

JAN 21 2026

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# A BILL FOR AN ACT

RELATING TO AGRIVOLTAICS.

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

1 SECTION 1. The legislature finds that the State's  
2 agricultural lands are a finite and critical resource for local  
3 food production, rural livelihoods, and climate resilience.  
4 Recent trends indicate that agricultural lands are under  
5 increasing pressure from utility-scale renewable energy  
6 development, particularly solar energy facilities. More than  
7 one thousand two hundred acres of agricultural lands with a  
8 productivity rating of B and C have already been converted for  
9 operational solar projects with another one thousand two hundred  
10 acres proposed for conversion. While existing law requires that  
11 a portion of any land used for solar energy facilities be made  
12 available for compatible agricultural activities, this  
13 requirement has not yielded substantial or sustained  
14 agricultural production.

15 The legislature further finds that many farmers, especially  
16 beginning farmers, face significant barriers to accessing land,  
17 infrastructure, and affordable long-term leasing opportunities.



1 Solar energy facilities constructed on agricultural lands often  
2 feature internal roads, fencing, utilities, and security  
3 features that make them suitable for concurrent agricultural use  
4 when properly designed. Agrivoltaics, the integration of  
5 agricultural production within solar project areas, can expand  
6 agricultural opportunities while enabling the State to achieve  
7 its renewable energy goals.

8 The legislature also finds that a clear statewide standard  
9 is needed to ensure that solar development on agricultural lands  
10 with a productivity rating of B, C, or D supports commercial  
11 agricultural production. Establishing a strong regulatory  
12 framework for agrivoltaics while requiring that beginning  
13 farmers receive the first opportunity to lease land primed for  
14 agricultural activity within solar project areas will expand  
15 agricultural use without diminishing the planning authority of a  
16 county or duplicating the State's existing agricultural park  
17 programs. The legislature additionally finds that the  
18 department of agriculture and biosecurity is best positioned to  
19 establish rules and best practices, verify farmer eligibility,  
20 and enforce compliance with agrivoltaics regulations while



1 allowing landowners the flexibility to select farmers and manage  
2 operations.

3 Accordingly, the purpose of this Act is to:

4 (1) Require a landowner leasing agricultural sub-parcels  
5 on property used for agrivoltaics to prioritize lease  
6 offers for beginning farmers;

7 (2) Require a landowner leasing agricultural sub-parcels  
8 on property used for agrivoltaics to submit an annual  
9 agrivoltaics compliance report to the department of  
10 agriculture and biosecurity;

11 (3) Authorize the department of agriculture and  
12 biosecurity to penalize any landowner that fails to  
13 meet agrivoltaics requirements;

14 (4) Authorize the development of solar energy facilities  
15 on agricultural lands with productivity ratings of B,  
16 C, or D under certain conditions; and

17 (5) Authorize a county planning commission or department  
18 to issue special permits for agrivoltaics requirements  
19 before the approval of the land use commission under  
20 certain conditions.



1 SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4 **"S141- Agrivoltaics; requirements; reports; rules;**

5 **penalties; definitions.** (a) A landowner who offers a lease for  
6 an agricultural sub-parcel on a property used for agrivoltaics  
7 shall prioritize lease offers for beginning farmers for a period  
8 of days; provided that if no beginning farmer accepts the  
9 lease offer during this period, the landowner may offer the  
10 lease to a farmer engaged in commercial agricultural production.

11 (b) A landowner who offers a lease for an agricultural  
12 sub-parcel on a property used for agrivoltaics shall submit an  
13 annual agrivoltaics compliance report to the department. The  
14 agrivoltaics compliance report shall include:

15 (1) Acreage of the property in active commercial  
16 production;  
17 (2) Identification of any beginning farmers and commercial  
18 farmers leasing a sub-parcel;  
19 (3) Documentation of agricultural output; and  
20 (4) Any periods of noncompliance with this section and any  
21 corrective or enforcement actions taken.



