

JAN 24 2013

SENATE CONCURRENT
RESOLUTION

SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW
OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES
ON A LAND EXCHANGE AND SALE OF PROPERTY.

1 WHEREAS, section 171-50, Hawaii Revised Statutes, provides
2 that any exchange of public land for private land shall be
3 subject to disapproval by the Legislature by two-thirds vote of
4 either the Senate or the House of Representatives or by majority
5 vote of both in any regular or special session following the date
6 of the Board of Land and Natural Resources' approval in principle
7 of the exchange; and

8
9 WHEREAS, section 171-50(b), Hawaii Revised Statutes,
10 provides that any difference in value of the public land over the
11 private land shall be paid to the State at the time of the
12 exchange, provided that no exchange shall be made should the
13 public land exceed one hundred twenty per cent of the value of
14 the private land; and

15
16 WHEREAS, section 171-50(c), Hawaii Revised Statutes,
17 provides that the state department or agency shall submit for
18 introduction to the Legislature a resolution for review of action
19 on any exchange to be consummated by the Board of Land and
20 Natural Resources wherein exchange deeds will be executed by the
21 parties together; and

22
23 WHEREAS, section 171-64.7, Hawaii Revised Statutes, provides
24 that no sale or gift of ceded lands or interest therein shall
25 occur without the prior approval of the sale or gift by the
26 Legislature by concurrent resolution to be adopted by each house
27 by at least a two-thirds majority vote of the members to which
28 each house is entitled in a regular or special session at which a
29 concurrent resolution is submitted for approval of the sale; and

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31 WHEREAS, section 171-64.7(c), Hawaii Revised Statutes,
32 provides that the state department or agency shall submit for

1 introduction to the Legislature a concurrent resolution for
2 review of the proposed sale or gift; and

3
4 WHEREAS, sections 171-50(c) and 171-64.7, Hawaii Revised
5 Statutes, require the resolution or concurrent resolution to
6 contain the following information:

- 7
8 (1) The specific location and size in square feet or in
9 other precise measure of the parcels of land to be
10 exchanged, sold or given;
11
12 (2) The value of the lands to be conveyed, sold or given
13 by the State and the private party;
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15 (3) The name or names of the appraiser or appraisers;
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17 (4) The date of the appraisal valuation;
18
19 (5) The purpose for which the lands are being exchanged,
20 sold or given;
21
22 (6) A detailed summary of any development plans for the
23 land to be exchanged, sold or given; and
24
25 (7) A statement of whether the land is, or is not, land
26 that was classed as government or crown lands previous
27 to August 15, 1895, or was acquired by the State in
28 exchange for such lands, and a detailed explanation of
29 how the state department or agency made this
30 determination; and
31

32 WHEREAS, sections 171-50(c) and 171-64.7(c), Hawaii Revised
33 Statutes, also provide that a copy of the draft resolution, or
34 concurrent resolution, shall also be submitted to the Office of
35 Hawaiian Affairs at least three months prior to the convening of
36 a regular or special session of the Legislature to allow the
37 Office of Hawaiian Affairs to determine whether the land was
38 classed as government or crown lands previous to August 15, 1895,
39 or was acquired by the State in exchange for such lands; and
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41 WHEREAS, section 171-64.7(e), Hawaii Revised Statutes,
42 provides that prior to finalizing any proposal for the sale or
43 gift of lands described in section 171-64.7(a), Hawaii Revised
44 Statutes, to a person or entity other than the State, its

1 agencies, or its entities, and prior to submission of the
2 concurrent resolution to the Legislature under section 171-
3 64.7(c), Hawaii Revised Statutes, the State, agency, or entity,
4 as appropriate, shall hold an informational briefing on the
5 proposed sale or gift in the community where the land to be sold
6 or given is located; and

7
8 WHEREAS, at its meeting of June 8, 2012, under agenda item
9 D-11, the Board of Land and Natural Resources approved a land
10 exchange and sale of property pursuant to the stipulated final
11 judgment on title filed on April 12, 1996, and the stipulated
12 judgment on partition filed on April 1, 1997, in Napoleon, et
13 al., v. State of Hawaii, et al., Civ. No. 92-0789, for land
14 located at Kahananui, Molokai, Hawaii, Tax Map Keys: (2) 5-6-
15 06:14; (2) 5-6-06:15; (2) 5-6-03:12; (2) 5-6-03:08; and (2)5-6-
16 03:10; and

17
18 WHEREAS, following approval of the exchange and sale by the
19 Board of Land and Natural Resources, a copy of the concurrent
20 resolution was transmitted to the Office of Hawaiian Affairs at
21 least three months prior to the convening of this regular
22 session of the Legislature to allow the Office to determine
23 whether the land was classed as government or crown lands
24 previous to August 15, 1895, or was acquired by the State in
25 exchange for such lands; and

26
27 WHEREAS, the Department of Land and Natural Resources duly
28 conducted a public informational briefing on the sale of this
29 parcel on November 13, 2012, at 5:30 p.m. at the Kilohana
30 Recreational Center, 334 Al Kamehameha V Highway, Kaunakakai,
31 Molokai, Hawaii, following publication of notice of the briefing
32 in the Molokai Dispatch newspaper on October 24, 2012, the
33 Honolulu Star-Advertiser newspaper on October 28, 2012, the
34 Hawaii Tribune-Herald newspaper on October 28, 2012, the West
35 Hawaii Today newspaper on October 28, 2012, the Garden Isle
36 newspaper on October 28, 2012, and the Maui News newspaper on
37 October 28, 2012; now, therefore,

