
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

PART I

1
2 SECTION 1. Findings; purpose. (a) The legislature finds
3 that:

4 (1) Because of the policies guiding the management of
5 urbanized public lands with commercial, industrial,
6 hotel, and resort uses, there has been little
7 incentive for the lessees of those properties to make
8 major investments in improvements to their
9 infrastructure, resulting in the deterioration of
10 infrastructure and facilities;

11 (2) The lack of improvement to property in many of these
12 areas has resulted in dilapidation, deterioration,
13 age, or obsolescence of the buildings and structures
14 in those areas; and

15 (3) The department of land and natural resources has the
16 responsibility of planning for the disposition of



1 commercial, industrial, hotel, and resort classes of
2 public lands to determine:

- 3 (A) Specific use or uses;
- 4 (B) Minimum size of parcels;
- 5 (C) Required building construction or improvements;
- 6 and
- 7 (D) Lease terms and requirements.

8 (b) The purpose of this Act is to establish a ten-year
9 pilot project for the redevelopment of the Kanoelehua industrial
10 area and Banyan drive region and establish and implement
11 guidelines for the redevelopment of the Kanoelehua industrial
12 area and Banyan drive region that will:

- 13 (1) Define the policies for the management of public lands
14 in the designated area;
- 15 (2) Establish a plan for the designated area, including
16 district-wide improvements, that is coordinated with
17 state and county land use and planning policies; and
- 18 (3) Implement asset and property management concepts that
19 can optimize income from the properties and evolve in
20 response to changing principles of property
21 administration.



1 SECTION 2. Definitions. As used in this Act, unless the
2 context indicates otherwise:

3 "Department" means the department of land and natural
4 resources.

5 "Board" means the board of land and natural resources.

6 "Planning committee" or "committee" means the policy-making
7 committee established for the redevelopment district.

8 "Public facilities" include streets and highways, storm
9 drainage systems, water systems, street lighting systems, off-
10 street parking facilities, and sanitary sewerage systems.

11 "Redevelopment district" or "designated district" means the
12 area of public lands designated for redevelopment within the
13 Kanoelehua industrial area and Banyan drive region.

14 SECTION 3. Redevelopment district pilot project;
15 Kanoelehua industrial area and Banyan drive region; established.
16 The Kanoelehua industrial area and Banyan drive region shall be
17 established as a redevelopment district until June 30, 2028.

18 SECTION 4. Planning committee; district administrator;
19 repeal. (a) A planning committee for the redevelopment
20 district shall be established and placed in the department for
21 administrative purposes.



1 (b) The committee shall be a policy-making committee for
2 the designated district and shall consist of nine members. The
3 members shall consist of:

4 (1) The chairperson of the board of land and natural
5 resources and the director of planning of the county
6 in which the designated district is located, or their
7 designated representatives who shall be ex-officio,
8 voting members of the committee; and

9 (2) Seven public, voting members appointed by the governor
10 pursuant to section 26-34, Hawaii Revised Statutes;
11 provided that of the members appointed pursuant to
12 this paragraph:

13 (A) Three members shall be selected from a list of
14 six names submitted by the president of the
15 senate and speaker of the house of
16 representatives in collaboration with the
17 legislators from the county in which the
18 designated district is located and two members
19 shall be selected from a list of four names
20 submitted by the mayor of the county in which the
21 designated district is located;



1 (B) The seven members shall be selected on the basis
2 of their knowledge, experience, and expertise in:
3 (i) Management of small or large businesses;
4 (ii) Economics, banking, investment, or finance;
5 (iii) Real estate development or management;
6 (iv) Cultural or recreational matters;
7 (v) Marketing; or
8 (vi) Hotel and resort management; and
9 (C) All seven members shall be residents of the
10 county of Hawaii.

11 (c) The committee shall elect its chairperson from among
12 its public, voting members.

13 (d) The members of the committee shall serve without
14 compensation but shall be reimbursed for reasonable expenses,
15 including travel expenses, incurred in the performance of their
16 duties.

