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# A BILL FOR AN ACT

RELATING TO IMPORTANT AGRICULTURAL LANDS.

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

1           SECTION 1. Part IX of Act 233, Session Laws of Hawaii  
2   2008, added a new section to chapter 205, Hawaii Revised  
3   Statutes, that requires the identification and designation of  
4   certain public lands under the management of the department of  
5   land and natural resources as important agricultural lands,  
6   followed by the transfer of these lands to the department of  
7   agriculture, along with the appropriations and non-personnel  
8   assets related to the department of land and natural resources'  
9   management of these lands. Designation of public lands as  
10   important agricultural lands will allow existing and future  
11   lessees of these public lands to have access to the incentives  
12   found in Act 233, such as the qualified agricultural cost tax  
13   credit.

14           Allowing farmers on public lands designated important  
15   agricultural lands to utilize certain incentives will help  
16   stabilize and improve their agricultural operations. However,  
17   the classification of public lands as important agricultural  
18   lands will have unintended consequences that will jeopardize the



1 integrity of the department of agriculture's agricultural park  
2 program and non-agricultural park lands program, the two  
3 programs where transferred agricultural public lands are  
4 situated and managed. Section 205-43, Hawaii Revised Statutes,  
5 details the policies to be followed in promoting the long-term  
6 viability of agricultural use of important agricultural lands,  
7 but the section does not contain a list of permissible uses on  
8 important agricultural lands. Therefore, by default, the  
9 permissible uses found in sections 205-2 and 205-4.5, Hawaii  
10 Revised Statutes, would apply to important agricultural lands.  
11 These permissible uses include farm dwellings, employee housing,  
12 plantation community subdivisions, agricultural tourism, open  
13 area recreation, parks, riding stables, and communications  
14 antennas. Other unusual and reasonable uses may be located on  
15 agricultural land by special permit and include schools,  
16 churches, gas stations, and commercial and medical offices.

17 Several of the permissible and unusual and reasonable uses  
18 under sections 205-2 and 205-4.5, Hawaii Revised Statutes, are  
19 in conflict with the intent, purpose, and rules of the  
20 agricultural parks program and the non-agricultural parks  
21 program. The department of agriculture utilizes a thorough  
22 qualification process to ensure potential lessees will undertake



1 substantial agricultural activity. Farm dwellings and employee  
2 housing are often not allowed, and uses and activities not  
3 directly related to agricultural production are strictly  
4 controlled. The majority of the total annual income of lessees  
5 is required to come from agricultural activities. The purpose,  
6 rules, and management of these public lands by the department of  
7 agriculture are unmatched in their support of agricultural  
8 production and, unlike the privately owned lands under the  
9 important agricultural lands legislation, are not subject to  
10 reclassification, subdivision, lack of monitoring, and special  
11 permitted uses. The public land management programs of the  
12 department of agriculture closely emulate, and even surpass, the  
13 purpose and intent of the important agricultural lands  
14 legislation.

15 The purpose of this measure is to clarify that public lands  
16 that are transferred by executive order from the department of  
17 land and natural resources to the department of agriculture  
18 shall:

19 (1) Be subject to the same criteria and standards for  
20 identifying and designating important agricultural  
21 lands, and



1 (2) Have access to certain important agricultural lands  
2 incentives; provided that those incentives do not  
3 contradict or otherwise violate the conditions and  
4 requirements of chapters 166 and 166E, under which the  
5 department of agriculture will manage the important  
6 public agricultural lands.

7 SECTION 2. Chapter 166, Hawaii Revised Statutes, is  
8 amended by adding a new section to be appropriately designated  
9 and to read as follows:

10 "§166- Important agricultural lands. Notwithstanding  
11 any other law to the contrary, for public lands designated as  
12 important agricultural lands and managed under this chapter, the  
13 board shall determine which incentives or uses for important  
14 agricultural lands shall be made available to leases managed  
15 under this chapter, and establish conditions thereon."

16 SECTION 3. Chapter 166E, Hawaii Revised Statutes, is  
17 amended by adding a new section to be appropriately designated  
18 and to read as follows:

19 "§166E- Important agricultural lands. Notwithstanding  
20 any other law to the contrary, for public lands designated as  
21 important agricultural lands and managed under this chapter, the  
22 board shall determine which incentives or uses for important



1 agricultural lands shall be made available to leases managed  
2 under this chapter, and establish conditions thereon."

