

H.B. NO. 1010

A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1 SECTION 1. In recent years, the Hawaii department of
2 agriculture has renewed its commitment to work closely with the
3 Molokai irrigation system water users advisory board (board) and
4 to carefully consider the wishes of the board in its own
5 decision-making. As a demonstration of this commitment, the
6 department of agriculture and the board held a series of
7 community meetings which led to the development of a "roadmap to
8 improvement" that identifies tasks that the board expects the
9 department of agriculture to complete. Similarly, the state
10 auditor's February 2008 financial and management audit of the
11 Molokai irrigation system included a number of recommendations
12 that the auditor expects the department of agriculture to
13 complete or "consider" in order to improve the operation of the
14 Molokai irrigation system. All of the priorities in the
15 "roadmap" have been completed as have most of the
16 recommendations in the audit and the purpose of this Act is to
17 address the recommendation in the state audit that the
18 department of agriculture "Define homestead farmer as it relates

1 to the advisory board to remove any appearance of impropriety;"
2 and to "Consider adding additional homestead farmer seat(s) and
3 develop procedural guidelines on how seats are filled." The
4 board and the department of agriculture agreed that they would
5 work together to find a fair and equitable way to increase
6 homesteader representation on the board while ensuring that the
7 board continues to represent a broad cross-section of all
8 responsible water users.

9 SECTION 2. Section 167-2, Hawaii Revised Statutes, is
10 amended by adding two new definitions to be appropriately
11 inserted and to read as follows:

12 "Homestead farmer user" means an individual who meets the
13 requirements set forth in the department of Hawaiian home lands
14 rules, specifically sections 10-3-2 and 10-3-24, and who is
15 farming on lands that are owned by the department of Hawaiian
16 home lands and served by the Molokai irrigation system.

17 "Kupuna homestead farmer user" means an individual who is a
18 fair-minded, elder homesteader possessing knowledge, wisdom, and
19 experience, widely respected within the Molokai native Hawaiian
20 community, and residing on a homestead parcel with a Molokai
21 irrigation system water meter. The individual shall be a former

1 or current farmer who is working or has worked in the
2 agricultural industry on Molokai."

3 SECTION 3. Section 167-23, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[f]~~ §167-23 ~~[f]~~ **Molokai irrigation system water users**
6 **advisory board; establishment; meetings.** (a) There is
7 established a Molokai irrigation system water users advisory
8 board, consisting of seven members including a chairperson, all
9 of whom are to be appointed by the governor under section 26-34.
10 The ~~[advisory board]~~ seven appointed members shall ~~[consist of~~
11 ~~six members, as follows:]~~ be comprised of:

- 12 (1) A homestead farmer user on Molokai;
- 13 (2) A nonhomestead farmer user on Molokai;
- 14 (3) The designee (by name rather than office) of the
15 Molokai Farm Bureau;
- 16 (4) The designee (by name rather than office) of Hikiola
17 Cooperative, Inc.;
- 18 (5) The designee (by name rather than office) of the
19 Molokai-Lanai soil and water conservation district;
20 and
- 21 (6) ~~[The designee (by name rather than office) of the~~
22 ~~department of Hawaiian home lands.]~~ A kupuna

1 homestead farmer user on Molokai whose nomination has
2 been recommended by the commissioner for Molokai of
3 the department of Hawaiian home lands and approved for
4 submittal to the Governor by majority vote of all
5 homesteaders then serving on the advisory board; and
6 (7) The district supervisor of the Molokai district office
7 of the department of Hawaiian home lands shall serve
8 as an ex officio voting member.

9 The members of the advisory board shall serve without
10 compensation, but shall be entitled to reimbursement for
11 necessary expenses while attending meetings and while in the
12 discharge of their duties. For administrative purposes, and
13 pursuant to section 26-35, the advisory board shall be placed
14 within the department of agriculture.

15 (b) The advisory board shall meet with the department of
16 agriculture at least six times each year. The meetings shall be
17 held on Molokai, whenever possible.

18 (c) Four members of the board shall constitute a quorum at
19 any meeting. No member of the board shall be qualified to act
20 in matters directly involving a company or organization of which
21 the board member is an officer, director, member, or full-time
22 employee, or to which the board member is indebted.

H.B. NO. 1010

1 (d) The advisory board's duties and responsibilities shall
2 be to advise the department on matters of concern to all of the
3 users of the system, to provide support for improvements to the
4 irrigation facilities, to participate in the long-range planning
5 of the system, and to act as liaison between all of the users
6 and the department."

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

9 SECTION 5. This Act shall take effect on July 1, 2009.

10
11
12

INTRODUCED BY: Calvin K. Say
BY REQUEST

JAN 26 2009

Report Title:

Agriculture, Molokai Irrigation System Water Users Advisory Board

Description:

To expand and modify the Molokai Irrigation System Water Users Advisory Board to include seats for a kupuna homestead farmer user and the District Supervisor of the Molokai District Office of the Department of Hawaiian Home Lands voting as an ex officio member.

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO AGRICULTURE.

PURPOSE: To expand and modify the Molokai Irrigation System Water Users Advisory Board to include a seat for a kupuna homestead farmer user, and change the seat for the designee of the Department of Hawaiian Home Lands to a seat for the District Supervisor of the Molokai District Office of the Department of Hawaiian Home Lands, as a voting ex officio member.

MEANS: Amend sections 167-2 and 167-23, Hawaii Revised Statutes.

JUSTIFICATION: The 2008 Financial and Management Audit of the Molokai Irrigation System recommended that the Department of Agriculture "[d]efine homestead farmer as it relates to the advisory board to remove any appearance of impropriety;" and to "[c]onsider adding additional homestead farmer seat(s) and develop procedural guidelines on how seats are filled." The Molokai Irrigation System Water Users Advisory Board (MISWUAB) and the Department of Agriculture agreed that it would work together to find a fair and equitable way to increase homesteader representation on the MISWUAB. A water user's survey was sent out and over 32 percent responded. Included in the returned surveys were the responses of six of the largest homestead water users and seven of the largest non-homestead water users who were interviewed in person by the Department of Agriculture's Deputy to the Chairperson of the Board of Agriculture.

The definition of homestead farmer user and the process to add an additional homestead farmer seat was presented to board members at the November 18, 2008, MISWUAB meeting

and supported in concept pending completion and review of the proposed bill.

This amendment will mandate a second seat for a homesteader, and an ex officio voting seat for the District Supervisor of the Molokai District Office of the Department of Hawaiian Home Lands. Five other seats will continue to be held by designees of three Molokai organizations, and by a homesteader and non-homesteader. Currently, there are four homesteaders, one Native Hawaiian and one non-Hawaiian on the board.

Impact on the public: The homestead community will be well represented on the MISWUAB. Conceivably, all but one of the seats on the expanded board can be held by homesteaders. It is essential that board members be fair minded and concern themselves first and foremost with the improvement of the Molokai Irrigation System and the growth of agriculture on Molokai.

Impact on the department and other agencies: There will be a need for consultation between Department of Hawaiian Home Lands and Hawaii Department of Agriculture when candidates for the homestead farmer user seat are proposed.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: AGR-141.

OTHER AFFECTED AGENCIES: Department of Hawaiian Home Lands.

EFFECTIVE DATE: July 1, 2009.