1           (c) If the department determines that a landowner is not  
2 in compliance with this section or section 205-4.5(a)(21), the  
3 department shall issue a written notice to the landowner and  
4 allow the landowner a period of four months from the receipt of  
5 the written notice to cure the deficiency; provided that if the  
6 department determines that the landowner has failed to cure the  
7 deficiency within this period, the department may fine the  
8 landowner not more than \$5,000 per acre per year; provided  
9 further that for repeated or substantial violations, the  
10 department may:

11           (1) Require the landowner to increase the acreage used for  
12 commercial agricultural production;

13           (2) Temporarily suspend compliance certification; or

14           (3) Refer the matter to the county or public utilities  
15 commission for consideration of permit modifications.

16           (d) The department, in consultation with the public  
17 utilities commission and appropriate county, shall adopt rules  
18 pursuant to chapter 91 to carry out the purposes for this  
19 section.

20           (e) As used in this section:



1        "Agrivoltaics" means the intentional integration of  
2        agricultural activities and solar energy generation on the same  
3        site to support agricultural operations pursuant to section  
4        205-4.5(a)(21).

5        "Beginning farmer" means a new farm enterprise or person  
6        who has not farmed commercially or has been farming for less  
7        than        years.

8        "Commercial agricultural production" means a commercial  
9        agricultural facility or pursuit conducted, in whole or in part,  
10        including:

11        (1)        The care and production of livestock, livestock  
12        products, poultry, and poultry products;  
13        (2)        The care and production of apiary, horticultural, and  
14        floricultural products;  
15        (3)        The planting, cultivating, and harvesting of crops or  
16        trees; and  
17        (4)        Any other activity that is directly associated with  
18        agriculture.

19        "Department" means the department of agriculture and  
20        biosecurity."



1 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Within the agricultural district, all lands with soil  
4 classified by the land study bureau's detailed land  
5 classification as overall (master) productivity rating class A  
6 or B and for solar energy facilities, class B or C, shall be  
7 restricted to the following permitted uses:

8 (1) Cultivation of crops, including crops for bioenergy,  
9 flowers, vegetables, foliage, fruits, forage, and  
10 timber;  
11 (2) Game and fish propagation;  
12 (3) Raising of livestock, including poultry, bees, fish,  
13 or other animal or aquatic life that are propagated  
14 for economic or personal use;  
15 (4) Farm dwellings, employee housing, farm buildings, or  
16 activities or uses related to farming and animal  
17 husbandry. For the purposes of this paragraph, "farm  
18 dwelling" means a single-family dwelling located on  
19 and accessory to a farm, including clusters of single-  
20 family farm dwellings permitted within agricultural  
21 parks developed by the State, or where agricultural



1                   activity provides income to the family occupying the  
2                   dwelling;

3                   (5) Public institutions and buildings that are necessary  
4                   for agricultural practices;

5                   (6) Public and private open area types of recreational  
6                   uses, including day camps, picnic grounds, parks, and  
7                   riding stables, but not including dragstrips,  
8                   airports, drive-in theaters, golf courses, golf  
9                   driving ranges, country clubs, and overnight camps;  
10                  provided that overnight camps in operation before  
11                  January 1, 1961, may be approved by special permit;

12                  (7) Public, private, and quasi-public utility lines and  
13                  roadways, transformer stations, communications  
14                  equipment buildings, solid waste transfer stations,  
15                  major water storage tanks, and appurtenant small  
16                  buildings such as booster pumping stations, but not  
17                  including offices or yards for equipment, material,  
18                  vehicle storage, repair or maintenance, treatment  
19                  plants, corporation yards, or other similar  
20                  structures;



- (8) Retention, restoration, rehabilitation, or improvement of buildings or sites of historic or scenic interest;
- (9) Agricultural-based commercial operations as described in section 205-2(d)(15);
- (10) Buildings and uses, including mills, storage, and processing facilities, maintenance facilities, photovoltaic, biogas, and other small-scale renewable energy systems producing energy solely for use in the agricultural activities of the fee or leasehold owner of the property, and vehicle and equipment storage areas that are normally considered directly accessory to the above-mentioned uses and are permitted under section 205-2(d);
- (11) Agricultural parks;
- (12) Plantation community subdivisions, which as used in this chapter means an established subdivision or cluster of employee housing, community buildings, and agricultural support buildings on land currently or formerly owned, leased, or operated by a sugar or pineapple plantation; provided that the existing structures may be used or rehabilitated for use, and



1 new employee housing and agricultural support  
2 buildings may be allowed on land within the  
3 subdivision as follows:

4 (A) The employee housing is occupied by employees or  
5 former employees of the plantation who have a  
6 property interest in the land;

7 (B) The employee housing units not owned by their  
8 occupants shall be rented or leased at affordable  
9 rates for agricultural workers; or

10 (C) The agricultural support buildings shall be  
11 rented or leased to agricultural business  
12 operators or agricultural support services;

13 (13) Agricultural tourism conducted on a working farm, or a  
14 farming operation as defined in section 165-2, for the  
15 enjoyment, education, or involvement of visitors;  
16 provided that the agricultural tourism activity is  
17 accessory and secondary to the principal agricultural  
18 use and does not interfere with surrounding farm  
19 operations; provided further that this paragraph shall  
20 apply only to a county that has adopted ordinances  
21 regulating agricultural tourism under section 205-5;



- 1 (14) Agricultural tourism activities, including overnight  
2 accommodations of twenty-one days or less, for any one  
3 stay within a county; provided that this paragraph  
4 shall apply only to a county that includes at least  
5 three islands and has adopted ordinances regulating  
6 agricultural tourism activities pursuant to section  
7 205-5; provided further that the agricultural tourism  
8 activities coexist with a bona fide agricultural  
9 activity. For the purposes of this paragraph, "bona  
10 fide agricultural activity" means a farming operation  
11 as defined in section 165-2;
- 12 (15) Wind energy facilities, including the appurtenances  
13 associated with the production and transmission of  
14 wind generated energy; provided that the wind energy  
15 facilities and appurtenances are compatible with  
16 agriculture uses and cause minimal adverse impact on  
17 agricultural land;
- 18 (16) Biofuel processing facilities, including the  
19 appurtenances associated with the production and  
20 refining of biofuels that is normally considered  
21 directly accessory and secondary to the growing of the



1                   energy feedstock; provided that biofuel processing  
2                   facilities and appurtenances do not adversely impact  
3                   agricultural land and other agricultural uses in the  
4                   vicinity.

5                   For the purposes of this paragraph:

6                   "Appurtenances" means operational infrastructure  
7                   of the appropriate type and scale for economic  
8                   commercial storage and distribution, and other similar  
9                   handling of feedstock, fuels, and other products of  
10                  biofuel processing facilities.

11                  "Biofuel processing facility" means a facility  
12                  that produces liquid or gaseous fuels from organic  
13                  sources such as biomass crops, agricultural residues,  
14                  and oil crops, including palm, canola, soybean, and  
15                  waste cooking oils; grease; food wastes; and animal  
16                  residues and wastes that can be used to generate  
17                  energy;

18                  (17) Agricultural-energy facilities, including  
19                  appurtenances necessary for an agricultural-energy  
20                  enterprise; provided that the primary activity of the  
21                  agricultural-energy enterprise is agricultural



1 activity. To be considered the primary activity of an  
2 agricultural-energy enterprise, the total acreage  
3 devoted to agricultural activity shall be no less than  
4 ninety per cent of the total acreage of the  
5 agricultural-energy enterprise. The agricultural-  
6 energy facility shall be limited to lands owned,  
7 leased, licensed, or operated by the entity conducting  
8 the agricultural activity.

