
A BILL FOR AN ACT

RELATING TO IRRIGATION.

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

1 SECTION 1. The purpose of this Act is to require the
2 agribusiness development corporation to acquire, operate, and
3 maintain certain irrigation systems.

4 This Act is intended to be consistent with the
5 sustainability movement of the 2050 Sustainability Task Force.

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

9 "§163D- Irrigation systems. (a) The corporation shall
10 acquire through gift, purchase, or exchange, the following
11 irrigation systems:

- 12 (1) East Kauai irrigation system;
13 (2) Kekaha ditch;
14 (3) Kokee ditch;
15 (4) Maui Land/Pioneer Mill irrigation system;
16 (5) Lower Hamakua irrigation system;
17 (6) Molokai irrigation system;
18 (7) Upcountry Maui irrigation system;



- 1 (8) Waimanalo irrigation system;
- 2 (9) Waimea irrigation system;
- 3 (10) East Maui irrigation system;
- 4 (11) Kauai coffee irrigation system;
- 5 (12) West Maui irrigation system;
- 6 (13) Kau irrigation system;
- 7 (14) Honomalino irrigation system;
- 8 (15) Wahiawa reservoir and ditch system; and
- 9 (16) Other privately-owned irrigation systems on former
- 10 sugarcane and pineapple plantation lands that have
- 11 been converted to diversified agriculture.

- 12 (c) After acquisition of an irrigation system, the
- 13 corporation shall operate and maintain the system in accordance
- 14 with this chapter and other applicable law. The corporation
- 15 also may improve and expand the system if sufficient legislative
- 16 appropriations are available.

- 17 (d) The corporation shall charge acreage assessments,
- 18 water tolls, or other charges for the use of water delivered by
- 19 the irrigation systems to users. The assessment, tolls, or
- 20 charges shall be established by rule adopted pursuant to chapter
- 21 91."



1 SECTION 3. Section 163D-15.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§163D-15.5 [~~Waiahole~~] Irrigation water system revolving
4 **fund.** (a) There is established within the state treasury a
5 revolving fund to be known as the [~~Waiahole~~] irrigation water
6 system revolving fund, which shall be administered by the
7 corporation and into which shall be deposited all revenues from
8 assessments, tolls, appropriations made by the legislature to
9 the fund, interest on investments attributable to the [~~Waiahole~~
10 ~~water system,~~] irrigation systems owned by the corporation and
11 other income, receipts, and revenues received by the corporation
12 from the operation of [~~the Waiahole water system.~~] those
13 irrigation systems. Moneys in the [~~Waiahole water system~~]
14 revolving fund shall be expended by the corporation for the
15 [~~acquisition,~~] planning, design, improvement, construction,
16 equipping, furnishing, administering, operating, and maintaining
17 of the [~~Waiahole water system~~] irrigation systems owned by the
18 corporation and any other purpose deemed necessary by the
19 corporation for [~~the purpose of acquiring and operating the~~
20 ~~Waiahole water system.~~] those irrigation systems. The
21 corporation may utilize contributions of money, labor,



1 materials, and property that may be otherwise available from any
2 person or instrumentality.

3 (b) No expenditure, use, or transfer of [~~unds~~] moneys
4 from the [Waiahole] irrigation water system revolving fund by
5 the corporation shall be subject to chapter 42F or 103."

6 SECTION 4. Section 343-6.5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "[+]§343-6.5[+] **Waiahole water system[+] and other**
9 **irrigation systems; exemption.** (a) The purchase of the assets
10 of the Waiahole water system shall be specifically exempt from
11 the requirements of chapter 343.

12 (b) The acquisition of any irrigation system pursuant to
13 section 163D- by the agribusiness development corporation
14 shall be specifically exempt from the requirements of chapter
15 343."

