

ACT 289

H.B. NO. 2985

A Bill for an Act Relating to Irrigation and Water Utilization Projects.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 168-2, Hawaii Revised Statutes, is amended to read as follows:

“**[§168-2] Powers.** In addition to any other powers conferred upon the board of agriculture, the board shall have the powers hereinafter set forth. The board shall have the power to make preliminary surveys and engineering studies, and to construct irrigation and water utilization projects, designed to serve and supply the owners and occupants of lands, and to manage, control, operate, and maintain the projects in accordance with this chapter. If, in the board's reasonable discretion, existing civil service staff is inadequate to service the projects or the project facilities, the board shall also have the power to contract for services with the private sector for operation or maintenance of project facilities with any qualified person. It shall also have the power to contract with domestic water users including the counties. It shall further have the power to contract with the government of the United States or any bureau or agency thereof with regard to the construction or the financing of a system.

The board shall have power to fix, charge, and collect reasonable water rates for service from the water system to defray the cost of operation, maintenance, and replacements of the system. It shall also have the power to acquire by eminent domain, water and water sources either above or underground watersheds, 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 a system 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 an irrigation and water utilization system. The power of

eminent domain shall be exercised in the manner and under the procedure provided by law.”

SECTION 2. Section 168-5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§168-5]]~~ **Irrigation systems account.** (a) There shall be a special account in the irrigation system revolving fund of the board of agriculture to be known as the “irrigation systems account”. The director of finance may make temporary use of any portion or all of the money not immediately needed for construction and operation of an irrigation system for the purpose of paying warrants drawn on the treasury for current indebtedness of the State, or for deposit in the state sinking fund for the repayment of bonds, or for investment in state bonds; provided that sufficient of the sums so taken, deposited or invested shall be redeposited to the credit of the irrigation systems account prior to the time when any engagement for the payment from the account falls due.

The moneys from the account shall be expended upon warrants drawn by the comptroller for the purposes of this chapter.

(b) In connection with the construction, [or] operation, or maintenance of a project, the board may [utilize] use such contributions of labor, materials, and property, including money, as may be allocated or otherwise made available by any person or instrumentality whatsoever, if in the judgment of the board the acceptance thereof, will not limit the scope of construction or operation of a project provided for by this chapter.

(c) Money received and accepted under this section shall be available for expenditure for the purposes for which contributed in like manner as if the sums had been specifically appropriated for such purposes.

(d) Any provision of this chapter or any other state law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any act of Congress to be expended in connection with or for the construction of a project authorized by this chapter, the board may enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, and do and perform such other acts and things as may be necessary, or be required by such acts of Congress or any regulations or requirements of the federal government, as a condition to securing the federal funds for the project.

(e) Any other provision of law to the contrary notwithstanding, any bonds issued under this chapter may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency, or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of Congress authorizing the loans or advances, by the United States or any such board, agency, or instrumentality to the State for the construction, in whole or in part, of a project authorized under this chapter or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of the bonds if sold.

(f) Any other provision of law to the contrary notwithstanding, the board may use moneys from the irrigation system account to contract for operation or maintenance of the project facilities if the board deems such action to be in the public interests.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved July 20, 1998.)