
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. This Act shall be known as the New Directions
2 for Diversified Agriculture Act.

3 SECTION 2. Chapter 167, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 **"§167- Irrigation repair and maintenance special fund.**

7 (a) There is established in the state treasury the irrigation
8 repair and maintenance special fund which shall be administered
9 by the board.

10 (b) Moneys in the irrigation repair and maintenance
11 special fund shall be used to fund repair and maintenance of the
12 following irrigation systems:

13 (1) East Kauai irrigation system;

14 (2) Kekaha ditch;

15 (3) Kokee ditch;

16 (4) Maui Land/Pioneer Mill irrigation system;

17 (5) Waiahole ditch;

18 (6) Lower Hamakua irrigation system;



- 1 (7) Molokai irrigation system;
- 2 (8) Upcountry Maui irrigation system;
- 3 (9) Waimanalo irrigation system;
- 4 (10) Waimea irrigation system;
- 5 (11) East Maui irrigation system;
- 6 (12) Kauai coffee irrigation system;
- 7 (13) West Maui irrigation system;
- 8 (14) Kau irrigation system;
- 9 (15) Honomalino irrigation system; and
- 10 (16) Other privately-owned irrigation systems on former
- 11 sugarcane and pineapple plantation lands that have
- 12 been converted to diversified agriculture.

13 (c) The irrigation repair and maintenance special fund
14 shall be funded by legislative appropriations, including general
15 obligation bond funds and federal funds.

16 (d) Landowners may apply for funding assistance from the
17 irrigation repair and maintenance special fund; provided that
18 the landowner:

- 19 (1) Provides matching funding equal to the amount received
- 20 from the irrigation repair and maintenance special
- 21 fund;

1 (2) Agrees to file a petition for declaratory ruling
2 pursuant to section 205-45 designating all lands
3 within two miles of the water produced by the
4 irrigation system as important agricultural lands as
5 defined under chapter 205 and notifies the board and
6 county of the petition and designation for the purpose
7 of inclusion on maps; and

8 (3) Agrees to use all lands served by the water produced
9 by the irrigation system for diversified agriculture
10 production.

11 The board shall develop processes, policies, standards, and
12 criteria for selecting the landowners that are to receive
13 funding and the amount of such funding. The board shall also
14 develop processes, policies, standards, and criteria for
15 determining the amount of funding provided to irrigation systems
16 in subsection (b) owned by the State.

17 (e) Landowners who apply for and receive funding from the
18 irrigation repair and maintenance special fund, and who provide
19 matching funding under subsection (d)(1), may apply for an
20 income tax credit for their matching funds as specified under
21 section 235- .

22 (f) As used in this section:



1 "Diversified agriculture" means agricultural operations
2 that produce diversified agricultural products, including
3 flowers, nursery products, vegetables, herbs, melons, seed
4 crops, macadamia nuts, aquaculture, coffee, milk, cattle, eggs,
5 hogs, and fruit but excluding sugarcane and pineapple.

6 "Irrigation system" means the agricultural system of
7 intakes, diversions, wells, ditches, siphons, pipes, reservoirs,
8 and accessory facilities established to provide water for
9 agricultural production.

10 "Landowner" means a private entity that:

11 (1) Owns agricultural land, formerly used as a sugarcane
12 or pineapple plantation, that contains a privately-
13 owned irrigation system that is necessary for the
14 sustained production of diversified agriculture on the
15 land served by the irrigation system; or

16 (2) Owns, or partially owns, an irrigation system listed
17 in subsection (b) (1) through (15)."

18 SECTION 3. Chapter 235, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:

21 "**§235- _____ Irrigation repair and maintenance special fund**
22 **tax credit.** (a) There shall be allowed to each qualified



1 taxpayer, pursuant to section 167- (e) and subject to the
2 taxes imposed by this chapter, an income tax credit which shall
3 be deductible from the qualified taxpayer's net income tax
4 liability, if any, imposed by this chapter for the taxable year
5 in which the credit is properly claimed.

6 The amount of the credit shall be equal to the amount of
7 matching funds provided by the qualified taxpayer in obtaining
8 funding from the irrigation repair and maintenance special fund,
9 as specified in section 167- (d)(1); provided that:

10 (1) The amount of the credit shall not exceed \$ _____ per
11 year in the aggregate for all qualified taxpayers;

12 (2) The amount of the credit shall not exceed \$ _____ in the
13 aggregate for all qualified taxpayers for all taxable
14 years; and

15 (3) The tax credit shall be available for matching fund
16 costs incurred after December 31, 2005, and before
17 January 1, 2026.

18 In the case of a partnership, S corporation, estate, or
19 trust, the cost upon which the tax credit is computed shall be
20 determined at the entity level. Distribution and share of
21 credit shall be determined pursuant to section 235-110.7(a).



1 If a deduction is taken under Section 179 (with respect to
2 election to expense depreciable business assets) of the Internal
3 Revenue Code, no tax credit shall be allowed for that portion of
4 the construction or renovation cost for which the deduction is
5 taken.

6 The basis of eligible property for depreciation or
7 accelerated cost recovery system purposes for state income taxes
8 shall be reduced by the amount of credit allowable and claimed.
9 In the alternative, the qualified taxpayer shall treat the
10 amount of the credit allowable and claimed as a taxable income
11 item for the taxable year in which it is properly recognized
12 under the method of accounting used to compute taxable income.

13 (b) If the tax credit under this section exceeds the
14 qualified taxpayer's income tax liability, the excess of credit
15 over liability may be used as a credit against the qualified
16 taxpayer's income tax liability until exhausted. All claims for
17 a tax credit under this section shall be filed on or before the
18 end of the twelfth month following the close of the taxable year
19 for which the credit may be claimed. Failure to comply with the
20 foregoing provision shall constitute a waiver of the right to
21 claim the credit.



