

S.B. NO. 1273

JAN 25 2023

A BILL FOR AN ACT

RELATING TO SUSTAINABLE AGRICULTURE.

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

1 SECTION 1. The legislature finds that the use of cover
2 crops, green manure, and compost increases agricultural
3 productivity and aligns with the State's integrated
4 sustainability goals. Plants used for this purpose, including
5 grasses, legumes, and forbs, add nutrients to the soil, act as
6 windbreaks, assist with water retention, provide habitats for
7 beneficial insects, and help prevent soil erosion.

8 The legislature further finds that it is in the interest of
9 the State to incentivize the use of management practices that
10 enhance the quality and sustainability of Hawaii's agricultural
11 lands. The purpose of this Act is to clarify Act 312, Session
12 Laws of Hawaii 2022, which established a cover crop
13 reimbursement pilot program to reimburse farming operations in
14 the State for the costs of acquiring cover crop seeds, green
15 manure, or compost.

16 SECTION 2. Act 312, Session Laws of Hawaii 2022, is
17 amended by amending section 2 to read as follows:

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1 "SECTION 2. (a) The department of agriculture shall
2 establish, implement, and administer a three-year cover crop
3 reimbursement pilot program to reimburse farming operations in
4 the State for the costs of acquiring cover crop seeds, green
5 manure, or compost.

6 (b) Each application for cost reimbursement shall be
7 submitted on a form furnished by the department of agriculture
8 and shall be accompanied by documentation of the costs of items
9 purchased, pursuant to subsection (c); provided that:

10 (1) The applicant shall indemnify and hold harmless the
11 State and its officers, agents, and employees from all
12 claims arising out of or resulting from the cover crop
13 seeds, green manure, or compost purchased; [~~and~~]

14 (2) The department of agriculture may request the
15 applicant to provide additional information for the
16 purposes of verifying the volume of cover crop seeds,
17 green manure, or compost purchased[-];

18 (3) Applications for grants shall be made to the
19 department of agriculture and contain such information
20 as the department of agriculture shall require. At a
21 minimum, the applicant shall show:

22 (A) The name of the requesting entity or individual;

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- 1 (B) The purpose for the grant;
2 (C) The service to be supported by the grant;
3 (D) The target group to be benefited;
4 (E) The cost of the grant; and
5 (F) That the grant shall be used for activities that
6 are consistent with the purposes of this program;
7 (4) Grants shall only be awarded if:
8 (A) The applicant has applied for or received all
9 applicable licenses and permits, when such is
10 required to conduct the activities or provide the
11 services for which a grant is awarded;
12 (B) The applicant agrees to comply with applicable
13 federal, state, and county laws;
14 (C) The grant is not used for purposes of
15 entertainment or perquisites;
16 (D) All activities and improvements undertaken with
17 funds received comply with all applicable
18 federal, state, and county statutes and
19 ordinances, including applicable building codes
20 and agency rules; and

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1 (E) The applicant procures sufficient insurance to
2 provide indemnification if requested to do so by
3 the department of agriculture;

4 (5) To receive a grant, an applicant shall:

5 (A) Be:

6 (i) A for-profit entity incorporated under the
7 laws of the State;

8 (ii) A nonprofit community-based organization
9 determined to be exempt from federal income
10 taxation by the Internal Revenue Service;

11 (iii) A cooperative association; or

12 (iv) An individual, who in the department of
13 agriculture's determination, is able to
14 provide the services or activities proposed
15 in the application for a grant;

16 (B) In the case of a nonprofit organization, have a
17 governing board whose members have no material
18 conflict of interest and serve without
19 compensation, have bylaws or policies that
20 describe the manner in which business is
21 conducted and policies relating to nepotism and
22 management of potential conflict of interest

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1 situations, and employ or contract with no two or
2 more members of a family or kin of the first or
3 second degree of consanguinity unless
4 specifically permitted by the department of
5 agriculture;

6 (C) Agree to make available to the department of
7 agriculture all records the applicant may have
8 relating to the operation of the applicant's
9 activity, business, or enterprise, to allow the
10 department of agriculture to monitor the
11 applicant's compliance with the purpose of this
12 program; and

13 (D) Establish, to the satisfaction of the department
14 of agriculture, that sufficient funds are
15 available for the effective operation of the
16 activity, business, or enterprise for the purpose
17 for which the grant is awarded;

18 (6) Every grant shall be:

19 (A) Monitored by the department of agriculture to
20 ensure compliance with this program and the
21 purposes and intent of the grant; and

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1 (B) Evaluated annually to determine whether the grant
2 attained the intended results in the manner
3 contemplated; and

4 (7) Grants made by the department of agriculture under
5 this Act may be made without regard to chapters 103D
6 and 103F, Hawaii Revised Statutes.

7 (c) Applications for reimbursement under the cover crop
8 reimbursement pilot program shall be filed for cover crop seeds,
9 green manure, and compost purchased within the fiscal year
10 immediately preceding the filing and shall be effective for
11 costs incurred for purchases after June 30, 2022, but before
12 July 1, 2025. Each application shall include a certification
13 that the amount for which the applicant seeks reimbursement has
14 not been nor will be reimbursed by any other governmental cover
15 crop incentive program, including the United States Department
16 of Agriculture, Natural Resources Conservation Service's
17 environmental quality incentives program and the conservation
18 stewardship program.

