

JAN 23 2020

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**A BILL FOR AN ACT**

RELATING TO AGRICULTURAL ENTERPRISES.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4 "CHAPTER

5 AGRICULTURAL ENTERPRISES

6 § -1 Purpose. Article XI, section 3, of the state  
7 constitution establishes in part that the "State shall conserve  
8 and protect agricultural lands, promote diversified agriculture,  
9 increase agricultural self-sufficiency and assure the  
10 availability of agriculturally suitable lands."

11 The legislature finds that smaller scale farming  
12 operations, particularly those associated with diversified  
13 agriculture, usually do not have ready access to nor the  
14 resources to pay for their own modern processing, packing,  
15 storage, and distribution enterprises to expand or maximize  
16 productivity of their agricultural operations. Due to global  
17 competition and the recent implementation of national food

1 safety standards, the department of agriculture has found it  
2 needs to support the growth of diversified agriculture, by  
3 encouraging agricultural enterprises on the department of  
4 agriculture's state lands, through activities including  
5 planning, designing, constructing, operating, and managing  
6 agricultural enterprises to ensure the economic viability of  
7 agricultural operations, as well as allowing lessees to do the  
8 same. Therefore, the legislature finds that it is in the  
9 State's best interest to promote and support diversified  
10 agriculture and increase agricultural self-sufficiency by  
11 establishing an agricultural enterprise program within the  
12 department of agriculture, for purposes and in a manner  
13 consistent with article XI, section 3, of the state  
14 constitution.

15 The purpose of this chapter is to establish  
16 the agricultural enterprise program within the department of  
17 agriculture to allow the department or a lessee to plan, design,  
18 construct, operate, manage, maintain, repair, demolish, and  
19 remove facilities on any lands over which the department has  
20 jurisdiction, to support and promote agriculture, and to accept  
21 the transfer of any lands that will support an agricultural  
22 purpose from the department of land and natural resources and  
23 operate or manage those resources.

1           §   -2 **Definitions.** As used in this chapter, unless the  
2 context otherwise requires:

3           "Agricultural activities" means the care and production of  
4 livestock; livestock products; poultry; poultry products;  
5 apiary, horticultural, and floricultural products; the planting,  
6 cultivating, and harvesting of crops or trees; and any other  
7 activity that can demonstrate a tie to agriculture.

8           "Agricultural enterprise" means an activity directly and  
9 primarily supporting the production and sale of Hawaii  
10 agriculture.

11           "Agricultural enterprise lands" means agricultural lands  
12 that are not designated as agricultural parks or non-  
13 agricultural parks pursuant to chapter 166 or 166E,  
14 respectively.

15           "Aquacultural activities" means the farming or ranching of  
16 any plant or animal species in a controlled salt, brackish, or  
17 freshwater environment; provided that the farm or ranch is on or  
18 directly adjacent to land.

19           "Board" means the board of agriculture.

20           "Department" means the department of agriculture.

21           "Lessee" means a lessee under a lease issued by or  
22 transferred to the department, or any tenant, licensee, grantee,

1 assignee, or other person authorized to conduct an agricultural  
2 enterprise by the board or department.

3       **§ -3 Department's powers in general; agricultural**  
4 **enterprises.** To support and promote agriculture, the department  
5 may:

- 6       (1) Plan, design, construct, operate, manage, maintain,  
7             repair, demolish, and remove facilities on any lands  
8             under the jurisdiction of the department;
- 9       (2) Permit a lessee to plan, design, construct, operate,  
10            manage, maintain, repair, demolish, and remove  
11            facilities on any lands under the jurisdiction of the  
12            department; and
- 13       (3) Upon mutual agreement and approval by the board and  
14            the board of land and natural resources, accept the  
15            transfer of and manage qualifying agricultural  
16            enterprises and agricultural enterprise lands from the  
17            department of land and natural resources.

18       **§ -4 Transfer and management of agricultural enterprise**  
19 **lands and agricultural enterprises; agricultural enterprise**  
20 **program.** (a) Upon mutual agreement and approval by the board  
21 and the board of land and natural resources:

- 22       (1) The department may accept the transfer of and manage  
23            certain qualifying agricultural enterprise lands and

1 agricultural enterprises from the department of land  
2 and natural resources; and

3 (2) Certain assets, including position counts, related to  
4 the management of existing encumbered and unencumbered  
5 agricultural enterprise lands and agricultural  
6 enterprises and related facilities shall be  
7 transferred to the department.

