
A BILL FOR AN ACT

RELATING TO LAND.

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 legislature also finds that the working group
14 determined that certain lands would be considered eligible for
15 transfer if an easement were provided to allow the department of
16 land and natural resources or the public to access an adjacent
17 parcel.



1 Moreover, the legislature finds that the Act 90 working
2 group determined that certain agricultural lands under the
3 department of land and natural resources have multiple
4 management objectives that clearly fall within the department of
5 land and natural resources' purview and mission. The working
6 group therefore determined that these multi-use lands should
7 remain under the management of the department of land and
8 natural resources. The working group also found that
9 collaborative working relationships between the department of
10 land and natural resources, department of agriculture, and
11 lessees of multi-use agricultural lands can have many public
12 value benefits, including food production, conservation, and
13 natural resources management.

14 Therefore, the purpose of this Act is to adopt
15 recommendations of the Act 90 working group:

- 16 (1) That authorize the board of land and natural resources
17 to:
- 18 (A) Amend and extend existing pasture leases for up
19 to sixty-five years;
 - 20 (B) Issue new pasture leases by negotiation, if the
21 lands are already under pastoral use; and



- 1 (C) Develop agricultural and pasture lease rents
2 based on the value of the land's agricultural
3 uses;
- 4 (2) That authorize the department of agriculture, prior to
5 any transfer of certain qualifying non-agricultural
6 park lands, to request from the department of land and
7 natural resources any information related to the
8 establishment of necessary and reasonable easements
9 upon the lands;
- 10 (3) Regarding agricultural multi-use lands, including:
- 11 (A) Specifying that agricultural multi-use lands
12 under the management of the department of land
13 and natural resources are not subject to transfer
14 to and management by the department of
15 agriculture;
- 16 (B) Requiring the board of land and natural resources
17 to revise the board's land classifications to
18 include agricultural multi-use lands; and
- 19 (C) Establishing and funding an agricultural multi-
20 use lands specialist position to promote
21 collaborative working relationships and leverage



1 funding sources to support natural land
 2 stewardship, reforestation, and other public
 3 purposes on agricultural multi-use lands; and
 4 (4) That require as a condition precedent for any valid
 5 withdrawal of lands out of pasture leases for
 6 reforestation purposes that the division of forestry
 7 and wildlife submit a funded action plan detailing the
 8 planned reforestation process for those lands and that
 9 the withdrawal be approved by the board of land and
 10 natural resources.

11 SECTION 2. Chapter 171, Hawaii Revised Statutes, is
 12 amended by adding a new section to be appropriately designated
 13 and to read as follows:

14 "§171- Existing pasture leases; extension; negotiation;
 15 lease rents. (a) Notwithstanding any law to the contrary, the
 16 board may amend and extend, for a maximum of sixty-five years,
 17 existing pasture leases in furtherance of public purposes that
 18 are the responsibility of the department to promote, including:
 19 (1) Promoting sustainable food production; and
 20 (2) Preserving and enhancing natural resource and public
 21 use.



1 (b) Notwithstanding section 171-59, the board may issue
2 new pasture leases by negotiation; provided that:

3 (1) The lands are already under pastoral use; and

4 (2) The issuance of leases by negotiation furthers public
5 purposes.

6 (c) Notwithstanding any law to the contrary, in developing
7 and calculating agricultural and pastoral lease rents, the board
8 may base such lease rents on the value of the land's
9 agricultural uses.

10 (d) The board shall adopt rules pursuant to chapter 91 to
11 implement this section."

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

14 **"§166E-3 Transfer and management of non-agricultural park**
15 **lands and related facilities to the department of agriculture.**

16 (a) Upon mutual agreement and approval of the board and the
17 board of land and natural resources:

18 (1) The department may accept the transfer of and manage
19 certain qualifying non-agricultural park lands; and

20 (2) Certain assets, including position counts, related to
21 the management of existing encumbered and unencumbered



1 non-agricultural park lands and related facilities
2 shall be transferred to the department[-];
3 provided that lands classified by the department of land and
4 natural resources as agricultural multi-use pursuant to section
5 171-10 shall remain under the management of the department of
6 land and natural resources and shall not be subject to transfer
7 to and management by the department.

8 (b) The department shall administer a program to manage
9 the transferred non-agricultural park lands under rules adopted
10 by the board pursuant to chapter 91. The program and its rules
11 shall be separate and distinct from the agricultural park
12 program and its rules. Non-agricultural park lands are not the
13 same as, and shall not be selected or managed as are lands under
14 agricultural park leases. Notwithstanding any other law to the
15 contrary, the program shall include the following conditions
16 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;



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."