3 SECTION 4. Section 141-1, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§141-1 Duties in general. The department of agriculture  
6 shall:

7 (1) Gather, compile, and tabulate, from time to time,  
8 information and statistics concerning:

9 (A) Entomology and plant pathology: Insects, scales,  
10 blights, and diseases injurious or liable to  
11 become injurious to trees, plants, or other  
12 vegetation, and the ways and means of  
13 exterminating pests and diseases already in the  
14 State and preventing the introduction of pests  
15 and diseases not yet here; and

16 (B) General agriculture: Fruits, fibres, and useful  
17 or ornamental plants and their introduction,  
18 development, care, and manufacture or  
19 exportation, with a view to introducing,  
20 establishing, and fostering new and valuable  
21 plants and industries;



- 1           (2) Encourage and cooperate with the agricultural  
2 extension service and agricultural experiment station  
3 of the University of Hawaii and all private persons  
4 and organizations doing work of an experimental or  
5 educational character coming within the scope of the  
6 subject matter of chapters 141, 142, and 144 to 150A,  
7 and avoid, as far as practicable, duplicating the work  
8 of those persons and organizations;
- 9           (3) Enter into contracts, cooperative agreements, or other  
10 transactions with any person, agency, or organization,  
11 public or private, as may be necessary in the conduct  
12 of the department's business and on such terms as the  
13 department may deem appropriate; provided that the  
14 department shall not obligate any funds of the State,  
15 except the funds that have been appropriated to the  
16 department. Pursuant to cooperative agreement with  
17 any authorized federal agency, employees of the  
18 cooperative agency may be designated to carry out, on  
19 behalf of the State the same as department personnel,  
20 specific duties and responsibilities under chapters  
21 141, 142, 150A, and rules adopted pursuant to those  
22 chapters, for the effective prosecution of pest



1 control and animal disease control and the regulation  
2 of import into the State and intrastate movement of  
3 regulated articles;

4 (4) Secure copies of the laws of other states,  
5 territories, and countries, and other publications  
6 germane to the subject matters of chapters 141, 142,  
7 and 144 to 150A, and make laws and publications  
8 available for public information and consultation;

9 (5) Provide buildings, grounds, apparatus, and  
10 appurtenances necessary for the examination,  
11 quarantine, inspection, and fumigation provided for by  
12 chapters 141, 142, and 144 to 150A; for the obtaining,  
13 propagation, study, and distribution of beneficial  
14 insects, growths, and antidotes for the eradication of  
15 insects, blights, scales, or diseases injurious to  
16 vegetation of value and for the destruction of  
17 injurious vegetation; and for carrying out any other  
18 purposes of chapters 141, 142, and 144 to 150A;

19 (6) Formulate and recommend to the governor and  
20 legislature additional legislation necessary or  
21 desirable for carrying out the purposes of chapters  
22 141, 142, and 144 to 150A;



- 1           (7) Publish at the end of each year a report of the  
2           expenditures and proceedings of the department and of  
3           the results achieved by the department, together with  
4           other matters germane to chapters 141, 142, and 144 to  
5           150A and that the department may deem proper;
- 6           (8) Administer a program of agricultural planning and  
7           development, including the formulation and  
8           implementation of general and special plans, including  
9           but not limited to the functional plan for  
10          agriculture; administer the planning, development, and  
11          management of the agricultural park program; plan,  
12          construct, operate, and maintain the state irrigation  
13          water systems; review, interpret, and make  
14          recommendations with respect to public policies and  
15          actions relating to agricultural land and water use;  
16          assist in research, evaluation, development,  
17          enhancement, and expansion of local agricultural  
18          industries; and serve as liaison with other public  
19          agencies and private organizations for the above  
20          purposes. In the foregoing, the department shall act  
21          to conserve and protect agricultural lands and  
22          irrigation water systems, promote diversified





1 agriculture, increase agricultural self-sufficiency,  
2 and ensure the availability of agriculturally suitable  
3 lands; and

4 (9) Manage, administer, and exercise control over any  
5 public lands, as defined under section 171-2, that are  
6 transferred to the department of agriculture pursuant  
7 to chapter 166 or chapter 166E, and subsequently  
8 identified, on a case-by-case basis, as potential  
9 important agricultural lands and then designated as  
10 important agricultural lands pursuant to [section 205-  
11 44.5, including but not limited to establishing  
12 priorities for the leasing of these public lands  
13 within the department's jurisdiction.] chapter 205."

14 SECTION 5. Section 171-3, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "§171-3 Department of land and natural resources. [(a)]  
17 The department of land and natural resources shall be headed by  
18 an executive board to be known as the board of land and natural  
19 resources. The department shall manage, administer, and  
20 exercise control over public lands, the water resources, ocean  
21 waters, navigable streams, coastal areas (excluding commercial  
22 harbor areas), and minerals and all other interests therein and



1 exercise such powers of disposition thereof as may be authorized  
2 by law. The department shall also manage and administer the  
3 state parks, historical sites, forests, forest reserves, aquatic  
4 life, aquatic life sanctuaries, public fishing areas, boating,  
5 ocean recreation, coastal programs, wildlife, wildlife  
6 sanctuaries, game management areas, public hunting areas,  
7 natural area reserves, and other functions assigned by law.

