Exchange public lands with the governments and agencies;
 - (5) Execute quitclaim deeds to the governments and agencies, with or without consideration, releasing any claim to the property involved made upon disputed legal or equitable grounds, whenever the board in its discretion deems it beneficial to the State; and
 - (6) Waive or modify building and other requirements and conditions contained in deeds, patents, sales agreements, or leases held by the governments and agencies whenever such waiver or modification is beneficial to the State.
- (b) In any disposition to public utilities under this section:
- (1) The sale price or lease rental shall be no less than the value determined in accordance with section 171-17(b); provided[~~-, however,~~] that such sale price or lease rental may be on a nominal basis, if the board finds

that such easement is required in connection with a government project[-];

- (2) The board shall provide that in case the land ceases to be used at any future time for the use for which the disposition was made, the board shall have the right to repurchase the land at the original sale price or fair market value, whichever is lower, and to purchase improvements thereon at the depreciated value or fair market value, whichever is lower[-];
- (3) Disposition shall not be made to any public utility if the utility has suitable lands of its own[-];
- (4) The disposition to public utilities shall be subject to disapproval by the legislature by two-thirds vote of either the senate or the house of representatives or by majority vote of both, in any regular or special session next following the date of the disposition[-]; and
- (5) For the purposes of this section, the definition of "public utility" as [established] defined in section 269-1 is hereby incorporated herein by reference.

(c) For the purposes of this section, "renewable energy producer" means any producer of electrical energy produced by wind, solar energy, hydropower, landfill gas, waste-to-energy, ocean thermal energy conversion, wave energy, biomass including municipal solid waste, biofuels or fuels derived from organic sources, hydrogen fuels derived primarily from renewable energy, or fuel cells where the fuel is derived primarily from renewable sources that sell all of the net power produced from the demised premises to an electric utility company regulated under chapter 269. Up to twenty-five per cent of the power produced by a renewable energy producer and sold to the utility may be derived from fossil fuels.'

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Act shall take effect upon approval.

(Approved May 31, 2002.)