1 (c) The director of taxation shall prepare any forms that
2 may be necessary to claim a credit under this section. The
3 director may also require the qualified taxpayer to furnish
4 information to ascertain the validity of the claim for credit
5 made under this section and may adopt rules necessary to
6 effectuate the purposes of this section pursuant to chapter 91.

7 (d) To qualify for the income tax credit, the qualified
8 taxpayer shall be in compliance with all applicable federal,
9 state, and county statutes, rules, and regulations.

10 (e) No qualified taxpayer that claims a credit under this
11 section shall claim any other tax credit for the same costs for
12 which a credit is claimed under this section.

13 (f) No later than March 31 of each year following the year
14 in which the cost of matching funds provided by the qualified
15 taxpayer in obtaining funding from the irrigation repair and
16 maintenance special fund were incurred, each qualified taxpayer
17 claiming the tax credit shall submit a written, notarized
18 statement to the director of taxation identifying the matching
19 fund costs incurred in the year being claimed.

20 (g) The department of taxation, with the assistance of the
21 board, shall maintain records of the names of qualified
22 taxpayers eligible for the credit and the total amount of



1 eligible costs incurred in each taxable year, beginning after
2 December 31, 2005, by each qualified taxpayer. The department
3 of taxation, with the assistance of the board, shall compile all
4 eligible matching fund costs, and upon each determination, shall
5 issue a certificate to the taxpayer pursuant to subsection (h)
6 indicating:

7 (1) The amount of matching fund costs eligible for the tax
8 credit;

9 (2) The amount of the tax credit that the qualified
10 taxpayer may use for the tax year in which the costs
11 were incurred; and

12 (3) The amount of previous tax credits the qualified
13 taxpayer may carry forward.

14 (h) The department of taxation shall certify no more than
15 \$ in credits in the aggregate, including carryforward
16 amounts, for all qualified taxpayers for each taxable year;
17 provided that if the total amount claimed on all statements in
18 the aggregate, including carryforward amounts, filed by March 31
19 for the previous tax year amounts to:

20 (1) \$ or less, the department of taxation shall
21 certify all claims; and

22 (2) More than \$, the department of taxation shall



1 certify claims for each qualified taxpayer in an
2 amount proportional to the total amount claimed.

3 The department of taxation shall certify no more than
4 \$ in credits, including carryforward amounts, in the
5 aggregate for all qualified taxpayers for all taxable years.

6 (i) As used in this section "qualified taxpayer" means the
7 same as "landowner" under section 167- (e)."

8 SECTION 4. The director of finance is authorized to issue
9 general obligation bonds in the sum of \$30,000,000 or so much
10 thereof as may be necessary, and the same sum or so much thereof
11 as may be necessary is appropriated for fiscal year 2006-2007 to
12 be deposited into the irrigation repair and maintenance special
13 fund and used for the repair and maintenance of the irrigation
14 systems specified under subsection (b) of section 167- ,
15 Hawaii Revised Statutes; provided that \$50,000,000 in federal
16 matching funds are also deposited into the irrigation repair and
17 maintenance special fund.

18 The sum appropriated shall be expended by the department of
19 budget and finance for the purposes of this Act.

20 SECTION 5. There is appropriated out of the irrigation
21 repair and maintenance special fund the sum of \$80,000,000 or so
22 much thereof as may be necessary for fiscal year 2006-2007 to be



1 expended for the repair and maintenance of the irrigation
2 systems specified under subsection (b) of section 167- ,
3 Hawaii Revised Statutes.

4 The sum appropriated shall be expended by the board of
5 agriculture for the purposes of this Act.

6 SECTION 6. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$11,886,000 or so
8 much thereof as may be necessary for fiscal year 2006-2007 for
9 repair and maintenance of irrigation systems as follows:

- 10 (1) \$2,336,000 for the East Kauai irrigation system;
- 11 (2) \$500,000 for the Waimanalo irrigation system;
- 12 (3) \$2,500,000 for the Molokai irrigation system;
- 13 (4) \$4,850,000 for the Waimea irrigation system; and
- 14 (5) \$1,700,00 for the Lower Hamakua irrigation system.

15 The sum appropriated shall be expended by the board of
16 agriculture for the purposes of this Act.

17 SECTION 7. There is appropriated out of the general
18 revenues of the State of Hawaii the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2006-2007 for
20 operational, management, and administrative costs incurred by
21 the board of agriculture in carrying out the provisions of this
22 Act.

1 The sum appropriated shall be expended by the board of
2 agriculture for the purposes of this Act.

3 SECTION 8. The appropriation made for the capital
4 improvement irrigation repair and maintenance projects
5 authorized in this Act shall not lapse at the end of the fiscal
6 year for which the appropriation is made; provided that all
7 moneys from the appropriation unencumbered as of June 30, 2008,
8 shall lapse as of that date.

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

11 SECTION 10. This Act shall take effect upon its approval;
12 provided that:

13 (1) Section 3 shall take effect on July 1, 2006, and apply
14 to taxable years beginning after December 31, 2005;
15 and

16 (2) Sections 4, 5, 6, 7, and 8 shall take effect on July
17 1, 2006.

H.B. 2179 H.D. 1

Report Title:

Irrigation Repair and Maintenance Special Fund; Tax Credit

Description:

Establishes the Irrigation Repair and Maintenance Special Fund (Special Fund). Establishes a tax credit for matching funds provided by landowners who receive funding from the Special Fund. Appropriates funds for various irrigation systems and for the Special Fund. (HB2179 HD1)