8 ~~[(b) Notwithstanding subsection (a), beginning January 1,~~  
9 ~~2010, the authority to manage, administer, and exercise control~~  
10 ~~over any public lands that are designated important agricultural~~  
11 ~~lands pursuant to section 205-44.5, shall be transferred to the~~  
12 ~~department of agriculture.]"~~

13 SECTION 6. Section 205-44.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[~~§~~205-44.5] Important agricultural lands; public  
16 lands. (a) Notwithstanding any law to the contrary, before  
17 ~~[December 31, 2009,]~~ June 30, 2012, the department of  
18 agriculture and the department of land and natural resources  
19 shall ~~[collaborate to identify]~~ utilize the processes described  
20 in chapter 166 and chapter 166E and shall identify and map by  
21 tax map key qualified encumbered and unencumbered public lands,  
22 as defined under section 171-2, ~~[that should be designated~~



1 ~~important agricultural lands as defined in section 205-42 and~~  
2 ~~shall cause to be prepared maps delineating those lands.]~~ to be  
3 considered for transfer from the department of land and natural  
4 resources to the department of agriculture. No later than June  
5 30, 2013, no less than fifty per cent of the parcels of public  
6 lands identified as qualified for transfer by the department of  
7 agriculture shall be transferred from the department of land and  
8 natural resources to the department of agriculture. The  
9 remainder of the parcels of public lands identified as qualified  
10 for transfer by the department of agriculture shall be  
11 transferred no later than June 30, 2014. The completion of the  
12 transfer of parcels of public lands for the purpose of  
13 designation as important agricultural lands shall not prevent or  
14 inhibit in any manner, any future consideration, identification,  
15 and transfer of additional parcels of public lands as provided  
16 in chapter 166 and chapter 166E. Upon the transfer of the  
17 public lands, the department of agriculture with the approval of  
18 the board of agriculture shall identify, on a case-by-case  
19 basis, those transferred public lands, as well as public lands  
20 already under the management of the department of agriculture,  
21 that should be considered for designation by the land use  
22 commission as important agricultural lands as defined in section



1 205-42. In [~~making the designations,~~] identifying potential  
2 important agricultural lands, the [~~departments~~] department of  
3 agriculture shall use the standards and criteria of section 205-  
4 44.

5 (b) The designation of public lands identified as  
6 important agricultural lands pursuant to this section shall not  
7 be subject to the district boundary amendment procedures of  
8 section 205-3.1 or 205-4 or declaratory order procedures of  
9 section 205-45.

10 (c) Notwithstanding any law to the contrary, [~~beginning~~  
11 ~~January 1, 2010,~~] after receipt of the maps of public lands  
12 identified as important agricultural lands pursuant to  
13 subsection (a), the commission shall designate the public lands  
14 as important agricultural lands and adopt the maps of those  
15 public lands. Upon designation, the public lands shall be  
16 subject to those provisions of this chapter[-] that are  
17 identified and approved by the department and board of  
18 agriculture to carry out the purpose and intent of this part,  
19 and that do not violate the provisions contained in chapter 166  
20 or chapter 166E."

21 SECTION 7. Section 205-52, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§205-52 Periodic review and amendment of important  
2 agricultural lands maps. (a) The maps delineating important  
3 agricultural lands shall be reviewed in conjunction with the  
4 county general plan and community, development, or community  
5 development plan revision process, or at least once every ten  
6 years following the adoption of the maps by the land use  
7 commission; provided that the maps shall not be reviewed more  
8 than once every five years. Any review and amendment of the  
9 maps of important agricultural lands shall be conducted in  
10 accordance with this part. In these periodic reviews or  
11 petitions by the farmers or landowners for declaratory rulings,  
12 the "important agricultural lands" designation shall be removed  
13 from those important agricultural lands where the commission has  
14 issued a declaratory order that a sufficient supply of water is  
15 no longer available to allow profitable farming of these lands  
16 due to governmental actions, acts of God, or other causes beyond  
17 the farmer's or landowner's reasonable control; provided that,  
18 if the "important agricultural lands" were designated by a  
19 declaratory order in combination with the reclassification of  
20 land in the agricultural district to the rural, urban, or  
21 conservation district pursuant to section 205-45, the commission  
22 shall not remove the designation unless the legislature provides



1 prior authorization by adoption of a concurrent resolution in  
2 accordance with section 205-45.

3 (b) Maps of important agricultural lands created pursuant  
4 to section 205-44.5(a) shall be exempt from this section."

5 SECTION 8. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect upon its approval.  
8

INTRODUCED BY: Clarena K. Mishikawa

*David W. [Signature]*

*Gilbert Kohrke*

*Matt [Signature]*

*Jim [Signature]*

*James W. [Signature]*



**Report Title:**

Agriculture; Important Agricultural Lands; Public Land

**Description:**

Clarifies that public lands that are transferred from DLNR to the department of agriculture shall be subject to the same standards for identifying and designating important agricultural lands, and that important agricultural land incentives shall not contradict or otherwise violate chapters 166 and 166E.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

