

JAN 26 2022

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# A BILL FOR AN ACT

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RELATING TO AGRICULTURAL COMMODITIES.

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

1       SECTION 1. The legislature finds that agricultural  
2 commodity industries are vital elements of the state economy,  
3 employ residents, produce tax revenues, encourage responsible  
4 stewardship of valuable resources, and produce substantial food  
5 for the State, nation, and world.

6       The legislature also finds that adequate protection should  
7 be given to agricultural commodities and commodity uses,  
8 activities, and operations. Each viable commodity should be  
9 promoted individually and as part of a stabilized comprehensive  
10 industry by increasing consumption of commodities in the State,  
11 nationally, and internationally.

12       The legislature further finds that agricultural commodity  
13 commissions may support commodity industries and enhance and  
14 preserve the economic interests of the State. These commissions  
15 could be funded by the public through fees assessed according to  
16 the relationship of the fee payer to a particular program.  
17 Mandated cooperative efforts by commodity commissions can



1 provide effective ways to avoid economic waste and maintain  
2 stable agricultural markets. Agricultural commodity commissions  
3 would not benefit individual persons engaged in commodity  
4 industries, instead they would improve overall conditions for  
5 the particular commodities for which commissions are  
6 established, and thereby benefit the overall economy of the  
7 State.

8 Accordingly, the purpose of this Act is to authorize the  
9 department of agriculture to establish agricultural commodity  
10 commissions for agricultural commodities produced in the State.

11 SECTION 2. The Hawaii Revised Statutes is amended by  
12 adding a new chapter to title 11 to be appropriately designated  
13 and to read as follows:

14 **"CHAPTER**

15 **AGRICULTURAL COMMODITY COMMISSIONS**

16 **§ -1 Definitions.** For the purposes of this chapter,  
17 unless the context requires otherwise:

18 "Agricultural commission" or "commission" means any  
19 commission established by the department pursuant to this  
20 chapter.



1 "Agricultural commodity" means any distinctive type of  
2 agricultural, horticultural, viticultural, vegetable, animal, or  
3 seafood product, or any class, variety, or use thereof, in a  
4 natural or processed state.

5 "Applicable commodity" means the agricultural commodity  
6 that is under a particular agricultural commission's purview.

7 "Chairperson" means the chairperson of the board of  
8 agriculture.

9 "Department" means the department of agriculture.

10 **§ -2 Agricultural commodity commissions; established;**  
11 **duties; powers.** (a) The department, by administrative rules  
12 adopted pursuant to chapter 91, may establish agricultural  
13 commodity commissions to support commodity industries that are  
14 integral to the economy of the State and that enhance and  
15 preserve the economic interests of the State.

16 (b) Each commission shall:

17 (1) Participate in the formulation and implementation of  
18 public policy through expressive activities;

19 (2) Reflect a continuing commitment by the State to the  
20 applicable commodity;



- 1           (3) Represent a policy of support for persons engaged in  
2           the applicable commodity industry and for their  
3           critical role in the economy of the State, especially  
4           the economy of rural areas;
- 5           (4) Provide benefits to the entire applicable commodity  
6           industry and all the residents of the State;
- 7           (5) Enhance the image of the applicable commodity for the  
8           purpose of increasing the overall demand for the  
9           commodity, which shall be accomplished by operating  
10          primarily to create a more receptive environment for  
11          the commodity and for the individual efforts of  
12          persons engaged in the applicable commodity industry,  
13          and complementing individual, targeted, and specific  
14          activities;
- 15          (6) Use mandatory cooperative efforts to complement state,  
16          federal, and international laws and programs, to the  
17          extent authorized by the department;
- 18          (7) Protect the citizens of the State by educating them  
19          regarding the quality, care, and methods used in the  
20          production of the applicable commodity;



