

A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 PART I

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:

9 (1) Establish a ten-year pilot project for the
10 redevelopment of:

- 11 (A) The Banyan drive region; and
- 12 (B) The Kanoelehua industrial area; and

13 (2) Establish and implement guidelines for the pilot
14 project in the areas in paragraph (1) that will:

- 15 (A) Define the policies for the management of public
16 lands in a designated area;
- 17 (B) Establish a plan for a designated area, including
18 district-wide improvements, that is coordinated
19 with state and county land use and planning
20 policies;



1 (C) Implement asset and property management concepts
2 that can optimize income from the public lands
3 and evolve in response to changing principles of
4 property administration; and

5 (D) Make optimal the use of public lands for the
6 economic, environmental, and social benefit of
7 the people of Hawaii.

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

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

11 "Department" means the department of land and natural
12 resources.

13 "Designated district" means the area of public lands
14 designated for development or redevelopment within the
15 Kanoelehua industrial area.

16 "Planning committee" or "committee" means the policy-making
17 committee established for the redevelopment district and
18 designated district.



1 "Public facilities" include streets and highways, storm
2 drainage systems, water systems, street lighting systems, off-
3 street parking facilities, and sanitary sewerage systems.

4 "Redevelopment district" means the area of public lands
5 designated for redevelopment within the Banyan drive region.

6 SECTION 3. Redevelopment district pilot project, Banyan
7 drive region; designated district pilot project, Kanoelehua
8 industrial area; established. (a) The Banyan drive region
9 shall be established as a redevelopment district until June 30,
10 2028.

11 (b) The Kanoelehua industrial area shall be established as
12 a designated district until June 30, 2028.

13 SECTION 4. Planning committee; district administrator;
14 repeal. (a) A single planning committee for both the
15 redevelopment district and designated district shall be
16 established and placed in the department for administrative
17 purposes.

18 (b) The committee shall be a policy-making committee for
19 the redevelopment district and designated district and shall
20 consist of the following nine members.



- 1 (1) The chairperson of the board of land and natural
2 resources, or the chairperson's designee, who shall be
3 an ex-officio, voting member of the committee;
- 4 (2) The director of planning of the county in which the
5 redevelopment district and designated district are
6 located, or the director of planning's designee, who
7 shall be an ex-officio, voting member of the
8 committee; and
- 9 (3) 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 redevelopment district and designated district
19 are located;



1 (B) Two members shall be selected from a list of four
2 names submitted by the mayor of the county in
3 which the redevelopment district and designated
4 district are located;

5 (C) The seven members shall be selected on the basis
6 of their knowledge, experience, and expertise in:

7 (i) Management of small or large businesses;

8 (ii) Economics, banking, investment, or finance;

9 (iii) Real estate development or management;

10 (iv) Cultural and historical matters;

11 (v) Marketing; or

12 (vi) Hotel and resort management; and

13 (D) All seven members shall be residents of the
14 county of Hawaii.

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

17 (d) The members of the committee shall serve without
18 compensation but shall be reimbursed for reasonable expenses,
19 including travel expenses, incurred in the performance of their
20 duties.



1 (e) The committee shall appoint a district administrator,
2 with the approval of the board, who shall be the chief executive
3 officer for the pilot projects. The district administrator
4 shall have experience and expertise in engineering, planning,
5 architecture, real estate, or law. The committee shall set the
6 district administrator's duties, responsibilities, holidays,
7 vacations, leaves, hours of work, and working conditions. The
8 committee shall set the salary of the district administrator,
9 who shall serve at the pleasure of the committee and shall be
10 exempt from chapter 76, Hawaii Revised Statutes.

11 (f) The committee shall hold committee meetings which
12 shall be open to the public and livestreamed.

13 (g) The committee shall be dissolved on June 30, 2028, and
14 the position of district administrator shall cease to exist on
15 June 30, 2028.

16 SECTION 5. Planning committee; powers and duties;
17 generally. The committee shall have the powers and duties
18 related to its functions in the redevelopment district and
19 designated district that are delegated to the committee by the
20 board. In addition, the committee may:



- 1 (1) Through its district administrator, appoint staff and
2 employees, prescribe their duties and qualifications,
3 and fix their salaries, without regard to chapter 76,
4 Hawaii Revised Statutes;
- 5 (2) Through its district administrator, allocate space or
6 spaces that are to be occupied by the committee and
7 appropriate staff, and purchase necessary supplies,
8 equipment, or furniture;
- 9 (3) Prepare a redevelopment plan for the redevelopment
10 district and a redevelopment plan for the designated
11 district and consider any plans for the redevelopment
12 district and the designated district previously
13 established by any existing redevelopment agency
14 established under chapter 53, Hawaii Revised Statutes;
- 15 (4) Notwithstanding any other law to the contrary, make
16 recommendations to the board regarding renewal or
17 renegotiation of leases, or reduction or waiver of
18 lease rents, with the current lessee of any public
19 land lease in connection with any project contained in
20 the redevelopment plan for the redevelopment district



1 or the redevelopment plan for the designated district,
2 on terms and conditions as the committee deems
3 advisable; provided that the reduction or waiver of
4 lease rents shall not exceed one year;

5 (5) Prepare or cause to be prepared plans, design
6 criteria, landscaping, and estimates of costs for the
7 construction, rehabilitation, or repair of any project
8 contained in the redevelopment plan for the
9 redevelopment district or the redevelopment plan for
10 the designated district, and from time to time to
11 modify the plans or estimates;

12 (6) Conduct studies in conjunction with county and state
13 agencies, to include third party studies coordinated
14 with county and state agencies, necessary to determine
15 the appropriate activities for redevelopment in the
16 redevelopment district or the designated district;

17 (7) Make and execute all contracts and instruments that
18 are necessary for the exercise of the committee's
19 powers and functions relating to the redevelopment
20 district and the designated district, including the



1 engaging of the services of consultants for the
2 rendering of professional and technical assistance and
3 advice; provided that any contract with a contractor
4 furnishing construction work shall require compliance
5 with the wage and hour requirements of chapter 104,
6 Hawaii Revised Statutes, and shall require the
7 contractor to furnish weekly payroll reports to the
8 committee to ensure compliance;

9 (8) Work closely and communicate with the county
10 government to coordinate the execution of the
11 redevelopment district's and designated district's
12 planning, incremental projects, work schedules, public
13 works, and budget; and

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

17 SECTION 6. District redevelopment plans. (a) The
18 committee shall prepare a redevelopment plan for the
19 redevelopment district and a redevelopment plan for the
20 designated district. Each redevelopment plan shall include



1 district development policies, the district improvement program,
2 necessary public facilities, and the development guidelines and
3 rules for the redevelopment district and the designated
4 district, respectively. In carrying out its planning
5 activities, the committee shall comply with applicable state and
6 county statutes, ordinances, and rules. The committee shall
7 liaise with any existing redevelopment authority established by
8 chapter 53, Hawaii Revised Statutes, in preparing and
9 implementing each plan.

10 (b) The committee shall prepare a redevelopment plan for
11 the redevelopment district and a redevelopment plan for the
12 designated district that:

- 13 (1) Establishes, if applicable, areas principally for:
- 14 (A) Commercial activities;
 - 15 (B) Processing, construction, manufacturing,
16 transportation, wholesaling, storage, and similar
17 industrial activities;
 - 18 (C) Resort and hotel activities, including uses that
19 provide facilities and services for visitors; or



- 1 (D) Public facilities and recreational facilities,
2 with detailed standards for height, bulk, size,
3 and location of buildings;
- 4 (2) Includes a district-wide improvement program for
5 necessary district-wide public facilities within the
6 redevelopment district or designated district, as
7 applicable;
- 8 (3) Includes plans, specifications, and estimates of the
9 costs for the development, construction,
10 reconstruction, or improvement of any project in the
11 redevelopment district or designated district, as
12 applicable; provided that the committee may from time
13 to time modify the plans, specifications, or
14 estimates;
- 15 (4) If possible, identifies specific uses for areas in the
16 redevelopment district or designated district, as
17 applicable, and the required parceling of land into
18 minimum size areas related to the specific uses;



1 (5) Determines the lease rental that should be established
2 for the specific uses and the terms and conditions of
3 the leases; and

4 (6) Establishes recommendations to the board for interim
5 development controls to be implemented during the
6 transition to the execution of the provisions of the
7 redevelopment plan, such as recommending the holdover
8 of a lessee pursuant to section 171-40, Hawaii Revised
9 Statutes, or issuance of permits pursuant to section
10 171-55, Hawaii Revised Statutes, to existing lessees
11 upon the expiration of their lease terms.

