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government for purposes of administration.

6. Article [V] XVI is amended by adding a new section to be appropriately designated and to read:

JUDICIARY: TRANSITION: EFFECTIVE DATE

Section 5. The three members initially appointed to the judicial selection commission by the governor shall serve for terms of two, four and six years respectively. The members initially appointed to the commission by the president of the senate and the speaker of the house of representatives shall serve for two years. The two members initially appointed to the commission by the chief justice of the supreme court shall serve terms of four and six years respectively. The two members initially elected to the commission by the members of the bar of the [state] State shall serve for terms of four and six years respectively. The current terms of justices and judges in office shall terminate as heretofore provided by law, subject to earlier termination and removal as provided in [this article.] Article [V.] VI. The amendments to Article [V] VI shall take effect upon ratification. The [Judicial Selection Commission] judicial selection commission shall be created no later than April 1, 1979.

COMMITTEE PROPOSAL NO. 11 -

RELATING TO HAWAIIAN AFFAIRS.

RESOLVED, that the following be agreed upon as amending Article XI of the State Constitution and the Hawaiian Homes Commission Act, 1920, as amended.*

1. Section 1 of Article XI is amended to read:

HAWAIIAN HOMES COMMISSION ACT

Section 1. Anything in this constitution to the contrary notwithstanding, the Hawaiian Homes Commission Act, 1920, enacted by the Congress, as the same has been or may be amended prior to the admission of the State, is hereby adopted as a law of the State, subject to amendment or repeal by the legislature[,]; provided[,] that[,] if and to the extent that the United States shall so require, [said] such law shall be subject to amendment or repeal only with the consent of the United States and in no other manner[,]; provided[,] further[,] that[,] if the United States shall have been provided or shall provide that particular provisions or types of provisions of [said] such Act may be amended in the manner required for ordinary state legislation, such provisions or types of provisions may be so amended. The proceeds and income from Hawaiian home lands shall be used only in accordance with the terms and spirit of [said] such Act[, and the]. [(A)] The legislature [may, from time to time, make additional] shall

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 56, Com. Whole Rep. No. 11, Stand. Com. Rep. No. 85, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.

make sufficient sums available for the following purposes (of): (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social[,] and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian [Home Lands:] home lands: in furtherance of (1), (2), (3) and (4) herein, [said Act] by appropriating the same in the manner provided by law.

[(B)] Thirty percent of the [State] state receipts derived from the leasing of cultivated sugarcane lands under any provision of law or from water licenses shall be transferred to the native Hawaiian rehabilitation fund. [Section] section 213 of the Hawaiian Homes Commission Act, 1920, for the purposes enumerated in [said] that section. Thirty percent of the [State] state receipts derived from the leasing of lands cultivated as sugarcane lands on the effective date of [the] this section [herein] [1(B)] shall continue to be so transferred to the native Hawaiian rehabilitation fund whenever [said] such lands are sold, developed, leased, utilized, transferred, set aside[,] or otherwise disposed of for purposes other than the cultivation of sugarcane. There shall be no ceiling established for the aggregate amount transferred into the native Hawaiian rehabilitation fund.

2. Section 213 of the Hawaiian Homes Commission Act, 1920, is amended to add a new subsection (b) (8) to read as follows:

[Sec.] Section 213. Funds and accounts.

(b) There are established in the treasury of the State [seven] eight special funds, to be known respectively as the Hawaiian home development fund, the Hawaiian home administration account, the Hawaiian loan guarantee fund, the Hawaiian loan interest fund, the borrowed money fund, the Hawaiian home trust fund, [and] the Hawaiian home education fund[.][,] and the native Hawaiian rehabilitation fund.

(8) Native Hawaiian rehabilitation fund. Pursuant to Article [XI] XII, Section 1 [(B)] , of the State Constitution, thirty percent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, shall be deposited into this fund. The department shall use this money solely for the rehabilitation of native Hawaiians which shall include but not be limited to the educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

3. Section 204 is amended to read:

Section 204. [()Control by department of "available lands[" ,]" return to board of

land and natural resources, when [] Upon the passage of this [act.] Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this [title] Act, except that:

(1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the lease. If the land is covered by a lease containing a withdrawal clause, as provided in subdivision (d) of section 73 of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department [, with the approval of the Secretary of the Interior,] gives notice to [it] the board that the department is of the opinion that the lands are required by it for the purposes of this [title] Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in subdivision (d) of section 73 of the Hawaiian Organic Act;

(2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, [as may not be immediately needed for the purposes of this Act,] not leased as authorized by the provisions of section 207(a) of this Act, may be returned to the board of land and natural resources [and may be leased by it as provided in chapter 171, Hawaii Revised Statutes] as provided under section 212 of this Act, or may be retained for management by the department.

