

JAN 18 2023

A BILL FOR AN ACT

RELATING TO THE TRANSFER OF NON-AGRICULTURAL PARK LANDS.

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

1 SECTION 1. The legislature finds that Act 90, Session Laws
2 of Hawaii 2003 (Act 90), was enacted to transfer certain non-
3 agricultural park lands from the department of land and natural
4 resources to the department of agriculture. While three hundred
5 parcels consisting of approximately nineteen thousand acres have
6 been transferred over the past seventeen years, many parcels
7 have not been transferred.

8 The legislature further finds that Act 139, Session Laws of
9 Hawaii 2021, established the Act 90 working group to determine
10 the process, status, challenges, and potential remedies
11 regarding the transfer of non-agricultural park lands to fulfill
12 the purposes of Act 90.

13 The purpose of this Act is to:

14 (1) Adopt a recommendation from the Act 90 working group
15 that authorizes the department of agriculture, prior
16 to any transfer of certain qualifying non-agricultural
17 park lands, to request from the department of land and



S.B. NO. 77

1 natural resources any information related to the
2 establishment of necessary and reasonable easements
3 upon the lands;

4 (2) Require the department of agriculture to accept the
5 transfer of and manage certain qualifying non-
6 agricultural park lands;

7 (3) Require the department of agriculture, prior to
8 offering a lease, to inquire with the department of
9 land and natural resources regarding any easements
10 required for access to landlocked forest reserves or
11 other assets on the lands subject to the lease;

12 (4) Require the lessee to develop a conservation program
13 and plan if conservation resources exist on the land;
14 and

15 (5) Require approval from the board of land and natural
16 resources and the board of agriculture before removing
17 pasture lands for reforestation, or other public
18 purposes.

19 SECTION 2. Section 166E-1, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " ~~[§166E-1]~~ **Legislative findings.** The legislature
2 finds that article XI, section 10, of the ~~[state constitution]~~
3 Hawaii State Constitution establishes that "the public lands
4 shall be used for the development of farm and ~~[homeownership]~~
5 home ownership on as widespread a basis as possible, in
6 accordance with procedures and limitations prescribed by law".

7 Therefore, the legislature finds that certain public lands
8 classified for agricultural use, including all lands designated
9 as intensive agricultural use, special livestock use, and
10 pasture use under section 171-10(1), (2), and (3), by the
11 department of land and natural resources should be transferred
12 to the department of agriculture ~~[, with the approval of the~~
13 ~~board of land and natural resources and the board of~~
14 ~~agriculture,]~~ for purposes and in a manner consistent with
15 article XI, section 10, of the ~~[state constitution.]~~ Hawaii
16 State Constitution.

17 The purpose of this chapter is to ensure the long-term
18 productive use of public lands leased or available to be leased
19 by the department of land and natural resources for agricultural
20 purposes, including pasture use, by allowing these lands to be
21 transferred to and managed by the department of agriculture."



1 SECTION 3. Section 166E-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§166E-3 Transfer and management of non-agricultural park
4 lands and related facilities to the department of agriculture.

5 (a) Upon [~~mutual agreement and~~] approval of the board [~~and the~~
6 ~~board of land and natural resources~~]:

7 (1) The department [~~may~~] shall accept the transfer of and
8 manage certain qualifying non-agricultural park
9 lands [~~+~~], subject to the suitability of the land for
10 agricultural activities and use as determined by the
11 board; and

12 (2) Certain assets, including position counts, related to
13 the management of existing encumbered and unencumbered
14 non-agricultural park lands and related facilities
15 shall be transferred to the department [~~+~~];
16 provided that designated conservation lands not in current
17 agricultural use shall remain under the jurisdiction of the
18 department of land and natural resources.

