



GOV. MSG. NO. 1321

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 5, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 5, 2023, the following bill was signed into law:

SB833 SD2 HD3 CD1

RELATING TO THE WAHIAWA IRRIGATION
SYSTEM.
ACT 218

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on JUL 5 2023

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.B. NO. 833
S.D. 2
H.D. 3
C.D. 1

A BILL FOR AN ACT

RELATING TO THE WAHIAWA IRRIGATION SYSTEM.

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

1 PART I

2 SECTION 1. In accordance with section 9 of article VII of
3 the Hawaii State Constitution and sections 37-91 and 37-93,
4 Hawaii Revised Statutes, the legislature has determined that the
5 appropriations contained in H.B. No. 300, H.D. 1, S.D. 1,
6 C.D. 1, and this Act will cause the state general fund
7 expenditure ceiling for fiscal year 2023-2024 to be exceeded by
8 \$1,089,767,367 or 11.0 per cent. This current declaration takes
9 into account general fund appropriations authorized for fiscal
10 year 2023-2024 in H.B. No. 300, H.D. 1, S.D. 1, C.D. 1, and this
11 Act only. The reasons for exceeding the general fund
12 expenditure ceiling are that:

- 13 (1) The appropriations made in this Act are necessary to
14 serve the public interest; and
- 15 (2) The appropriations made in this Act meet the needs
16 addressed by this Act.

17 PART II



1 SECTION 2. The legislature finds that the Wahiawa
2 irrigation system is a critical irrigation system providing
3 water to farmers in Wahiawa, Waialua, and Haleiwa on the island
4 of Oahu. Built by the Waialua Sugar Company, the Wahiawa
5 irrigation system was created with a dam and freshwater
6 reservoir fed by the north fork and south fork of the Kaukonahua
7 stream. The dam is essential to agriculture as the water in the
8 reservoir provides irrigation to farmers in Wahiawa, Waialua,
9 and Haleiwa. The reservoir also provides a venue for
10 recreational activities for the surrounding community and the
11 State.

12 The legislature further finds that Dole Food Company, Inc.,
13 has listed the irrigation system for sale for \$20,000,000. The
14 Dole portion of the system includes the Wahiawa reservoir,
15 Wahiawa dam, and ditch system. The spillway, owned by
16 Sustainable Hawaii, LLC, is also an integral component of the
17 irrigation system. Dole has offered to donate its interests to
18 the State of Hawaii in exchange for the State's agreement to
19 repair the spillway to meet and maintain dam safety standards.
20 It is in the interest of the public for the State to acquire the



1 Wahaiawa irrigation system and preserve the system for public
2 access and the agriculture industry.

3 The purpose of this Act is to authorize the department of
4 agriculture, department of land and natural resources, and
5 agribusiness development corporation to acquire the Wahaiawa
6 irrigation system, on terms negotiated and agreed upon by the
7 office of the governor, or by eminent domain, and to purchase,
8 repair, and maintain the associated spillway.

9 PART III

10 SECTION 3. (a) The office of the governor shall negotiate
11 with Wahaiawa Water Company, Inc.; Dole Food Company, Inc.;
12 Sustainable Hawaii, LLC; or any other appropriate owner for the
13 State's fee simple acquisition of the Wahaiawa irrigation system.

14 (b) The department of land and natural resources may
15 acquire from Wahaiawa Water Company, Inc., or Dole Food Company,
16 Inc., on terms agreed upon by the office of the governor, the
17 fee simple interest in the Wahaiawa irrigation system, including
18 the following parcels:

- 19 (1) TMK (1) 7-3-001-003;
- 20 (2) TMK (1) 7-3-001-019;
- 21 (3) TMK (1) 7-3-006-023;



- 1 (4) TMK (1) 7-3-007-001;
 - 2 (5) TMK (1) 7-3-008-001;
 - 3 (6) TMK (1) 7-3-010-003;
 - 4 (7) TMK (1) 7-3-011-003;
 - 5 (8) TMK (1) 7-3-011-006;
 - 6 (9) TMK (1) 7-3-011-007;
 - 7 (10) TMK (1) 7-3-012-002;
 - 8 (11) TMK (1) 7-3-012-006;
 - 9 (12) TMK (1) 7-4-001-003; and
 - 10 (13) TMK (1) 7-4-012-001.
- 11 (c) The department of agriculture may acquire:
- 12 (1) From Dole Food Company, Inc., or the appropriate
 - 13 owner, a fee simple interest in the Wahiawa dam, on
 - 14 terms agreed upon by the office of the governor; and
 - 15 (2) From Sustainable Hawaii, LLC, a fee simple interest in
 - 16 the spillway associated with the Wahiawa irrigation
 - 17 system, located at parcel TMK (1) 7-1-012-014;
 - 18 provided that the sale terms shall be conditioned on
 - 19 an appraisal of the property pursuant to section
 - 20 171-30, Hawaii Revised Statutes.