12 (c) Each district redevelopment plan may provide for the
13 withdrawal or taking for public purposes of the public land or
14 portion of the public land under a lease. The rental shall be
15 reduced in proportion to the value of the portion of the
16 premises condemned, and the lessee shall be entitled to receive
17 the proportionate value of the permanent improvements legally
18 made to or constructed upon the land by the lessee taken in the
19 proportion that it bears to the unexpired term of the lease.



1 (d) The committee shall hold annual public hearings on a
2 proposed redevelopment plan for the redevelopment district and
3 designated district, and shall consider the comments received
4 and incorporate any revisions to the plan that may be necessary.
5 The committee shall livestream its meetings or shall provide for
6 equivalent means of simultaneous broadcast.

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 redevelopment district redevelopment plan and the
18 designated district redevelopment plan shall supersede all other
19 inconsistent ordinances and rules relating to the use, planning,



1 development, and construction on public land in the
2 redevelopment district and the designated district.

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

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

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

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

20 PART II



1 SECTION 9. Section 171-41.6, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending its title to read:

4 "[~~f~~]§171-41.6[~~f~~] Lessees within the last [~~ten~~] twenty
5 years of their lease terms; requests for interest."

6 2. By amending subsections (a) through (f) to read:

7 "(a) Notwithstanding any other provision of law to the
8 contrary, and except as otherwise provided in section 171-36(b)
9 and (d), a lessee of public land that is classified as hotel,
10 resort, or commercial and industrial use pursuant to section
11 171-10, and that is subject to the management, administration,
12 or control of the board may, during the last [~~ten~~] twenty years
13 of the term of the original lease, submit a written request
14 together with a disinterested appraisal by a qualified appraiser
15 of the land and existing leasehold improvements to the board to
16 initiate a request for interest process as provided in this
17 section.

18 (b) Within [~~one hundred eighty~~] sixty days of a lessee's
19 written request to initiate a request for interest, the board
20 shall:



- 1 (1) ~~[Appraise the value of the land and any improvements~~
- 2 ~~to the land that existed as of the date of the written~~
- 3 ~~request pursuant to section 171-17(a) and]~~ Review for
- 4 compliance the appraisal submitted under subsection
- 5 (a) and require the awardee of a new lease executed
- 6 pursuant to this section to reimburse the [department]
- 7 lessee for the appraisal; and
- 8 (2) Publish a request for interest and request for
- 9 qualifications notice inviting persons to express
- 10 their interest in leasing the land and their
- 11 qualifications as potential lessees and describing any
- 12 improvements to the land that exist as of the date of
- 13 the written request. The notice shall be given at
- 14 least once statewide and at least once in the county
- 15 where the land is located and shall contain:
- 16 (A) The qualifications required of eligible
- 17 lessees[?] which shall conform to department
- 18 policy for new leases;
- 19 (B) A general description of the land, including the
- 20 address and tax map key, the termination date of



1 the existing lease, and of any improvements to
2 the land that existed as of the date of the
3 written request;

4 (C) That the land to be leased is classified as
5 hotel, resort, or commercial and industrial use
6 pursuant to section 171-10;

7 (D) The appraised value of the land and of any
8 improvements to the land that existed as of the
9 date of the written request;

10 (E) The closing date and manner by which a person
11 shall indicate interest and submit a statement of
12 qualifications; and

13 (F) Notice that a current business plan is a
14 prerequisite to participate at time of auction or
15 direct negotiation, if applicable, and shall be
16 made a term of the lease.

