
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

PART I

1
2 SECTION 1. The cost of feed for livestock production in
3 Hawaii can constitute up to seventy per cent of total production
4 costs, whereas feed costs for mainland producers amount to
5 nearly fifty per cent of total production costs. In 2007, there
6 were five dairies and six egg farms of significant size in
7 Hawaii, with combined gross annual revenues of \$26,400,000.
8 Currently, there are only two dairies and four egg farms of
9 significant size, with combined gross annual revenues of
10 \$16,250,000. Since 2007, two dairies and four egg farms have
11 gone out of business, primarily due to the rising cost of feed
12 for livestock animals and the resulting increases in production
13 costs. Since October 2010, the cost of poultry feed alone has
14 increased approximately \$60 per ton and is expected to rise even
15 further.

16 Currently, one dairy and the four remaining egg farms are
17 threatened by closure. Such closures heighten the State's
18 dependence on imported foods and threaten the State's food



1 security and ability to achieve adequate levels of agricultural
2 self-sufficiency. Self-sufficiency is critical to Hawaii's food
3 security and its ability to respond effectively in the event of
4 natural disasters or disruptions in transportation.

5 The closure of local dairies and poultry farms also means
6 that children and adults throughout the State will no longer
7 have the option of selecting fresh, locally produced milk and
8 eggs. Consumers have often expressed interest in obtaining
9 locally produced milk but, unfortunately, the dairies do not
10 produce enough milk to meet consumer demand. The public has
11 expressed a similar interest in island-fresh beef, pork, sheep,
12 lamb, chicken, eggs, and seafood.

13 Locally produced fresh beef, milk, pork, lamb, chicken,
14 eggs, and seafood provide essential nutrition to consumers.
15 Transport times from offshore farms to Hawaii consumers create a
16 greater risk of food spoilage and resultant food-borne illnesses
17 due to the highly perishable nature of these products. Without
18 these local agricultural businesses, all beef, milk, pork, lamb,
19 chicken, and eggs would have to be imported into the State,
20 requiring up to ten days of shipping before being sold to
21 consumers. This increased shipping time reduces the expected
22 shelf life of fresh milk and eggs in particular.



1 The purpose of this part is to provide funds to allow
 2 qualified beef cattle, dairy, hog, poultry, goat, sheep, fish,
 3 and crustacean producers to apply for and receive a
 4 reimbursement for a percentage of each farm's feed expenses and
 5 to provide funds to allow qualified feed developers to receive
 6 reimbursement for a percentage of the farm's feed development
 7 expenses. With financial support, the livestock industry will
 8 be able to continue to make investments in modern equipment,
 9 expand and improve herds and flocks, and develop new markets and
 10 products. This financial support will serve a public purpose by
 11 enabling the livestock industry to stabilize its operations,
 12 thereby contributing to food security and increasing the
 13 competitiveness of the local livestock industry with mainland
 14 suppliers.

15 SECTION 2. Chapter 155D, Hawaii Revised Statutes, is
 16 amended by adding a new section to be appropriately designated
 17 and to read as follows:

18 "§155D- Grants; qualified feed developer. (a)
 19 Applications for grants by qualified feed developers shall be
 20 submitted on a form furnished by the department and shall be
 21 filed with accompanying documentation of feed development costs;
 22 provided that:



1 (1) The applicant shall comply with applicable federal and
2 state laws prohibiting discrimination against any
3 person on the basis of race, color, national origin,
4 religion, creed, sex, age, sexual orientation, or
5 disability;

6 (2) The applicant shall have applied for or received all
7 applicable licenses or permits;

8 (3) The applicant shall indemnify and hold harmless the
9 State and its officers, agents, and employees from all
10 claims arising out of or resulting from the feed sold;

11 (4) The grant shall not exceed a total of \$225,000 per
12 qualified feed developer per year; and

13 (5) The department may request an applicant to provide
14 necessary information for the purposes of verifying
15 actual sales to qualified producers.

16 (b) Documentation of animal feed development costs, as
17 requested by the department, shall be filed for feed developed
18 within the immediate preceding fiscal quarter of filing and
19 shall be effective for feed development costs incurred after
20 July 1, 2013.

21 (c) The applicant shall submit a quarterly financial
22 statement of farm revenues and expenses along with other



1 supporting documents as deemed necessary by the department, and
2 filed with the documentation of the feed development costs. An
3 annual financial statement shall be filed with the department
4 within ninety days following the close of the business' fiscal
5 year after June 28, 2013, for final reconciliation of any
6 reimbursement paid during the previous three quarters within the
7 fiscal year. The financial statements shall be certified as
8 accurate by the applicant and the preparer of the financial
9 statement on forms prepared by the department.

10 (d) Funds shall be disbursed upon approval by the
11 department to the qualifying feed developer for up to fifty per
12 cent of the feed development costs incurred.