17 (e) The committee shall appoint a district administrator,
18 who shall be the chief executive officer for the designated
19 district. The district administrator shall have experience and
20 expertise in engineering, planning, architecture, real estate,
21 or law. The committee shall set the district administrator's



1 duties, responsibilities, holidays, vacations, leaves, hours of
2 work, and working conditions. The committee shall set the
3 salary of the district administrator, who shall serve at the
4 pleasure of the committee and shall be exempt from chapter 76,
5 Hawaii Revised Statutes.

6 (f) The committee shall be dissolved on June 30, 2028.

7 SECTION 5. Planning committee; powers and duties;
8 generally. The committee shall have the powers and duties
9 related to its functions in the designated district that are
10 delegated to the committee by the board. In addition, the
11 committee may:

12 (1) Through its district administrator, appoint staff and
13 employees, prescribe their duties and qualifications,
14 and fix their salaries, without regard to chapter 76,
15 Hawaii Revised Statutes;

16 (2) Through its district administrator, allocate space or
17 spaces that are to be occupied by the committee and
18 appropriate staff, and purchase necessary supplies,
19 equipment, or furniture;

20 (3) Prepare a redevelopment plan for the designated
21 district and consider any plans established by any



- 1 existing redevelopment agency established under
2 chapter 53, Hawaii Revised Statutes;
- 3 (4) Notwithstanding any other law to the contrary, renew
4 or renegotiate with the current lessee of any public
5 land lease in connection with any project contained in
6 the redevelopment plan for the designated district, on
7 terms and conditions as the committee deems advisable;
- 8 (5) Prepare or cause to be prepared plans, design
9 criteria, landscaping, and estimates of costs for the
10 construction, rehabilitation, or repair of any project
11 contained in the redevelopment plan for the designated
12 district, and from time to time to modify the plans or
13 estimates;
- 14 (6) Conduct studies in conjunction with county and state
15 agencies, to include third party studies coordinated
16 with county and state agencies, necessary to determine
17 the appropriate activities for redevelopment in the
18 designated district;
- 19 (7) Reduce or waive the lease rental on any lease of
20 public land for any project in the designated district
21 that requires substantial improvements; provided that



1 the reduction or waiver shall not exceed one year in
2 duration;

3 (8) Make and execute all contracts and instruments that
4 are necessary for the exercise of the committee's
5 powers and functions relating to the designated
6 district, including the engaging of the services of
7 consultants for the rendering of professional and
8 technical assistance and advice;

9 (9) Enter into a redevelopment agreement with a developer
10 or developers for any project contained in the
11 redevelopment plan; provided that the redevelopment
12 agreement shall contain:

13 (A) The location, area, and size of the parcel to be
14 redeveloped;

15 (B) The use or uses to which the parcel shall be put
16 in conformance with the redevelopment plan, and
17 with applicable state and county laws and
18 ordinances;

19 (C) The period of time for the construction and
20 completion of the redevelopment; and



1 (D) Other terms and conditions that the committee
2 deems necessary;

3 (10) Work closely and communicate with the county
4 government to coordinate the execution of the
5 designated district's planning, incremental projects,
6 work schedules, public works, and budget; and

7 (11) Do any and all things necessary to carry out the
8 committee's purposes and exercise the powers
9 established pursuant to this Act.

10 SECTION 6. District redevelopment plan. (a) The
11 committee shall prepare a redevelopment plan for the designated
12 district, including district development policies, the district
13 improvement program, necessary public facilities, and the
14 development guidelines and rules for the designated district.
15 In carrying out its planning activities, the committee shall
16 comply with applicable state and county statutes, ordinances,
17 and rules. The committee shall liaise with any existing
18 redevelopment authority established by chapter 53, Hawaii
19 Revised Statutes, in preparing and implementing the plan.

20 (b) The committee shall prepare a redevelopment plan for
21 the designated district that:



- 1 (1) Establishes, if applicable, areas principally for:
 - 2 (A) Commercial activities;
 - 3 (B) Processing, construction, manufacturing,
4 transportation, wholesaling, storage, and similar
5 industrial activities;
 - 6 (C) Resort and hotel activities, including uses that
7 provide facilities and services for visitors; or
 - 8 (D) Public facilities and recreational facilities,
9 with detailed standards for height, bulk, size,
10 and location of buildings;
- 11 (2) Includes a district-wide improvement program for
12 necessary district-wide public facilities within the
13 designated district;
- 14 (3) Includes plans, specifications, and estimates of the
15 costs for the development, construction,
16 reconstruction, or improvement of any project in the
17 designated district; provided that the committee may
18 from time to time modify the plans, specifications, or
19 estimates;



- 1 (4) If possible, identifies specific uses for areas in the
2 designated district and the required parceling of land
3 into minimum size areas related to the specific uses;
- 4 (5) Determines the lease rental that should be established
5 for the specific uses and the terms and conditions of
6 the leases; and
- 7 (6) Establishes interim development controls to be
8 implemented during the transition to the execution of
9 the provisions of the redevelopment plan, such as
10 recommending the holdover of a lessee pursuant to
11 section 171-40, Hawaii Revised Statutes, or issuance
12 of permits pursuant to section 171-55, Hawaii Revised
13 Statutes, to existing lessees upon the expiration of
14 their lease terms.
- 15 (c) The district redevelopment plan may provide for the
16 withdrawal or taking for public purposes of the public land or
17 portion of the public land under a lease. The rental shall be
18 reduced in proportion to the value of the portion of the
19 premises condemned, and the lessee shall be entitled to receive
20 the proportionate value of the permanent improvements legally



1 made to or constructed upon the land by the lessee taken in the
2 proportion that it bears to the unexpired term of the lease.

3 (d) The committee shall hold annual public hearings on a
4 proposed redevelopment plan for the designated district, and
5 shall consider the comments received and incorporate any
6 revisions to the plan that may be necessary.

7 (e) Two years after the date the committee is established,
8 the committee shall submit a report to the board with the
9 redevelopment plan recommended by the committee along with
10 recommendations for appropriations by the legislature, the
11 authorization of bonds, or both, to implement the redevelopment
12 plan in a timely manner. The board shall submit the report to
13 the governor and the legislature, not later than twenty days
14 prior to the convening of the 2020 regular session, with a
15 request for the required appropriations, bond authorization, or
16 both.

17 (f) The designated district redevelopment plan shall
18 supersede all other inconsistent ordinances and rules relating
19 to the use, planning, development, and construction on public
20 land in the designated district.



1 SECTION 7. Transfer of documents and property. (a) Upon
 2 the repeal of this Act, all leases, contracts, agreements,
 3 permits, or other documents executed or entered into, by or on
 4 behalf of the redevelopment district planning committee shall
 5 remain in full force and effect and shall be administered by the
 6 department of land and natural resources.

7 (b) Upon the repeal of this Act, all appropriations,
 8 records, equipment, machines, files, supplies, contracts, books,
 9 papers, documents, maps, and other personal property held by the
 10 redevelopment district planning committee shall be transferred
 11 to the department of land and natural resources.

12 SECTION 8. There is appropriated out of the special land
 13 and development fund the sum of \$ or so much thereof as
 14 may be necessary for fiscal year 2018-2019 to carry out the
 15 purposes of this Act.

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

18 PART II

19 SECTION 9. Section 171-36, Hawaii Revised Statutes, is
 20 amended as follows:

21 1. By amending subsection (b) to read:



1 "(b) The board, from time to time, upon the issuance or
2 during the term of any intensive agricultural, aquaculture,
3 commercial, mariculture, special livestock, pasture, hotel,
4 resort, or industrial lease, may:

5 (1) Modify or eliminate any of the restrictions specified
6 in subsection (a) [7]

7 (2) Extend or modify the fixed rental period or the term
8 of the lease [~~7; provided that the aggregate of the~~
9 ~~initial term and any extension granted shall not~~
10 ~~exceed sixty-five years;~~ upon approval by the board
11 of a development agreement proposed by the lessee to
12 make substantial improvements to the existing
13 improvements or to construct new improvements;
14 provided that the remaining term of the lease and the
15 extension granted shall not exceed sixty-five years;

16 or

17 (3) Extend the term and modify any provisions of the
18 lease,
19 to the extent necessary to qualify the lease for mortgage
20 lending or guaranty purposes with any federal mortgage lending
21 agency[7]; to qualify the lessee for any state or private



