
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

- 1 SECTION 1. The purpose of this Act is to address
2 agriculture by:
- 3 (1) Establishing the agriculture inspection and
4 certification special fund under the department of
5 agriculture;
- 6 (2) Transmitting all fees, civil penalties, and moneys
7 collected by the department of agriculture to the
8 agriculture inspection and certification special fund
9 instead of the general fund;
- 10 (3) Allowing the department to enter into agreements with
11 government and private agencies to hire temporary
12 inspectors;
- 13 (4) Transferring all moneys and unpaid obligations of the
14 certification services revolving fund on June 30,
15 2010, to the agriculture inspection and certification
16 special fund; and
- 17 (5) Repealing the certification services revolving fund.



1 SECTION 2. Chapter 141, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and read as follows:

4 "§141- Agriculture inspection and certification special
5 fund. (a) There is established within the state treasury the
6 agriculture inspection and certification special fund.

7 (b) The following sources of funds shall be deposited into
8 the special fund:

9 (1) Fees, charges, and penalties designated by law or rule
10 for deposit into the special fund;

11 (2) Fines from violations of chapter 147 and 150 or rules
12 adopted pursuant to section 141-4;

13 (3) Federal funds received for inspecting, certifying,
14 weighing, classifying, or grading of agricultural
15 commodities to be exported from or shipped within the
16 State;

17 (4) Grants and gifts;

18 (5) All interest earned or accrued on moneys deposited in
19 the fund; and

20 (6) Any other moneys made available to the fund.

21 (c) The moneys in the agriculture inspection and
22 certification special fund shall be expended by the department



1 for the inspection, certification, weighing, or grading of
2 agricultural commodities that are to be exported from or shipped
3 within the State.

4 No moneys from the general or other special or revolving
5 funds shall be expended by the department for the
6 administration, operation, or enforcement of chapter 147,
7 chapter 150, or rules adopted pursuant to section 141-4;
8 provided that the expenditure of moneys from the general fund
9 for central services and departmental administrative expenses
10 shall be permitted."

11 SECTION 3. Section 141-4, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§141-4 **Weights of coffee; rules.** The department of
14 agriculture may make rules respecting the weighing of coffee
15 prior to its shipment to points outside the State, and providing
16 for the certification of weights thereof. Further, a reasonable
17 schedule of fees to defray the expense of administering this
18 section shall be established by the department, which fees shall
19 be collected and [~~deposited with~~] transmitted to the state
20 director of finance [~~to the credit of the general~~] for deposit
21 into the agriculture inspection and certification fund; provided
22 that the department shall consult the appropriate industries,



1 organizations, and agencies prior to the promulgation of the
2 rules."

3 SECTION 4. Section 147-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§147-10 Income from certification and agriculture control**
6 **activities.** [~~Except for fees collected by the department~~
7 ~~pursuant to part VII, all] All fees, expenses, and penalties
8 collected by the department pursuant to this part shall be
9 [~~deposited with] transmitted to the director of finance [~~to the~~
10 ~~credit of the general] for deposit into the agriculture
11 inspection and eradication special fund."~~~~~~

12 SECTION 5. Section 147-34, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§147-34 Inspection; certification fees.** The board of
15 agriculture may designate any employee or agent of the
16 department as an inspector to classify and inspect fresh and
17 processed flowers and foliage for quality and condition and to
18 determine if containers, packing materials, and methods of
19 packing meet the minimum requirements established. In addition
20 the inspector may classify and inspect flowers and foliage for
21 quality and condition at the request of persons having a
22 financial interest in the commodities in order to ascertain and



1 to certify to those persons the grade, classification, quality,
2 or condition thereof and other pertinent facts. The department
3 may fix, assess, and collect or cause to be collected fees for
4 those certification services when they are performed by the
5 employees of the department. The fees shall be on a uniform
6 basis and in an amount reasonably necessary to cover the cost of
7 certification services provided at the request of persons having
8 a financial interest. [~~Except for fees collected by the~~
9 ~~department pursuant to part VII, all]~~ All fees collected by the
10 department pursuant to this part shall be [~~deposited with]~~
11 transmitted to the state director of finance [~~to the credit of~~
12 ~~the general]~~ for deposit into the agriculture inspection and
13 certification special fund."