8 (b) The department shall administer an agricultural  
9 enterprise program to manage the transferred agricultural  
10 enterprise lands and agricultural enterprises under rules  
11 adopted by the board pursuant to chapter 91. The program and  
12 its rules shall be separate and distinct from the respective  
13 programs and rules for agricultural parks and non-agricultural  
14 parks. Agricultural enterprise lands and agricultural  
15 enterprises shall not be the same as, and shall not be selected  
16 or managed as, lands under agricultural park or non-agricultural  
17 park leases. Notwithstanding any other law to the contrary, the  
18 agricultural enterprise program shall include the following  
19 conditions pertaining to the transfer of encumbered or  
20 unencumbered agricultural enterprise lands and agricultural  
21 enterprises:

22 (1) As of the time of transfer:

- 1 (A) The lessee or permittee shall be in full  
2 compliance with the existing lease or permit;  
3 (B) The lessee or permittee shall not be in arrears  
4 in the payment of taxes, rents, or other  
5 obligations owed to the State or any county; and  
6 (C) The lessee or permittee shall have an  
7 economically viable agricultural operation as  
8 determined by the board.

9 (2) No encumbered or unencumbered agricultural enterprise  
10 lands and agricultural enterprises with soils  
11 classified by the land study bureau's detailed land  
12 classification as overall (master) productivity rating  
13 class A or B shall be transferred for the use or  
14 development of golf courses, golf driving ranges, or  
15 country clubs; and

16 (3) The transfer of agricultural enterprise lands and  
17 agricultural enterprises shall be done in a manner to  
18 be determined by the board.

19 (c) For any encumbered or unencumbered agricultural  
20 enterprise lands and agricultural enterprises transferred to the  
21 department that are not being utilized or required for the  
22 public purpose stated in the executive order, the order setting

1 aside the lands shall be withdrawn and the lands shall be  
2 returned to the department of land and natural resources.

3       **§ -5 Conversion of qualified and other encumbered**  
4 **agricultural lands.** The department shall establish criteria and  
5 rules pursuant to chapter 91, and subject to approval by the  
6 board, may convert qualified and encumbered agricultural  
7 enterprise lands and agricultural enterprises to department  
8 leases or other forms of encumbrance.

9       **§ -6 Extension of qualified and encumbered agricultural**  
10 **enterprise lands and agricultural enterprises.** Notwithstanding  
11 chapter 171, the board shall establish criteria and rules to  
12 allow the cancellation, renegotiation, and extension of  
13 transferred encumbrances by the department. Notwithstanding any  
14 law to the contrary, qualified and encumbered agricultural  
15 enterprise lands and agricultural enterprises transferred to the  
16 department shall not have the respective length of term of the  
17 lease or rents reduced over the remaining fixed term of the  
18 applicable encumbrances.

19       **§ -7 Rules.** The board shall adopt rules pursuant to  
20 chapter 91, including eligibility requirements for each  
21 disposition and applicant qualification, to effectuate the  
22 purposes of this chapter.

1           **§ -8 Agricultural enterprise special fund;**

2 **established.** (a) There is established in the state treasury  
3 the agricultural enterprise special fund to be administered by  
4 the department, into which shall be deposited:

5           (1) Legislative appropriations to the fund; and

6           (2) All lease rent, fees, penalties, and any other revenue  
7           or funds collected from agricultural enterprise lands  
8           and agricultural enterprises, together with the  
9           revenue or funds collected from agricultural  
10           enterprise lands and agricultural enterprises that are  
11           transferred, or in the process of being transferred,  
12           to the department under this chapter.

13           (b) Moneys in the special fund shall be used for planning,  
14           designing, constructing, operating, maintaining, managing,  
15           repairing, demolishing, and removing facilities on agricultural  
16           enterprise lands and agricultural enterprises under this  
17           chapter.

18           **§ -9 Disposition.** (a) Notwithstanding any provision of  
19           this chapter and chapter 171 to the contrary, the department may  
20           dispose of the following by negotiation, drawing of lots,  
21           conversion, or public auction:

22           (1) Public lands and related enterprises set aside and  
23           designated for use pursuant to this chapter; and



1 (2) Other lands and enterprises under the jurisdiction of  
2 the department pursuant to section -10.

