
A BILL FOR AN ACT

RELATING TO AGRICULTURAL IRRIGATION.

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

1 SECTION 1. The purpose of this Act is to address the issue
2 of irrigation systems. More specifically, this Act:

3 (1) Expressly authorizes the board of agriculture to
4 acquire irrigation systems by negotiated purchase,
5 exchange, or gift;

6 (2) Requires agricultural lands served by the irrigation
7 systems acquired by the board of agriculture to be
8 used by the landowners for agriculture or leased to
9 others for agricultural use; and

10 (3) Provides regulations for gifts of irrigation systems
11 from private landowners to the State.

12 SECTION 2. Chapter 167, Hawaii Revised Statutes, is
13 amended by adding two new sections to be appropriately
14 designated and to read as follows:

15 "§167- Condition on landowner served by irrigation
16 system acquired by board of agriculture. The board of
17 agriculture shall require each owner of agricultural land served
18 with water from an irrigation system acquired by the board



1 pursuant to section 167-5(1) to use the land for agriculture or
2 lease the land to another person for at least thirty five years
3 for agricultural use.

4 "Agricultural land" means land classified as agricultural
5 districts under chapter 205.

6 §167- Irrigation systems; gifts by private landowners.

7 Any irrigation system donated to the State by a private
8 landowner shall:

9 (1) Include land that is contiguous to the irrigation
10 system that may be purchased by the State; provided
11 that the land:

12 (A) Is discounted for any cost of repair and initial
13 operation and general liability to the State; and

14 (B) Is sufficient in size to adequately manage any
15 possible irrigation system overflow or flooding;

16 and

17 (2) Be adjacent to lands that are under thirty five to
18 fifty year leases."

19 SECTION 3. Section 167-5, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§167-5[+] **Powers.** In addition to any other powers
22 granted to the board of agriculture for the purpose of carrying



1 out all of its functions and duties, the board shall have the
2 following powers for the purposes of this chapter:

- 3 (1) To acquire by eminent domain, negotiated purchase,
4 exchange, or gift, water and water sources either
5 above or underground, watershed, reservoir sites,
6 rights-of-way over lands and property for paths,
7 trails, roads, and landing sites, ditches, tunnels,
8 flumes, reservoirs, and pipelines necessary or proper
9 for the construction and maintenance of water
10 facilities for conveying, distributing, and
11 transmitting water for irrigation and domestic use and
12 for such other purposes as may properly fall within
13 the scope of its activities in creating, managing,
14 controlling, operating, and maintaining irrigation
15 water facilities, any of which purposes shall be held
16 to be for a public use and purpose;
- 17 (2) To make and execute contracts and other instruments
18 necessary or convenient to the exercise of the powers
19 of the board, including, without prejudice to the
20 generality of the foregoing, contracts and other
21 instruments for the purchase or sale of water and for
22 the purchase or lease of water facilities for



1 irrigation of the area, including but not limited to
2 the production of agricultural products and the land
3 on which the facilities are situated, and for securing
4 to the owners and occupiers of land already using
5 water in a project a priority right to so much water
6 from those of their sources and facilities [~~which~~]
7 that are taken over for the project as is required for
8 the purposes or needs of the land, whether
9 agricultural or nonagricultural in nature, as such
10 purposes or needs exist at the inception of the
11 project or are then contemplated in the immediate
12 future;

13 (3) To make and, from time to time, amend [~~and~~] or repeal
14 bylaws and rules, not inconsistent with this chapter,
15 which upon compliance with chapter 91 shall have the
16 force and effect of law, to carry into effect the
17 powers and purposes of the board;

18 (4) To make surveys for the purposes of determining the
19 engineering and economic feasibility of each project;

20 (5) To conduct or have prepared comprehensive studies of
21 the crops, livestock, and poultry [~~which~~] that may be
22 profitably grown or produced within each project and



- 1 the probable market for such crops, livestock, and
2 poultry;
- 3 (6) To conduct feasibility studies of the economic
4 potential of the area;
- 5 (7) To determine the probable costs and value of providing
6 water for irrigation in any proposed project;
- 7 (8) To investigate and make surveys of water resources,
8 including the possibility and feasibility of inducing
9 rain by artificial or other means;
- 10 (9) To define and redefine the boundaries of projects and
11 to consolidate or separate projects, existing or
12 proposed pursuant to this chapter, provided that in
13 the event the redefinition of the boundaries or the
14 consolidation or separation previously effected
15 increased the total amount required to be derived from
16 acreage assessments upon lands within the existing
17 project or projects by more than five per cent or will
18 require an increase in the tolls charged for water
19 supplied to the lands or will reduce the amount of
20 water normally available for distribution to the
21 lands, then the redefinition, consolidation, or
22 separation may be accomplished only after notice has



1 been published and a public hearing held as required
2 for the formation of a project upon the initiative of
3 the board. At the hearing, right to protest and the
4 procedure relative to protest shall be the same as
5 specified in section 167-17 concerning the formation
6 of projects, and the proposed redefinition of
7 boundaries, consolidation, or separation of projects
8 shall not be accomplished if protests, [~~such as~~] that
9 would be sufficient to prevent the action if it were
10 the formation of a project, are filed by owners and
11 lessees of land within the existing projects or
12 projects affected thereby.

13 The board is empowered, upon petition of land occupiers as
14 provided by section 167-13, or upon petition of the Hawaiian
15 homes commission or upon its own initiative, to prepare detailed
16 plans for the acquisition or construction of facilities for
17 irrigation or for economic development which in its opinion are
18 economically feasible, to prepare estimates of the probable cost
19 of each, and to prepare estimates of the water tolls and acreage
20 assessments required for the cost of operation and the
21 amortization of the investment of each project, so that the
22 project shall be self-supporting."



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

4 SECTION 5. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin H. Boy

[Signature]

JAN 15 2008



Report Title:

Board of Agriculture; Irrigation Systems; Private Landowners

Description:

Expressly authorizes the board of agriculture to acquire irrigation systems by negotiated purchase, exchange, or gift. Requires agricultural lands served by irrigation systems acquired by the board of agriculture to be used by landowners for agriculture or leased to others for agricultural use. Provides regulations for gifts of irrigation systems from private landowners to the State.

