

JAN 25 2006

A BILL FOR AN ACT

RELATING TO AGRICULTURAL WATER.

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

1 SECTION 1. In 1978, voters approved article XI, section 1,
2 of the Constitution of the State of Hawaii, which establishes
3 the constitutional guidelines for state policies to promote the
4 conservation and development of resources of the State.

5 Article XI, section 1, in its first paragraph, reads as follows:

6 "For the benefit of present and future generations, the
7 State and its political subdivisions shall conserve and
8 protect Hawaii's natural beauty and all natural resources,
9 including land, water, air, minerals and energy sources,
10 and shall promote the development and utilization of these
11 resources in a manner consistent with their conservation
12 and in furtherance of the self-sufficiency of the State."

13 The constitutional convention of 1978, defined the word
14 "conservation" to mean "the protection, improvement and use of
15 natural resources according to principles that will assure their
16 highest economic or social benefits." (Standing Committee
17 Report No. 77) The intent of the constitutional convention was
18 to conserve and protect all of Hawaii's natural resources and to



1 provide for their protection, improvement, and use in a manner
2 that will yield the highest economic or social benefits.

3 Article XI, section 3, of the Constitution of the State of
4 Hawaii, mandates that the State shall provide for the
5 conservation and protection of agricultural lands and ensure the
6 availability of agriculturally suitable lands.

7 The legislature finds that the Hawaiian word *'aina* which
8 conveys the sense of arable land, is derived from *'ai*, meaning
9 food or to eat, with the substantive *na* added, so that it means
10 "that which feeds". The Hawaiian farmer considered the area
11 beyond or intersecting the *kula* lands, which are the plains or
12 sloping land without trees, as prime lands, which he favored for
13 habitation and subsistence. This area is the *kahawai*, "the
14 place [having] fresh water".

15 "Water, which gave life to food plants as well as to all
16 vegetation, symbolized bounty for the Hawaiian gardener for it
17 irrigated his staff of life -- taro." (E.S. Handy and E.G.
18 Handy, *Native Planters in Old Hawaii*, 1972.) Water, then, is
19 the source of life for the land and is essential for
20 agricultural production.

21 The legislature finds that native planters of Hawaii had no
22 concept of the ownership of water, only the use of water and



1 land. Article XI, section 1, of the Constitution of the State
2 of Hawaii, provides that the all public natural resources are
3 held in trust by the State for the benefit of the people.
4 However, in order to carry out the mandates of article XI,
5 section 3, which provides that the State shall "conserve and
6 protect agricultural lands, promote diversified agriculture,
7 increase agricultural self-sufficiency, and ensure the
8 availability of agriculturally suitable lands", the legislature
9 finds that provisions have to be made to ensure that adequate
10 agricultural water is available for agricultural endeavors on
11 agricultural lands.

12 The legislature finds that the Hawaii supreme court in In
13 re Water Use Applications, 94 Haw. 97 (2000), held that, "water
14 use for diversified agriculture on land zoned for agriculture is
15 consistent with the public interest. Such use fulfills state
16 policies in favor of reasonable and beneficial water use,
17 diversified agriculture, conservation of agricultural lands, and
18 increased self-sufficiency of this state."

19 The purpose of this Act is to ensure the availability of
20 adequate agricultural water for agricultural lands with soils
21 classified by the land study bureau's detailed land
22 classification as overall (master) productivity rating class A



1 or B, and agricultural lands in active agricultural production
2 on January 1, 2007, with soil classified by the land study
3 bureau's detailed land classification as overall (master)
4 productivity rating class C, D, E, or U, that have been
5 dedicated for agriculture pursuant to county ordinance.

6 SECTION 2. Chapter 174C, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§174C- Preservation of agricultural water. The
10 commission shall preserve water in such locations and quantities
11 contained in a declaration filed pursuant to section 174C-26,
12 for agricultural use on:

13 (1) Agricultural lands with soils classified by the land
14 study bureau's detailed land classification as overall
15 (master) productivity rating class A or B; and

16 (2) Agricultural lands in active agricultural production
17 on January 1, 2007, with soil classified by the land
18 study bureau's detailed land classification as overall
19 (master) productivity rating class C, D, E, or U, that
20 have been dedicated for agriculture for a period of
21 _____ or more years pursuant to county
22 ordinance."



S.B. NO. 2491

1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

3

INTRODUCED BY: Bunuel Kohli

H. P. Singh

Carole Fukushima

D. D. Singh

Clarence K. Michikawa
Norman Sakamoto
Amor Mercedes



Report Title:
Agricultural Water

SB. NO. 2491

Description:
Preserves water for agricultural use on lands classified by the Land Study Bureau as class A or B or on lands dedicated to agricultural use.

