
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 owned
3 or controlled by the landowner within two miles of the
4 water produced by the irrigation system as important
5 agricultural lands as defined under chapter 205 and
6 notifies the board and county of the petition and
7 designation for the purpose of inclusion on maps; and
8 (3) Agrees to use, or provide for the use of, all lands
9 owned or controlled by the land owner and served by
10 the water produced by the irrigation system for
11 agricultural production.

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

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



1 (f) As used in this section:

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

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

11 "Landowner" means a private entity that:

12 (1) Owns agricultural land, formerly used as a sugarcane
13 or pineapple plantation, that contains a privately-
14 owned irrigation system that is necessary for the
15 sustained production of diversified agriculture on the
16 land served by the irrigation system; or
17 (2) Owns, or partially owns, an irrigation system listed
18 in subsection (b) (1) through (15)."

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



1 "§235- Irrigation repair and maintenance special fund
2 tax credit. (a) Pursuant to section 167- (e), there shall
3 be allowed to each qualified taxpayer, subject to the taxes
4 imposed by this chapter, an income tax credit that shall be
5 deductible from the taxpayer's net income tax liability, if any,
6 imposed by this chapter for the taxable year in which the credit
7 is properly claimed.

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

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

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

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

20 In the case of a partnership, S corporation, estate, or
21 trust, the cost upon which the tax credit is computed shall be



1 determined at the entity level. Distribution and share of
2 credit shall be determined pursuant to section 235-110.7(a).

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

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

15 (b) If the tax credit under this section exceeds the
16 qualified taxpayer's income tax liability, the excess of credit
17 over liability may be used as a credit against the qualified
18 taxpayer's income tax liability in subsequent years until
19 exhausted.

20 All claims for a tax credit under this section shall be
21 filed on or before the end of the twelfth month following the
22 close of the taxable year for which the credit may be claimed.



1 Failure to comply with the foregoing provision shall constitute
2 a waiver of the right to claim the credit.

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

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

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

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



1 (g) The department, with the assistance of the board of
2 agriculture, shall maintain records of the names of qualified
3 taxpayers eligible for the credit and the total amount of
4 eligible costs incurred in each taxable year by each qualified
5 taxpayer. The department, with the assistance of the board of
6 agriculture, shall compile all eligible matching fund costs and,
7 upon each determination, shall issue a certificate to the
8 taxpayer pursuant to subsection (h) indicating:

9 (1) The amount of matching fund costs eligible for the tax
10 credit;

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

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

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



1 (1) \$ _____ or less, the department shall certify all
2 claims; and

3 (2) More than \$ _____, the department shall certify
4 claims for each qualified taxpayer in an amount
5 proportional to the total amount claimed.

6 The department shall certify no more than \$ _____ in credits,
7 including carryforward amounts, in the aggregate for all
8 qualified taxpayers for all taxable years.

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

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

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

1 SECTION 5. There is appropriated out of the irrigation
2 repair and maintenance special fund the sum of \$80,000,000 or so
3 much thereof as may be necessary for fiscal year 2006-2007 to be
4 expended for the repair and maintenance of the irrigation
5 systems specified under section 167- (b), Hawaii Revised
6 Statutes.

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

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

- 13 (1) \$2,336,000 for the East Kauai irrigation system;
- 14 (2) \$500,000 for the Waimanalo irrigation system;
- 15 (3) \$2,500,000 for the Molokai irrigation system;
- 16 (4) \$4,850,000 for the Waimea irrigation system; and
- 17 (5) \$1,700,00 for the Lower Hamakua irrigation system.

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

20 SECTION 7. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much
22 thereof as may be necessary for fiscal year 2006-2007 for



1 operational, management, and administrative costs incurred by
2 the board of agriculture in carrying out the provisions of this
3 Act.

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

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

12 SECTION 9. New statutory material is underscored.

13 SECTION 10. This Act shall take effect on July 1, 2010;
14 provided that sections 4, 5, 6, 7, and 8 shall take effect on
15 July 1, 2010.



HB 2179
HD2

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 HD2)

