

**"CHAPTER 167
IRRIGATION WATER DEVELOPMENT**

Section

- 167-1 Findings and declaration of necessity
- 167-2 Definitions
- 167-3 Engineering program administrator
- 167-4 Interested members of the board or employees
- 167-5 Powers
- 167-6 Further powers
- 167-7 Issuance of revenue bonds
- 167-8 Investment of funds
- 167-9 Security for funds deposited by board
- 167-10 Eligibility of revenue bonds for investment
- 167-11 Rate policy; sale of excess water
- 167-12 Lands included within irrigation projects
- 167-13 Petition of land occupiers for formation of water project
- 167-14 Petition of Hawaiian homes commission for formation of irrigation project, community pastures
- 167-15 State lands, formation of irrigation project
- 167-16 Consideration of petitions; notice and hearing
- 167-17 Formation of irrigation project on initiative of board; notice and hearing; protests
- 167-18 Approval of legislature, appropriations
- 167-19 Administration of irrigation project; acreage assessments; liens
- 167-20 Furnishing domestic water
- 167-21 Repayment of certain state advances
- 167-22 Irrigation system revolving fund
- 167-22.5 Repealed
- 167-23 Molokai irrigation system water users advisory board; establishment; meetings
- 167-24 Repealed

" **[\$167-1] Findings and declaration of necessity.** It is important to the welfare of the people of Hawaii that agricultural production be developed as fully as possible. It is further found that water presently tapped for irrigation is inadequate for the fullest development of the economy of the State. It is therefore hereby declared that additional water and water facilities are necessary for the development of agriculture in the State.

It is the intent of the legislature that no project under this chapter shall be organized in the city and county of Honolulu or other counties without the board of agriculture first consulting the board of water supply of the city and county of Honolulu or the water board or department of each county. [L 1987, c 306, pt of §1]

" **[\$167-2] Definitions.** The following terms, whenever used and referred to in this chapter, have the following respective meanings, unless a different meaning clearly appears in the context:

"Acreage assessments" means any levy imposed pursuant to this chapter on the agricultural and pasture land within an irrigation project and any amount charged to the State or to the Hawaiian homes commission for the purpose of acquiring, establishing, or maintaining irrigation facilities for an irrigation project.

"Agricultural land" means that portion of the land of a land occupier lying within an existing or proposed irrigation project and of such location and character as may be profitably employed in the growing of irrigated crops; and "pasture land" means that portion of the land of a land occupier lying within an existing or proposed irrigation project and of such location and character as may be suitable with the use of water for irrigated pasture and may be profitably employed in the production of livestock or poultry.

"Board" means the board of agriculture.

"Farming" means agricultural pursuits, including the care and production of livestock and poultry, engaged in by a land occupier owning or leasing land, within any existing or proposed irrigation project.

"Government" includes the State and the United States and any political subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

"Land occupier" means the owner or in the case of leased land, the lessee of lands lying within an irrigation project organized or to be organized under this chapter.

"Leased land", "leasehold", and similar expressions wherever used in this chapter shall be deemed to include land

subject to and held under lease or other tenancy, purchase or homestead agreement; "lease" wherever used in this chapter means such lease, tenancy, purchase, or homestead agreement; "lessor" wherever used in this chapter includes the lessor, landlord, seller, or State as grantor of the homestead; and "lessee" wherever used in this chapter includes the lessee, tenant, purchaser, or homesteader under such lease or other agreement, as the case may be.

"Project" or "irrigation project" means an area, contiguous or noncontiguous, established under this chapter within which water is supplied to the State or the Hawaiian homes commission for the development and opening of lands for farming or to land occupiers engaged in farming.

"Water facility" includes all real and personal property, together with all improvements to the same, acquired or constructed pursuant to a plan or undertaking to provide water within a project for irrigation under this chapter.

"Water tolls" means any charges established by the board for irrigation water supplied by it to the State, the Hawaiian homes commission, and land occupiers. [L 1987, c 306, pt of §1]

" **§167-3 Engineering program administrator.** The board of agriculture shall appoint a registered professional engineer who shall act as engineering program administrator of the irrigation water development program and have such qualifications as the board may deem necessary. The appointment and removal of the engineering program administrator shall be in accordance with chapter 76 and the engineering program administrator shall perform the duties as set forth by the board. [L 1987, c 306, pt of §1; am L 2000, c 253, §150; am L 2013, c 107, §2]

" **[§167-4] Interested members of the board or employees.** No member of the board of agriculture or employees of the board shall acquire any interest, direct or indirect, in any water facility or project or in any property, included or planned to be included in any facility or project, nor shall any member of the board or employee of the board have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished or used in connection with any water facility or project. If any member of the board or employee of the board owns or controls an interest, direct or indirect, in any property included or planned to be included in any water facility or project, the member of the board or employee of the board shall immediately disclose the same in writing to the board and the disclosure shall be entered upon the minutes of the board. The member of the board or employee shall be immediately disqualified from taking any part of the action of

the board relative to the water facility or project. Failure to so disclose the interest shall constitute misconduct in office. [L 1987, c 306, pt of §1]

" **[§167-5] Powers.** In addition to any other powers granted to the board of agriculture for the purpose of carrying out all of its functions and duties, the board shall have the following powers for the purposes of this chapter:

- (1) To acquire by eminent domain, water and water sources either above or underground, watershed, reservoir sites, rights-of-way over lands and property for paths, trails, roads, and landing sites, ditches, tunnels, flumes, reservoirs, and pipelines necessary or proper for the construction and maintenance of water facilities for conveying, distributing, and transmitting water for irrigation and domestic use and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining irrigation water facilities, any of which purposes shall be held to be for a public use and purpose;
- (2) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the board, including, without prejudice to the generality of the foregoing, contracts and other instruments for the purchase or sale of water and for the purchase or lease of water facilities for irrigation of the area, including but not limited to the production of agricultural products and the land on which the facilities are situated, and for securing to the owners and occupiers of land already using water in a project a priority right to so much water from those of their sources and facilities which are taken over for the project as is required for the purposes or needs of the land, whether agricultural or nonagricultural in nature, as such purposes or needs exist at the inception of the project or are then contemplated in the immediate future;
- (3) To make and from time to time amend and repeal bylaws and rules, not inconsistent with this chapter, which upon compliance with chapter 91 shall have the force and effect of law, to carry into effect the powers and purposes of the board;
- (4) To make surveys for the purposes of determining the engineering and economic feasibility of each project;
- (5) To conduct or have prepared comprehensive studies of the crops, livestock, and poultry which may be

profitably grown or produced within each project and the probable market for such crops, livestock, and poultry;

- (6) To conduct feasibility studies of the economic potential of the area;
- (7) To determine the probable costs and value of providing water for irrigation in any proposed project;
- (8) To investigate and make surveys of water resources, including the possibility and feasibility of inducing rain by artificial or other means;
- (9) To define and redefine the boundaries of projects and to consolidate or separate projects, existing or proposed pursuant to this chapter, provided that in the event the redefinition of the boundaries or the consolidation or separation previously effected increased the total amount required to be derived from acreage assessments upon lands within the existing project or projects by more than five per cent or will require an increase in the tolls charged for water supplied to the lands or will reduce the amount of water normally available for distribution to the lands, then the redefinition, consolidation, or separation may be accomplished only after notice has been published and a public hearing held as required for the formation of a project upon the initiative of the board. At the hearing, right to protest and the procedure relative to protest shall be the same as specified in section 167-17 concerning the formation of projects, and the proposed redefinition of boundaries, consolidation, or separation of projects shall not be accomplished if protests, such as would be sufficient to prevent the action if it were the formation of a project, are filed by owners and lessees of land within the existing projects or projects affected thereby.