13 (e) Feed development costs shall be limited to only the
14 feed developed for qualifying producers and shall not include
15 the feed developed for resale or gift, or the cost of
16 transportation to Hawaii. In no case shall costs be reimbursed
17 to a qualified feed developer when, after evaluation and
18 verification by the department, the department determines that
19 the amount of reimbursement will result in an annual profit of
20 more than ten per cent.



1 (f) The department shall aggregate the total grant claims,
2 pursuant to this section and section 155D-2, and divide and
3 distribute the available grant funds on a pro rata basis."

4 SECTION 3. Section 155D-1, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By adding a new definition to be appropriately inserted
7 and to read:

8 "Qualified feed developer" means any person that at the
9 time of application of and disbursement of funds under this
10 chapter is in the business of cultivating feed crops to be sold
11 to qualified producers."

12 2. By amending the definition of "milk" to read:

13 "Milk" means the lacteal secretion, practically free from
14 colostrums, obtained by the milking of healthy cows or goats
15 normally produced or marketed through the channels of the fluid
16 milk trade[-] or for further processing into milk products."

17 3. By amending the definition of "qualified producer" to
18 read:

19 "Qualified producer" means any person that at the time of
20 application for and disbursement of funds under this chapter is
21 in the business of producing:



- 1 (1) Milk from a herd, located in Hawaii, of not less than
2 [~~three hundred fifty~~] ten cows[+] or twenty-five
3 lactating milking goats;
- 4 (2) Poultry products from a flock, raised and located in
5 Hawaii, of not less than [~~three thousand~~] thirty
6 birds;
- 7 (3) Pork from a herd, raised and located in Hawaii, of not
8 less than [~~fifty~~] ten sows; [~~or~~]
- 9 (4) Beef[+] that is grown, slaughtered, processed, and
10 marketed in Hawaii. Producers who finish at least
11 [~~one hundred~~] twenty head of beef cattle annually
12 shall be eligible for this program[-];
- 13 (5) Sheep or lamb that are grown, slaughtered, processed,
14 and marketed in Hawaii, with current annual sales of
15 not fewer than thirty sheep or lambs; or
- 16 (6) Fish or crustaceans, with current annual sales of not
17 less than two thousand pounds."

18 SECTION 4. Section 155D-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+]§155D-2[+] Grants[-]; **qualified producer.** (a)

21 Applications for grants by qualified producers shall be
22 submitted [+]on[+] a form furnished by the department and shall



1 be filed with accompanying documentation of animal feed costs;
2 provided that:

3 (1) The applicant shall comply with applicable federal and
4 state laws prohibiting discrimination against any
5 person on the basis of race, color, national origin,
6 religion, creed, sex, age, sexual orientation, or
7 disability;

8 (2) The applicant shall have applied for or received all
9 applicable licenses or permits;

10 (3) The applicant shall indemnify and hold harmless the
11 State and its officers, agents, and employees from all
12 claims arising out of or resulting from the feed
13 purchased;

14 (4) The subsidy shall not be allowed within a fiscal
15 quarter if the flock or herd size or, in the case of
16 fish or crustaceans, sale weight, falls five per cent
17 or more below the required minimum of:

18 (A) [~~Three thousand~~] Thirty birds;

19 (B) [~~Three hundred fifty~~] Ten cows;

20 (C) [~~Fifty~~] Ten sows in any two months of the
21 applicable fiscal quarter; [~~or~~]



- 1 (D) [~~One hundred~~] Twenty finished beef cattle
- 2 annually;
- 3 (E) Twenty-five lactating milking goats; or
- 4 (F) Sales of five hundred pounds of fish or
- 5 crustaceans in the applicable fiscal quarter;
- 6 (5) The grant shall not exceed a total of \$250,000 per
- 7 qualified producer per year; and
- 8 (6) The department may request an applicant to provide
- 9 necessary information for the purposes of verifying
- 10 flock or herd size or sale weight, as applicable, and
- 11 feed purchases.
- 12 (b) Documentation of animal feed costs, as requested by
- 13 the department, shall be filed for feed purchased within the
- 14 immediate preceding fiscal quarter of filing and shall be
- 15 effective for feed costs incurred after July 1, [~~2007-~~] 2013.
- 16 (c) The applicant shall submit a quarterly financial
- 17 statement of farm revenues and expenses along with other
- 18 supporting documents as deemed necessary by the department, and
- 19 filed with the documentation of the feed costs. An annual
- 20 financial statement shall be filed with the department within
- 21 ninety days following the close of the business' fiscal year
- 22 after June 28, [~~2007~~] 2013, for final reconciliation of any



1 reimbursement paid during the previous three quarters within the
2 fiscal year. The financial statements shall be certified as
3 accurate by the applicant and the preparer of the financial
4 statement on forms prepared by the department.

