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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

PART I

SECTION 1. Section 163D-1, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]§163D-1[§]~~ **Findings and purpose.** The legislature finds that the downsizing of the sugar and pineapple industries ~~[is-presenting]~~ presented an unprecedented opportunity for the conversion of agriculture into a dynamic growth industry. Within the next decade, ~~[seventy-five thousand]~~ the State can use public agricultural lands to enhance the local economy, provide employment opportunities, decrease reliance on imported agricultural products, and provide more sources of locally grown food for residents. Thousands of acres of agricultural lands and fifty million gallons per day of irrigation water [are expected to be] were released by plantations. The downsizing of the sugar and pineapple industries [will idle] idled and left vacant a valuable inventory of supporting infrastructure including irrigation systems, roads, drainage systems,



1 processing facilities, workshops, and warehouses~~[-]~~ that are  
2 still largely underutilized. The challenge to government and  
3 business is to continue to conserve and convert the arable lands  
4 and their associated production infrastructure in a timely  
5 manner into new productive uses ~~[that are based upon strategies~~  
6 ~~developed from detailed marketing analysis and monitoring of~~  
7 ~~local, national, and international opportunities. Constantly~~  
8 ~~evolving economies require an aggressive]~~. Aggressive and  
9 dynamic leadership ~~[for the promotion]~~ can play a critically  
10 important role in promoting and ~~[development of]~~ developing  
11 agricultural enterprises, ~~[and centralized leadership to~~  
12 ~~coordinate]~~ coordinating industry development, ~~[provide]~~  
13 providing industry-wide services, ~~[provide]~~ providing marketing  
14 assistance, and ~~[facilitate]~~ facilitating investments and  
15 coventures in viable enterprises.

16 The purpose of this chapter is to create a vehicle and  
17 process to make optimal use of agricultural assets for the  
18 economic, environmental, and social benefit of the people of  
19 Hawaii. This chapter establishes a public corporation to  
20 administer an aggressive and dynamic agribusiness development  
21 program. The purposes of the corporation shall be to support



1 the production of local agricultural products for local  
2 consumption in a manner that is economically and environmentally  
3 sustainable while continuing to develop commercial exports of  
4 locally produced agriculture products. To further these  
5 purposes, the corporation shall coordinate and administer  
6 programs to assist agricultural enterprises to facilitate the  
7 transition of agricultural infrastructure from plantation  
8 operations into other agricultural enterprises, [to carry on the  
9 marketing analysis to direct agricultural industry evolution,  
10 and to provide the leadership for the development, financing,  
11 improvement, or enhancement of agricultural enterprises.]  
12 increase local production of agricultural products for local  
13 consumption, reduce the State's reliance on imported  
14 agricultural products, and increase access to farmland and  
15 related infrastructure for small local farmers and  
16 cooperatives."

17 SECTION 2. Section 163D-2, Hawaii Revised Statutes, is  
18 amended by amending the definition of "agriculture" to read as  
19 follows:

20 "Agriculture" means the production for ~~marketing~~  
21 consumption within the State and exporting of plant and animal



1 life on land and within ponds and other bodies of water for  
2 food, fiber, and raw materials for value-added products, and any  
3 agricultural enterprise or enterprises organized for the  
4 production of agricultural materials or value-added products  
5 based on detailed marketing analysis and strategies to exploit  
6 profitable potentials in local, national, and international  
7 markets, including general farming, cane growing, fruit growing,  
8 flower growing, aquaculture, growing of timber and forest  
9 products, apiary, grazing, dairying, and the production of any  
10 form of livestock or poultry, and their appurtenant services and  
11 facilities."

12 SECTION 3. Section 163D-3, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§163D-3 Agribusiness development corporation; board of**  
15 **directors; established.** (a) There is established the  
16 agribusiness development corporation, which shall be a public  
17 body corporate and politic and an instrumentality and agency of  
18 the State. The corporation shall be headed by a board of  
19 directors. The corporation shall be placed within the  
20 department of agriculture for administrative purposes, but the  
21 corporation may later incorporate as a nonprofit corporation if



1 this proves desirable to further its objectives; provided that  
2 such reorganization as a nonprofit corporation shall not  
3 adversely affect the federal tax status of the interest on any  
4 bonds issued to finance any project or project facility.

5 (b) The board of directors of the corporation shall  
6 consist of [~~eleven~~] thirteen voting members, of whom [~~eight~~] ten  
7 shall be appointed by the governor. The terms of these [~~eight~~]  
8 ten members shall be four years; provided that, commencing on  
9 July 1, 2005, the governor shall reduce the terms of those  
10 initially appointed so as to provide, as nearly as can be, for  
11 the expiration of an equal number of terms at intervals of one  
12 year. The [~~eight~~] ten members shall be selected on the basis of  
13 their knowledge, experience, and proven expertise in small and  
14 large businesses within the agricultural industry, agricultural  
15 economics, banking, real estate, finance, promotion, marketing,  
16 [~~and~~] management[-], local food production, organic and natural  
17 food production, and Native Hawaiian traditional and customary  
18 agricultural practices.