14 SECTION 6. Section 147-64, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§147-64 Deposit of moneys.** [~~Except for fees collected by~~
17 ~~the department pursuant to part VII, all]~~ All fees, charges,
18 expenses, civil penalties, and other moneys collected by the
19 department under this part or any rules prescribed by the
20 department pursuant to this part shall be [~~deposited with]~~
21 transmitted to the state director of finance [~~to the credit of~~



1, ~~the general]~~ for deposit into the agriculture inspection and
2 certification special fund."

3 SECTION 7. Section 147-74, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§147-74 Grading standards and regulations[-]; fees.** (a)

6 Subject to chapter 91, the department of agriculture may make
7 rules with respect to:

- 8 (1) Sale and transportation for sale of eggs for human
9 consumption;
- 10 (2) Specific grades or standards of quality, condition and
11 size or weight classes which shall conform when
12 practical to those established by the United States
13 Department of Agriculture as local conditions will
14 permit;
- 15 (3) Inspection and classification;
- 16 (4) Assessment and collection of fees for requested
17 certification as to grade, standard of quality,
18 condition, and size or weight classes;
- 19 (5) Labeling of containers of imported and locally
20 produced eggs and marking of individual imported eggs
21 as to origin;
- 22 (6) Seller's invoice for sale of eggs;



- 1 (7) Records of imported shell eggs of foreign origin;
- 2 (8) Methods of determining egg quality, which shall not
- 3 include recandling or any other method applied to eggs
- 4 in interstate commerce which is discriminatory or
- 5 impairs that commerce in any way or requires a cost
- 6 increase of eggs in interstate commerce;
- 7 (9) Enforcement of this part and of the rules adopted
- 8 under this part.

9 (b) Any fees collected pursuant to subsection (a)(4) shall
10 be transmitted to the director of finance for deposit into the
11 agriculture inspection and certification fund."

12 SECTION 8. Section 147-97, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§147-97 Disposition of fees.** All fees collected under
15 this part shall be [~~paid into a special fund established by the~~
16 ~~department of agriculture and shall be expended for the purposes~~
17 ~~of this part.~~] transmitted to the director of finance for
18 deposit into the agriculture inspection and certification
19 special fund."

20 SECTION 9. Section 147-102, Hawaii Revised Statutes, is
21 amended to read as follows:

1 " [†]§147-102 [‡] **Certification and audit services.** The
2 department of agriculture shall fix, assess, and collect fees
3 for certification or audit services provided by temporary
4 inspectors employed under this [~~part.~~] chapter. The fees shall
5 be in amounts necessary to cover all costs of the administration
6 and provision of the certification or audit services provided
7 under this [~~part.~~] chapter; provided that the department of
8 agriculture shall establish charges for traveling expenses and
9 extraordinary services when the performance of the services
10 involves unusual cost. The fees and charges established by the
11 department of agriculture shall not be subject to chapter 91[-]
12 and, upon collection, shall be transmitted to the director of
13 finance for deposit into the agriculture inspection and
14 certification fund. The department of agriculture may employ
15 temporary inspectors to assist in providing certification or
16 audit services under parts I, III, IV, VIII, and IX, and those
17 temporary inspectors shall be exempt from chapter 76."

18 SECTION 10. Section 147-112, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " [†]§147-112 [‡] **Cooperative agreements and contracts to**
21 **provide auditing and certification services.** The department may
22 enter into cooperative agreements with the United States



1 Department of Agriculture or other agreements and contracts with
2 private parties or other governmental agencies for the purposes
3 of:

4 (1) Auditing and certifying that applicants are following
5 good agricultural, handling, processing, and
6 manufacturing practices; [~~and~~]

7 (2) Hiring and paying travel and other expenses for
8 temporary inspectors to perform the certification and
9 audit services required under this chapter; and

10 [~~(2)~~] (3) Maintaining food security and product
11 traceability."

12 SECTION 11. Section 147-114, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~]**§147-114**[~~]~~ **Fees and deposit of moneys.** (a) The
15 department shall fix, assess, and collect fees for the audit and
16 certification services provided under this part[~~]~~, including
17 fees for hiring temporary inspectors to perform the services.

18 The fees shall be as established under cooperative agreement
19 with the United States Department of Agriculture or other
20 governmental agencies or, if not applicable, as established by
21 rule under section 147-7. The department [~~may~~] shall also
22 charge an amount necessary to cover all costs of traveling



1 expenses and extraordinary services when the performance of the
2 services involves unusual cost in their performance.