[Any lease by the board of land and natural resources of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board of land and natural resources, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided, that the minimum withdrawal-notice period shall be specifically stated in such lease.]

In the management of any retained available lands not required for leasing under section 207(a), the department may dispose of such lands to the public, including native Hawaiians, on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in chapter 171[:], Hawaii Revised Statutes; provided[,] that the department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act[:]; provided further[,] that the department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of a lease of Hawaiian home lands to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial[,] or other business purposes, in accordance with the procedure set forth in section 171-59, Hawaii Revised Statutes, subject to the notice requirement of

section 171-16(c), Hawaii Revised Statutes, and the lease rental limitation imposed by section 171-17(b)[.], Hawaii Revised Statutes.

{(3) The department shall not lease, use, nor dispose of more than twenty thousand (20,000) acres of the area of Hawaiian home lands, for settlement by native Hawaiians, in any calendar five-year period.}

[4] (3) The department may, with the approval of [the governor and] the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, exchange the title to available lands for land, privately or publicly owned, of an equal value. All land so acquired by the department shall assume the status of available lands as though [the same] such land were originally designated as [such] available lands under [Section] section 203 hereof, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by [Section] section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this [sub]paragraph, lands "publicly owned" means land owned by a county or the State or the United States.

4. Section 212 is amended to read:

Section 212. [()Lands returned to control of board of land and natural resources. ()]
The department may return any Hawaiian home lands not leased as authorized by the provisions of section 207 of this [title] Act to the control of the board of land and natural resources. Any Hawaiian home lands so returned shall, until the department gives notice as hereinafter in this section provided, resume and maintain the status of public lands in accordance with the provisions of the [()Hawaii Revised Statutes()]; [except] provided that such lands may not be sold, leased, set aside, used, transferred[,] or otherwise disposed of except under a general lease only. Any lease by the board of Hawaiian home lands hereafter entered into shall contain a withdrawal clause, and the lands so leased shall be withdrawn by the board, for the purpose of this Act, upon the department giving at its option, not less than one nor more than five years' notice of such withdrawal; provided[,] that the minimum withdrawal-notice period shall be specifically stated in such lease. Each such lease, whether or not stipulated therein, shall be deemed subject to the right and duty of the board of land and natural resources to terminate the lease and return the lands to the department whenever the department[, with the approval of the Secretary of the Interior,] gives notice to the board that the department is of the opinion that the lands are required [by it for leasing as authorized by the provisions of section 207 of this title or for a community pasture].

Notwithstanding the provisions of [Hawaii Revised Statutes Section] section 171-95, Hawaii Revised Statutes, in the leasing of Hawaiian home lands by the board to a public utility or other governmental agency, where such use directly benefits the department of Hawaiian home lands or the homestead lessees, the rental may be nominal; in all other instances, the lease rental shall be no less than the value determined in accordance with [Hawaii Revised Statutes Section] section 171-17(b) [.] , Hawaii Revised Statutes.

Any general lease of Hawaiian home lands hereafter entered into by the board shall be [null and] void unless prior to the disposition of [said] such lease by public auction, direct negotiation or otherwise, approval shall be obtained from the department of Hawaiian home lands.

5. Section 221 is amended by adding a new subsection (f):

Section 221. [(Water.)]

(f) Water systems in the exclusive control of the department shall remain under its exclusive control[; if] . If any provision or the application of such provision is inconsistent with the provision contained herein, this section shall control.

Water systems [includes] include all real and personal property together with all improvements to [the same] such systems acquired or constructed by the department for the distribution and control of such water for domestic or agricultural use.

COMMITTEE PROPOSAL NO. 12

RELATING TO HAWAIIAN EDUCATION.

RESOLVED, that the following be agreed upon as adding a new section to Article IX, Article XIII, Article XIV and Article I.*

1. Article IX is amended by adding a new section to read:

HAWAIIAN EDUCATION PROGRAM

Section 4. The State shall promote the study of Hawaiian culture, history[,] and language.

[Section .] The State shall provide for a [comprehensive] Hawaiian education program[,] consisting of language, culture and history[,] [as part of the regular curriculum of] in the public schools. The use of community expertise shall be encouraged as a suitable and essential means in furtherance of the Hawaiian [language, culture and history] education program.

2. The title of Article XIII is amended to read:

*For background, discussion and rationale on the amendments proposed herein, refer to Stand. Com. Rep. No. 57, Com. Whole Rep. No. 12, Stand. Com. Rep. No. 86, Stand. Com. Rep. No. 104 and the appropriate Second Reading debate.