

JAN 18 2008

S.B. NO. 242

A BILL FOR AN ACT

RELATING TO LAND ACQUISITION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is in the public
2 interest to acquire private lands currently owned by the George
3 Galbraith Estate (Estate) for the preservation of agricultural
4 lands in central Oahu, and protection of the health, welfare,
5 and safety of the people of the State of Hawaii.

6 The Estate was established pursuant to the will of George
7 Galbraith, which was admitted to probate on March 25, 1905. Due
8 to considerable ambiguity on the intention and validity of the
9 will, the will was litigated extensively. In Fitchie v. Brown,
10 18 Haw. 52 (November 1, 1906), the Hawaii Supreme Court held
11 that the will created a trust to accumulate unapplied income;
12 that the lives in being listed in the will were the named
13 annuitants; and that the trust estate would be distributed
14 twenty-one years after the death of the last surviving annuitant
15 listed in the will. The Supreme Court of the United States
16 upheld this interpretation in 211 U.S. 321 (1908).



1 Subsequent litigation established that the heirs of life
2 annuities took their shares of the annuities by right of
3 representation; that annuities could be sold in fee; and that
4 the final holders of the annuities, at the time of distribution,
5 would take a per capita share of the estate. Hawaiian Trust v.
6 Galbraith, 22 Haw. 78 (1914); Hawaiian Trust Co. v. Galbraith,
7 24 Haw. 174 (1919).

8 The corpus of the Estate currently includes twenty
9 individual and contiguous parcels having a combined area of
10 approximately two thousand one hundred acres situated north of
11 Wahiawa--a significant assemblage of some of the most fertile
12 agricultural land in the state. These lands were historically
13 leased to pineapple growers on a long-term basis and have not
14 been available for sale for more than one hundred years.

15 On April 26, 1986, Arthur Cathcart, the last named
16 annuitant in the George Galbraith will, died. Pursuant to the
17 terms of the will, the Estate was to terminate on April 26,
18 2007. However, because of the numerous interpretations of the
19 will and the passage of time, a large number of minuscule life
20 annuities were created, precipitating considerable difficulty in
21 determining who some of the annuitants are, and how the corpus
22 would be distributed among the beneficiaries. Accordingly,



1 although the termination date of the Estate has passed, the
2 trustees have not yet sold the landholdings while these and
3 other legal issues are addressed. Furthermore, chapter 517,
4 Hawaii Revised Statutes, authorizes the trustees of an estate or
5 trust, with the approval of the court, to sell the real property
6 of the estate or trust beyond the expiration date of the estate
7 or trust.

8 The legislature further finds that the State of Hawaii is
9 committed to preserving its limited natural resources. Article
10 XI, section 3 of the constitution of the State of Hawaii
11 requires the State to "conserve and protect agricultural lands,
12 promote diversified agriculture, increase agricultural self-
13 sufficiency and assure the availability of agriculturally
14 suitable lands." As such, the legislature further finds that
15 the acquisition of the Galbraith landholdings in central Oahu
16 furthers this essential public policy.

17 The legislature also finds that the body of water in
18 Wahiawa, commonly referred to as Lake Wilson, is on real
19 property owned by the Estate and an affiliate of Castle and
20 Cooke Hawaii (Castle and Cooke). While the Estate intends to
21 sell that land upon the termination of the Estate, Lake Wilson



1 remains an agricultural irrigation asset of the other half-owner
2 of the land under the Lake--Castle and Cooke.

3 According to the American Society of Civil Engineers, the
4 earthen Wahiawa dam on Kaukonahua stream that creates Lake
5 Wilson is classified "high hazard", not because of structural or
6 functional deficiencies, but because of its precarious location.
7 A failure of the Wahiawa dam could cause massive loss of life,
8 injuries, and property damage to downstream areas throughout the
9 communities of Waialua and Haleiwa.

10 While the State has had discussions with the Estate and
11 Castle and Cooke on the possible "gifting" of the landholdings
12 under Lake Wilson, the imminent termination of the Estate and
13 the fiduciary responsibility of the trustees to obtain the
14 maximum return for beneficiaries have greatly compounded the
15 complexity of the negotiations between state officials and the
16 landowners.

