

ACT 142

S.B. NO. 544

A Bill for an Act Relating to Natural Resources.

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

SECTION 1. The legislature finds that the department of land and natural resources has the responsibility of planning for the disposition of commercial, industrial, hotel, and resort classes of public lands to determine: specific use or uses; minimum size of parcels; required building construction or improvements; and lease terms and requirements.

The legislature also finds that one of the consequences of the state law requiring that public land leases be issued pursuant to public bidding is that an existing lessee may have little incentive to make major repairs or improvements to their leasehold properties during the last five to fifteen years of the lease, which sometimes results in the deterioration of infrastructure and facilities.

The legislature further finds that the rejuvenation of areas of public lands that have become dilapidated, obsolete, or have deteriorated over time is in the public interest and constitutes a valid public purpose.

The purpose of this Act is to require the legislative reference bureau to study how other select states manage end-of-term commercial leases involving public lands and to identify best practices in commercial leasing of public lands.

SECTION 2. (a) The legislative reference bureau shall conduct a study on how other select states administer, renegotiate, re-open, extend, or otherwise dispose of long-term leases of public lands that are about to expire to determine how the respective government lessors manage, handle, or deal with leases that:

- (1) Terminate within ten years; and
- (2) Have lessees or tenants who are unwilling or unable to secure financing to invest capital into improvements that they cannot recoup due to the limited remaining term of the lease.

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(b) As part of the study under subsection (a), the legislative reference bureau shall consider the means by which the State, as a landowner, can balance the public policy of opening up state lands for competitive bidding or another public disposition process to provide opportunities for new lessees to lease state lands, with the interests of existing lessees, while ensuring a fair market rental return to the State.

(c) The study shall include the current best practices relating to the terms of commercial leases of public lands in Hawaii and in other jurisdictions.

(d) In conducting the study, the legislative reference bureau may consult with the department of land and natural resources and any other public or private entity that may be of assistance. The department of land and natural resources or other public entity shall assist the legislative reference bureau by providing answers to questions and background information at the request of the bureau, or other assistance deemed relevant to the study.

(e) If the legislative reference bureau determines that it does not possess the resources or expertise necessary to conduct the study, the legislative reference bureau may contract for outside services to conduct the study; provided that the legislative reference bureau shall not be subject to chapter 103D, Hawaii Revised Statutes, in obtaining the outside services.

SECTION 3. No later than twenty days prior to the convening of the regular session of 2016, the legislative reference bureau shall submit to the legislature a report of its findings and recommendations, including any proposed legislation to incorporate current best practices in the terms of commercial leases of public lands in Hawaii.

SECTION 4. 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 2015-2016 for the legislative reference bureau to conduct a study pursuant to this Act.

The sum appropriated shall be expended by the legislative reference bureau for the purposes of this Act.

SECTION 5. This Act shall take effect on July 1, 2015.

(Approved June 25, 2015.)