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

5 (b) In all dispositions, the department shall be subject  
6 to the requirements set forth in rules adopted by the board  
7 consistent with section -7 and subject to the following:

8 (1) All land and enterprises shall be disposed of for  
9 purposes of supporting or promoting agricultural or  
10 aquacultural activities;

11 (2) Each lessee shall derive a major portion of the  
12 lessee's total annual income earned from the lessee's  
13 activities on the premises; provided that this  
14 restriction shall not apply if:

15 (A) Failure to meet the restriction results from  
16 mental or physical disability or the loss of a  
17 spouse; or

18 (B) The premises are fully used to support or promote  
19 the agricultural or aquacultural activity for  
20 which the disposition was granted;

21 (3) The lessee shall comply with all federal and state  
22 laws regarding environmental quality control;

23 (4) The board shall:

- 1 (A) Determine the specific uses for which the  
2 disposition is intended;
- 3 (B) Parcel the land into minimum size economic units  
4 sufficient for the intended uses;
- 5 (C) Make, or require the lessee to make, improvements  
6 that are necessary to achieve the intended uses;
- 7 (D) Set the upset price or lease rent based upon an  
8 appraised evaluation of the property value,  
9 adjustable to the specified use of the lot;
- 10 (E) Set the term of the lease, which shall be no less  
11 than fifteen years nor more than sixty-five  
12 years, including any extension granted for  
13 mortgage lending or guarantee purposes; and
- 14 (F) Establish other terms and conditions it deems  
15 necessary, including restrictions against  
16 alienation and provisions for withdrawal by the  
17 board; and
- 18 (5) Any transferee, assignee, or sublessee of an  
19 agricultural enterprise lease shall first qualify as  
20 an applicant under this chapter. For the purpose of  
21 this paragraph, any transfer, assignment, sale, or  
22 other disposition of any interest, excluding a  
23 security interest, by any legal entity that holds an

1 agricultural enterprise lease shall be treated as a  
2 transfer of the agricultural enterprise lease and  
3 shall be subject to the approval of the board and to  
4 reasonable terms and conditions, consistent with this  
5 chapter and rules adopted pursuant to this  
6 chapter. No transfer shall be approved by the board  
7 if the disposition of the stock or assets or other  
8 interest of the legal entity would result in the  
9 failure of the entity to qualify for an agricultural  
10 enterprise lease.

11 (c) After notice of the breach or default as provided in  
12 rules adopted by the board consistent with section -7, a  
13 violation of any provision in this section shall be cause for  
14 the board to cancel the lease and take possession of the land,  
15 or take other action as the board, in its sole discretion, deems  
16 appropriate.

17 (d) The board may issue easements, licenses, permits, and  
18 rights-of-entry for uses that are consistent with the purposes  
19 for which the lands were set aside or are otherwise subject to  
20 the authority of the department pursuant to section -10.

21 **§ -10 Authority to plan, design, develop, and manage**  
22 **agricultural enterprise lands and agricultural enterprises.** The  
23 department, or its lessees subject to the department's approval,

1 may plan, design, develop, and manage agricultural enterprise  
2 lands and agricultural enterprises on:

3 (1) Public lands set aside by executive order pursuant to  
4 section 171-11 for use as agricultural enterprise  
5 lands and agricultural enterprises;

6 (2) Other lands with the approval of the board that may be  
7 subject to a joint venture partnership agreement  
8 pursuant to section -11; and

9 (3) Lands acquired by the department by way of  
10 foreclosure, voluntary surrender, or otherwise  
11 pursuant to section 155-4(11).

12 **§ -11 Agricultural enterprise lands and agricultural**  
13 **enterprise development.** On behalf of the State or in  
14 partnership with a federal agency, a county, or a private party,  
15 the department may develop agricultural enterprise lands and  
16 agricultural enterprises.

17 **§ -12 Lease negotiation.** (a) The department may  
18 negotiate and enter into leases with any person who:

19 (1) Holds a revocable permit for agricultural purposes;

20 (2) Has formerly held an agricultural lease or a holdover  
21 lease of public land that expired within the last ten  
22 years and has continued to occupy the land; or

1           (3) Is determined by the department to have a beneficial  
2           impact on agriculture.

