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H.B. NO. 898

A Bill for an Act Relating to the Establishment of An Agricultural Water System for Upcountry Maui.

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

SECTION 1. The legislature finds that the leeward slopes of Haleakala Crater that make up the upcountry region of Maui are best suited for the commercial production of several agricultural crops that are unique or originated in this upcountry region of Maui. These crops are the Maui onion, protea, and persimmon. The legislature also finds that the region is impacted by severe droughts that cause serious interruption to the water supply over long periods of time. With increased emphasis on the development of diversified agricultural crops in the conversion of Hawaii's agriculture industry out of sugar, the opportunity is ripe to provide infrastructure improvements to this proven agricultural region. To make optimal use of this farming region, the legislature further finds that an agricultural water system is necessary for the economic and social benefit of the people of Hawaii and that such an undertaking is in the public interest.

The purpose of this Act is to establish a separate agricultural water supply and delivery system under the board of agriculture for the farms in the upcountry region of Maui.

SECTION 2. Notwithstanding any law to the contrary, the board of agriculture, in addition to any other powers granted, shall have the power to administer this Act. The board shall have the power to conduct surveys, studies, and engineering for

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the construction of water facilities to adequately serve the agricultural water demand of the upcountry region of Maui. It shall also have the power to operate, maintain, and improve the system, including setting, adjusting, and collecting water tolls to defray the cost of operation and to make the system self-sufficient, except as provided in section 3 of this Act. It shall further have the power to contract with other government agencies for the construction or financing of the system.

The board of agriculture shall have the power of eminent domain to acquire the necessary easements, rights-of-way, and real property for diverting, conveying, pumping, storing, distributing, and transmitting agricultural water for agricultural uses and for such other purposes as may properly fall within the scope of its activities in creating, managing, controlling, operating, and maintaining the water system. The power of eminent domain shall be exercised in the manner and under the procedures provided by chapter 101, Hawaii Revised Statutes. It shall also have the power to adopt rules as may be necessary pursuant to chapter 91, Hawaii Revised Statutes, for the purpose of carrying out this Act.

SECTION 3. The board of agriculture shall fix a development period for the construction of the system facilities authorized by this Act, not to exceed ten years from and including the first calendar year in which agricultural water is first delivered for the purposes of this Act. During this development period, the board of agriculture shall annually adjust and fix water tolls to be charged. The cost of operation and maintenance of the system may be subsidized through legislative appropriations and through government grants, loans, or reimbursements as may be made available from government entities.

SECTION 4. The moneys from the irrigation system revolving fund pursuant to section 167-22, Hawaii Revised Statutes, shall be expended upon warrants drawn by the comptroller for expenses directly attributable to the cost of the water system facilities authorized by this Act.

Notwithstanding any provision of this Act or any other law to the contrary, 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 this project, the board of agriculture may enter into such undertaking with the proper agencies of the federal government, agree to such conditions, and perform such other acts and terms as may be necessary as a condition to securing the funding.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 1999-2000 and \$ or so much thereof as may be necessary for fiscal year 2000-2001 to carry out the purposes of this Act.

SECTION 6. The sums appropriated shall be expended by the department of agriculture for the purposes of this Act.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act shall take effect on July 1, 1999.

(Approved June 10, 1999.)