19 Of these [~~eight~~] ten members, one shall be from the city  
20 and county of Honolulu, one shall be from the county of Hawaii,  
21 one shall be from the county of Maui, one shall be from the



1 county of Kauai, and [~~four~~] six shall be appointed at-large. In  
2 the selection of these ten members, the governor shall consult  
3 with government and agricultural community stakeholders. The  
4 director of business, economic development, and tourism; the  
5 chairperson of the board of agriculture; and the chairperson of  
6 the board of land and natural resources, or their designated  
7 representatives, shall be ex-officio, voting members of the  
8 board. All members shall continue in office until their  
9 respective successors have been appointed and qualified. The  
10 board shall annually elect its chairperson from among its  
11 members; provided that the chairperson shall not be an ex-  
12 officio member.

13 (c) The members of the board shall serve without  
14 compensation, but shall be reimbursed for actual expenses  
15 incurred in the performance of their duties.

16 (d) The board shall appoint an executive director, who  
17 shall serve at the pleasure of the board and shall be exempt  
18 from chapter 76. The salary of the executive director shall be  
19 set by the board.

20 (e) The board shall develop and document annual goals and  
21 performance measures for the executive director that allow the



1 board to annually evaluate the executive director's work to  
2 ensure compliance by the corporation with statutory requirements  
3 and achievement of its statutory purposes.

4 (f) The board shall evaluate and document the evaluation  
5 of the executive director's performance annually, or more  
6 frequently upon the request of at least four board members,  
7 based on annual goals, performance measures, and other relevant  
8 criteria.

9 (g) The board shall document the specific authority  
10 delegated to the executive director, including but not limited  
11 to the types of access and use of corporation property that the  
12 executive director can approve without notice to or approval by  
13 the board, and the rent credits and other amendments to board-  
14 approved contract terms that the executive director may approve  
15 without notice to or approval by the board.

16 ~~[(e)]~~ (h) The board, through its executive director, may  
17 appoint officers, agents, and employees; prescribe their duties  
18 and qualifications; and fix their salaries, without regard to  
19 chapter 76."

20 SECTION 4. Section 163D-4, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       **"§163D-4 Powers; generally.** (a) Except as otherwise  
2 limited by this chapter, the corporation may:

3       (1) Sue and be sued;

4       (2) Have a seal and alter the same at its pleasure;

5       (3) Make and alter bylaws for its organization and  
6 internal management;

7       (4) Adopt rules under chapter 91 necessary to effectuate  
8 this chapter in connection with its projects,  
9 operations, and properties;

10       (5) Make and execute contracts and all other instruments  
11 necessary or convenient for the exercise of its powers  
12 and functions under this chapter;

13       ~~[(6) Carry out surveys, research, and investigations into~~  
14 ~~technological, business, financial, consumer trends,~~  
15 ~~and other aspects of agricultural production in the~~  
16 ~~national and international community;~~

17       ~~+(7)]~~ (6) Acquire or contract to acquire by grant or  
18 purchase any real, personal, or mixed property or any  
19 interest therein for its immediate or future use for  
20 the purposes of this chapter; own, hold, improve, and  
21 rehabilitate any real, personal, or mixed property



1           acquired, and sell, assign, exchange, transfer,  
2           convey, lease, or otherwise dispose of, or encumber  
3           the same;

4       ~~[(+8)]~~ (7) By itself, or in partnership with qualified  
5           persons, acquire, construct, reconstruct,  
6           rehabilitate, improve, alter, or repair any  
7           infrastructure or accessory facilities in connection  
8           with any project; own, hold, sell, assign, transfer,  
9           convey, exchange, lease, or otherwise dispose of, or  
10          encumber any project;

11       ~~[(+9)]~~ (8) In cooperation with the department of  
12           agriculture, pursuant to chapter 167, or otherwise  
13           through direct investment or coventure with a  
14           professional investor or enterprise or any other  
15           person, or otherwise, to acquire, construct, operate,  
16           and maintain water facilities for conveying,  
17           distributing, and transmitting water for irrigation  
18           and agricultural uses at rates or charges determined  
19           by the corporation; provided that:



- 1 (A) This chapter shall not be construed to permit or  
2 allow the department of agriculture or any  
3 agribusiness development corporation to:
- 4 (i) Amend or modify rights or entitlements to  
5 water as provided for by article XI, section  
6 7, of the Constitution of the State of  
7 Hawaii, or the Hawaiian Homes Commission  
8 Act, 1920, as amended, and chapter 168;
- 9 (ii) Diminish or abridge the traditional and  
10 customary rights of ahupua'a tenants who  
11 inhabited the Hawaiian Islands prior to 1778  
12 under sections 1-1 and 7-1; and
- 13 (iii) Impair, abridge, or terminate the legal  
14 rights or interests to water and its uses,  
15 whether by lease, easement, or other means,  
16 which are possessed or held by organizations  
17 whose primary purpose is to benefit people  
18 of Hawaiian ancestry; and
- 19 (B) All usage of water shall be in accordance with  
20 chapter [†]174C[†] and other applicable laws in  
21 the State;



1     ~~[(10)] Assist agricultural enterprises by conducting detailed~~  
2     ~~marketing analysis and developing marketing and~~  
3     ~~promotional strategies to strengthen the position of~~  
4     ~~those enterprises and to better exploit local,~~  
5     ~~national, and international markets;~~

6     ~~[(11)] Carry out specialized programs designed to develop new~~  
7     ~~markets for Hawaii agricultural products;~~

8     ~~[(12)]~~ (9) Receive, examine, and determine the acceptability  
9     of applications of qualified persons for allowances or  
10    grants for the development of new crops and  
11    agricultural products, the expansion of established  
12    agricultural enterprises, and the altering of existing  
13    agricultural enterprises;

14    ~~[(13)]~~ (10) Coordinate its activities with any federal or  
15    state farm credit programs;

16    ~~[(14)]~~ (11) Grant options to purchase any project or to  
17    renew any lease entered into by it in connection with  
18    any of its projects, on the terms and conditions it  
19    deems advisable;

20    ~~[(15)]~~ (12) Provide advisory, consultative, training, and  
21    educational services, technical assistance, and advice



1 to any person, partnership, or corporation, either  
2 public or private, in order to carry out the purposes  
3 of this chapter, and engage the services of  
4 consultants on a contractual basis for rendering  
5 professional and technical assistance and advice;

6 ~~[-(16)-]~~ (13) Procure insurance against any loss in connection  
7 with its property and other assets and operations in  
8 such amounts and from such insurers as it deems  
9 desirable;

10 ~~[-(17)-]~~ (14) Accept gifts or grants in any form from any  
11 public agency or any other source; and

12 ~~[-(18)-]~~ (15) Do all things necessary or proper to carry out  
13 the purposes of this chapter.

14 (b) The corporation shall develop, promote, assist, and  
15 market agricultural products for local markets and local  
16 consumption, and shall promote and assist in commercial export  
17 ~~[crops and other crops for local markets.]~~ of agricultural  
18 products."

19 SECTION 5. Section 163D-5, Hawaii Revised Statutes, is  
20 amended to read as follows:



1        "[~~+~~]~~\$163D-5~~[~~+~~]   **Hawaii agribusiness plan.**   (a)   The  
2   corporation shall prepare and post on its website the Hawaii  
3   agribusiness plan, which shall define and establish goals,  
4   objectives, policies, and priority guidelines for its  
5   agribusiness development strategy.   The plan shall include but  
6   not be limited to:

7        (1)   An inventory of agricultural lands with suitable  
8               adequate water resources that are or will become  
9               available [~~due to the downsizing of the sugar and~~  
10              ~~pineapple industries that~~] and can be used to meet  
11              present and future agricultural production needs;  
12              provided that the inventory of agricultural lands  
13              under this paragraph shall be agricultural lands  
14              within the purview of the corporation;

15        (2)   An inventory of available agricultural infrastructure  
16              [~~that will be abandoned by sugar and pineapple~~  
17              ~~industries~~], such as irrigation systems, drainage  
18              systems, processing facilities, and other accessory  
19              facilities[~~+~~], that are controlled by the corporation;

20        [~~(3)~~]   ~~An analysis of imported agricultural products and the~~  
21              ~~potential for increasing local production to replace~~



- 1           ~~imported products in a manner that complements~~  
2           ~~existing local producers and increases Hawaii's~~  
3           ~~agricultural self-sufficiency;~~
- 4           ~~(4) Alternatives in the establishment of sound financial~~  
5           ~~programs to promote the development of diversified~~  
6           ~~agriculture;~~
- 7           ~~(5) Feasible strategies for the promotion, marketing, and~~  
8           ~~distribution of Hawaii agricultural products in local,~~  
9           ~~national, and international markets;~~
- 10          ~~(6) Programs to promote and facilitate the absorbing of~~  
11          ~~displaced agricultural workers into alternative~~  
12          ~~agricultural enterprises;~~
- 13          ~~(7) Strategies to insure the provision of adequate air and~~  
14          ~~surface transportation services and supporting~~  
15          ~~facilities to support the agricultural industry in~~  
16          ~~meeting local, national, and international market~~  
17          ~~needs;~~
- 18          ~~(8) Proposals to improve the gathering of data and the~~  
19          ~~timely presentation of information on market demands~~  
20          ~~and trends that can be used to plan future harvests~~  
21          ~~and production; and]~~



