

## ACT 139

H.B. NO. 870

A Bill for an Act Relating to Public Lands.

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

SECTION 1. Section 171-132, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§171-132]]~~ **Designation of industrial park.** A contiguous area of not less than five acres of public lands which is classified or otherwise determined by the board as suitable and economically feasible for industrial use may be designated as an industrial park:

- (1) By resolution adopted by the board of land and natural resources, and approved by the legislature by concurrent resolution; or
- (2) By law.”

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

“**§171-135 Joint venture or development agreement.** (a) 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 subject to a partnership or development agreement executed by the chairperson of the board~~[-];~~ provided that if the industrial park is to be developed in partnership or under a development agreement with a private party, the private party shall be selected in accordance with section 103D-302 or 103D-303. 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.

(b) Notwithstanding any other provision of law to the contrary, a partnership or development agreement entered into pursuant to subsection (a) may provide for:

- (1) The board to issue master leases within an industrial park by negotiation, without regard to the limitations provided in sections 171-16(c) and 171-59(a), to the entity that developed the industrial park or the nominee or nominees of the entity that developed the industrial park; and
- (2) A master lease with terms and conditions upon which the master lessee may issue tenant subleases within the industrial park without the consent of the board.”

SECTION 3. 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;
  - (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]~~ shall be either eligible permittees or eligible sublessees of the industrial park, through negotiations~~;~~ and 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 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 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 2002.)