1 lending institution loan, private loan guaranteed by the State,
2 or any loan in which the State and any private lender
3 participates[~~7~~]; or to amortize the cost of substantial
4 improvements to the demised premises that are paid for by the
5 lessee without institutional financing[~~7~~, ~~such~~]. An extension
6 [being] of the fixed rental period or term of the lease shall be
7 based on the economic life of the improvements as determined by
8 the board or an independent appraiser; provided that the
9 approval of any extension shall be subject to the following:

10 (1) The demised premises have been used substantially for
11 the purpose for which they were originally leased;

12 [~~(2) The aggregate of the initial term and any extension~~
13 ~~granted shall not be for more than sixty five years;~~]

14 (2) The length of the extension granted for the lease or
15 the fixed rental period of the lease shall not extend
16 the fixed rental period of the original lease by more
17 than thirty-nine years;

18 (3) [~~In the event of~~] If a reopening[~~7~~] occurs, the rental
19 for any ensuing period shall be the fair market rental
20 as determined under subsection 171-17(d) at the time
21 of reopening;



- 1 (4) Any federal or private lending institution shall be
- 2 qualified to do business in the State;
- 3 (5) Proceeds of any mortgage or loan shall be used solely
- 4 for the operations or improvements on the demised
- 5 premises;
- 6 (6) Where improvements are financed by the lessee, the
- 7 lessee shall submit receipts of expenditures within a
- 8 time period specified by the board, otherwise the
- 9 lease extension shall be canceled; and
- 10 (7) The rules of the board, setting forth any additional
- 11 terms and conditions, which shall ensure and promote
- 12 the purposes of the demised lands."

13 2. By amending subsections (d) and (e) to read:

14 "(d) The board, from time to time, during the term of any

15 agriculture, intensive agriculture, aquaculture, commercial,

16 mariculture, special livestock, pasture, hotel, resort, or

17 industrial lease, may modify or eliminate any of the

18 [†]restrictions[†] specified in subsection (a), extend or modify

19 the fixed rental period of the lease, or extend the term of the

20 lease upon a showing of significant economic hardship directly

21 caused by:



- 1 (1) State disaster, pursuant to chapter 209, including
2 seismic or tidal wave, tsunami, hurricane, volcanic
3 eruption, typhoon, earthquake, flood, or severe
4 drought; or
- 5 (2) A taking of a portion of the area of the lease by
6 government action by eminent domain, withdrawal, or
7 conservation easement; provided that the portion taken
8 shall not be less than ten per cent of the entire
9 leased area unless otherwise approved by the board;
10 and provided that the board determines that the lessee
11 will not be adequately compensated pursuant to the
12 lease provisions.
- 13 (e) The approval of any extension granted pursuant to
14 subsection (d) shall be subject to the following:
- 15 (1) The demised premises has been used substantially for
16 the purposes for which they were originally leased;
- 17 ~~[-(2)- The aggregate of the initial term and any extension~~
18 ~~granted shall not be for more than fifty five years;~~
- 19 ~~-(3)-~~ (2) The rental shall not be less than the rental for
20 the preceding term;



1 [~~(4)~~] (3) The rules of the board, setting forth any
 2 additional terms and conditions which shall ensure and
 3 promote the purposes of the demised lands; and
 4 [~~(5)~~] (4) The length of the extension shall not exceed a
 5 reasonable length of time for the purpose of providing
 6 relief and shall in no case [~~exceed five years.~~]
 7 extend the original lease's fixed rental period by
 8 more than thirty-nine years."

PART III

10 SECTION 10. If any provision of this Act, or the
 11 application thereof to any person or circumstance, is held
 12 invalid, the invalidity does not affect other provisions or
 13 applications of the Act that can be given effect without the
 14 invalid provision or application, and to this end the provisions
 15 of this Act are severable.

16 SECTION 11. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 12. This Act shall take effect on July 1, 2050;
 19 provided that this Act shall be repealed on June 30, 2028.



Report Title:

Public Lands; Redevelopment; Lease Restrictions; Appropriation;
Kanoelehua Industrial Area Pilot Program

Description:

Establishes a ten-year redevelopment district pilot project within the Kanoelehua Industrial Area and Banyan Drive region until 6/30/2028. Modifies public land lease restrictions. Appropriates funds. (HB2641 HD2)

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