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

5           (1) Determined to have a nexus for agricultural purposes;

6           (2) Set aside for agricultural or agricultural-related  
7           uses only, by the governor through an executive order,  
8           to the department; and

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

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

13          (1) Require the appraisal of the parcel using the Uniform  
14          Standards of Professional Appraisal Practice to  
15          determine the rental, including percentage rent;

16          (2) Require the payment of a premium, computed as twenty-  
17          five per cent of the annual lease rent, with the  
18          premium to be added to the annual lease rent for each  
19          year of the lease equal to the number of years the  
20          lessee has occupied the land; provided that the  
21          premium period shall not exceed seven years; and

22          (3) Recover from the lessee the costs of expenditures  
23          required by the department to convert the parcel into

1 a leasehold. The department shall notify in writing  
2 those eligible for lease negotiations under this  
3 section and shall inform the applicants of the terms,  
4 conditions, and restrictions provided by this section.  
5 Any eligible person may apply for a lease by  
6 submitting a written application to the department  
7 within thirty days from the date of receipt of  
8 notification; provided that the department may require  
9 documentary proof from any applicant to determine that  
10 the applicant meets eligibility and qualification  
11 requirements for a lease.

12 **§ -13 Policy.** Notwithstanding chapter 171, disposition  
13 of lands set aside for use pursuant to this chapter shall not be  
14 subject to the prior approval of the board of land and natural  
15 resources.

16 **§ -14 Rights of holders of security interests.** (a)  
17 Prior board action shall be required when an institutional  
18 lender acquires the lessee's interest through a foreclosure  
19 sale, judicial or nonjudicial, or by way of assignment in lieu  
20 of foreclosure, or when the institutional lender sells or causes  
21 the sale of the lessee's interest in a lease by way of a  
22 foreclosure sale, judicial or nonjudicial. The institutional

1 lender shall convey a copy of the sale or assignment as recorded  
2 in the bureau of conveyances.

3 (b) Notwithstanding any other provision of this chapter,  
4 if any lease is subject to a security interest held by an  
5 institutional lender and if the institutional lender has given  
6 to the board a copy of the encumbrance as recorded in the bureau  
7 of conveyances:

8 (1) If the lease is canceled for violation of any non-  
9 monetary lease term or condition, or if the lease is  
10 deemed terminated or rejected under bankruptcy laws,  
11 the institutional lender shall be entitled to issuance  
12 of a new lease in its name for a term equal to the  
13 term of the lease remaining immediately prior to the  
14 cancellation, termination, or rejection, with all  
15 terms and conditions being the same as in the  
16 canceled, terminated, or rejected lease, except only  
17 for the liens, claims, and encumbrances, if any, that  
18 were superior to the institutional lender before the  
19 cancellation, termination, or rejection. If a lease  
20 is rejected or deemed rejected under bankruptcy law,  
21 the lease shall be deemed canceled and terminated for  
22 all purposes under state law;

1           (2) If the lessee's interest under a lease is transferred  
2           to an institutional lender, including by reason of  
3           paragraph (1), by reason of acquisition of the  
4           lessee's interest pursuant to a foreclosure sale,  
5           judicial or nonjudicial, and by reason of an  
6           assignment in lieu of foreclosure:

7           (A) The institutional lender shall be liable for the  
8           obligations of the lessee under the lease for the  
9           period of time during which the institutional  
10          lender is the holder of the lessee's interest but  
11          shall not be liable for any obligations of the  
12          lessee arising after the institutional lender has  
13          assigned the lease; and

14          (B) Section -9(b)(1) and (2) shall not apply to  
15          the lease or the demised land during the time the  
16          institutional lender holds the lease; provided  
17          that:

18          (i) For non-monetary lease violations, the  
19          institutional lender shall first remedy the  
20          lease terms that caused the cancellation,  
21          termination, or rejection to the  
22          satisfaction of the board; and



1           (ii) The new lease issued to the institutional  
2           lender shall terminate one hundred twenty  
3           days from the effective date of issuance,  
4           when the institutional lender shall either  
5           sell or assign the lease, after which date  
6           section -9(b)(1) and (2) shall apply to  
7           the new lease;

8       (3) If there is a delinquent loan balance secured by a  
9       security interest, the lease shall not be canceled or  
10       terminated, except for cancellation by reason of  
11       default of the lessee, and no increase over and above  
12       the fair market rent, based upon the actual use of the  
13       land demised and subject to the use restrictions  
14       imposed by the lease and applicable laws, shall be  
15       imposed or become payable, and no lands shall be  
16       withdrawn from the lease, except by eminent domain  
17       proceedings beyond the control of the board, except  
18       with prior written consent by the institutional lender  
19       and that consent shall not be unreasonably withheld;  
20       and

21       (4) If the lease contains any provision requiring the  
22       payment of a premium to the lessor on assignment of  
23       the lease, any premium shall be assessed only after

1 all amounts owing by any debt secured by a security  
2 interest held by an institutional lender have been  
3 paid in full.

