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# A BILL FOR AN ACT

RELATING TO ECONOMIC DEVELOPMENT.

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

1           SECTION 1. The purpose of this Act is to transfer the  
2 administrative attachment of the agribusiness development  
3 corporation from the department of agriculture to the department  
4 of business, economic development, and tourism.

5           SECTION 2. Section 163D-1, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           " ~~{}~~§163D-1~~{}~~ **Findings and purpose.** The legislature  
8 finds that the downsizing of the sugar and pineapple industries  
9 ~~[is presenting]~~ presented an unprecedented opportunity for the  
10 conversion of agriculture into a dynamic growth industry.  
11 Within the next decade, ~~[seventy five thousand]~~ the State can  
12 use public agricultural lands to enhance the local economy,  
13 provide employment opportunities, decrease reliance on imported  
14 agricultural products, and provide more sources of locally grown  
15 food for residents. Thousands of acres of agricultural lands  
16 and fifty million gallons per day of irrigation water ~~[are~~  
17 ~~expected to be]~~ were released by plantations. The downsizing of



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

19 The purpose of this chapter is to create a vehicle and  
20 process to make optimal use of agricultural assets for the  
21 economic, environmental, and social benefit of the people of



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



1 SECTION 3. Section 163D-2, Hawaii Revised Statutes, is  
2 amended by amending the definition of "agriculture" to read as  
3 follows:

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

17 SECTION 4. Section 163D-3, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "**§163D-3 Agribusiness development corporation; board of**  
20 **directors; established.** (a) There is established the  
21 agribusiness development corporation, which shall be a public



1 body corporate and politic and an instrumentality and agency of  
2 the State. The corporation shall be headed by a board of  
3 directors. The corporation shall be placed within the  
4 department of [~~agriculture~~] business, economic development, and  
5 tourism for administrative purposes, but the corporation may  
6 later incorporate as a nonprofit corporation if this proves  
7 desirable to further its objectives; provided that [~~such~~]  
8 reorganization as a nonprofit corporation shall not adversely  
9 affect the federal tax status of the interest on any bonds  
10 issued to finance any project or project facility.

11 (b) The board of directors of the corporation shall  
12 consist of eleven voting members, of whom eight shall be  
13 appointed by the governor. The terms of these eight members  
14 shall be four years; provided that, commencing on July 1, 2005,  
15 the governor shall reduce the terms of those initially appointed  
16 so as to provide, as nearly as can be, for the expiration of an  
17 equal number of terms at intervals of one year. The eight  
18 members shall be selected on the basis of their knowledge,  
19 experience, and proven expertise in small and large businesses  
20 within the agricultural industry, agricultural economics,  
21 banking, real estate, finance, promotion, marketing, local food



1 production, and management. Of these eight members, one shall  
2 be from the city and county of Honolulu, one shall be from the  
3 county of Hawaii, one shall be from the county of Maui, one  
4 shall be from the county of Kauai, and four shall be appointed  
5 at-large. The director of business, economic development, and  
6 tourism; the chairperson of the board of agriculture; and the  
7 chairperson of the board of land and natural resources, or their  
8 designated representatives, shall be ex-officio, voting members  
9 of the board. All members shall continue in office until their  
10 respective successors have been appointed and qualified. The  
11 board shall annually elect its chairperson from among its  
12 members; provided that the chairperson shall not be an ex-  
13 officio member.

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

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



1       (e) The board shall develop and document annual goals and  
2 performance measures for the executive director that allow the  
3 board to annually evaluate the executive director's work to  
4 ensure compliance by the corporation with statutory requirements  
5 and achievement of its statutory purposes.

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

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

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



1 SECTION 5. Section 163D-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§163D-4 Powers; generally.** (a) Except as otherwise  
4 limited by this chapter, the corporation may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at its pleasure;
- 7 (3) Make and alter bylaws for its organization and  
8 internal management;
- 9 (4) Adopt rules under chapter 91 necessary to effectuate  
10 this chapter in connection with its projects,  
11 operations, and properties;
- 12 (5) Make and execute contracts and all other instruments  
13 necessary or convenient for the exercise of its powers  
14 and functions under this chapter;
- 15 ~~[(6) Carry out surveys, research, and investigations into  
16 technological, business, financial, consumer trends,  
17 and other aspects of agricultural production in the  
18 national and international community;~~
- 19 ~~+(7)]~~ (6) Acquire or contract to acquire by grant or  
20 purchase any real, personal, or mixed property or any  
21 interest therein for its immediate or future use for



1 the purposes of this chapter; own, hold, improve, and  
2 rehabilitate any real, personal, or mixed property  
3 acquired, and sell, assign, exchange, transfer,  
4 convey, lease, or otherwise dispose of, or encumber  
5 the same;

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

13 [~~9~~] (8) In cooperation with the department of  
14 agriculture, pursuant to chapter 167, or otherwise  
15 through direct investment or coventure with a  
16 professional investor or enterprise or any other  
17 person, or otherwise, to acquire, construct, operate,  
18 and maintain water facilities for conveying,  
19 distributing, and transmitting water for irrigation  
20 and agricultural uses at rates or charges determined  
21 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 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 product for local consumption, and shall  
16 promote and assist in commercial export ~~[crops and other crops~~  
17 ~~for local markets.]~~ of agricultural products."

18 SECTION 6. Section 163D-5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 " ~~[(1)]~~ **§163D-5** ~~[(1)]~~ **Hawaii agribusiness plan.** (a) The  
21 corporation shall prepare and post on its website the Hawaii



1 agribusiness plan which shall define and establish goals,  
2 objectives, policies, and priority guidelines for its  
3 agribusiness development strategy. The plan shall include but  
4 not be limited to:

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

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

19 [~~3~~] ~~An analysis of imported agricultural products and the~~  
20 ~~potential for increasing local production to replace~~  
21 ~~imported products in a manner that complements~~



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



1       ~~[(9)]~~ (3) Strategies for federal and state legislative  
2                   actions that will promote the development and  
3                   enhancement of Hawaii's agricultural industries.

4       (b) The Hawaii agribusiness plan goals shall have specific  
5 one-year, five-year, and ten-year objectives and measurable  
6 outcomes. The objectives and outcomes shall include annual  
7 performance goals and measures that the corporation shall be  
8 evaluated on annually.

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

12       ~~[(b)]~~ (d) The corporation shall ~~[revise]~~ update the Hawaii  
13 agribusiness plan ~~[from time to time]~~ no later than July 1,  
14 2023, and every five years thereafter, and shall incorporate the  
15 plan in its annual report to the governor and the legislature as  
16 provided in section 163D-19."

17       SECTION 7. Section 163D-8.5, Hawaii Revised Statutes, is  
18 repealed.

19       ~~["§163D-8.5 Approval of projects, plans, and programs. ]~~  
20 ~~All agricultural projects, agricultural development plans, and~~



1 ~~project facility programs developed by the corporation must be~~  
2 ~~approved by the board of agriculture before implementation." ]~~

3 SECTION 8. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$100,000 or so much  
5 thereof as may be necessary for fiscal year 2022-2023 for a  
6 consultant to assist the agribusiness development corporation in  
7 preparing and finalizing the Hawaii agribusiness plan under  
8 section 163D-5, Hawaii Revised Statutes, including the  
9 facilitation of community stakeholder involvement.

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

12 SECTION 9. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ or so  
14 much thereof as may be necessary for fiscal year 2022-2023 for  
15 one full-time equivalent (1.0 FTE) permanent accountant position  
16 to provide accounting and other fiscal support services to the  
17 agribusiness development corporation.