17 Lastly, the valuation of the Estate's landholdings has been
18 a matter of conjecture for many years, especially due to the
19 enormous potential it may hold should the land ever be
20 reclassified from agricultural to a higher use. As such, there
21 is a strong possibility that the placement of these lands on the



1 open market may create a frenzy of speculative buying that might
 2 result in the break up of these large contiguous tracks of land.

3 For tax purposes, the city and county of Honolulu has
 4 determined that as of October 1, 2006, the total property
 5 assessed value of the parcels situated in central Oahu was
 6 approximately \$100,000,000:

7	<u>Parcel</u>	<u>Assessed Value</u>
8	TMK 6-5-002:010	\$10,569,100
9	TMK 6-5-002:025	\$6,154,700
10	TMK 6-5-002:026	\$3,589,000
11	TMK 7-1-001:001	\$1,898,900
12	TMK 7-1-001:002	\$17,492,900
13	TMK 7-1-001:003	\$7,879,900
14	TMK 7-1-001:005	\$12,969,000
15	TMK 7-1-001:006	\$3,421,500
16	TMK 7-1-001:007	\$813,500
17	TMK 7-1-001:008	\$17,613,100
18	TMK 7-1-001:012	\$1,736,400
19	TMK 7-1-001:013	\$900
20	TMK 7-1-001:017	\$100
21	TMK 7-1-001:020	\$11,300
22	TMK 7-1-001:021	\$7,200



1	TMK 7-1-001:022	\$156,800
2	TMK 7-1-001:023	\$1,041,200
3	TMK 7-1-001:024	\$200
4	TMK 7-1-001:025	\$998,600
5	TMK 7-1-001:026	\$11,356,900
6	TMK 7-1-001:027	\$464,100
7	TMK 7-1-001:028	\$507,400
8	TMK 7-1-001:029	\$335,500
9	TMK 7-1-001:032	<u>\$878,900</u>
10	TOTAL	\$99,897,100

11 The purpose of this Act is to appropriate funds for the
 12 acquisition of lands owned by the Galbraith Estate in central
 13 Oahu. It is the intent of the legislature that this Act not be
 14 construed to preclude the State and the Estate from entering
 15 into a land exchange or any other agreement that would reduce
 16 the expenditure of funds authorized by this Act.

17 SECTION 2. There is appropriated out of the general
 18 revenues of the State of Hawaii the sum of \$100,000,000 or so
 19 much thereof as may be necessary for fiscal year 2008-2009 to
 20 acquire the lands currently owned by the Galbraith Estate in
 21 central Oahu and designated by tax map keys 6-5-002:010, 6-5-
 22 002:025, 6-5-002:026, 7-1-001:001, 7-1-001:002, 7-1-001:003, 7-



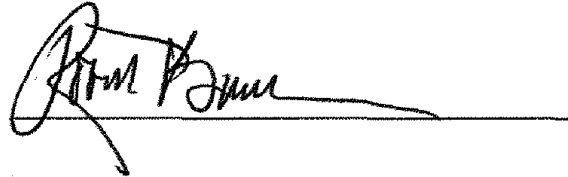
1 1-001:005, 7-1-001:006, 7-1-001:007, 7-1-001:008, 7-1-001:012,
2 7-1-001:013, 7-1-001:017, 7-1-001:020, 7-1-001:021, 7-1-001:022,
3 7-1-001:023, 7-1-001:024, 7-1-001:025, 7-1-001:026, 7-1-001:027,
4 7-1-001:028, 7-1-001:029, and 7-1-001:032.

5 The sum appropriated shall be expended by the department of
6 land and natural resources for the purposes of this Act.

7 SECTION 3. This Act shall take effect on July 1, 2008.

8

INTRODUCED BY:



Report Title:

Galbraith Estate; Appropriation

Description:

Appropriates funds for the acquisition of land in Wahiawa, Oahu, currently owned by the George Galbraith Estate.