The board is empowered, upon petition of land occupiers as provided by section 167-13, or upon petition of the Hawaiian homes commission or upon its own initiative, to prepare detailed plans for the acquisition or construction of facilities for irrigation or for economic development which in its opinion are economically feasible, to prepare estimates of the probable cost of each, and to prepare estimates of the water tolls and acreage assessments required for the cost of operation and the amortization of the investment of each project, so that the project shall be self-supporting. [L 1987, c 306, pt of §1]

" **§167-6 Further powers.** (a) [*Repeal and reenactment on June 30, 2025. L 2014, c 223, §4.*] The board of agriculture shall also have the power to:

- (1) Establish and certify the total amount of acreage assessments to be levied annually and collect the assessments within each project;
- (2) Set and from time to time revise tolls that it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; provided that the toll for water provided by the lower Hamakua ditch shall not exceed 20 cents per one thousand gallons;
- (3) Establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification;
- (4) Govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with these priorities;
- (5) Charge and collect water tolls, fees, and other charges established in connection herewith;
- (6) Sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
- (7) Hold, clear, and improve property;
- (8) Borrow money for any of the purposes hereunder;
- (9) Insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
- (10) Include in any construction contract executed in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions that the federal government may have attached to its financial aid of the project;
- (11) Delegate to the chairperson or employees of the department, subject to the board's control and responsibility, powers and duties as may be lawful or proper for the performance of the functions vested in the board;
- (12) Set, charge, and collect interest and a service charge on delinquent payments due on water tolls, acreage assessments, or other related accounts; provided that the rate of interest shall not exceed one per cent per

month and the service charge shall not exceed \$7 for each delinquent payment;

(13) Collect delinquent acreage assessments in accordance with sections 231-61 to 231-70; provided that the chairperson shall have all of the powers provided to the director of taxation or state tax collector under chapter 231 that may be necessary or convenient to collect delinquent acreage assessments;

(14) Accept a security interest in real or personal property for a debt restructured under a payment plan for delinquent water tolls, acreage assessments, or other related irrigation project accounts subject to the rate of interest set forth in paragraph (12); and

(15) Foreclose upon or otherwise enforce the security interest accepted under paragraph (14) by any method provided for by law and to hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of that personal or real property to recover the debt secured.

(b) The board shall also have the power to enter into any repayment or other contracts with the United States for the construction, operation, and maintenance of any projects as may be required or provided for by the federal reclamation laws, or acts amendatory thereof or supplementary thereto, or other federal laws, and further to borrow money or accept grants or assistance from the federal government, or any department, bureau, or agency thereof with respect to the engineering, construction, operation, and financing of any project hereunder. The board shall make every effort to obtain all federal aid possible for the purposes of this chapter.

(c) In making surveys, studies, and investigations, in planning and designing, and in constructing projects and facilities for irrigation, the board shall also have power to include therein surveys, studies, and investigations of, plans and designs for, and construction of facilities for flood control and the utilization of water for the production of hydroelectric power, where the same may be practicable in conjunction with the formation and operation of an irrigation project or projects. [L 1987, c 306, pt of §1; am L 1992, c 97, §1; am L 1998, c 102, §1; am L 2014, c 223, §2]

" **§167-7 Issuance of revenue bonds.** (a) The board of agriculture shall have the power to issue revenue bonds in the name of the department in amounts as may be authorized by the legislature. All revenue bonds shall be issued pursuant to part III of chapter 39, except as provided in this chapter, to finance in whole or in part, the cost of construction, acquisition, or maintenance of any water facility or irrigation

project hereunder, and, in connection therewith, to pledge or assign for the punctual payment of the revenue bonds, and interest thereon, any and all revenues derived from any project or projects undertaken by the board, in an amount sufficient to pay the principal and interest of the revenue bonds as they become due, and to create and maintain reasonable reserves or sinking funds therefor. Funds of the board, not otherwise required, may be advanced to pay necessary expenses incurred in making preparation for the issuance of revenue bonds under this chapter, and to take any other action necessary or proper in connection therewith.

(b) All revenue bonds issued pursuant to this chapter shall be issued in the name of the department and not in the name of the State.

