

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.

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

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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 no exchange shall be made should the public
13 land exceed one hundred twenty per cent of the value of the
14 private land; and

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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 with the following information:

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23 (1) The specific location and size in square feet or in
24 other precise measure of the parcels of land to be
25 exchanged;

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27 (2) The value of the lands to be conveyed by the State and
28 the private party;

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30 (3) The name or names of the appraiser or appraisers;

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- 1 (4) The date of the appraisal valuation;
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- 3 (5) The purpose for which the lands are being exchanged;
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- 5 (6) A detailed summary of any development plans for the
- 6 land to be exchanged; and
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- 8 (7) A statement of whether the land is, or is not, land
- 9 that was classed as government or crown lands previous
- 10 to August 15, 1895, or was acquired by the State in
- 11 exchange for such lands, and a detailed explanation of
- 12 how the state department or agency made this
- 13 determination; and
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15 WHEREAS, section 171-50(c), Hawaii Revised Statutes, also
16 provides that a copy of the draft resolution shall also be
17 submitted to the Office of Hawaiian Affairs at least three months
18 prior to the convening of this regular session of the Legislature
19 to allow the Office of Hawaiian Affairs to determine whether the
20 land was classed as government or crown lands previous to August
21 15, 1895, or was acquired by the State in exchange for such
22 lands; and
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24 WHEREAS, at its meeting of October 24, 2008, under agenda
25 item D-13, as amended at its meeting of August 10, 2012, under
26 agenda item D-9, the Board of Land and Natural Resources approved
27 in principle the proposed exchange involving state land located
28 at Nuuanu, Honolulu, Oahu, being identified as Tax Map Key (1)
29 2-2-22:19, and privately owned land located at Hoaeae, Ewa,
30 Oahu, being identified as Tax Map Key (1) 9-4-49:62, together
31 with all improvements thereon; and
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33 WHEREAS, following approval of the exchange by the Board of
34 Land and Natural Resources, a copy of the draft resolution was
35 transmitted to the Office of Hawaiian Affairs at least three
36 months prior to the convening of this regular session of the
37 Legislature to allow the Office to determine whether the land
38 was classed as government or crown lands previous to August 15,
39 1895, or was acquired by the State in exchange for such lands;
40 now, therefore,
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1 BE IT RESOLVED by the Senate of the Twenty-seventh
2 Legislature of the State of Hawaii, Regular Session of 2013, the
3 House of Representatives concurring, that the following exchange
4 between the State of Hawaii and Hawaii Baptist Academy, a
5 nonprofit corporation, approved in principle by the Board of
6 Land and Natural Resources at its meeting on October 24, 2008,
7 under agenda item D-13, as amended at its meeting on August 10,
8 2012, under agenda item D-9, has been reviewed by the
9 Legislature:

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11 (1) The state land is located at Nuuanu Valley, Honolulu,
12 Oahu, Hawaii being portions of Grant 1 to William Paty,
13 Grant 71 to R. C. Wyllie, and Grant 114 to Robert C.
14 Wyllie, also currently identified as Tax Map Key (1) 2-
15 2-22:19, having an area of 4.971 acres; and

16
17 The private land, owned by Hawaii Baptist Academy, a
18 nonprofit corporation, includes all that certain parcel
19 of land (being portion(s) of the land(s) covered by
20 Royal Patent Number 4490, Land Commission Award Number
21 10, 474, Apana 9 to N. Namauu) situate, lying and being
22 on the east side of Leokane Street at Hoaeae, District
23 of Ewa, City and County of Honolulu, State of Hawaii,
24 being Lot 16-B, and being a portion of Lot 16, of the
25 "WAIPAHA INDUSTRIAL PARK" (File Plan 973), also
26 currently identified as Tax Map Key (1) 9-4-49:62,
27 having a land area of 18,410 square feet.

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29 (2) The state land has a value of \$2,080,000; and

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31 The private land, together with all improvements
32 thereon, has a value of \$1,825,000.