9 As used in this paragraph:

10 "Agricultural activity" means any activity  
11 described in paragraphs (1) to (3) of this subsection.



1                   "Appurtenances" means operational infrastructure  
2                   of the appropriate type and scale for the economic  
3                   commercial generation, storage, distribution, and  
4                   other similar handling of energy, including equipment,  
5                   feedstock, fuels, and other products of agricultural-  
6                   energy facilities;

7                   (18) Construction and operation of wireless communication  
8                   antennas, including small wireless facilities;  
9                   provided that, for the purposes of this paragraph,  
10                  "wireless communication antenna" means communications  
11                  equipment that is either freestanding or placed upon  
12                  or attached to an already existing structure and that  
13                  transmits and receives electromagnetic radio signals  
14                  used in the provision of all types of wireless  
15                  communications services; provided further that "small  
16                  wireless facilities" shall have the same meaning as in  
17                  section 206N-2; provided further that nothing in this  
18                  paragraph shall be construed to permit the  
19                  construction of any new structure that is not deemed a  
20                  permitted use under this subsection;



1 (19) Agricultural education programs conducted on a farming  
2 operation as defined in section 165-2, for the  
3 education and participation of the general public;  
4 provided that the agricultural education programs are  
5 accessory and secondary to the principal agricultural  
6 use of the parcels or lots on which the agricultural  
7 education programs are to occur and do not interfere  
8 with surrounding farm operations. For the purposes of  
9 this paragraph, "agricultural education programs"  
10 means activities or events designed to promote  
11 knowledge and understanding of agricultural activities  
12 and practices conducted on a farming operation as  
13 defined in section 165-2;

14 (20) Solar energy facilities that do not occupy more than  
15 ten per cent of the acreage of the parcel, or twenty  
16 acres of land, whichever is lesser or for which a  
17 special use permit is granted pursuant to section 205-  
18 6; provided that this use shall not be permitted on  
19 lands with soil classified by the land study bureau's  
20 detailed land classification as overall (master)  
21 productivity rating class A;



1 (21) Solar energy facilities on lands with soil classified  
2 by the land study bureau's detailed land  
3 classification as overall (master) productivity rating  
4 [B-er-G] B, C, or D for which a special use permit is  
5 granted pursuant to section 205-6; provided that:

6 (A) The [area occupied by] the solar energy  
7 facilities [is also made available for compatible  
8 agricultural activities at a lease rate that is  
9 at least fifty per cent below the fair market  
10 rent for comparable properties,] occupy an area  
11 of at least ten acres and have a nameplate  
12 capacity of at least five megawatts; provided  
13 further that:

14 (i) Not less than thirty per cent of the area  
15 occupied by solar energy facilities shall at  
16 all times be used for compatible  
17 agricultural activities;  
18 (ii) The area made available for compatible  
19 agricultural activities shall be offered at  
20 a lease rate that shall not exceed the  
21 prevailing regional agricultural lease rate;







1 provided that the hydroelectric facilities and their  
2 appurtenances:

3 (A) Shall consist of a small hydropower facility as  
4 defined by the United States Department of  
5 Energy, including:

6 (i) Impoundment facilities using a dam to store  
7 water in a reservoir;

8 (ii) A diversion or run-of-river facility that  
9 channels a portion of a river through a  
10 canal or channel; and

11 (iii) Pumped storage facilities that store energy  
12 by pumping water uphill to a reservoir at  
13 higher elevation from a reservoir at a lower  
14 elevation to be released to turn a turbine  
15 to generate electricity;

16 (B) Comply with the state water code, chapter 174C;

17 (C) Shall, if over five hundred kilowatts in  
18 hydroelectric generating capacity, have the  
19 approval of the commission on water resource  
20 management, including a new instream flow



1 standard established for any new hydroelectric  
2 facility; and  
3 (D) Do not impact or impede the use of agricultural  
4 land or the availability of surface or ground  
5 water for all uses on all parcels that are served  
6 by the ground water sources or streams for which  
7 hydroelectric facilities are considered; or  
8 (24) Notwithstanding any other law to the contrary,  
9 composting and co-composting operations; provided that  
10 operations that process their own green waste and do  
11 not require permits from the department of health  
12 shall use the finished composting product only on the  
13 operation's own premises to minimize the potential  
14 spread of invasive species."