4 (c) Ownership of both the lease and the security interest  
5 by an institutional lender shall not effect or cause a merger  
6 thereof, and both interests shall remain distinct and in full  
7 force and effect unless the institutional lender elects in  
8 writing to merge the estates with the consent of the board.

9 (d) The board may include in any consent form or document  
10 provisions consistent with the intent of this section as may be  
11 required to make a lease mortgageable or more acceptable for  
12 mortgageability by an institutional lender.

13 (e) The rights of a purchaser, assignee, or transferee of  
14 an institutional lender's security interest, including a junior  
15 lien holder, shall be exercisable by the purchaser, assignee, or  
16 transferee as successor in interest to the institutional lender;  
17 provided that:

18 (1) The purchase, assignment, or transfer shall conform  
19 with subsection (b)(4); and

20 (2) The purchase, assignment, or transfer of such rights  
21 shall be reserved for and exercisable only by an  
22 institutional lender.

1 Other purchasers shall not be precluded from acquiring the  
2 institutional lender's security interest but shall not have  
3 exercisable rights as successor in interest to the original  
4 institutional lender.

5 (f) For the purposes of this section:

6 "Institutional lender" means a federal, state, or private  
7 lending institution, licensed to do business in the State, that  
8 makes loans to qualified applicants on the basis of a lease  
9 awarded for security, in whole or in part, together with any  
10 other entity that acquires all or substantially all of an  
11 institutional lender's loan portfolio.

12 "Makes loans" means lends new money or renews or extends  
13 indebtedness owing by a qualified applicant to an institutional  
14 lender, after June 30, 2006.

15 "Security interest" means any interest created or perfected  
16 by a mortgage, assignment by way of mortgage, or by a financing  
17 statement and encumbering a lease, land demised by the lease, or  
18 personal property located at, affixed or to be affixed to, or  
19 growing or to be grown upon the demised land."

20 SECTION 2. Section 141-1, Hawaii Revised Statutes, is  
21 amended to read as follows:

22 "**§141-1 Duties in general.** The department of agriculture  
23 shall:

- 1           (1) Gather, compile, and tabulate, from time to time,  
2           information and statistics concerning:
- 3           (A) Entomology and plant pathology: Insects, scales,  
4           blights, and diseases injurious or liable to  
5           become injurious to trees, plants, or other  
6           vegetation, and the ways and means of  
7           exterminating pests and diseases already in the  
8           State and preventing the introduction of pests  
9           and diseases not yet here; and
- 10          (B) General agriculture: Fruits, fibres, and useful  
11          or ornamental plants and their introduction,  
12          development, care, and manufacture or  
13          exportation, with a view to introducing,  
14          establishing, and fostering new and valuable  
15          plants and industries;
- 16          (2) Encourage and cooperate with the agricultural  
17          extension service and agricultural experiment station  
18          of the University of Hawaii and all private persons  
19          and organizations doing work of an experimental or  
20          educational character coming within the scope of the  
21          subject matter of chapters 141, 142, and 144 to 150A,  
22          and avoid, as far as practicable, duplicating the work  
23          of those persons and organizations;

- 1           (3) Enter into contracts, cooperative agreements, or other  
2           transactions with any person, agency, or organization,  
3           public or private, as may be necessary in the conduct  
4           of the department's business and on such terms as the  
5           department may deem appropriate; provided that the  
6           department shall not obligate any funds of the State,  
7           except the funds that have been appropriated to the  
8           department. Pursuant to cooperative agreement with  
9           any authorized federal agency, employees of the  
10          cooperative agency may be designated to carry out, on  
11          behalf of the State the same as department personnel,  
12          specific duties and responsibilities under chapters  
13          141, 142, 150A, and rules adopted pursuant to those  
14          chapters, for the effective prosecution of pest  
15          control and animal disease control and the regulation  
16          of import into the State and intrastate movement of  
17          regulated articles;
- 18          (4) Secure copies of the laws of other states,  
19          territories, and countries, and other publications  
20          germane to the subject matters of chapters 141, 142,  
21          and 144 to 150A, and make laws and publications  
22          available for public information and consultation;