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

20 SECTION 10. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$500,000 or so much



1 thereof as may be necessary for fiscal year 2022-2023 for  
 2 security guard services to address trespassing, abandonment of  
 3 vehicles on agribusiness development corporation land, and other  
 4 security issues on vacant land of the agribusiness development  
 5 corporation; provided that once agribusiness development  
 6 corporation land is leased, security costs for the property  
 7 shall be funded by agricultural cooperative association dues of  
 8 property tenants.

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

11       SECTION 11. All rights, powers, functions, and duties of  
 12 the department of agriculture relating to the agribusiness  
 13 development corporation are transferred to the department of  
 14 business, economic development, and tourism.

15       SECTION 12. All appropriations, records, equipment,  
 16 machines, files, supplies, contracts, books, papers, documents,  
 17 maps, and other personal property heretofore made, used,  
 18 acquired, or held by the department of agriculture relating to  
 19 the functions transferred to the department of business,  
 20 economic development, and tourism shall be transferred with the  
 21 functions to which they relate.



1 SECTION 13. All employees who occupy civil service  
2 positions and whose functions are transferred to the department  
3 of business, economic development, and tourism by this Act shall  
4 retain their civil service status, whether permanent or  
5 temporary. Employees shall be transferred without loss of  
6 salary, seniority (except as prescribed by applicable collective  
7 bargaining agreements), retention points, prior service credit,  
8 any vacation and sick leave credits previously earned, and other  
9 rights, benefits, and privileges, in accordance with state  
10 personnel laws and this Act; provided that the employees possess  
11 the minimum qualifications and public employment requirements  
12 for the class or position to which transferred or appointed, as  
13 applicable; provided further that subsequent changes in status  
14 may be made pursuant to applicable civil service and  
15 compensation laws.

16 Any employee who, prior to this Act, is exempt from civil  
17 service and is transferred as a consequence of this Act may  
18 retain the employee's exempt status, but shall not be appointed  
19 to a civil service position as a consequence of this Act. An  
20 exempt employee who is transferred by this Act shall not suffer  
21 any loss of prior service credit, vacation or sick leave credits



1 previously earned, or other employee benefits or privileges as a  
 2 consequence of this Act; provided that the employees possess  
 3 legal and public employment requirements for the position to  
 4 which transferred or appointed, as applicable; provided further  
 5 that subsequent changes in status may be made pursuant to  
 6 applicable employment and compensation laws. The director of  
 7 business, economic development, and tourism may prescribe the  
 8 duties and qualifications of these employees and fix their  
 9 salaries without regard to chapter 76, Hawaii Revised Statutes.

10 SECTION 14. All rules, policies, procedures, guidelines,  
 11 and other material adopted or developed by the department of  
 12 agriculture to implement provisions of the Hawaii Revised  
 13 Statutes that are reenacted or made applicable to the department  
 14 of business, economic development, and tourism by this Act shall  
 15 remain in full force and effect until amended or repealed by the  
 16 department of business, economic development, and tourism  
 17 pursuant to chapter 91, Hawaii Revised Statutes. In the  
 18 interim, every reference to the department of agriculture, board  
 19 of agriculture, or chairperson of the board of agriculture in  
 20 those rules, policies, procedures, guidelines, and other  
 21 material is amended to refer to the department of business,



1 economic development, and tourism or director of business,  
2 economic development, and tourism, as appropriate.

3 SECTION 15. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 16. This Act shall take effect on July 1, 2050.



**Report Title:**

HDOA; DBEDT; Agribusiness Development Corporation; Transfer; Appropriations

**Description:**

Amends the focus, scope, responsibilities, and powers of the Agribusiness Development Corporation. Amends the definition of the term "agriculture" as the term relates to the Agribusiness Development Corporation. Transfers the administrative attachment of the Agribusiness Development Corporation from the Department of Agriculture to the Department of Business, Economic Development, and Tourism. Amends the requirements and responsibilities of the Board of Directors of the Agribusiness Development Corporation. Amends the required contents of the Hawaii agribusiness plan. Appropriates moneys. Effective 7/1/2050. (SD2)

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