19 (b) The department shall administer a program to manage
20 the transferred non-agricultural park lands under rules adopted
21 by the board pursuant to chapter 91. The program and its rules



1 shall be separate and distinct from the agricultural park
2 program and its rules. Non-agricultural park lands are not the
3 same as, and shall not be selected or managed as ~~are~~, lands
4 under agricultural park leases. Prior to offering a lease, the
5 department shall inquire with the department of land and natural
6 resources regarding any easements required by the department of
7 land and natural resources to access landlocked forest reserves
8 or other assets of the department of land and natural resources
9 on the lands subject to the lease. A lease issued under this
10 section shall be subject to any easement or right of entry
11 established to allow access for conservation activities,
12 hunting, gathering, and recreation. The lessee shall cooperate
13 with the rules and regulations of the appropriate soil and water
14 conservation district and department in implementing
15 conservation programs and initiatives. Lessees shall at all
16 times practice good husbandry. If conservation resources in
17 need of preservation or protection are identified by the
18 department on the lands subject to the lease, the lessee shall
19 develop a conservation program and a plan to address those
20 concerns. The conservation program shall be run in accordance
21 with a conservation plan, which shall be submitted to the



1 chairperson of the board for acceptance within one year
2 following lease commencement. The conservation plan shall
3 include land clearing practices, cropping systems, irrigation
4 systems, drainage, noxious weed control, and other practices and
5 systems needed to protect the land against deterioration and to
6 prevent environmental degradation; provided that this
7 requirement shall be waived for leases with little or no
8 apparent conservation problems when verified by the appropriate
9 soil and water conservation district. In the event the
10 activities of the lessee under this section shall be found to be
11 unsatisfactory to the department, the department shall notify
12 the lessee and the lessee shall remedy any issue and submit
13 satisfactory proof to the department within sixty days of
14 receiving notice from the department. Notwithstanding any other
15 law to the contrary, the program shall include the following
16 conditions pertaining to encumbered non-agricultural park lands:
17 (1) The lessee or permittee shall perform in full
18 compliance with the existing lease or permit;
19 (2) The lessee or permittee shall not be in arrears in the
20 payment of taxes, rents, or other obligations owed to
21 the State or any county;



S.B. NO. 77

1 (3) The lessee's or permittee's agricultural operation
2 shall be economically viable as specified by the
3 board; and

4 (4) No encumbered or unencumbered non-agricultural park
5 lands with soils classified by the land study bureau's
6 detailed land classification as overall (master)
7 productivity rating class A or B shall be transferred
8 for the use or development of golf courses, golf
9 driving ranges, and country clubs.

10 The transfer of non-agricultural park lands shall be done in a
11 manner to be determined by the board of agriculture.

12 (c) For any encumbered or unencumbered non-agricultural
13 park lands transferred to the department that are not being
14 utilized or required for the public purpose stated, the order
15 setting aside the lands shall be withdrawn and the lands shall
16 be returned to the department of land and natural resources.

17 (d) Before any transfer of certain qualifying non-
18 agricultural park lands, the department may request from the
19 department of land and natural resources any information related
20 to the establishment of necessary and reasonable easements upon
21 the lands.



S.B. NO. 77

1 (e) The department of land and natural resources shall
 2 seek approval from the board of land and natural resources and
 3 the board prior to the removal of any land designated for
 4 pasture leases for reforestation or other public purposes. If
 5 withdrawal is approved by both boards, adequate notice of not
 6 less than one year shall be provided to the then-current lessee
 7 or permittee.

8 (f) Removal of any land pursuant to subsection (e) shall
 9 be subject to the prior approval by the board of land and
 10 natural resources of a feasible and funded action plan submitted
 11 by the division of forestry and wildlife for reforestation or
 12 other conservation purposes on current pasture lease lands."

13 SECTION 4. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect on July 1, 2023.

19

INTRODUCED BY: *Francis X. Sroufe*



S.B. NO. 77

Report Title:

Hawaii Department of Agriculture; Department of Land and Natural Resources; Non-Agricultural Park Lands; Transfer; Easements

Description:

Before the transfer of non-agricultural park lands, authorizes the Department of Agriculture to request information from the Department of Land and Natural Resources related to the establishment of necessary and reasonable easements upon the lands. Amends legislative findings regarding non-agricultural park lands. Requires the Department of Agriculture to accept the transfer of and manage certain qualifying non-agricultural park lands. Requires the Department of Agriculture, prior to offering a lease, to inquire with the Department of Land and Natural Resources regarding any easements required for access to landlocked forest reserves or other assets on the lands subject to the lease. Requires the lessee to develop a conservation program and plan if conservation resources exist on the land. Requires approval from the Board of Land and Natural Resources and the Board of Agriculture before removing pasture lands for reforestation, or other public purposes.

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