- 1           (8) Increase knowledge of the healthful qualities,  
2           dietetic value, or other positive aspects of the  
3           applicable commodity; and
- 4           (9) Support and engage in research programs and activities  
5           that benefit the planting, production, harvesting,  
6           handling, processing, marketing, and use of the  
7           applicable commodity.
- 8           (c) Each commission may:
- 9           (1) Request that the department collect assessments levied  
10          by the commission; provided that the assessments are  
11          approved by the department;
- 12          (2) Study state and federal tariffs, duties, reciprocal  
13          trade agreements, import quotas, and other matters  
14          affecting commodity industries and the State;
- 15          (3) Represent and protect the interests of a commodity  
16          industry regarding any legislation, proposed  
17          legislation, or executive action affecting the  
18          applicable commodity industry;
- 19          (4) Participate in federal and state hearings or other  
20          proceedings concerning regulation of the manufacture,  
21          distribution, sale, or use of pesticides or other



1 chemicals that are of use or potential use to  
2 producers of the applicable commodity; provided that  
3 this paragraph shall not be construed to authorize any  
4 commodity commission to regulate the use of  
5 pesticides;

6 (5) To the extent consistent with the duties of the  
7 commission, participate in and cooperate with local,  
8 state, national, and international private  
9 organizations or governmental agencies that engage in  
10 work similar to that of the commission;

11 (6) Gather, publicize, and disseminate information that  
12 shows the importance of the consumption or other use  
13 of the applicable commodity to public health, the  
14 environment, the economy, and the proper nutrition of  
15 children and adults; and

16 (7) Propose to the department the adoption, amendment, or  
17 repeal of rules pursuant to chapter 91 that relate to  
18 the purposes of the chapter.

19 (d) The department may adopt administrative rules,  
20 pursuant to chapter 91, that authorize any commission to:

21 (1) Levy assessments relating to commodities;



- 1           (2) Borrow money for certain commission purposes, as
- 2               specified by the department;
- 3           (3) Enter into contracts for carrying out certain duties
- 4               of the commission, as specified by the department;
- 5           (4) Sue and be sued in the name of the commission, to the
- 6               extent authorized by the department;
- 7           (5) Provide mechanisms for maintaining and expanding
- 8               existing markets and developing new domestic and
- 9               foreign markets for a commodity, including:
- 10               (A) Public relations programs;
- 11               (B) Media relations programs;
- 12               (C) Paid print, electronic and position advertising;
- 13               (D) Point of sale promotion and merchandising;
- 14               (E) Paid sales promotions and coupon programs; and
- 15               (F) Activities that prevent, modify, or eliminate
- 16                   trade barriers that obstruct the free flow of a
- 17                   commodity to market.
- 18           (6) Conduct and fund research to:
- 19               (A) Enhance the commercial value of a commodity and
- 20                   products derived from the commodity;



- 1 (B) Identify potential benefits to public health, the  
2 environment, or the economy of consuming or  
3 otherwise using a commodity;
- 4 (C) Improve production, harvesting, irrigation,  
5 processing, transportation, handling, marketing,  
6 and uses of a commodity;
- 7 (D) Control or eradicate hazards to a commodity,  
8 including hazards from animals, pests, and  
9 plants;
- 10 (E) Develop viable alternatives for the rotation of  
11 crops;
- 12 (F) Determine new or potential demand for a commodity  
13 and develop appropriate market development  
14 strategies for capturing that demand; and
- 15 (G) Measure the effectiveness of marketing,  
16 advertising, or promotional programs; and
- 17 (7) Fund scholarships for or provide financial assistance  
18 to persons or entities interested in the applicable  
19 commodity; and
- 20 (8) Take other appropriate actions for the purposes of  
21 this chapter.





1           **§   -3   Department duties relating to commissions.   (a)**

2   The department shall:

- 3           (1)   Carry out the assigned organizational procedures under  
4                this chapter, including the appointment and removal of  
5                members of any agricultural commodity commission;  
6           (2)   Monitor the practices or methods used or proposed for  
7                use by any agricultural commodity commission in  
8                carrying out the goals and needs identified by the  
9                budget of the commission;  
10          (3)   Promote cooperation among the several commissions and  
11                other relevant state agencies and assist in the  
12                interchange of information and experience among those  
13                commissions and agencies;  
14          (4)   Review commission budgets;  
15          (5)   Authorize and collect assessments approved by the  
16                commissions; and  
17          (6)   Adopt rules, pursuant to chapter 91, necessary for the  
18                purposes of this chapter.