5 (d) Funds shall be disbursed upon approval by the
6 department to the qualifying producer for up to:

- 7 (1) Sixty per cent of the feed costs incurred for
8 production of poultry products;
- 9 (2) Forty per cent of the feed costs incurred for milk
10 production;
- 11 (3) Fifty per cent of the feed costs incurred for pigs
12 raised in Hawaii and slaughtered for local
13 consumption; or
- 14 (4) Fifty per cent of the feed costs for beef cattle
15 raised in Hawaii and slaughtered in Hawaii for local
16 consumption.

17 (e) Feed costs shall be limited to only the feed fed to
18 the qualifying flock or herd and shall not include the feed
19 purchases for resale or gift, or the cost of transportation to
20 Hawaii. In no case shall costs be reimbursed to a qualified
21 producer when, after evaluation and verification by the



1 department, the department determines that the amount of
2 reimbursement will result in an annual profit of more than:

- 3 (1) Twelve per cent for milk producers;
- 4 (2) Eight per cent for poultry producers;
- 5 (3) Eight per cent for pork producers; or
- 6 (4) Eight per cent for beef producers.

7 (f) The department shall aggregate the total grant claims,
8 pursuant to this section and section 155D- , and divide and
9 distribute the available grant funds on a pro rata basis."

10 SECTION 5. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so much
12 thereof as may be necessary for fiscal year 2013-2014 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2014-2015 for the agricultural development division of the
15 department of agriculture to:

- 16 (1) Reimburse qualified producers of milk, pork, eggs,
17 poultry, beef, sheep, lamb, and seafood, for the cost
18 of feed for beef cattle, dairy cows or goats, sheep,
19 lamb, hogs, fish, crustaceans, and birds;
- 20 (2) Reimburse qualified feed developers for the costs of
21 development of feed for sale to qualified producers;
22 and



1 (3) Provide funding for the administrative costs of the
2 livestock revitalization program.

3 The appropriations made for the purposes authorized under
4 this section shall not lapse at the end of the fiscal year for
5 which the appropriations are made; provided that any balance of
6 any appropriation that is not encumbered as of June 30, 2016,
7 shall lapse as of that date.

8 The sums appropriated shall be expended by the department
9 of agriculture for the purposes of this part.

10 PART II

11 SECTION 6. Chapter 141, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§141- Department of agriculture lands; disposition;
15 agribusiness development corporation. The department of
16 agriculture, as necessary, may lease or otherwise dispose of
17 lands under its control to the agribusiness development
18 corporation for the purposes of chapter 163D."

19 SECTION 7. Section 166E-8, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~+~~§166E-8~~+~~ Disposition. (a) Any provision of this
2 chapter to the contrary notwithstanding, the department may
3 dispose of:

4 (1) Public lands and related facilities set aside and
5 designated for use pursuant to this chapter; and

6 (2) Other lands and facilities under the jurisdiction of
7 the department pursuant to section 166E-9 and
8 notwithstanding chapter 171,

9 by negotiation, drawing of lot, conversion, or public auction.

10 Except as provided by subsection (d), the department shall
11 dispose of public lands by lease.

12 (b) In all dispositions, the department shall be subject
13 to the requirements set forth in rules adopted by the board
14 consistent with section 166E-6 and subject to the following:

15 (1) All land and facilities shall be disposed of for
16 purposes of agricultural or aquacultural activities
17 only;

18 (2) Each lessee shall derive a major portion of the
19 lessee's total annual income earned from the lessee's
20 activities on the premises; provided that this
21 restriction shall not apply if:



- 1 (A) Failure to meet the restriction results from
- 2 mental or physical disability or the loss of a
- 3 spouse; or
- 4 (B) The premises are fully used in the production of
- 5 crops or products for which the disposition was
- 6 granted;
- 7 (3) The lessee shall comply with all federal and state
- 8 laws regarding environmental quality control;
- 9 (4) The board shall:
- 10 (A) Determine the specific uses for which the
- 11 disposition is intended;
- 12 (B) Parcel the land into minimum size economic units
- 13 sufficient for the intended uses;
- 14 (C) Make, or require the lessee to make, improvements
- 15 that are required to achieve the intended uses;
- 16 (D) Set the upset price or lease rent based upon an
- 17 appraised evaluation of the property value,
- 18 adjustable to the specified use of the lot;
- 19 (E) Set the term of the lease that shall be not less
- 20 than fifteen years nor more than sixty-five
- 21 years, including any extension granted for
- 22 mortgage lending or guarantee purposes; and



- 1 (F) Establish other terms and conditions it deems
2 necessary, including but not limited to
3 restrictions against alienation and provisions
4 for withdrawal by the board; and
- 5 (5) Any transferee, assignee, or sublessee of a non-
6 agricultural park lease shall first qualify as an
7 applicant under this chapter. For the purpose of this
8 paragraph, any transfer, assignment, sale, or other
9 disposition of any interest, excluding a security
10 interest, by any legal entity that holds a non-
11 agricultural park lease shall be treated as a transfer
12 of the non-agricultural park lease and shall be
13 subject to the approval of the board and to reasonable
14 terms and conditions, consistent with this chapter or
15 rules of the board that the board may deem necessary.
16 No transfer shall be approved by the board if the
17 disposition of the stock or assets or other interest
18 of the legal entity would result in the failure of the
19 entity to qualify for a non-agricultural park land
20 lease.
- 21 (c) After notice of the breach or default as provided in
22 rules adopted by the board consistent with section 166E-6, a



1 violation of any provision in this section shall be cause for
2 the board to cancel the lease and take possession of the land.

3 (d) The board may issue easements, licenses, permits, and
4 rights-of-entry for uses that are consistent with the purposes
5 for which the lands were set aside or are otherwise subject to
6 the authority of the department pursuant to section 166E-9.

7 (e) Subsection (b) (2) and (5) shall not apply to any
8 disposition of non-agricultural park lands leased or otherwise
9 disposed of by the department to the agribusiness development
10 corporation; provided that:

11 (1) Any transfer, assignment, or other disposition of any
12 interest of a non-agricultural park land lease,
13 excluding a security interest, by the agribusiness
14 development corporation shall be treated as a transfer
15 of the non-agricultural park land lease and shall be
16 subject to the approval of the board and to reasonable
17 terms and conditions, consistent with this chapter or
18 rules of the board that the board may deem necessary;

19 (2) Any disposition of lands or facilities to the
20 agribusiness development corporation shall be for the
21 purpose of agricultural or aquacultural activities or



1 shall otherwise promote the purpose established in
2 chapter 163D; and

3 (3) The agribusiness development corporation shall not
4 sell any non-agricultural park land that the
5 agribusiness development corporation leases from the
6 department."

7 SECTION 8. Section 166E-11, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**[+]§166E-11[+]** **Lease negotiation.** (a) The department
10 may negotiate and enter into leases with any person who:

- 11 (1) Holds a revocable permit for agricultural purposes;
- 12 (2) Has formerly held an agricultural lease or a holdover
- 13 lease of public land that expired within the last ten
- 14 years and has continued to occupy the land; or
- 15 (3) Is determined by the department to have a beneficial
- 16 impact on agriculture.

17 (b) Lands eligible for lease negotiations under this
18 section are limited to lands that are:

- 19 (1) Zoned and used for agricultural purposes;
- 20 (2) Set aside for agricultural uses only, by the governor
- 21 through an executive order to the department; and



1 (3) Not needed by any state or county agency for any other
2 public purpose.

3 (c) In negotiating and executing a lease as authorized,
4 the board shall:

5 (1) Require the appraisal of the parcel using standards of
6 national appraiser organizations to determine the
7 rental, including percentage rent;

8 (2) Require the payment of a premium, computed at twenty-
9 five per cent of the annual lease rent, with the
10 premium to be added to the annual lease rent for each
11 year of the lease equal to the number of years the
12 lessee has occupied the land, except that the premium
13 period shall not exceed four years; and

14 (3) Recover from the lessee the costs of expenditures
15 required by the department to convert the parcel into
16 leasehold.

17 The department shall notify in writing those eligible for
18 lease negotiations under this section and shall inform the
19 applicants of the terms, conditions, and restrictions provided
20 by this section. Any eligible person may apply for a lease by
21 submitting a written application to the department within thirty
22 days from the date of receipt of notification; provided that the



1 department may require documentary proof from any applicant to
2 determine that the applicant meets eligibility and qualification
3 requirements for a lease.

4 (d) Notwithstanding any provision of this chapter to the
5 contrary, the department may negotiate and enter into leases
6 with the agribusiness development corporation, which shall be
7 exempt from any qualification requirements under this chapter."

8 **PART III**

9 SECTION 9. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 10. This Act shall take effect on July 1, 2050.

12



Report Title:

Livestock Feed Subsidy; Livestock Feed Developer Subsidy;
Appropriation; Department of Agriculture; Disposition of Lands;
Agribusiness Development Corporation

Description:

Expands livestock feed subsidy to include feed for goats, sheep, lambs, fish and crustaceans. Creates a subsidy for qualified feed developers. Appropriates funds. Authorizes the DOA to dispose of lands to and negotiate and enter into leases with the ADC. Exempts non-agricultural park lands disposed of to the ADC from section 166E-8(b)(2) and (5), HRS. Effective July 1, 2050. (SD1)

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