- 1           (5) Provide buildings, grounds, apparatus, and  
2           appurtenances necessary for the examination,  
3           quarantine, inspection, and fumigation provided for by  
4           chapters 141, 142, and 144 to 150A; for the obtaining,  
5           propagation, study, and distribution of beneficial  
6           insects, growths, and antidotes for the eradication of  
7           insects, blights, scales, or diseases injurious to  
8           vegetation of value and for the destruction of  
9           injurious vegetation; and for carrying out any other  
10          purposes of chapters 141, 142, and 144 to 150A;
- 11          (6) Formulate and recommend to the governor and  
12          legislature additional legislation necessary or  
13          desirable for carrying out the purposes of chapters  
14          141, 142, and 144 to 150A;
- 15          (7) Publish at the end of each year a report of the  
16          expenditures and proceedings of the department and of  
17          the results achieved by the department, together with  
18          other matters germane to chapters 141, 142, and 144 to  
19          150A and that the department may deem proper;
- 20          (8) Administer a program of agricultural planning and  
21          development, including the formulation and  
22          implementation of general and special plans, including  
23          but not limited to the functional plan for

1 agriculture; administer the planning, development, and  
2 management of the agricultural park program; plan,  
3 construct, operate, and maintain the state irrigation  
4 water systems; plan, design, construct, operate,  
5 manage, maintain, repair, demolish, and remove  
6 improvements on any lands to which the department has  
7 jurisdiction; review, interpret, and make  
8 recommendations with respect to public policies and  
9 actions relating to agricultural land and water use;  
10 assist in research, evaluation, development,  
11 enhancement, and expansion of local agricultural  
12 industries; and serve as liaison with other public  
13 agencies and private organizations for the above  
14 purposes. In the foregoing, the department shall act  
15 to conserve and protect agricultural lands and  
16 irrigation water systems, promote diversified  
17 agriculture, increase agricultural self-sufficiency,  
18 and ensure the availability of agriculturally suitable  
19 lands; and  
20 (9) Manage, administer, and exercise control over any  
21 public lands, as defined under section 171-2, over  
22 which the department has jurisdiction to support,  
23 sustain, or promote agriculture, including

1           specifically without limitation, those lands that are  
2           designated important agricultural lands pursuant to  
3           section 205-44.5, and including but not limited to  
4           establishing priorities for the leasing of these  
5           public lands within the department's jurisdiction."

6           SECTION 3. The following positions are established within  
7           the agricultural resource management division of the department  
8           of agriculture:

- 9           (1) One full-time equivalent (1.0 FTE) engineer V position  
10           (SR26);
- 11           (2) One full-time equivalent (1.0 FTE) property manager V  
12           position (SR24);
- 13           (3) One full-time equivalent (1.0 FTE) information  
14           technology (Band C) position (SR24); and
- 15           (4) One full-time equivalent (1.0 FTE) real property  
16           appraiser V(SR24).

17           SECTION 4. There is appropriated out of the general  
18           revenues of the State of Hawaii the sum of \$1,275,000 or so much  
19           thereof as may be necessary for fiscal year 2020-2021 to be  
20           deposited into the agricultural enterprise special fund. The  
21           sum appropriated shall be expended by the department of  
22           agriculture.



S.B. NO. 2830

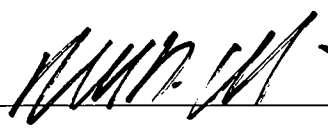
1 SECTION 5. There is appropriated out of the agricultural  
2 enterprise special fund the sum of \$1,275,000 or so much thereof  
3 as may be necessary for fiscal year 2020-2021 for the planning,  
4 design, construction, operation, management, maintenance,  
5 repair, demolition, and removal of infrastructure on lands under  
6 the jurisdiction of the department of agriculture to support and  
7 promote agriculture, including the following positions within  
8 the agricultural resource management division:

- 9 (1) One full-time equivalent (1.0 FTE) engineer V position  
10 (SR26);
- 11 (2) One full-time equivalent (1.0 FTE) property manager V  
12 position (SR24); and
- 13 (3) One full-time equivalent (1.0 FTE) information  
14 technology (Band C) position (SR24); and
- 15 (4) One full-time equivalent (1.0 FTE) real property  
16 appraiser V (SR24).