38
39 BE IT RESOLVED by the Senate of the Twenty-seventh
40 Legislature of the State of Hawaii, Regular Session of 2013, the
41 House of Representatives concurring, that the following exchange
42 and sale of property between the State of Hawaii and Napoleon,
43 et al., approved by the Board of Land and Natural Resources at
44 its meeting on June 8, 2012, under agenda item D-11, pursuant to

1 the stipulated judgment on title and the stipulated judgment on
2 partition in Napoleon, et al., v. State of Hawaii, et al., Civ.
3 No. 92-0789, for land located at Kahananui, Molokai, Hawaii, Tax
4 Map Keys: (2) 5-6-06:14; (2) 5-6-06:15; (2) 5-6-03:12; (2) 5-6-
5 03:08; and (2)5-6-03:10, has been reviewed by the Legislature:

6
7 (1) All lands are located at Kahananui, Molokai, Hawaii,
8 being futher identified by Tax Map Keys: (2) 5-6-06:14,
9 having an area of 168.04 acres; (2) 5-6-06:15, having
10 an area of 109.014 acres; (2) 5-6-03:12, having an area
11 of 0.338 acres; (2) 5-6-03:08, having an area of 1.018
12 acres; and (2)5-6-03:10 having an area of 0.401 acres.

13
14 (2) The lands to be conveyed to Napoleon, et al.:

15
16 a. Tax Map Key (2) 5-6-06:15, having a value of
17 \$138,000.

18
19 The lands to be sold and proceeds divided amongst all
20 parties - 39.89 per cent to the State, 60.11 per cent
21 to Napoleon, et al.:

22
23 a. Tax Map Key (2) 5-6-03:08, having a value of
24 \$76,000; and

25
26 b. Tax Map Key (2) 5-6-03:10, having a value of
27 and \$65,000.

28
29 The lands to be conveyed to the State:

30
31 a. Tax Map Key (2) 5-6-06:14, having a value of
32 \$91,000; and

33
34 b. Tax Map Key (2) 5-6-03:12, having a value of
35 \$82,500.

36
37 (3) All lands were appraised by Lawrence P. Swenson of
38 Swenson Appraisal.

39
40 (4) All lands were appraised on March 21, 1996.

41
42 (5) Whereas the State owns an undivided half interest in
43 the lands identified, the purpose of the exchange and
44 sale is to consolidate the State's interest in lands.
45

1 (6) One of the parcels conveyed to the State will be added
 2 to the State's Molokai Forest Reserve. The second
 3 parcel to be conveyed to the State will be administered
 4 by the Department of Land and Natural Resources, which
 5 currently has no development plans for the parcel. The
 6 remaining parcel that is not intended for sale will be
 7 conveyed to the four Hawaiian families who hold the
 8 remaining one-half interest in all the parcels. The
 9 families are the Napoleon family, the Kailiwai family,
 10 the Kunuiakea family, and the Fountain family.

11
 12 (7) The five parcels referenced above are Section 5(b)
 13 lands of the Admission Act of 1959. The lands
 14 referenced above are portions of Mahele Award 48 to
 15 Kaeliwai, which granted a one-half interest of the five
 16 parcels to Kaeliwai with the remaining one-half
 17 interest being retained by the Kingdom of Hawaii, now
 18 the State of Hawaii; and

19
 20 BE IT FURTHER RESOLVED that a certified copy of this
 21 Concurrent Resolution be transmitted to the Chairperson of the
 22 Board of Land and Natural Resources.

23
 24
 25 OFFERED BY: 
 26 BY REQUEST
 27

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON A LAND EXCHANGE AND SALE OF PROPERTY.

PURPOSE: To seek the approval of the Legislature by concurrent resolution of a Board of Land and Natural Resources action approving a land exchange and sale of property.

MEANS: Concurrent resolution pursuant to sections 171-50 and 171-64.7, Hawaii Revised Statutes.

JUSTIFICATION: The State of Hawaii owns an undivided 50% interest in five parcels situated at Kahananui, Molokai, Hawaii. A Stipulated Final Judgment on Title was filed on April 12, 1996, which confirmed that the five parcels are owned one-half by the State and one-half by Napoleon, et al. A Stipulated Judgment on Partition was filed on April 1, 1997, in which the State and Napoleon, et al. agreed to partition the properties.

The Board of Land and Natural Resources on June 8, 2012, under agenda item D-11, approved the land exchange and sale of property pursuant to the Stipulated Judgment on Partition in Napoleon, et al., v. State of Hawaii, et al., Civ. No. 92-0786 for land located at Kahananui, Molokai, Hawaii, Tax Map Keys: (2)5-6-06:14; (2)5-6-06:15; (2)5-6-03:12; (2)5-6-03:08; and (2)5-6-03:10.

Impact on the public: None.

Impact on the department and other agencies: Lands retained by the State will be added to the State Forest Reserve.

GENERAL FUND: None.
OTHER FUNDS: None.
PPBS PROGRAM DESIGNATION: LNR 101.
OTHER AFFECTED AGENCIES: None.
EFFECTIVE DATE: Upon adoption.