19          (b)   The department shall review, and may approve or  
20       disapprove, plans, projects, and assessments recommended by a  
21       commission for commodity promotion, advertising, and research



1 and for the dissemination of consumer and commodity industry  
2 information. In reviewing plans and projects recommended by a  
3 commodity commission, the department shall consider whether the  
4 plan or project information is:

5 (1) Factual;

6 (2) Not disparaging to commodities outside of the  
7 commission's purview; and

8 (3) Consistent with the purposes of this chapter.

9 **§ -4 Commission members; appointment; removal.** (a) The  
10 chairperson of the board of agriculture and the dean of the  
11 college of tropical agriculture and human resources at the  
12 University of Hawaii at Manoa, or their respective designees,  
13 shall serve as ex-officio non-voting members of each  
14 agricultural commodity commission.

15 (b) The department shall determine the number, lengths of  
16 terms, and geographic representation of the members of any  
17 agricultural commodity commission; provided that the number of  
18 voting members of any commission shall be an odd number, and the  
19 lengths of the initial terms shall be varied to ensure staggered  
20 rotation of members.



1 (c) Each member of an agricultural commodity commission  
2 shall:

3 (1) Be a citizen of the United States;

4 (2) Be a bona fide resident of the State; and

5 (3) Have an active interest in the positive development  
6 and economic growth of the applicable commodity  
7 industry in the State.

8 (d) The majority of voting members of any commission shall  
9 be producers of the applicable commodity. A producer member of  
10 a commission shall have paid an assessment adopted by the  
11 commission, if any, on the applicable commodity in each of the  
12 preceding three calendar years in which the assessment was due.  
13 At least one voting member shall be a handler of the applicable  
14 commodity. A handler member of a commission shall have  
15 collected an assessment adopted by the commission, if any, on  
16 the commodity in each of the preceding three calendar years in  
17 which the assessment was due.

18 (e) Notwithstanding section 26-34(a) or any other law to  
19 the contrary, each member of an agricultural commodity  
20 commission, other than an ex-officio member, shall be appointed  
21 by the chairperson of the board of agriculture; provided that:



1       (1) Each appointee shall otherwise be subject to the  
2           advice and consent of the senate pursuant to section  
3           26-34(a);

4       (2) Notwithstanding paragraph (1), the appointed member  
5           may serve as a temporary member of the commission,  
6           with all the rights, duties, and privileges of any  
7           other member; and

8       (3) If the senate rejects the appointment of a temporary  
9           member of the commission, the member shall cease to be  
10          a temporary member.

11       (f) Each commissioner confirmed by the senate is eligible  
12       for reappointment, unless otherwise provided by rules adopted by  
13       the department pursuant to chapter 91.

14       (g) Notwithstanding section 26-34(d) or any other law to  
15       the contrary, the chairperson of the board of agriculture may  
16       remove or suspend for cause any member of any agricultural  
17       commodity commission, other than an ex-officio member, after due  
18       notice and public hearing. The chairperson shall immediately  
19       declare the seat of any appointed producer or handler member of  
20       a commission vacant whenever the chairperson finds that the  
21       member has ceased to be an active producer or handler in this



1 State, is no longer a resident of the State, or is unable to  
2 perform the duties of office.

3 (h) The voting members of a commission shall select one  
4 member to serve as chairperson of the commission and may select  
5 other members to serve as other commission officers, as  
6 appropriate.

7 § -5 **Compensation; expenses.** The members of a  
8 commission shall serve without compensation but shall be  
9 reimbursed for expenses, including travel expenses, necessary  
10 for the performance of their duties."

11 SECTION 3. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 



# S.B. NO. 3336

**Report Title:**

Agriculture; HDOA; Commodities; Commissions; Assessments; Rules

**Description:**

Authorizes the Department of Agriculture to establish agricultural commodity commissions for agricultural commodities produced in the State.

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