1 (d) The agribusiness development corporation may acquire
2 from Dole Food Company, Inc., or the appropriate owner, on terms
3 agreed upon by the office of the governor, the ditch system
4 associated with the Wahiawa irrigation system.

5 (e) The agribusiness development corporation may acquire
6 from Wahiawa Water Company, Inc.; Dole Food Company, Inc.; or
7 Sustainable Hawaii, LLC; on terms agreed upon by the office of
8 the governor, the fee simple interest in the Wahiawa irrigation
9 system, including the following parcels:

- 10 (1) TMK (1) 7-1-001-013;
- 11 (2) TMK (1) 7-1-001-017;
- 12 (3) TMK (1) 7-1-012-003;
- 13 (4) TMK (1) 7-1-012-004;
- 14 (5) TMK (1) 7-1-012-007;
- 15 (6) TMK (1) 7-3-005-005; and
- 16 (7) TMK (1) 7-3-013-003.

17 (f) The department of land and natural resources shall not
18 impose administrative fines on the department of agriculture for
19 safety deficiencies at Wahiawa dam or the associated spillway;
20 provided that the department of agriculture shall repair and



1 maintain the Wahiawa dam and spillway and shall ensure the
2 structures meet dam safety standards.

3 (g) No fines owed by Wahiawa Water Company, Inc.; Dole
4 Food Company, Inc.; or Sustainable Hawaii, LLC; for violations
5 of dam safety standards at Wahiawa dam or the associated
6 spillway shall transfer to the State upon the sale of the
7 property to the State.

8 SECTION 4. Notwithstanding any law to the contrary, all
9 users of water associated with the Wahiawa irrigation system
10 shall pay such rates sufficient to operate and maintain the
11 irrigation system as prescribed by the agribusiness development
12 corporation.

13 SECTION 5. The State may by exercise of eminent domain
14 acquire the Wahiawa dam, the spillway associated with the
15 Wahiawa irrigation system, and the ditch system associated with
16 the Wahiawa irrigation system, including all parcels in this
17 Act.

18 PART IV

19 SECTION 6. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$5,000,000 or so much
21 thereof as may be necessary for fiscal year 2023-2024 for the



1 department of agriculture to acquire a fee simple interest in
2 the spillway associated with the Wahiawa irrigation system,
3 located at parcel TMK (1) 7-1-012-014; provided that the sale
4 terms shall be conditioned on an appraisal of the property
5 pursuant to section 171-30, Hawaii Revised Statutes; provided
6 further that if negotiations for the acquisition of the property
7 are unsuccessful, the appropriation shall be used for an eminent
8 domain action to acquire the property; provided further that
9 moneys from the appropriation may be expended for an eminent
10 domain action and its associated costs.

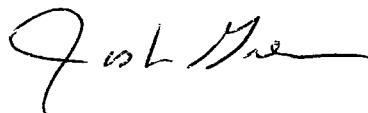
11 The sum appropriated shall be expended by the department of
12 agriculture for the purposes of this Act.

13 SECTION 7. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$21,000,000 or so
15 much thereof as may be necessary for fiscal year 2023-2024 for
16 the department of agriculture to repair and expand the spillway
17 associated with the Wahiawa irrigation system and to bring the
18 spillway into compliance with all relevant dam safety
19 requirements; provided that the expenditure of the appropriation
20 is contingent upon the State's acquisition of the property.



1 SECTION 10. This Act shall take effect on July 1, 2023.

APPROVED this **5th** day of **July**, 2023



GOVERNOR OF THE STATE OF HAWAII




THE SENATE OF THE STATE OF HAWAI‘I

Date: May 4, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.


President of the Senate


Clerk of the Senate

SB No. 833, SD 2, HD 3, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 4, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives