
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 Act is to:

- 16 (1) Require the departments of agriculture and land and
17 natural resources to identify and map certain public
18 lands to be considered for transfer from the
19 department of land and natural resources to the
20 department of agriculture;

21



- 1 (2) Establish a time table for the transfer of those
2 parcels that have been identified and mapped;
- 3 (3) Require the department of agriculture to identify, of
4 those transferred public lands, which lands should be
5 considered for designation by the land use commission
6 as important agricultural lands;
- 7 (4) Clarify that public lands that are transferred from
8 the department of land and natural resources to the
9 department of agriculture shall be subject to the same
10 criteria and standards for identifying and designating
11 important agricultural lands; and
- 12 (5) Require the transferred lands to have access to
13 certain important agricultural lands incentives;
14 provided that those incentives do not contradict or
15 otherwise violate the conditions and requirements of
16 chapters 166 and 166E, under which the department of
17 agriculture will manage the important public
18 agricultural lands.

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



1 "§166- Important agricultural lands. Notwithstanding
2 any other law to the contrary, for public lands designated as
3 important agricultural lands and managed under this chapter, the
4 board shall determine which incentives or uses for important
5 agricultural lands shall be made available to leases managed
6 under this chapter, and establish conditions thereon."

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

10 "§166E- 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 4. Section 141-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§141-1 Duties in general. The department of agriculture
19 shall:

20 (1) Gather, compile, and tabulate, from time to time,
21 information and statistics concerning:



- 1 (A) Entomology and plant pathology: Insects, scales,
2 blights, and diseases injurious or liable to
3 become injurious to trees, plants, or other
4 vegetation, and the ways and means of
5 exterminating pests and diseases already in the
6 State and preventing the introduction of pests
7 and diseases not yet here; and
- 8 (B) General agriculture: Fruits, fibres, and useful
9 or ornamental plants and their introduction,
10 development, care, and manufacture or
11 exportation, with a view to introducing,
12 establishing, and fostering new and valuable
13 plants and industries;
- 14 (2) Encourage and cooperate with the agricultural
15 extension service and agricultural experiment station
16 of the University of Hawaii and all private persons
17 and organizations doing work of an experimental or
18 educational character coming within the scope of the
19 subject matter of chapters 141, 142, and 144 to 150A,
20 and avoid, as far as practicable, duplicating the work
21 of those persons and organizations;



- 1 (3) Enter into contracts, cooperative agreements, or other
2 transactions with any person, agency, or organization,
3 public or private, as may be necessary in the conduct
4 of the department's business and on such terms as the
5 department may deem appropriate; provided that the
6 department shall not obligate any funds of the State,
7 except the funds that have been appropriated to the
8 department. Pursuant to cooperative agreement with
9 any authorized federal agency, employees of the
10 cooperative agency may be designated to carry out, on
11 behalf of the State the same as department personnel,
12 specific duties and responsibilities under chapters
13 141, 142, 150A, and rules adopted pursuant to those
14 chapters, for the effective prosecution of pest
15 control and animal disease control and the regulation
16 of import into the State and intrastate movement of
17 regulated articles;
- 18 (4) Secure copies of the laws of other states,
19 territories, and countries, and other publications
20 germane to the subject matters of chapters 141, 142,
21 and 144 to 150A, and make laws and publications
22 available for public information and consultation;



- 1 (5) Provide buildings, grounds, apparatus, and
2 appurtenances necessary for the examination,
3 quarantine, inspection, and fumigation provided for by
4 chapters 141, 142, and 144 to 150A; for the obtaining,
5 propagation, study, and distribution of beneficial
6 insects, growths, and antidotes for the eradication of
7 insects, blights, scales, or diseases injurious to
8 vegetation of value and for the destruction of
9 injurious vegetation; and for carrying out any other
10 purposes of chapters 141, 142, and 144 to 150A;
- 11 (6) Formulate and recommend to the governor and
12 legislature additional legislation necessary or
13 desirable for carrying out the purposes of chapters
14 141, 142, and 144 to 150A;
- 15 (7) Publish at the end of each year a report of the
16 expenditures and proceedings of the department and of
17 the results achieved by the department, together with
18 other matters germane to chapters 141, 142, and 144 to
19 150A and that the department may deem proper;
- 20 (8) Administer a program of agricultural planning and
21 development, including the formulation and
22 implementation of general and special plans, including



1 but not limited to the functional plan for
2 agriculture; administer the planning, development, and
3 management of the agricultural park program; plan,
4 construct, operate, and maintain the state irrigation
5 water systems; review, interpret, and make
6 recommendations with respect to public policies and
7 actions relating to agricultural land and water use;
8 assist in research, evaluation, development,
9 enhancement, and expansion of local agricultural
10 industries; and serve as liaison with other public
11 agencies and private organizations for the above
12 purposes. In the foregoing, the department shall act
13 to conserve and protect agricultural lands and
14 irrigation water systems, promote diversified
15 agriculture, increase agricultural self-sufficiency,
16 and ensure the availability of agriculturally suitable
17 lands; and

- 18 (9) Manage, administer, and exercise control over any
19 public lands, as defined under section 171-2, that are
20 transferred to the department of agriculture pursuant
21 to chapter 166 or chapter 166E, and subsequently
22 identified, on a case-by-case basis, as potential



1 important agricultural lands and then designated as
2 important agricultural lands pursuant to [~~section 205-~~
3 44.5, including but not limited to establishing
4 priorities for the leasing of these public lands
5 within the department's jurisdiction.] chapter 205."