1 SECTION 4. Section 171-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§171-10 Classes of lands.** The board of land and natural
4 resources shall classify all public lands and in doing so be
5 guided by the following classifications:

6 1. Intensive agricultural use

7 (A) First class--Lands highly productive of intensive
8 crops such as sugarcane, pineapples, truck crops, and orchard
9 crops.

10 (B) Second class--Lands having medium productivity for
11 intensive crops.

12 (C) Third class--Lands having fair to marginal
13 productivity for intensive crops.

14 2. Special livestock use

15 (A) First class--Lands highly suitable for special
16 livestock uses such as swine, dairy, and poultry production. In
17 making the determination, consideration shall be given to
18 drainage, climate, topography, proximity to market, and
19 transportation and compatibility to adjoining land use, among
20 other considerations. "Dairy" as used for disposition purposes
21 means a "dry lot" dairy without allowance for grazing.



1 (B) Second class--Lands suitable for special livestock
2 uses, but inferior to those of first class.

3 3. Pasture use

4 (A) First class--Lands having a potentially high economic
5 animal unit carrying capacity and capable of correspondingly
6 high liveweight gains per acre per year, such as, less than five
7 acres per animal unit per year and more than one hundred pounds
8 live beef gains per animal unit per acre per year.

9 (B) Second class--Lands having a potentially medium
10 economic animal unit carrying capacity and capable of moderate
11 liveweight gains per acre per year, such as, five to twenty
12 acres per animal unit per year and twenty to one hundred pounds
13 live beef gains per animal unit per acre per year.

14 (C) Third class--Lands having a relatively low animal unit
15 carrying capacity and producing correspondingly low liveweight
16 gains per acre per year, such as, more than twenty acres per
17 animal unit per year and less than twenty pounds average live
18 beef gains per animal unit per acre per year.

19 4. Commercial timber use

20 (A) First class--Lands of high suitability for growth of
21 merchantable timber having mean annual growth potential under



1 normal forest management practices with yields exceeding amounts
2 such as one thousand board feet per acre, and with location and
3 terrain presenting favorable logging, transportation, and
4 marketing conditions.

5 (B) Second class--Lands of high suitability for growth of
6 merchantable timber having mean annual growth potential under
7 normal forest management practices with yields exceeding amounts
8 such as one thousand board feet per acre, and with location and
9 terrain presenting less favorable logging, transportation, and
10 marketing conditions.

11 (C) Third class--Lands of medium suitability for growth of
12 merchantable timber having mean annual growth potential in
13 amounts such as five hundred to one thousand board feet per acre
14 under normal forest management practices, and with location and
15 terrain presenting favorable logging, transportation, and
16 marketing conditions.

17 (D) Fourth class--Lands of medium suitability for growth
18 of merchantable timber having mean annual growth potential in
19 amounts such as five hundred to one thousand board feet per acre
20 under normal forest management practices, and with location and



1 terrain presenting less favorable logging, transportation, and
2 marketing conditions.

3 (E) Fifth class--Lands of relatively low suitability for
4 growth of merchantable timber having mean annual growth
5 potential less than an amount such as five hundred board feet
6 per acre, and with location and terrain presenting favorable
7 logging, transportation, and marketing conditions.

8 (F) Sixth class--Lands of relatively low suitability for
9 growth of merchantable timber having mean annual growth
10 potential less than an amount such as five hundred board feet
11 per acre, and with location and terrain presenting less
12 favorable logging, transportation, and marketing conditions.

13 5. Quarry use

14 Lands having sufficient quantity and quality of rock,
15 gravel, and sand for purpose of commercial use.

16 6. Mining use

17 Lands bearing sufficient quantity and quality of mineral
18 products for purpose of commercial mining and use.

19 7. Recreational use



1 Lands suitable for use and development as parks,
2 playgrounds, historical sites, natural area, camp grounds,
3 wildlife refuge, scenic sites, and other such uses.

4 8. Watershed use

5 Lands suitable for the use and development as watersheds or
6 for the development of water, and requiring necessary
7 restrictions on other uses.

8 9. Residential use

9 Lands suitable and economically feasible for residential
10 development and use.

11 10. Commercial and industrial use

12 Lands suitable and economically feasible for commercial and
13 industrial development and use.

14 11. Hotel, apartment, and motel use

15 Lands suitable and economically feasible for hotel,
16 apartment, and motel development and use.

17 12. Resort use

18 Lands suitable and economically feasible for resort
19 development and use.

20 13. Agricultural multi-use



1 Lands having agricultural value as well as natural
2 resource, conservation, or public recreation value.

3 [~~13.~~] 14. Unclassified uses

4 Lands not otherwise classifiable under the foregoing
5 sections."

6 SECTION 5. Section 171-37, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§171-37 Lease restrictions; intensive agricultural and**
9 **pasture uses.** In addition to the restrictions provided in
10 section 171-36, the following restrictions shall apply to all
11 leases for intensive agricultural and pasture uses:

12 (1) The lease term shall not be less than fifteen years
13 nor more than thirty-five years, except that if the
14 type of disposition requires the lessee to occupy the
15 premises as the lessee's own personal residence, the
16 lease term may be longer than thirty-five years;
17 provided that the lease term shall not be in excess of
18 seventy-five years, except that in the case of a tree-
19 crop orchard lease, the term shall not be in excess of
20 forty-five years;



1 (2) If the land being leased is not immediately productive
2 and requires extensive expenditures for clearing,
3 conditioning of the soil, the securing of water, the
4 planting of grasses, or the construction of
5 improvements, as the result of which a longer term is
6 necessary to amortize the lessee's investment, then
7 the lease term may be longer than thirty-five years,
8 but not in excess of fifty-five years; and
9 (3) The land leased hereunder, or any portion thereof,
10 shall be subject to withdrawal by the board at any
11 time during the term of the lease with reasonable
12 notice and compensation, as provided in section 171-
13 37.5, for public uses or purposes, including
14 residential, commercial, industrial, or resort
15 developments, for constructing new roads or
16 extensions, or changes in line or grade of existing
17 roads, for rights-of-way and easements of all kinds,
18 and shall be subject to the right of the board to
19 remove soil, rock, or gravel as may be necessary for
20 the construction of roads and rights-of-way within or
21 without the demised premises. No lands in pasture



1 leases shall be withdrawn for reforestation purposes
2 unless:
3 (A) The division of forestry and wildlife submits a
4 funded action plan to the board that details the
5 planned reforestation process for those lands;
6 and
7 (B) The board approves the withdrawal.

8 "Tree-crop", as used in this section, shall be exclusive of
9 papaya and banana."

10 SECTION 6. (a) There is established within the department
11 of land and natural resources division of forestry and wildlife
12 one full-time equivalent (1.0 FTE) agricultural multi-use lands
13 specialist position.

14 (b) The agricultural multi-use lands specialist shall
15 facilitate collaborative relationships between the department of
16 land and natural resources, department of agriculture, and
17 agricultural multi-use land tenants and shall leverage federal
18 funds from the National Resources Conservation Service and other
19 funding sources to support natural land stewardship,
20 reforestation, and other public purposes on agricultural multi-
21 use lands.



1 SECTION 7. There is appropriated out of the general
 2 revenues of the State of Hawaii the sum of \$ or so
 3 much thereof as may be necessary for fiscal year 2023-2024 and
 4 the same sum or so much thereof as may be necessary for fiscal
 5 year 2024-2025 for one full-time equivalent (1.0 FTE)
 6 agricultural multi-use lands specialist position established
 7 pursuant to section 6 of this Act.

8 The sums appropriated shall be expended by the department
 9 of land and natural resources for the purposes of this Act.

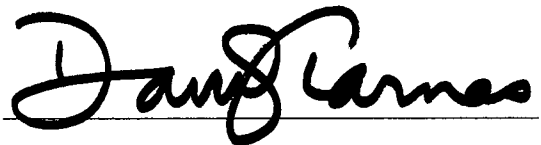
10 SECTION 8. This Act does not affect rights and duties that
 11 matured, penalties that were incurred, and proceedings that were
 12 begun before its effective date.

13 SECTION 9. Statutory material to be repealed is bracketed
 14 and stricken. New statutory material is underscored.

15 SECTION 10. This Act shall take effect upon its approval;
 16 provided that section 7 shall take effect on July 1, 2023.

17

INTRODUCED BY:



JAN 11 2023



H.B. NO. 14

Report Title:

Act 90 Working Group Recommendations; DOA; DLNR; Non-agricultural Park Lands; Withdrawal; Pasture Leases; Funded Action Plan; BLNR Approval; Transfer; Easements; Public Lands; Pasture Leases; Agricultural Multi-use Lands; Agricultural Multi-use Lands Specialist; Appropriation

Description:

Authorizes the board of land and natural resources to: (1) Amend and extend existing pasture leases for up to sixty-five years; (2) Issue new pasture leases by negotiation, if the lands are already under pastoral use; and (3) Develop agricultural and pasture lease rents based on the value of the land's agricultural uses. Specifies that agricultural multi-use lands under the management of the department of land and natural resources are not subject to transfer to and management by the department of agriculture. 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. Requires the board of land and natural resources to revise its land classifications to include agricultural multi-use lands. Requires as a condition precedent for any valid withdrawal of lands out of pasture leases for reforestation purposes that the division of forestry and wildlife submit a funded action plan detailing the planned reforestation process for those lands and that the withdrawal be approved by the board of land and natural resources. Establishes and appropriates funds for an agricultural multi-use lands specialist position.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