(c) The board, with the approval of the governor, may designate by resolution all or any portion of an irrigation project or projects undertaken pursuant to this chapter; provided that for the purposes of this section, "undertaking" shall have the same meaning as used in part III of chapter 39. [L 1987, c 306, pt of §1; am L 1995, c 139, §2]

" **[\$167-8] Investment of funds.** The director of finance may authorize the investment of any funds held in reserves, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control. [L 1987, c 306, pt of §1]

" **[\$167-9] Security for funds deposited by board.** The board of agriculture may by resolution provide that all moneys deposited by it shall be secured:

- (1) By any securities by which funds deposited by the director of finance of the State may be legally secured, as provided in section 38-3; or
- (2) By an undertaking with such sureties as shall be approved by the board faithfully to keep and pay over upon the order of the board any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for the deposits. [L 1987, c 306, pt of §1]

" **[\$167-10] Eligibility of revenue bonds for investment.** It shall be legal for the State and any of its political subdivisions, or any political or public corporation, including the employees' retirement system of the State, or any instrumentality of the State, or any insurance company, building and loan association, savings bank, trust company, or any bank or other financial institution operating under the laws of the

State, or for any personal representative, guardian, trustee, or other fiduciary, or any educational, charitable, or eleemosynary institution to invest their funds or moneys in their custody in the revenue bonds issued hereunder; provided that the foregoing shall not be deemed to obviate or otherwise affect any statutory or other requirement with respect to the use of judgment and care in investing any such funds. No holder of any revenue bonds issued hereunder, however, shall have the right to compel any exercise of the taxing power of the State to pay the bonds or interest thereon. [L 1987, c 306, pt of §1]

" **§167-11 Rate policy; sale of excess water.** The board of agriculture shall have the power to fix and adjust rates and charges for the furnishing of irrigation or domestic water and for water service so that the revenues derived therefrom shall be sufficient to cover the cost of operation, maintenance, replacement, and debt service on revenue bonds in compliance with part III of chapter 39, and may make charges as may be necessary to cover the capital cost of the system or other costs incurred in connection with the system.

Nothing in this chapter shall be construed to prevent the board from selling water to persons other than land occupiers and other consumers within a water project in the event and to the extent that water in excess of the needs of the land occupiers and other consumers may from time to time be available. [L 1987, c 306, pt of §1; am L 1995, c 139, §3]

" **[§167-12] Lands included within irrigation projects.** Except as otherwise expressly permitted in the chapter, lands to be included within an irrigation project shall be only those used or to be used in farming. The number of acres of agricultural and pasture land of each land occupier within the project shall be determined by the board of agriculture and shall not be increased or decreased, nor shall any such land included within a project thereafter be withdrawn, after final determination to construct the project, except in the manner and with the limitations specified in this chapter by redefining the boundaries of a project. The project shall include only such lands as can be adequately irrigated by the quantity of water and facilities to be provided under normal conditions of supply. No land which at the time of formation of the project is irrigated, or is devoted to the cultivation for commercial purposes of sugar, pineapples, coffee, bananas, citrus, papayas, or macadamia nuts, or other horticultural crops, whether or not the land so devoted is irrigated, or is being devoted to an industrial or townsite or other use of greater economic value than agriculture shall be included in the project if the owner

of the land (or the land occupier thereof if other than the owner, in the event that the land occupier is legally chargeable with the acreage assessments) shall object in writing to the inclusion. The foregoing provisions of this paragraph shall be applicable to all irrigation projects.

Notwithstanding the limitation expressed in the foregoing paragraph, lands of the State used by the University of Hawaii for experimental farms may be included in irrigation projects, provided the board of regents undertakes the payment of water tolls and acreage assessments and for the purposes of the inclusion the University of Hawaii shall be deemed a land occupier within the meaning of this chapter. Lands within the farms shall be assessed accordingly as the same are of the character of agricultural or pasture lands, as defined in this chapter, although they are used for experimental purposes. The assessments shall not, however, become a lien upon the lands. [L 1987, c 306, pt of §1]

" **[\$167-13] Petition of land occupiers for formation of water project.** Land occupiers, including the Hawaiian homes commission, comprising at least sixty per cent of the acreage of lands lying within an area proposed to be organized into a water project may file a petition with the board of agriculture requesting that the project be organized. Where any of the lands of the petitioners in the proposed area are leased lands, it shall be necessary for the lessor and lessee to join in the petition. The petition shall contain a general description and the acreage of the area proposed to be organized into a water project and shall state the acreage owned or leased by each of the petitioners within that area. Before the board shall commence any water project involving homesteaded lands of the Hawaiian homes commission, it shall require the commission to assure the payment of any acreage assessment thereon, in pursuance of section 208(5) of the Hawaiian Homes Commission Act, 1920. [L 1987, c 306, pt of §1]

" **[\$167-14] Petition of Hawaiian homes commission for formation of irrigation project, community pastures.** The Hawaiian homes commission may petition the board of agriculture to organize irrigation projects for any of the lands designated as "available lands" in the Hawaiian Homes Commission Act, 1920, whether or not the lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to the lands, no notice need be published nor public hearing held as in section 167-16 required. Project water may be

supplied to community pastures established by the Hawaiian homes commission within any project even though the pastures exceed one hundred acres in area. Before the board commences any irrigation project involving community pastures it shall require agreement from the Hawaiian homes commission that tolls for water supplied to and acreage assessments upon the pastures shall be paid by the commission. Before the board commences any irrigation project involving available lands which the Hawaiian homes commission desires to develop and open for small scale farming it shall require agreement from the Hawaiian homes commission that in the event the development and opening of the lands does not enable the making of acreage assessments sufficient to repay the costs of construction of the project that the same will be paid by the commission. The payments referred to in this section may be made by the Hawaiian homes commission from any of its funds designated or created by Congress for that purpose. [L 1987, c 306, pt of §1]

" **[\$167-15] State lands, formation of irrigation project.** The board of agriculture may organize irrigation projects for lands under its control, whether or not the lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to the lands, no notice need be published nor public hearing held as in section 167-16 required. The costs of construction of the project, shall be paid by the board, in the event and to the extent that the development and opening of the lands does not enable the making of acreage assessments sufficient to repay construction costs, from any funds in the state treasury derived from the lease or license of public lands or waters, which funds are hereby made available for such purposes. [L 1987, c 306, pt of §1]

" **[\$167-16] Consideration of petitions; notice and hearing.** When more than one petition is filed covering portions of the same territory, the board of agriculture may consolidate the petitions. Having received the petitions, on the basis of such evidence as may be submitted to it by the petitioners and on the findings of investigations or surveys made by or for it, or by other governmental agencies, the board shall establish such irrigation projects as it deems necessary to carry out the purposes of this chapter. Before making a final determination to establish a project or projects, the board shall hold a hearing, notice of which shall be duly advertised in the same manner and form, as nearly as may be, as provided in section 167-17. [L 1987, c 306, pt of §1]

" **§167-17 Formation of irrigation project on initiative of board; notice and hearing; protests.** The board of agriculture may organize irrigation projects upon its own initiative. In this event, it shall fix a date for public hearing upon the proposed project, which date shall not be less than sixty days after the first public notice thereof in the county in which the project is proposed. The notice shall be given once in each of four successive weeks, describing or identifying the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per cent of the acreage of agricultural and pasture lands proposed to be organized into an irrigation project at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve months from the date of closing the public hearing, unless each and every owner protesting withdraws each and every owner's protest; provided that any lessee of any agricultural or pasture lands included within the proposed project, who, by the express terms of the lessee's lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of the owner to protest by filing at the hearing or prior thereto written protest against the proposed project, the written protest to be accompanied by a certified copy of the lease; provided further that any lessor, at any time before the closing of the public hearing, may make void the protest of the lessor's lessee on consideration of the filing with the board a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further provided that a project may be instituted without further public notice for a smaller acreage within the acreage described in the public notice in the event the board determines the smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per cent of the smaller acreage shall not be filed. [L 1987, c 306, pt of §1; am L 1998, c 2, §33]

" **[§167-18] Approval of legislature, appropriations.** Funds for acquisition or construction of irrigation facilities for each project, established by the board of agriculture under sections 167-13, 167-14, 167-15, and 167-17, may be requested from the legislature, as an appropriation to be repaid without interest to the general funds of the State by the board from water tolls, acreage assessments, and other receipts of the

board within such period as may be specified in the act making the appropriation. [L 1987, c 306, pt of §1]

" **§167-19 Administration of irrigation project; acreage assessments; liens.** (a) All irrigation projects established pursuant to this chapter shall be administered by the board of agriculture. In making the final determination to establish a project, the board shall:

- (1) Determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project; and
- (2) Have the engineering program administrator prepare a map setting forth in detail the exterior boundaries of the lands to be included within the project and an acreage assessment roll listing all known land occupiers whose lands are to be included within the project. The proportion of acreage assessments to be borne by pasture land, at the discretion of the board, may be less than but not more than the proportion to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified by the board and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project, and then only in the manner and within the limitations specified in conjunction therewith.

The board shall determine and certify on or before June 30 of each year the amount of acreage assessments necessary in that fiscal year for the acquisition, construction, operation, and maintenance of irrigation facilities for each project, and the acreage of agricultural and pasture land of each land occupier within the project. The department shall immediately notify the land occupiers of the amounts assessed on the respective properties and the payment due date.

(b) Upon the board's certification, the chairperson or the chairperson's designee shall determine the acreage assessment to be levied against the property of each land occupier in the following manner:

- (1) By determining the amount of acreage assessments to be borne by the agricultural land and the pasture land within the project according to the proportion previously certified by the board;
- (2) By dividing the amount of acreage assessment to be borne by the agricultural land by the number of

cultivable acres, excluding streams, dry gulches, and uncultivable or unusable lands, within the project and multiplying the quotient by the number of cultivatable acres of agricultural land, except the board may by rules adopted pursuant to chapter 91 set a minimum acreage assessment for uncultivable or unusable lands, of the occupier within the project; and

- (3) By dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of the land occupier within the project.

The acreage assessments shall be in addition to any real property taxes, and shall be collected by the board together with the monthly water tolls. Except in the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed agricultural or pasture land, or both, of the land occupier included within the project forms a part. Acreage assessments levied pursuant to this chapter shall be a lien against each lot or parcel of land assessed from the date of board certification declaring the assessment, and these liens shall have priority over all other liens except real property tax liens and prior recorded state tax liens on real property. The lien may be foreclosed in the same manner as liens for taxes in accordance with sections 231-61 to 231-70. In case of the foreclosure of any homestead land pursuant to sections 231-61 to 231-70, the foreclosure sale shall be subject to chapter 171. In the case of public lands and lands designated as "available lands" under the Hawaiian Homes Commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon either the board of land and natural resources or the Hawaiian homes commission, as applicable, for payment.

(c) All or any portion of the acreage assessments collected under this chapter, as determined by the board, exclusive of acreage assessments imposed on lands within an irrigation project financed through the issuance of revenue bonds, shall be deposited into the irrigation system revolving fund. Acreage assessments imposed on lands within an irrigation project financed through the issuance of revenue bonds shall be deposited into the general fund.

(d) Water tolls fixed by the board for each project under this chapter shall be collected by the board under such

reasonable rules and procedures as it may establish and may modify from time to time.

(e) All water tolls, acreage assessments, and receipts from properties sold by way of foreclosure for failure to pay acreage assessments shall be realizations of the board. [L 1987, c 306, pt of §1; am L 1992, c 97, §2; am L 1995, c 139, §4; am L 1999, c 225, §1; am L 2001, c 140, §1; am L 2011, c 124, §40; am L 2013, c 107, §3]

" **[\$167-20] Furnishing domestic water.** In conjunction with any irrigation project which it has established, and subject to pertinent provisions of law governing the supply, the board of agriculture may establish a system for and supply water for domestic purposes to residents within and in close proximity to the irrigation project. The system shall be established only if (1) the board determines that it would be advisable and in the public interest to provide the domestic supply; (2) its construction and operation by the board has been consented to by the board of water supply of the county in which the project is situated, and by a majority of the land occupiers within the irrigation project; and (3) if under normal conditions of water availability, the operation of the system will not prejudice or interfere with the supply of irrigation water to the land occupiers within the project. The board may also subject to the limitations previously set forth in this section, take over, improve, and operate any existing system for the supply of domestic water if requested so to do by the owners and operators of the system. [L 1987, c 306, pt of §1]

" **[\$167-21] Repayment of certain state advances.** (a) Whenever under legislative authorization, past, present or future, general obligation bonds of the State are issued or the proceeds of general obligation bonds of the State are used, by way of advancement, for the establishment and construction of any specific project under the jurisdiction of the board of agriculture in its irrigation water program, the board may repay the same to the director of finance, upon the expiration of ten years from the time of initial irrigation service to the project, which ten-year term shall be the development period, as repayment on account of the advancement. Such payments shall be made over the period of the next succeeding forty years after the termination of the development period, the total of which payments shall be sufficient to reimburse the State for redemption of the bonds together with interest paid by the State in respect of the same.

(b) The foregoing method of repayment of advances shall be effective for each phase of any multiphase project, the

amortization period for the advancement commencing ten years from the time that facilities to provide irrigation service for each new project phase are put into operation.

(c) In the event that changing use of the land in a project substantially increases revenues, or other circumstances make it reasonably possible or desirable for the board to accelerate the amortization of advances it shall be permitted to do so. [L 1987, c 306, pt of §1]

" **§167-22 Irrigation system revolving fund.** (a) There is established the irrigation system revolving fund, into which shall be deposited:

- (1) All legislative appropriations to the irrigation system revolving fund; and
- (2) All or any portion of the receipts and revenues collected under this chapter, as determined by the board of agriculture.

(b) The irrigation system revolving fund shall be administered by the department of agriculture. Moneys in the revolving fund shall be expended for:

- (1) Administrative costs, engineering surveys, economic studies, plans, and maps; and
- (2) Other water projects or purposes of the board of agriculture.

In the event any moneys are expended from the revolving fund for engineering surveys, economic studies, plans, and other expenses directly attributable to any water project, or for the establishment of any water project, the amount of the expenditures shall be reimbursed to the revolving fund from any funds received by the board for and on account of the project. [L 1987, c 306, pt of §1; am L 1995, c 139, §5; am L 2011, c 124, §41]

" **§167-22.5 REPEALED.** L 2011, c 124, §50.

" **§167-23 Molokai irrigation system water users advisory board; establishment; meetings.** (a) There is established a Molokai irrigation system water users advisory board, to be appointed by the governor under section 26-34. The advisory board shall consist of seven members, as follows:

- (1) A homestead farmer user on Molokai;
- (2) A nonhomestead farmer user on Molokai;
- (3) The designee (by name rather than office) of the Molokai County Farm Bureau;
- (4) The designee (by name rather than office) of Hikiola Cooperative, Inc.;

- (5) The designee (by name rather than office) of the Molokai-Lanai soil and water conservation district;
 - (6) A homestead farmer user whose nomination has been recommended by Moku Puni O Molokai, as determined pursuant to a process established by that organization, and approved for submittal to the governor by majority vote of all homesteaders then serving on the advisory board; and
 - (7) The supervisor of the Molokai district office of the department of Hawaiian home lands who shall serve as an ex officio voting member.
- (b) All members of the advisory board shall be:
- (1) Molokai irrigation system users or their agents, officers, or employees; and
 - (2) Residents of the island of Molokai.
- (c) The members of the advisory board shall serve without compensation, but shall be entitled to reimbursement for necessary expenses, including travel expenses, while attending meetings and while in the discharge of their duties. For administrative purposes, and pursuant to section 26-35, the advisory board shall be placed within the department of agriculture.
- (d) The advisory board shall meet with the department of agriculture at least six times each year. The meetings shall be held on Molokai, whenever possible.
- The advisory board's duties and responsibilities shall be to:
- (1) Advise the department of agriculture on matters of concern to the users of the system;
 - (2) Provide support for improvements to the irrigation facilities;
 - (3) Participate in the long-range planning of the system; and
 - (4) Act as liaison between the users and the department of agriculture.
- (e) Four members of the advisory board shall constitute a quorum at any meeting. No member of the advisory board shall be qualified to act in matters directly involving a company or organization of which the advisory board member is an officer, director, member, or full-time employee, or to which the advisory board member is indebted.
- (f) For the purpose of this section:
- "Homestead farmer user" means an individual who qualifies under the requirements set forth in the department of Hawaiian home lands administrative rules, farms a homestead parcel owned by the department of Hawaiian home lands, and is served by the Molokai irrigation system.

"Kupuna homestead farmer user" means an individual who resides on a homestead parcel on Molokai, with a Molokai irrigation system water meter. The individual shall be a former or current farmer who is working or has worked in the agricultural industry on Molokai. [L 1992, c 131, §3; am L 2010, c 154, §1; am L 2016, c 175, §1]

" **§167-24 REPEALED.** L 2011, c 124, §51.