19 (d) If an application is approved, funds shall be
20 disbursed upon approval by the department of agriculture on an
21 annual basis to the farmer or rancher for up to seventy-five per
22 cent of the costs incurred for cover crop seeds, green manure,

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1 or compost purchased after June 30, 2022, but before July 1,
2 2025.

3 (e) The department of agriculture shall convene a review
4 panel to be placed within the department of agriculture
5 comprising knowledgeable representatives from the department of
6 agriculture, University of Hawaii at Manoa college of tropical
7 agriculture and human resources, and industry
8 organizations. The review panel shall screen and rate
9 applicants on the quality and appropriate use of their cover
10 crops and green manure and their composting practices. The
11 department shall aggregate the total reimbursement applications
12 pursuant to this section and distribute the available moneys
13 based on a ranking scale as determined by the review panel;
14 provided that a higher-ranked applicant shall receive a higher
15 rate of reimbursement than a lower-ranked applicant.

16 (f) There is established within the department of
17 agriculture a cover crop reimbursement pilot program manager
18 position, which shall be a full-time temporary position exempt
19 from the requirements of chapters 76 and 89, Hawaii Revised
20 Statutes. The cover crop reimbursement pilot program manager
21 shall receive a salary not to exceed \$50,000 per year. The
22 cover crop reimbursement pilot program manager shall possess a

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1 requisite level of knowledge and expertise in the area of
2 program management necessary to carry out the duties of the
3 position. The cover crop reimbursement pilot program manager
4 shall:

5 (1) Facilitate the division and distribution of available
6 funds for reimbursement; and

7 (2) Manage the day-to-day coordination of the cover crop
8 reimbursement pilot program.

9 (g) Any action taken by the department of agriculture
10 pursuant to this section shall be exempt from the rulemaking
11 requirements of chapter 91, Hawaii Revised Statutes.

12 (h) The department of agriculture shall submit an interim
13 report of its findings and recommendations relating to
14 activities conducted pursuant to this Act, including any
15 proposed legislation, to the legislature no later than twenty
16 days prior to the convening of the regular session of 2025 and a
17 final report no later than twenty days prior to the convening of
18 the regular session of 2026. The report shall include the
19 department's recommendation on whether the pilot program should
20 be extended, with or without modifications.

21 (i) As used in this section:

22 "Compost" means a product of a composting process.

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1 "Compostable materials" includes pre- and post-consumer
2 food waste, waste from animal food processing operations, green
3 waste, crop residues, and waste from vegetable food processing
4 operations and similar materials.

5 "Composting process" means a process in which organic
6 compostable materials are biologically decomposed under
7 controlled conditions to produce a stable humus-like mulch or
8 soil amendment, and includes:

- 9 (1) The receipt of materials;
10 (2) Primary processing;
11 (3) Decomposition activities; and
12 (4) Final processing for sale and marketing.

13 "Cover crop" and "green manure" mean the plants listed in
14 the cover crop and green manure database maintained by the
15 University of Hawaii at Manoa college of tropical agriculture
16 and human resources, except bermuda grass and other invasive or
17 fast-growing grasses.

18 "Farming operation" has the same meaning as in section
19 165-2, Hawaii Revised Statutes."

20 SECTION 3. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval;
2 provided that section 2 shall take effect retroactive to July 1,
3 2022.

4 INTRODUCED BY: 

5 BY REQUEST

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Report Title:

Department of Agriculture; Cover Crop Reimbursement Pilot Program

Description:

This housekeeping measure addresses potential deficiencies in Act 312, Session Laws of Hawaii 2022, which established a three-year cover crop reimbursement pilot program to provide up to 75 per cent cost reimbursement to farming operations in the State for the acquisition of cover crop seeds, green manure, or compost to incentivize such practices.

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

JUSTIFICATION SHEET

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DEPARTMENT: AGRICULTURE

TITLE: A BILL FOR AN ACT RELATING TO SUSTAINABLE AGRICULTURE.

PURPOSE: To clarify the requirements for a three-year cover crop reimbursement pilot program to provide up to 75 percent cost reimbursement to farming operations in the State for the acquisition of cover crop seeds, green manure, or compost to incentivize such practices.

MEANS: Amend section 2 of Act 312, Session Laws of Hawaii (SLH) 2022.

JUSTIFICATION: Act 312, SLH 2022, was enacted without the signature of the Governor. The bill seeks to satisfy the legal criteria and standards requirement for distribution of public funds through a grant or subsidy program that the review panel must consider when evaluating application submitted for the program to ensure it can be implemented properly and effectively pursuant to sections 10-17, 201D-11, and 383-128, Hawaii Revised Statutes (HRS), and part II of chapter 9, HRS.

Impact on the public: Incentivizes farmers to build soil health, sequester carbon, and enhance productivity and marketability of their crops.

Impact on the department and other agencies: The department needs clear legal criteria and standards for distribution of public funds through a subsidy program that the review panel must consider when evaluating applications submitted for the program to ensure it can be implemented properly and effectively. The Plant Industry division of the department would collaborate with the College of Tropical Agriculture and Human Resources to do the research to update the

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cover crop seed list to protect our pasture and crops from introductions of non-native cover crop species that are hosts to invasive pests and diseases. The department would fund the research and review of the list with funding from the Act. An example of concern is the two-line spittle bug situation on the Big Island.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: AGR 122.

OTHER AFFECTED
AGENCIES: University of Hawaii, College of Tropical
Agriculture and Human Resources

EFFECTIVE DATE: Upon approval, with section 2 retroactive to
July 1, 2022.