

A Bill for an Act Relating to Coffee Pest Control.

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

SECTION 1. In accordance with section 9 of article VII of the Hawaii State Constitution and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in H.B. No. 300, H.D.1, S.D.1, C.D.1,¹ and this Act will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be exceeded by \$1,063,917,367 or 11.0 per cent. This current declaration takes into account general fund appropriations authorized for fiscal year 2023-2024 in H.B. No. 300, H.D.1, S.D.1, C.D.1,¹ and this Act only. The reasons for exceeding the general fund expenditure ceiling are that:

- (1) The appropriation made in this Act is necessary to serve the public interest; and
- (2) The appropriation made in this Act meets the needs addressed by this Act.

SECTION 2. The legislature finds that coffee is one of the largest agricultural crops in the State and is a highly valued commodity in Hawai'i's economy. In recent years, the coffee berry borer, a small beetle, has infested coffee crops in the Kona and Ka'u regions of Hawai'i island, and more recently has been detected on O'ahu, Maui, Kaua'i, and Lana'i. In 2020, coffee leaf rust, caused by a fungal pathogen, was discovered for the first time in the State on Maui and Hawai'i island. These two pests threaten the viability of the State's entire coffee industry. Efforts to control coffee berry borer and coffee leaf rust, including the use of United States Food and Drug Administration-approved pesticides, are critical to the local coffee industry, and it is incumbent upon the State to continue to support these efforts.

The legislature further finds that in response to these threats to the industry, the coffee berry borer pesticide subsidy program was established by Act 105, Session Laws of Hawaii 2014 (Act 105), to assist Hawai'i coffee farmers with offsetting the cost of pesticides containing the fungus *Beauveria bassiana*, which is known to control coffee berry borer. Due to a longer-than-anticipated implementation of Act 105, in 2017, the legislature extended the pesticide subsidy program from its original sunset date of June 30, 2019, to June 30, 2021, via Act 65, Session Laws of Hawaii 2017 (Act 65). After continued programmatic success and the initial discovery of coffee leaf rust in the islands, in 2021, the legislature extended the pesticide subsidy program for another two years, adding a subsidy for coffee leaf rust pesticides.

As of December 9, 2022, the department of agriculture has received nine hundred eighty receipts for reimbursement under the coffee berry borer pesticide subsidy program, expending a total of \$812,319.99 for the mitigation of coffee berry borer and coffee leaf rust throughout the State. The legislature finds that, as illustrated by program demand, coffee berry borer and coffee leaf rust continue to pose a severe threat to the State's coffee industry, and it is incumbent upon the State to continue supporting farmers' mitigative efforts, including through reducing the financial burden of having to purchase certain pesticides at market value.

Accordingly, the purpose of this Act is to:

- (1) Extend the pesticide subsidy program to June 30, 2025;

- (2) Extend the pesticide subsidy manager position, including the position's exemptions from civil service and collective bargaining laws, until June 30, 2026; and
- (3) Appropriate funds for the program.

SECTION 3. Act 105, Session Laws of Hawaii 2014, as amended by section 1 of Act 152, Session Laws of Hawaii 2015, as amended by section 2 of Act 65, Session Laws of Hawaii 2017, as amended by section 2 of Act 32, Session Laws of Hawaii 2018, as amended by section 43 of Act 111, Session Laws of Hawaii 2019, as amended by section 2 of Act 138, Session Laws of Hawaii 2021, is amended as follows:

1. By amending subsection (a) of section 3 to read:

“(a) There is established in the department of agriculture a pesticide subsidy program to be administered by the department beginning on July 1, 2014, and ending on June 30, ~~[2023-]~~ 2025. The department shall grant subsidies to coffee growers to assist the coffee growers in offsetting the costs of purchasing any pesticide that is listed by the department pursuant to subsection (f).”

2. By amending subsections (c) through (e) of section 3 to read:

“(c) Documentation of pesticide costs, as requested by the department, shall be filed for pesticides purchased within the immediately preceding fiscal year of filing and shall be effective for pesticide costs incurred after June 30, 2014, and before July 1, ~~[2023-]~~ 2025.

(d) Funds shall be disbursed upon approval on an annual basis by the department to the coffee grower for up to ~~[seventy-five]~~:

- (1) ~~Seventy-five per cent of the costs incurred for the purchase of the pesticide before July 1, 2016[-, and for up to fifty];~~
- (2) Fifty per cent of the costs incurred for the purchase of the pesticide for the period beginning after June 30, 2016, and before July 1, 2023[-]; and
- (3) Seventy-five per cent of the costs incurred for the purchase of the pesticide for the period beginning July 1, 2023, through June 30, 2025.

(e) The department shall aggregate the total subsidy applications pursuant to this section and divide and distribute the available subsidy funds on a pro rata basis; provided that no single coffee grower shall receive subsidies that are more than \$600 per year for coffee berry borer control and more than \$600 per year for coffee leaf rust control per acre of land in coffee production; provided further that no single coffee grower shall receive subsidies that are more than \$9,000 per year; provided further that no single coffee grower shall receive subsidies that total more than \$6,000 per year for the period after June 30, 2018, and before July 1, 2021; provided further that no single coffee grower shall receive subsidies that total more than \$12,000 per year for the period after June 30, 2021, and before July 1, ~~[2023-]~~ 2025.”

3. By amending subsections (g) and (h) of section 3 to read:

“(g) There is established within the department a pesticide subsidy program manager position, which shall be a full-time, temporary position exempt from chapters 76 and 89, Hawaii Revised Statutes. The pesticide subsidy program manager shall possess a requisite level of knowledge and expertise in the area of program management necessary to carry out the duties of the position. The pesticide subsidy program manager shall:

- (1) Facilitate the efficient division and distribution of available subsidy funds; and
- (2) Manage the day-to-day coordination for the pesticide subsidy program.

The pesticide subsidy program manager shall receive a salary of not more than \$50,000 per year. The pesticide subsidy program manager position, including the position's exemption from chapters 76 and 89, Hawaii Revised Statutes, shall expire on ~~June 30, [2024.] 2026.~~

(h) Not later than twenty days prior to the convening of the regular session of ~~[2023.] 2025~~, the department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature on the results of the subsidy program and whether the program should be allowed to expire or be extended, and if extended, with or without modification.”

4. By amending section 6 to read:

“SECTION 6. This Act shall take effect on July 1, 2014; provided that:

- (1) Section 3 shall be repealed on June 30, ~~[2023.] 2025~~, except that section 3(g) shall be repealed on June 30, ~~[2024.] 2026~~; and
- (2) The amendment made to section 149A-13.5(b), Hawaii Revised Statutes, under section 2 of this Act shall not be repealed when section 149A-13.5(b), Hawaii Revised Statutes, is repealed and re-enacted on June 30, 2015, by section 4 of Act 168, Session Laws of Hawaii 2010.”

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2023-2024 to be deposited into the pesticide use revolving fund established under section 149A-13.5, Hawaii Revised Statutes.

SECTION 5. There is appropriated out of the pesticide use revolving fund the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2023-2024 for the operation and implementation of the pesticide subsidy program.

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

SECTION 6² Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval; provided that sections 4 and 5 of this Act shall take effect on July 1, 2023.

(Approved July 5, 2023.)

Notes

1. Act 164.
2. So in original.