17 (c) Within [~~ninety~~] forty-five days after the closing date
18 specified in the notice, the board shall determine if any
19 persons have qualified under the terms of the request for
20 qualifications and shall notify all persons who expressed



1 interest as to whether they qualified. Qualified bidders shall
2 be required to deposit an amount equal to one per cent of the
3 value of the leasehold improvements as determined by appraisal,
4 but not less than \$1,000, to be held in an interest bearing
5 account as deposit by the department and returned to the
6 applicant at the applicant's cancelation of interest, the
7 applicant's unsuccessful bid at auction, or as a credit against
8 the applicant's successful bid at auction. The board shall also
9 notify the current lessee as to whether any other persons
10 qualified.

11 (d) The board shall enter into direct negotiation with the
12 current lessee immediately upon notification if no other
13 qualified persons have expressed interest in the property[-];
14 provided that the terms of the lease shall conform to the
15 requirements of any federal or private lending institution
16 qualified to do business in the State.

17 (e) If the land is not leased pursuant to subsection (d)
18 within three years before the termination date of the lease, or
19 at any time prior to the termination date of the lease at the
20 election of the current lessee with forty-five day notice to the



1 board and previously qualified bidders, the board shall dispose
2 of the land by public auction as provided in this chapter;
3 provided that the board has determined that at least one person,
4 who:

- 5 (1) Is not the current lessee;
- 6 (2) Has been determined by the board to be qualified; and
- 7 (3) Has submitted a business plan prior to the date of the
8 auction,

9 has expressed interest in leasing the land and any improvements
10 to the land that existed as of the date of the written request
11 in subsection (a). The auction upset price shall be [the
12 ~~greater of~~] the current rent [~~or the fair market rent pursuant~~
13 ~~to section 171-17(d) based upon the appraised value of the land~~
14 ~~and any improvements to the land that existed as of the date of~~
15 ~~the written request~~].

16 The current lessee may bid on a new lease at the public
17 auction. The current lessee's business plan shall be deemed
18 acceptable to the board and the current lessee shall not be
19 required to submit a new business plan; provided that the
20 current lessee is in compliance with the terms of the existing



1 lease and has submitted a business plan prior to the date of the
2 auction.

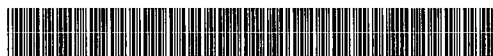
3 (f) Lease terms for any new lease executed pursuant to
4 this section shall be determined by the board and shall:

5 (1) Not commence prior to the termination of the current
6 lease;

7 (2) For the purposes of mortgage or finance shall conform
8 substantially to the guidelines of the Federal
9 Department of Housing and Urban Development Rules for
10 Ground Leases for commercial properties (HUD, 4465.1
11 CHG) or to qualify for any federal or private lending
12 institution qualified to do business in the State;

13 [~~2~~] (3) Establish the rent at [~~no less than the greater~~
14 ~~of the current rent or~~] the fair market rent pursuant
15 to section 171-17(d) based upon the appraised value of
16 the land [~~and any improvements to the land that~~
17 ~~existed as of the date of the written request~~];

18 [~~3~~] (4) If the lease is awarded after public auction to
19 any person other than the current lessee, include a
20 premium equal to the value of any improvements to the



1 land made after the date of the written request in
2 subsection (a), which shall be paid to the current
3 lessee prior to transfer of the land and improvements
4 to the new lessee; and

5 [~~4~~] (5) Include the previously submitted business plan."

6 PART III

7 SECTION 10. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

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

12 SECTION 12. This Act shall take effect on July 1, 2060;
13 provided that this Act shall be repealed on June 30, 2028, and
14 section 171-41.6, Hawaii Revised Statutes, shall be reenacted in
15 the form in which it read on June 30, 2060.



Report Title:

Public Lands; Redevelopment; Lease Restrictions; Appropriation;
Kanoelehua Industrial Area; Banyan Drive Region; Pilot Project

Description:

Establishes ten-year redevelopment district and designated
district pilot projects within the Kanoelehua Industrial Area
and Banyan Drive region until 6/30/2028. Modifies public land
lease restrictions. Appropriates funds. (SB3058 HD2)

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not legislation or evidence of legislative intent.*

