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# A BILL FOR AN ACT

RELATING TO THE WAHIAWA IRRIGATION SYSTEM.

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

1 PART I

2 SECTION 1. In accordance with section 9 of article VII of  
3 the Hawaii State Constitution and sections 37-91 and 37-93,  
4 Hawaii Revised Statutes, the legislature has determined that the  
5 appropriations contained in H.B. No. 300, H.D. 1, S.D. 1,  
6 C.D. 1, and this Act will cause the state general fund  
7 expenditure ceiling for fiscal year 2023-2024 to be exceeded by  
8 \$1,089,767,367 or 11.0 per cent. This current declaration takes  
9 into account general fund appropriations authorized for fiscal  
10 year 2023-2024 in H.B. No. 300, H.D. 1, S.D. 1, C.D. 1, and this  
11 Act only. The reasons for exceeding the general fund  
12 expenditure ceiling are that:

- 13 (1) The appropriations made in this Act are necessary to  
14 serve the public interest; and  
15 (2) The appropriations made in this Act meet the needs  
16 addressed by this Act.

17 PART II



1 SECTION 2. The legislature finds that the Wahiawa  
2 irrigation system is a critical irrigation system providing  
3 water to farmers in Wahiawa, Waialua, and Haleiwa on the island  
4 of Oahu. Built by the Waialua Sugar Company, the Wahiawa  
5 irrigation system was created with a dam and freshwater  
6 reservoir fed by the north fork and south fork of the Kaukonahua  
7 stream. The dam is essential to agriculture as the water in the  
8 reservoir provides irrigation to farmers in Wahiawa, Waialua,  
9 and Haleiwa. The reservoir also provides a venue for  
10 recreational activities for the surrounding community and the  
11 State.

12 The legislature further finds that Dole Food Company, Inc.,  
13 has listed the irrigation system for sale for \$20,000,000. The  
14 Dole portion of the system includes the Wahiawa reservoir,  
15 Wahiawa dam, and ditch system. The spillway, owned by  
16 Sustainable Hawaii, LLC, is also an integral component of the  
17 irrigation system. Dole has offered to donate its interests to  
18 the State of Hawaii in exchange for the State's agreement to  
19 repair the spillway to meet and maintain dam safety standards.  
20 It is in the interest of the public for the State to acquire the



1 Wahaiawa irrigation system and preserve the system for public  
2 access and the agriculture industry.

3 The purpose of this Act is to authorize the department of  
4 agriculture, department of land and natural resources, and  
5 agribusiness development corporation to acquire the Wahaiawa  
6 irrigation system, on terms negotiated and agreed upon by the  
7 office of the governor, or by eminent domain, and to purchase,  
8 repair, and maintain the associated spillway.

9 PART III

10 SECTION 3. (a) The office of the governor shall negotiate  
11 with Wahaiawa Water Company, Inc.; Dole Food Company, Inc. ;  
12 Sustainable Hawaii, LLC; or any other appropriate owner for the  
13 State's fee simple acquisition of the Wahaiawa irrigation system.

14 (b) The department of land and natural resources may  
15 acquire from Wahaiawa Water Company, Inc., or Dole Food Company,  
16 Inc., on terms agreed upon by the office of the governor, the  
17 fee simple interest in the Wahaiawa irrigation system, including  
18 the following parcels:

19 (1) TMK (1) 7-3-001-003;

20 (2) TMK (1) 7-3-001-019;

21 (3) TMK (1) 7-3-006-023;



- 1 (4) TMK (1) 7-3-007-001;
  - 2 (5) TMK (1) 7-3-008-001;
  - 3 (6) TMK (1) 7-3-010-003;
  - 4 (7) TMK (1) 7-3-011-003;
  - 5 (8) TMK (1) 7-3-011-006;
  - 6 (9) TMK (1) 7-3-011-007;
  - 7 (10) TMK (1) 7-3-012-002;
  - 8 (11) TMK (1) 7-3-012-006;
  - 9 (12) TMK (1) 7-4-001-003; and
  - 10 (13) TMK (1) 7-4-012-001.
- 11 (c) The department of agriculture may acquire:
- 12 (1) From Dole Food Company, Inc., or the appropriate
  - 13 owner, a fee simple interest in the Wahiawa dam, on
  - 14 terms agreed upon by the office of the governor; and
  - 15 (2) From Sustainable Hawaii, LLC, a fee simple interest in
  - 16 the spillway associated with the Wahiawa irrigation
  - 17 system, located at parcel TMK (1) 7-1-012-014;
  - 18 provided that the sale terms shall be conditioned on
  - 19 an appraisal of the property pursuant to section
  - 20 171-30, Hawaii Revised Statutes.



1 (d) The agribusiness development corporation may acquire  
2 from Dole Food Company, Inc., or the appropriate owner, on terms  
3 agreed upon by the office of the governor, the ditch system  
4 associated with the Wahiawa irrigation system.