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34 (3) The state land was appraised by Hastings, Conboy, Braig
35 and Associates Ltd.; and

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37 The private land, together with all improvements
38 thereon, was appraised by Rehkemper & Company, Inc.

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40 (4) The state land was appraised on February 28, 2012; and

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42 The private land, together with all improvements
43 thereon, was appraised on February 10, 2012.
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1 (5) At its meeting of October 24, 2008, under agenda item
2 D-13, the Board of Land and Natural Resources approved
3 the public purpose of the proposed exchange, which is
4 to increase revenues to support the Department of Land
5 and Natural Resources' public land trust and fiduciary
6 duties.

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8 (6) The state land is currently leased to Hawaii Baptist
9 Academy and is currently improved with middle school
10 campus facilities as covered in the Final Environmental
11 Assessment published in the Office of Environmental
12 Quality Control's Environmental Notice on September 8,
13 2002, with a Finding of No Significant Impact.
14 Subsequent to the proposed exchange, the state land
15 will be private property; and

16
17 The private property is improved with a two story
18 building, currently leased to private businesses.
19 Subsequent to the proposed exchange, the private
20 property will be state property. Whereas the
21 department will continue to operate the existing
22 improvements for commercial/mixed-use uses, there are
23 no further development plans for the then state-owned
24 property. Any future change in the use of the then
25 state-owned property shall remain subject to compliance
26 with the provisions of chapter 343, Hawaii Revised
27 Statutes, as amended.


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29 (7) The state land was not classed as government or crown
30 lands on August 15, 1895. Prior to August 15, 1895,
31 these lands were private lands, being portions of Grant
32 1 to William Paty, Grant 71 to R. C. Wyllie, and Grant
33 114 to Robert C. Wyllie, all dated between 1846 and
34 1848. Whereas these lands were acquired by the
35 Territory of Hawaii by Final Order of Condemnation:
36 Civil No. 4177, dated September 24, 1958, and are
37 classified as Section 5(a) lands under the Admission
38 Act of 1959; and

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40 BE IT RESOLVED that pursuant to section 171-50(b), Hawaii
41 Revised Statutes, at the time of the exchange, Hawaii Baptist
42 Academy shall pay to the State the difference in value of the
43 public land over the value of the private land together with all
44 improvements thereon; and

S.C.R. NO. 20

1 BE IT FURTHER RESOLVED that a certified copy of this
2 Concurrent Resolution be transmitted to the Chairperson of the
3 Board of Land and Natural Resources.
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OFFERED BY: 
BY REQUEST

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.

PURPOSE: To submit to the Legislature by concurrent resolution review of action taken by the Board of Land and Natural Resources approving in principle a land exchange between the State of Hawaii (State) and Hawaii Baptist Academy.

MEANS: Concurrent resolution pursuant to section 171-50, Hawaii Revised Statutes.

JUSTIFICATION: The State owns 4.971 acres of land situated at Nuuanu, Honolulu, Oahu, currently identified as Tax Map Key (TMK) (1) 2-2-22:19, and currently leased to Hawaii Baptist Academy solely for school and related purposes.

The Board of Land and Natural Resources at its meeting of October 24, 2008, under agenda item D-13, as amended at its meeting of August 10, 2012, under agenda item D-9, approved in principle a land exchange between the State and Hawaii Baptist Academy. The land exchange involves state lands identified above and private lands, together with improvements thereon, situated at Hoaeae, Ewa, Oahu, and currently identified as TMK (1) 9-4-49:62.

Additionally, Hawaii Baptist Academy will pay the Department \$255,000 at the time of exchange, in order to bring the value of their exchange asset in line with the value of the state lands. These monies will be kept in reserve by the Department and used for repairs and maintenance on the

commercial private property acquired in the exchange.

Impact on the public: None.

Impact on the department and other agencies:
Revenues generated from the commercial private property acquired by the State will be used to support the public land trust and departmental programs to protect, preserve and manage the State's cultural, historic, and natural resources.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 101.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon adoption.