3 (b) [~~Except for fees collected by the department pursuant~~
4 ~~to part VII, all~~] All fees and expenses collected by the
5 department pursuant to this part shall be [~~deposited with~~
6 transmitted to the director of finance [~~to the credit of the~~
7 ~~general~~] for deposit into the agriculture inspection and
8 certification special fund."

9 SECTION 12. Section 147-126, Hawaii Revised Statutes, is
10 amended by amending subsection (b) to read as follows:

11 "(b) [~~Except for fees collected by the department pursuant~~
12 ~~to part VII, all~~] All fees and expenses collected by the
13 department pursuant to this part shall be [~~deposited with~~
14 transmitted to the director of finance [~~to the credit of the~~
15 ~~general~~] for deposit into the agriculture inspection and
16 certification general fund."

17 SECTION 13. Section 147-101, Hawaii Revised Statutes, is
18 repealed.

19 [~~§147-101 Certification services revolving fund. There~~
20 ~~is established a certification services revolving fund for use~~
21 ~~by the department of agriculture to support certification or~~
22 ~~audit services established under parts I, III, IV, VIII, and IX.~~



1 ~~Moneys in the fund may be expended for materials, salaries,~~
2 ~~equipment, training, travel, and other costs related to~~
3 ~~providing certification or audit services. Notwithstanding~~
4 ~~sections 147-10, 147-34, 147-64, 147-114 and 147-126, moneys~~
5 ~~derived from the certification or audit services provided by~~
6 ~~temporary inspectors employed under this part or from charges~~
7 ~~for traveling expenses or extraordinary services shall be~~
8 ~~deposited into the fund."]~~

9 SECTION 14. (a) The repeal of section 147-101, Hawaii
10 Revised Statutes, shall not rescind any fees authorized or
11 imposed under that section that would have been deposited into
12 the certification services revolving fund. From July 1, 2010,
13 the fees under those sections shall be deposited into the
14 agriculture inspection and certification fund.

15 (b) On the effective date of this Act:

16 (1) All moneys in the certification services revolving
17 fund on June 30, 2010, shall be transferred to the
18 agriculture inspection and certification fund;

19 (2) All unpaid obligations of the certification services
20 revolving fund on June 30, 2010, shall become payable
21 from the agriculture inspection and certification
22 fund; and



1 (3) The certification services revolving fund shall cease
2 to exist.

3 SECTION 15. (a) Between July 1, 2010 and September 30,
4 2010, the department of agriculture shall adopt new or amend
5 existing rules to impose or increase fees authorized to be
6 charged under section 141-4 and chapter 147, Hawaii Revised
7 Statutes, without regard to the public notice and public hearing
8 requirements of section 91-3, Hawaii Revised Statutes, the small
9 business impact review requirements of chapter 201M, Hawaii
10 Revised Statutes, or the limit on fee increases under section
11 92-28, Hawaii Revised Statutes. The department shall set the
12 fees at amounts intended to generate sufficient revenues to pay
13 the operation and maintenance costs of implementing the
14 agriculture inspection and certification programs of chapters
15 141 and 147, Hawaii Revised Statutes, and central services and
16 departmental administrative expense assessments of section 36-27
17 and section 36-30, Hawaii Revised Statutes.

18 (b) If, by September 30, 2010, the department of
19 agriculture has not complied with subsection (a), then the fee
20 charged for each inspection or certification conducted under
21 authority of section 141-4 and chapter 147 shall be \$
22 commencing October 1, 2010.



1 (c) Any subsequent amendments to the rules adopted or
 2 amended pursuant to subsection (a) or the fee established under
 3 subsection (b) shall be subject to all applicable provisions of
 4 chapter 91, chapter 201M, and section 92-28, Hawaii Revised
 5 Statutes.

6 SECTION 16. Statutory material to be repealed is bracketed
 7 and stricken. New statutory material is underscored.

8 SECTION 17. This Act shall take effect on July 1, 2010.
 9

INTRODUCED BY:

Handwritten signatures of several individuals, including Jessica Waddell, Cindy Evans, and others, with horizontal lines drawn through them.



Report Title:

Agriculture Inspection and Certification Special Fund
Establishment

Description:

Establishes an agriculture inspection and certification special fund under the department of agriculture. Requires that special fund moneys be used for inspecting, certifying, weighing, classifying, or grading of agricultural products to be exported from or shipped within the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