16 SECTION 5. Section 662-15, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§662-15 Exceptions.** This chapter shall not apply to:

- 19 (1) Any claim based upon an act or omission of an employee
20 of the State, exercising due care, in the execution of
21 a statute or regulation, whether or not such statute
22 or regulation is valid, or based upon the exercise or



1 performance or the failure to exercise or perform a
2 discretionary function or duty on the part of a state
3 officer or employee, whether or not the discretion
4 involved has been abused;

5 (2) Any claim arising in respect of the assessment or
6 collection of any tax, or the detention of any goods
7 or merchandise by law enforcement officers;

8 (3) Any claim for which a remedy is provided elsewhere in
9 the laws of the State;

10 (4) Any claim arising out of assault, battery, false
11 imprisonment, false arrest, malicious prosecution,
12 abuse of process, libel, slander, misrepresentation,
13 deceit, or interference with contract rights;

14 (5) Any claim arising out of the combatant activities of
15 the Hawaii national guard and Hawaii state defense
16 force during time of war, or during the times the
17 Hawaii national guard is engaged in federal service
18 pursuant to section 316, 502, 503, 504, 505, or 709 of
19 Title 32 of the United States Code;

20 (6) Any claim arising in a foreign country; [øæ]

21 (7) Any claim arising out of the acts or omissions of any
22 boating enforcement officer[-]; or



1 (8) Any claim arising out of the acts or omissions of the
 2 agribusiness development corporation or any of its
 3 officers or employees concerning the ownership,
 4 operation, maintenance, improvement, or expansion of
 5 irrigation systems by the corporation pursuant to
 6 section 163D- ."

7 SECTION 6. Section 167-24, Hawaii Revised Statutes, is
 8 repealed.

9 ~~["**[§167-24] Irrigation repair and maintenance special**~~
 10 ~~**fund.** (a) There is established in the state treasury the~~
 11 ~~irrigation repair and maintenance special fund that shall be~~
 12 ~~administered by the board.~~

13 ~~(b) Moneys in the irrigation repair and maintenance~~
 14 ~~special fund shall be used to fund repair and maintenance of the~~
 15 ~~following irrigation systems:~~

- 16 ~~(1) East Kauai irrigation system;~~
- 17 ~~(2) Kekaha ditch;~~
- 18 ~~(3) Kokee ditch;~~
- 19 ~~(4) Maui Land/Pioneer Mill irrigation system;~~
- 20 ~~(5) Waiahole ditch;~~
- 21 ~~(6) Lower Hamakua irrigation system;~~
- 22 ~~(7) Molokai irrigation system;~~



- 1 ~~(8) Upcountry Maui irrigation system;~~
- 2 ~~(9) Waimanalo irrigation system;~~
- 3 ~~(10) Waimea irrigation system;~~
- 4 ~~(11) East Maui irrigation system;~~
- 5 ~~(12) Kauai coffee irrigation system;~~
- 6 ~~(13) West Maui irrigation system;~~
- 7 ~~(14) Kau irrigation system;~~
- 8 ~~(15) Honomalino irrigation system;~~
- 9 ~~(16) Wahiawa reservoir and ditch system; and~~
- 10 ~~(17) 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 a majority of~~
3 ~~all land served by the water produced by the~~
4 ~~irrigation system as important agricultural lands as~~
5 ~~defined under section 205-42 and notifies the board~~
6 ~~and county of the petition and designation for the~~
7 ~~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 landowner and served by the~~
10 ~~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 ~~(c) As used in this section:~~

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



1 ~~crops, macadamia nuts, aquaculture, coffee, milk, cattle, eggs,~~
2 ~~hogs, and fruit.~~

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 privately-~~
10 ~~owned irrigation system that is necessary for the~~
11 ~~sustained production of diversified agriculture on the~~
12 ~~land served by the irrigation system; or~~
13 ~~(2) Owns, or partially owns, an irrigation system listed~~
14 ~~in subsection (b)(1) through (17)."]~~

15 SECTION 7. On July 1, 2008:

- 16 (1) All moneys in the Waiahole water system revolving fund
17 shall be transferred to the irrigation water system
18 revolving fund established under section 163D- ,
19 Hawaii Revised Statutes; and
20 (2) All liabilities of the Waiahole water system revolving
21 fund shall become liabilities of and payable from the
22 irrigation water system revolving fund.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2008.

4

INTRODUCED BY: _____

[Handwritten signature]

[Handwritten signature]

Tom [unclear]

[Handwritten signature]

JAN 15 2008



Report Title:

Irrigation; Agribusiness Development Corporation

Description:

Requires the ADC to acquire, operate, and maintain certain irrigation systems in the State. Replaces the Waiahole Water System Revolving Fund with the Irrigation Water System Revolving Fund.

