
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Chapter 167, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§167- Irrigation repair and maintenance special fund.

5 (a) There is established in the state treasury the irrigation
6 repair and maintenance special fund that shall be administered
7 by the board.

8 (b) Moneys in the irrigation repair and maintenance
9 special fund shall be used for the repair and maintenance of the
10 following irrigation systems:

11 (1) East Kauai irrigation system;

12 (2) Kekaha ditch;

13 (3) Kokee ditch;

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

15 (5) Waiahole ditch;

16 (6) Lower Hamakua irrigation system;

17 (7) Molokai irrigation system;

18 (8) Upcountry Maui irrigation system;



- 1 (9) Waimanalo irrigation system;
- 2 (10) Waimea irrigation system;
- 3 (11) East Maui irrigation system;
- 4 (12) Kauai coffee irrigation system;
- 5 (13) West Maui irrigation system;
- 6 (14) Kau irrigation system;
- 7 (15) Honomalino irrigation system;
- 8 (16) Wahiawa reservoir and ditch system; and
- 9 (17) Other privately-owned irrigation systems for
- 10 agricultural production.

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

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

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

- 20 (2) Agrees to file a petition for declaratory ruling
- 21 pursuant to section 205-45 designating a majority of
- 22 all lands served by the water produced by the



1 irrigation system as important agricultural lands as
2 defined under part III of chapter 205, and notifies
3 the board and county of the petition and designation
4 for the purpose of inclusion on maps; and

5 (3) Agrees to use or provide for the use of the majority
6 of all lands that the landowner owns or controls that
7 are served by the water produced by the irrigation
8 system for agriculture production.

9 The board shall develop processes, policies, standards, and
10 criteria for selecting the landowners that are to receive
11 funding and the amount of such funding. The board shall also
12 develop processes, policies, standards, and criteria for
13 determining the amount of funding for each state-owned
14 irrigation system listed in subsection (b).

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

20 (f) As used in this section:

21 "Agriculture" means agricultural operations that produce
22 agricultural products, including but not limited to flowers,



1 nursery products, vegetables, herbs, melons, seed crops,
2 macadamia nuts, aquaculture, coffee, milk, cattle, eggs, hogs,
3 fruits, sugarcane, pineapples, and silviculture.

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

8 "Landowner" means a private entity that:

9 (1) Owns agricultural land that contains a privately-owned
10 irrigation system that is necessary for the sustained
11 production of agriculture on the land served by the
12 irrigation system; or

13 (2) Owns or partially owns an irrigation system listed in
14 subsection (b) (1) through (16)."

15 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 **"§235- Irrigation repair and maintenance special fund**

19 **tax credit.** (a) There shall be allowed to each qualified
20 taxpayer, pursuant to section 167- (e) and subject to the
21 taxes imposed by this chapter, an income tax credit which shall
22 be deductible from the qualified taxpayer's net income tax



1 liability, if any, imposed by this chapter for the taxable year
2 in which the credit is properly claimed.

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

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

9 (2) The amount of the credit shall not exceed \$ _____,
10 in the aggregate for all qualified taxpayers for all
11 taxable years; and

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

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

20 If a deduction is taken under Section 179 (with respect to
21 election to expense depreciable business assets) of the Internal
22 Revenue Code, no tax credit shall be allowed for that portion of



1 the construction or renovation cost for which the deduction is
2 taken.

3 The basis of eligible property for depreciation or
4 accelerated cost recovery system purposes for state income taxes
5 shall be reduced by the amount of credit allowable and claimed.

6 In the alternative, the qualified taxpayer shall treat the
7 amount of the credit allowable and claimed as a taxable income
8 item for the taxable year in which it is properly recognized
9 under the method of accounting used to compute taxable income.

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

19 (c) The director of taxation shall prepare any forms that
20 may be necessary to claim a credit under this section. The
21 director may also require the qualified taxpayer to furnish
22 information to ascertain the validity of the claim for credit



1 made under this section and may adopt rules pursuant to chapter
2 91 necessary to effectuate the purposes of this section.

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

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

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

16 (g) The department, with the assistance of the board of
17 agriculture, shall maintain records of the names of qualified
18 taxpayers eligible for the credit and the total amount of
19 eligible costs incurred in each taxable year, beginning after
20 December 31, 2005, by each qualified taxpayer. The department,
21 with the assistance of the board of agriculture, shall compile
22 all eligible matching fund costs, and upon each determination,



1 shall issue a certificate to the taxpayer pursuant to subsection

2 (h) indicating:

3 (1) The amount of matching fund costs eligible for the tax
4 credit;

5 (2) The amount of the tax credit that the qualified
6 taxpayer may use for the tax year in which the costs
7 were incurred; and

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

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

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

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



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

4 (i) As used in this section "qualified taxpayer" means the
5 same as "landowner" under section 167- (f)."

6 SECTION 3. The director of finance is authorized to issue
7 general obligation bonds in the sum of \$ _____ or so much
8 thereof as may be necessary, and the same sum or so much thereof
9 as may be necessary is appropriated for fiscal year 2006-2007 to
10 be deposited into the irrigation repair and maintenance special
11 fund and used for the repair and maintenance of the irrigation
12 systems specified under section 167- (b), Hawaii Revised
13 Statutes; provided that \$ _____ in federal matching funds
14 are also deposited into the irrigation repair and maintenance
15 special fund.

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

18 SECTION 4. There is appropriated out of the irrigation
19 repair and maintenance special fund the sum of \$ _____ or so
20 much thereof as may be necessary for fiscal year 2006-2007 to be
21 expended for the repair and maintenance of the irrigation

1 systems specified under section 167- (b), Hawaii Revised
2 Statutes.

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

5 SECTION 5. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so
7 much thereof as may be necessary for fiscal year 2006-2007 for
8 repair and maintenance of irrigation systems as follows:

- 9 (1) \$ for the East Kauai irrigation system;
- 10 (2) \$ for the Waimanalo irrigation system;
- 11 (3) \$ for the Molokai irrigation system;
- 12 (4) \$ for the Waimea irrigation system; and
- 13 (5) \$ for the Lower Hamakua irrigation system.

14 The sum appropriated shall be expended by the board of
15 agriculture for the purposes of this Act. The appropriation
16 made for the capital improvement irrigation repair and
17 maintenance projects authorized in this section is deemed
18 necessary for federal aid and/or reimbursement.

19 SECTION 6. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2006-2007 for
22 operational, management, and administrative costs incurred by



1 the board of agriculture in carrying out the provisions of this
2 Act.

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

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

11 SECTION 8. New statutory material is underscored.

12 SECTION 9. This Act shall take effect upon its approval;
13 provided that:

14 (1) Section 2 shall take effect on July 1, 2006, and apply
15 to taxable years beginning after December 31, 2005;

16 and

17 (2) Sections 3, 4, 5, 6, and 7 shall take effect on
18 July 1, 2006.



SB 2954 SD2
H02

Report Title:

Irrigation Repair and Maintenance; CIP; Tax Credit

Description:

Establishes an irrigation repair and maintenance special fund.
Establishes a tax credit for matching funds provided by
landowners who receive funding from the special fund.
Appropriates money for the repair of irrigation systems
statewide. (SB2954 HD2)