1       (3) An analysis and plan for how lands within the purview  
2       of the corporation can be used to increase local  
3       agricultural production to replace imported products  
4       in a manner that complements existing local producers  
5       and increases Hawaii's agricultural self-sufficiency;  
6       and

7       ~~[(+9)]~~ (4) Strategies for federal ~~[and]~~, state  
8       ~~[legislative]~~, county, and community stakeholder  
9       actions that will promote the development and  
10       enhancement of Hawaii's agricultural industries.

11       (b) The Hawaii agribusiness plan goals shall have specific  
12       one-year, five-year, and ten-year objectives and measurable  
13       outcomes, including but not limited to the following:

14       (1) At least       per cent of all lands within the  
15       corporation's inventory are leased or licensed for  
16       agricultural production;

17       (2) At least       per cent of production from the  
18       corporation's lessees or licensees is intended for  
19       local consumption and produced in accordance with the  
20       principles of sustainable agriculture; and



1       (3) At least           per cent of all leases and licenses of  
2           the corporation's lands are for parcels no greater  
3           than twenty acres.

4 The objectives and outcomes shall include annual performance  
5 goals and measures that the corporation shall be evaluated on  
6 annually.

7       (c) The Hawaii agribusiness plan shall also include  
8 metrics, timeframes, and budget expectations as part of the  
9 corporation's agribusiness development strategy.

10       ~~[(b)]~~ (d) The corporation shall ~~[revise]~~ update the Hawaii  
11 agribusiness plan ~~[from time to time]~~ no later than July 1,  
12 2024, and every five years thereafter, and shall incorporate the  
13 plan in its annual report to the governor and the legislature as  
14 provided in section 163D-19."

15       SECTION 6. Section 163D-8.5, Hawaii Revised Statutes, is  
16 repealed.

17       ~~["**\$163D-8.5 Approval of projects, plans, and programs.**]~~  
18 ~~All agricultural projects, agricultural development plans, and~~  
19 ~~project facility programs developed by the corporation must be~~  
20 ~~approved by the board of agriculture before implementation."]~~

21                                   PART II



1       SECTION 7. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$100,000 or so much  
3 thereof as may be necessary for fiscal year 2022-2023 for a  
4 consultant to assist the agribusiness development corporation in  
5 preparing and finalizing the Hawaii agribusiness plan under  
6 section 163D-5, Hawaii Revised Statutes, including the  
7 facilitation of community stakeholder involvement.

8       The sum appropriated shall be expended by the agribusiness  
9 development corporation for the purposes of this Act.

10       SECTION 8. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$                   or so  
12 much thereof as may be necessary for fiscal year 2022-2023 for  
13 one full-time equivalent (1.0 FTE) permanent accountant position  
14 to provide accounting and other fiscal support services to the  
15 agribusiness development corporation.

16       The sum appropriated shall be expended by the agribusiness  
17 development corporation for the purposes of this Act.

18       SECTION 9. There is appropriated out of the general  
19 revenues of the State of Hawaii the sum of \$500,000 or so much  
20 thereof as may be necessary for fiscal year 2022-2023 for  
21 security guard services to address trespassing, abandonment of



1 vehicles on agribusiness development corporation land, and other  
2 security issues on vacant land of the agribusiness development  
3 corporation; provided that once agribusiness development  
4 corporation land is leased, security costs for the property  
5 shall be funded by agricultural cooperative association dues of  
6 property tenants.

7 The sum appropriated shall be expended by the agribusiness  
8 development corporation for the purposes of this Act.

9 PART III

10 SECTION 10. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 11. This Act shall take effect on July 1, 2050;  
13 provided that part II of this Act shall take effect on July 1,  
14 2022.



# H.B. NO. 2418 H.D. 1

**Report Title:**

ADC; Board of Directors; Powers; Plan; Appropriation

**Description:**

Amends the focus, scope, and management of the agribusiness development corporation (ADC). Appropriates funds to ADC for a consultant for planning, an accountant, and for security on ADC property. Repeals the requirement that all agricultural projects, agricultural development plans, and project facility programs developed by ADC be approved by the board of agriculture before implementation. Effective 7/1/2050. (HD1)

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

