

ACT 223

H.B. NO. 2872

A Bill for an Act Relating to Public Lands.

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

SECTION 1. For many decades, the State has granted permits or leases for recreation-residence use on public lands such as state parks and forest reserves for a term not to exceed 20 years. Some of these permits and leases have recently expired in state parks at Koke'e and Waimea canyon, Kaua'i, and have caused uncertainty in the process of leasing these sites.

The purpose of this Act is to establish a one-time process for the leasing of public lands for recreation-residence use leases in locations at state parks or state forest reserves in counties with a population of less than 100,000.

SECTION 2. (a) The board of land and natural resources shall negotiate directly with all existing lessees or permittees of recreation-residence use leases in locations at state parks or state forest reserves in counties with a population of less than 100,000, for lease renewals; provided that the renegotiated lease:

- (1) Shall be for a period not less than twenty years on such terms and conditions as may be prescribed by the board, pursuant to section 171-44, Hawaii Revised Statutes;
- (2) Shall be based on market rates for land and buildings, pursuant to section 171-17(b), Hawaii Revised Statutes; and
- (3) Is a "one time only" negotiation and does not ensure that there will be direct negotiations at the expiration of the renegotiated lease.

(b) Existing lessees or permittees may provide a counter-offer based upon their own certified appraisal and the board of land and natural resources shall negotiate in good faith based upon the two appraisals.

(c) The board of land and natural resources shall provide each lessee or permittee with proposed new lease terms and rates within three months of the effective date of this Act and shall negotiate final terms of each lease within four months of the effective date of this Act. The lessee or permittee shall have thirty days following the final notification to the lessee or permittee by the board of new lease terms, to agree to and sign the renegotiated lease, or the lease or permit shall expire on December 31, 2008, and the recreation-residence use lease shall be auctioned by the board.

(d) Any recreation-residence use lease for a cabin that is vacant and owned by the State on the effective date of this Act or that expires on December 31, 2008, pursuant to subsection (c), shall be auctioned by the board pursuant to section 171-14, Hawaii Revised Statutes; provided that the board of land and natural resources shall first provide bona fide full-time residents of a county in the state with a population of less than 100,000 with the opportunity to obtain any such lease by auction. If any leases remain after such an auction, the board may offer remaining available leases at auction to bidders who are bona fide full-time residents of the State of Hawaii, and then at auction to nonresidents of the State.

SECTION 3. (a) There is established a Koke'e state park advisory council, to be placed within the department of land and natural resources for administrative purposes only. The advisory council shall consist of nine voting members appointed in equal numbers by the governor, the speaker of the house of representatives and the president of the senate in accordance with section 26-34, Hawaii Revised Statutes, and four ex-officio nonvoting members.

(b) The voting members of the advisory council shall be Kaua'i residents and shall possess general knowledge of at least one of the four strategic areas listed below:

- (1) Education;
 - (2) Cultural resources;
 - (3) The environment; or
 - (4) Native plants, animals, and ecosystems.
- (c) The ex-officio nonvoting members shall be as follows:
- (1) A representative of the United States Fish and Wildlife Service;
 - (2) A representative of the department of land and natural resources forestry and wildlife division, as designated by the chairperson of the board of land and natural resources;
 - (3) A representative of the department of land and natural resources state parks division, as designated by the chairperson of the board of land and natural resources; and
 - (4) A representative of the county of Kauai, as designated by the Kauai county council.

(d) The voting members of the advisory council shall serve not more than two consecutive three-year terms, with each term beginning on July 1; provided that the initial terms of the appointed members that commence after June 30, 2008, shall be staggered as follows:

- (1) Three members to serve three-year terms;
- (2) Three members to serve two-year terms; and
- (3) Three members to serve a one-year term.

For the initial appointments, the governor, the president of the senate, and the speaker of the house of representatives shall designate each of their appointees to serve a one, two, or three-year term.

(e) The members of the advisory council shall not receive compensation for their services but shall be reimbursed for expenses, including travel expenses, incurred in their duties relating to the council.

(f) A chairperson shall be elected annually by the advisory council from among the council's voting members; provided that no member may serve as chairperson for more than two consecutive years.

(g) Five voting members of the advisory council shall constitute a quorum to do business and any action taken by the advisory council shall be validated by a simple majority of the quorum.

(h) The advisory council's responsibilities shall include:

- (1) Reviewing and assisting in updating and revising the Koke'e state park master plan;
- (2) Advising and assisting in the management of the Koke'e recreational cabin leases;
- (3) Enhancing community education and cultural awareness of Koke'e state park;
- (4) Participating in the protection and preservation of Koke'e state park's natural and cultural resources; and
- (5) Advising and assisting in the overall implementation of the Koke'e state park master plan.

SECTION 4. The department of land and natural resources shall enforce all provisions of recreation-residential use lease agreements and shall establish a schedule of penalties and fines for any breach of the provisions of a recreation-residential use lease agreement unless penalties and fines are specified in the lease agreement.

SECTION 5. 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 6. This Act shall take effect on July 1, 2008.

(Became law on July 8, 2008, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)