
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. Chapter 163D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§163D- Irrigation repair and maintenance special fund.

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

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; and
- 8 (16) Other privately-owned irrigation systems on former
- 9 sugarcane and pineapple plantation lands that have
- 10 been converted to diversified agriculture.

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 all lands
- 22 within two miles of the water produced by the

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

5 (3) Agrees to use all lands served by the water produced
6 by the irrigation system for diversified agriculture
7 production.

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

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

19 (f) As used in this section:

20 "Diversified agriculture" means agricultural operations
21 that produce diversified agricultural products, including
22 flowers, nursery products, vegetables, herbs, melons, seed

1 crops, macadamia nuts, aquaculture, coffee, milk, cattle, eggs,
2 hogs, and fruit but not sugarcane and pineapple.

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

7 "Landowner" means a private entity that:

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

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

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

19 **"§235- Irrigation repair and maintenance special fund**
20 **tax credit.** (a) There shall be allowed to each qualified
21 taxpayer, pursuant to section 163D- (e) and subject to the
22 taxes imposed by this chapter, an income tax credit which shall

1 be deductible from the qualified taxpayer's net income tax
2 liability, if any, imposed by this chapter for the taxable year
3 in which the credit is properly claimed.

4 The amount of the credit shall be equal to the amount of
5 matching funds provided by the qualified taxpayer in obtaining
6 funding from the irrigation repair and maintenance special fund,
7 as specified in section 163D- (d) (1); provided that:

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

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

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

16 In the case of a partnership, S corporation, estate, or
17 trust, the cost upon which the tax credit is computed shall be
18 determined at the entity level. Distribution and share of
19 credit shall be determined pursuant to section 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 of taxation, with the assistance of the
17 agribusiness development corporation, shall maintain records of
18 the names of qualified taxpayers eligible for the credit and the
19 total amount of eligible costs incurred in each taxable year,
20 beginning after December 31, 2005, by each qualified taxpayer.
21 The department of taxation, with the assistance of the
22 agribusiness development corporation, shall compile all eligible

1 matching fund costs, and upon each determination, shall issue a
2 certificate to the taxpayer pursuant to subsection (h)
3 indicating:

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

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

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

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

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

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

22 The department of taxation shall certify no more than

1 \$ _____, in credits, including carryforward amounts, in the
2 aggregate for all qualified taxpayers for all taxable years.

3 (i) As used in this section "qualified taxpayer" means the
4 same as "landowner" under section 163D- (f)."

5 SECTION 3. The director of finance is authorized to issue
6 general obligation bonds in the sum of \$30,000,000, or so much
7 thereof as may be necessary, and the same sum or so much thereof
8 as may be necessary is appropriated for fiscal year 2006-2007,
9 to be deposited into the irrigation repair and maintenance
10 special fund and used for the repair and maintenance of the
11 irrigation systems specified under subsection (b) of section
12 163D- _____, Hawaii Revised Statutes; provided that \$50,000,000 in
13 federal matching funds are also deposited into the irrigation
14 repair and maintenance special fund.

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

17 SECTION 4. There is appropriated out of the irrigation
18 repair and maintenance special fund the sum of \$80,000,000, or
19 so much thereof as may be necessary for fiscal year 2006-2007,
20 to be expended for the repair and maintenance of the irrigation
21 systems specified under subsection (b) of section 163D- _____,
22 Hawaii Revised Statutes.

1 The sum appropriated shall be expended by the agribusiness
2 development corporation for the purposes of this Act.

3 SECTION 5. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$11,886,000, or so
5 much thereof as may be necessary for fiscal year 2006-2007, for
6 repair and maintenance of irrigation systems as follows:

- 7 (1) \$2,336,000 for the East Kauai irrigation system;
- 8 (2) \$500,000 for the Waimanalo irrigation system;
- 9 (3) \$2,500,000 for the Molokai irrigation system;
- 10 (4) \$4,850,000 for the Waimea irrigation system; and
- 11 (5) \$1,700,000 for the Lower Hamakua irrigation system.

12 The sum appropriated shall be expended by the agribusiness
13 development corporation for the purposes of this Act.

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$, or so
16 much thereof as may be necessary for fiscal year 2006-2007, for
17 operational, management, and administrative costs incurred by
18 the agribusiness development corporation.

19 The sum appropriated shall be expended by the agribusiness
20 development corporation for the purposes of this Act.

21 SECTION 7. The appropriation made for the capital
22 improvement irrigation repair and maintenance projects

1 authorized in this Act shall not lapse at the end of the fiscal
2 year for which the appropriation is made; provided that all
3 moneys from the appropriation unencumbered as of June 30, 2008,
4 shall lapse as of that date.

5 SECTION 8. New statutory material is underscored.

6 SECTION 9. This Act shall take effect upon its approval;
7 provided that:

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

10 and

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

Report Title:

Agribusiness Development Corporation

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. (SD1)