5 (e) The agribusiness development corporation may acquire  
6 from Wahiawa Water Company, Inc.; Dole Food Company, Inc.; or  
7 Sustainable Hawaii, LLC; on terms agreed upon by the office of  
8 the governor, the fee simple interest in the Wahiawa irrigation  
9 system, including the following parcels:

- 10 (1) TMK (1) 7-1-001-013;  
11 (2) TMK (1) 7-1-001-017;  
12 (3) TMK (1) 7-1-012-003;  
13 (4) TMK (1) 7-1-012-004;  
14 (5) TMK (1) 7-1-012-007;  
15 (6) TMK (1) 7-3-005-005; and  
16 (7) TMK (1) 7-3-013-003.

17 (f) The department of land and natural resources shall not  
18 impose administrative fines on the department of agriculture for  
19 safety deficiencies at Wahiawa dam or the associated spillway;  
20 provided that the department of agriculture shall repair and



1 maintain the Wahiawa dam and spillway and shall ensure the  
2 structures meet dam safety standards.

3 (g) No fines owed by Wahiawa Water Company, Inc.; Dole  
4 Food Company, Inc.; or Sustainable Hawaii, LLC; for violations  
5 of dam safety standards at Wahiawa dam or the associated  
6 spillway shall transfer to the State upon the sale of the  
7 property to the State.

8 SECTION 4. Notwithstanding any law to the contrary, all  
9 users of water associated with the Wahiawa irrigation system  
10 shall pay such rates sufficient to operate and maintain the  
11 irrigation system as prescribed by the agribusiness development  
12 corporation.

13 SECTION 5. The State may by exercise of eminent domain  
14 acquire the Wahiawa dam, the spillway associated with the  
15 Wahiawa irrigation system, and the ditch system associated with  
16 the Wahiawa irrigation system, including all parcels in this  
17 Act.

18 PART IV

19 SECTION 6. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$5,000,000 or so much  
21 thereof as may be necessary for fiscal year 2023-2024 for the



1 department of agriculture to acquire a fee simple interest in  
2 the spillway associated with the Wahiawa irrigation system,  
3 located at parcel TMK (1) 7-1-012-014; provided that the sale  
4 terms shall be conditioned on an appraisal of the property  
5 pursuant to section 171-30, Hawaii Revised Statutes; provided  
6 further that if negotiations for the acquisition of the property  
7 are unsuccessful, the appropriation shall be used for an eminent  
8 domain action to acquire the property; provided further that  
9 moneys from the appropriation may be expended for an eminent  
10 domain action and its associated costs.

11 The sum appropriated shall be expended by the department of  
12 agriculture for the purposes of this Act.

13 SECTION 7. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$21,000,000 or so  
15 much thereof as may be necessary for fiscal year 2023-2024 for  
16 the department of agriculture to repair and expand the spillway  
17 associated with the Wahiawa irrigation system and to bring the  
18 spillway into compliance with all relevant dam safety  
19 requirements; provided that the expenditure of the appropriation  
20 is contingent upon the State's acquisition of the property.



1 The sum appropriated shall be expended by the department of  
2 agriculture for the purposes of this Act.

3 PART V

4 SECTION 8. If the transfer of all properties authorized to  
5 be acquired by this Act are not filed or recorded with the  
6 bureau of conveyances by June 30, 2026, the governor shall  
7 notify the legislature and the revisor of statutes by June 30,  
8 2026, that the conveyance was not filed or recorded with the  
9 bureau of conveyances, and this Act shall be repealed in its  
10 entirety on July 1, 2026.

11 SECTION 9. If the transfer of all properties authorized to  
12 be acquired by this Act are filed or recorded with the bureau of  
13 conveyances by June 30, 2026, the governor shall notify the  
14 legislature and the revisor of statutes by June 30, 2026, that  
15 the transfer of all properties authorized to be acquired by this  
16 Act were filed or recorded with the bureau of conveyances, and  
17 this Act shall not be repealed and the appropriations authorized  
18 pursuant to this Act shall not lapse at the end of the fiscal  
19 year for which the moneys were appropriated; provided that all  
20 moneys that remain unexpended or unencumbered on June 30, 2026,  
21 shall lapse.





1 SECTION 10. This Act shall take effect on July 1, 2023.



**Report Title:**

Wahiawa Irrigation System; Land Purchase; Office of the Governor; HDOA; ADC; DLNR; Appropriation; Expenditure Ceiling

**Description:**

Requires the Office of the Governor to negotiate the State's fee simple acquisition of the Wahiawa Irrigation System on the island of Oahu. Authorizes and appropriates funds for the Department of Agriculture, Agribusiness Development Corporation, and Department of Land and Natural Resources to purchase, repair, and maintain the Wahiawa Irrigation System and the associated spillway. (CD1)

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