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

8 "**§171-3 Department of land and natural resources.** [~~(a)~~]

9 The department of land and natural resources shall be headed by
10 an executive board to be known as the board of land and natural
11 resources. The department shall manage, administer, and
12 exercise control over public lands, the water resources, ocean
13 waters, navigable streams, coastal areas (excluding commercial
14 harbor areas), and minerals and all other interests therein and
15 exercise such powers of disposition thereof as may be authorized
16 by law. The department shall also manage and administer the
17 state parks, historical sites, forests, forest reserves, aquatic
18 life, aquatic life sanctuaries, public fishing areas, boating,
19 ocean recreation, coastal programs, wildlife, wildlife
20 sanctuaries, game management areas, public hunting areas,
21 natural area reserves, and other functions assigned by law.



1 ~~[(b) Notwithstanding subsection (a), beginning January 1,~~
2 ~~2010, the authority to manage, administer, and exercise control~~
3 ~~over any public lands that are designated important agricultural~~
4 ~~lands pursuant to section 205-44.5, shall be transferred to the~~
5 ~~department of agriculture.] "~~

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

8 "**[+]§205-44.5[+] Important agricultural lands; public**
9 **lands.** (a) Notwithstanding any law to the contrary, before
10 ~~[December 31, 2009,]~~ June 30, 2012, the department of
11 agriculture and the department of land and natural resources
12 shall ~~[collaborate to identify]~~ utilize the processes described
13 in chapter 166 and chapter 166E and shall identify and map by
14 tax map key qualified encumbered and unencumbered public lands,
15 as defined under section 171-2 ~~[that should be designated~~
16 ~~important agricultural lands as defined in section 205-42 and~~
17 ~~shall cause to be prepared maps delineating these lands.]~~, to be
18 considered for transfer from the department of land and natural
19 resources to the department of agriculture. No later than
20 June 30, 2013, no less than fifty per cent of the parcels of
21 public lands identified as qualified for transfer by the
22 department of agriculture shall be transferred from the



1 department of land and natural resources to the department of
2 agriculture. The remainder of the parcels of public lands
3 identified as qualified for transfer by the department of
4 agriculture shall be transferred no later than June 30, 2014.
5 The completion of the transfer of parcels of public lands for
6 the purpose of designation as important agricultural lands shall
7 not prevent or inhibit in any manner, any future consideration,
8 identification, and transfer of additional parcels of public
9 lands as provided in chapter 166 and chapter 166E. Upon the
10 transfer of the public lands, the department of agriculture with
11 the approval of the board of agriculture shall identify, on a
12 case-by-case basis, those transferred public lands, as well as
13 public lands already under the management of the department of
14 agriculture, that should be considered for designation by the
15 land use commission as important agricultural lands as defined
16 in section 205-42. In [~~making the designations,~~] identifying
17 potential important agricultural lands, the [~~departments~~]
18 department of agriculture shall use the standards and criteria
19 of section 205-44.

20 (b) The designation of public lands identified as
21 important agricultural lands pursuant to this section shall not
22 be subject to the district boundary amendment procedures of



1 section 205-3.1 or 205-4 or declaratory order procedures of
2 section 205-45.

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

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

16 **"§205-52 Periodic review and amendment of important**
17 **agricultural lands maps. (a)** The maps delineating important
18 agricultural lands shall be reviewed in conjunction with the
19 county general plan and community, development, or community
20 development plan revision process, or at least once every ten
21 years following the adoption of the maps by the land use
22 commission; provided that the maps shall not be reviewed more



1 than once every five years. Any review and amendment of the
2 maps of important agricultural lands shall be conducted in
3 accordance with this part. In these periodic reviews or
4 petitions by the farmers or landowners for declaratory rulings,
5 the "important agricultural lands" designation shall be removed
6 from those important agricultural lands where the commission has
7 issued a declaratory order that a sufficient supply of water is
8 no longer available to allow profitable farming of these lands
9 due to governmental actions, acts of God, or other causes beyond
10 the farmer's or landowner's reasonable control; provided that,
11 if the "important agricultural lands" were designated by a
12 declaratory order in combination with the reclassification of
13 land in the agricultural district to the rural, urban, or
14 conservation district pursuant to section 205-45, the commission
15 shall not remove the designation unless the legislature provides
16 prior authorization by adoption of a concurrent resolution in
17 accordance with section 205-45.

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

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22



1 SECTION 9. This Act shall take effect upon its approval.

2



Report Title:

Agriculture; Important Agricultural Lands; Public Land

Description:

Requires the departments of agriculture and land and natural resources to identify and map certain public lands to be considered for transfer from the department of land and natural resources to the department of agriculture. Establishes a time table for the transfer of those parcels that have been identified and mapped. Requires the department of agriculture to identify, of those transferred public lands, which lands should be considered for designation by the land use commission as important agricultural lands. 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. (SD1)

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