17 The sum appropriated shall be expended by the department of  
18 agriculture for the purposes of this Act.

19 SECTION 6. New statutory material is underscored.

20 SECTION 7. This Act, upon its approval, shall take effect  
21 on July 1, 2020.

INTRODUCED BY:   
BY REQUEST

**Report Title:**

Agricultural Enterprises; Agricultural Enterprise Special Fund; Appropriation

**Description:**

Establishes a new agricultural enterprise program within the Department of Agriculture to plan, design, construct, operate, manage, maintain, repair, demolish, and remove infrastructure on any lands under the jurisdiction of the department, to support and promote agriculture. Creates three new positions to implement the program. Establishes the agricultural enterprise special fund. Makes an appropriation. Effective July 1, 2020.

JUSTIFICATION SHEET

DEPARTMENT: Agriculture

TITLE: A BILL FOR AN ACT RELATING TO AGRICULTURAL ENTERPRISES.

PURPOSE: Establish an agricultural enterprise program on all lands managed by the Department ("HDOA lands") that allows ancillary and other activities related to and supportive of agriculture, without the restrictive conditions under the existing Agriculture Park (Ag Park) and Non-agricultural Park (Non-Ag Park) programs that only focus on growing organisms. The proposed program recognizes that the business of agriculture is equally as important as the production of crops and organisms. Create three (3) new positions within the Agricultural Resource Management Division to provide sufficient staffing to support the establishment and integration of this program within the Department.

MEANS: Add a new chapter to the Hawaii Revised Statutes and amend section 141-1, Hawaii Revised Statutes.

JUSTIFICATION: The Department's mission statement is to expand Hawaii's agricultural industry to (1) benefit the well-being of our island society through economic diversification; (2) protect its resources for agricultural production; and (3) gain greater self-sufficiency through food and renewable energy production. Under existing statutory authority, while the production of crops and organisms on HDOA lands are expressly promoted and allowed, it appears to be silent on the allowance of ancillary and other activities that are supportive of and important to the economic viability and success of agriculture. Establishing this program, expressly clarifying that ancillary and other related activities supporting agriculture are encouraged, and providing

sufficient staffing to implement this holistic approach will ensure the Department can fulfill its statewide goals and objectives.

The general fund appropriation included in this measure has been proposed with consideration of the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. The total proposed appropriations from the General Fund (which include the Executive Supplemental Budget for FB 2019-2021 and Administration Proposal BUF-08(20), appropriation for bargaining unit 13 collective bargaining increases to be submitted) exceed the appropriation ceiling by \$14,179,623 (or 0.2%) in fiscal year 2019-2020. Funding requested in this measure will allow the Department with the ability to provide a much needed program for agriculturalists statewide. This will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2019-2020 by an additional \$1,275,000 or 0.001 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2019-2020 in the Executive Supplemental Budget, administration proposal BUF-08(20), and this measure only, and does not include other general fund appropriations for fiscal year 2019-2020 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2020.

Impact on the public: Provides greater support for efficient and effective processing, storage, transport, and marketing of agricultural products to support the business of agriculture and support for research, education, and promotion of agriculture.

Impact on the department and other agencies:  
 Allows the Department greater flexibility in using HDOA lands for all purposes that promote agricultural diversification, production, and self-sufficiency by supporting all facets of the business of agriculture. Provides the Department with more tools and assets to assist DOE farm to table programs for schools and restaurants, contribute to the Department of Business, Economic Development and Tourism's sustainability goals for renewable energy, incorporate culturally sensitive agricultural programs and practices to support the Department of Hawaiian Home Lands, Office of Hawaiian Affairs and other native Hawaiian organizations, and adopt innovative technologies and processes to ensure the long-term success of agriculture.

GENERAL FUND: \$1,275,000.

OTHER FUNDS: \$1,275,000 from the Agricultural Enterprise Special Fund.

PPBS PROGRAM  
 DESIGNATION: AGR141.

OTHER AFFECTED  
 AGENCIES: None.

EFFECTIVE DATE: July 1, 2020.