15 SECTION 4. Section 205-6, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§205-6 Special permit.** (a) Subject to this section, the  
18 county planning commission may permit certain unusual and  
19 reasonable uses within agricultural and rural districts other  
20 than those for which the district is classified. Any person who  
21 desires to use the person's land within an agricultural or rural



1 district other than for an agricultural or rural use, as the  
2 case may be, may petition the planning commission of the county  
3 within which the person's land is located for permission to use  
4 the person's land in the manner desired. Each county may  
5 establish the appropriate fee for processing the special permit  
6 petition. Copies of the special permit petition shall be  
7 forwarded to the land use commission, the office of planning and  
8 sustainable development, and the department of agriculture and  
9 biosecurity for their review and comment.

10 (b) The planning commission, upon consultation with the  
11 central coordinating agency, except in counties where the  
12 planning commission is advisory only in which case the central  
13 coordinating agency, shall establish by rule or regulation, the  
14 time within which the hearing and action on petition for special  
15 permit shall occur. The county planning commission shall notify  
16 the land use commission and [such] persons and agencies that may  
17 have an interest in the subject matter of the time and place of  
18 the hearing.

19 (c) The county planning commission may, under [such]  
20 protective restrictions as may be deemed necessary, permit the  
21 desired use, but only when the use would promote the



1 effectiveness and objectives of this chapter; provided that a  
2 use proposed for designated important agricultural lands shall  
3 not conflict with any part of this chapter. A decision in favor  
4 of the applicant shall require a majority vote of the total  
5 membership of the county planning commission.

6 (d) Special permits for land the area of which is greater  
7 than fifteen acres or for lands designated as important  
8 agricultural lands shall be subject to approval by the land use  
9 commission. The land use commission may impose additional  
10 restrictions as may be necessary or appropriate in granting the  
11 approval, including the adherence to representations made by the  
12 applicant.

13 (e) A copy of the decision, together with the complete  
14 record of the proceeding before the county planning commission  
15 on all special permit requests involving a land area greater  
16 than fifteen acres or for lands designated as important  
17 agricultural lands, shall be transmitted to the land use  
18 commission within sixty days after the decision is rendered.

19 Within forty-five days after receipt of the complete record  
20 from the county planning commission, the land use commission  
21 shall act to approve, approve with modification, or deny the



1 petition. A denial either by the county planning commission or  
2 by the land use commission, or a modification by the land use  
3 commission, as the case may be, of the desired use shall be  
4 appealable to the circuit court of the circuit in which the land  
5 is situated and shall be made pursuant to the Hawaii rules of  
6 civil procedure.

7 (f) Land uses substantially involving or supporting  
8 educational ecotourism, related to the preservation of native  
9 Hawaiian endangered, threatened, proposed, and candidate  
10 species, that are allowed in an approved habitat conservation  
11 plan under section 195D-21 or safe harbor agreement under  
12 section 195D-22, which are not identified as permissible uses  
13 within the agricultural district under sections 205-2 and  
14 205-4.5, may be permitted in the agricultural district by  
15 special permit under this section, on lands with soils  
16 classified by the land study bureau's detailed land  
17 classification as overall (master) productivity rating class C,  
18 D, E, or U.

19 (g) Except in a county with a county agriculture  
20 designation ordinance, special permits for agrivoltaics may be  
21 issued by the respective county planning commission or



1 department before approval by the land use commission. Special  
2 permits may be subject to conditions imposed by the respective  
3 county planning commission or department for the purposes of  
4 this chapter. A county may adopt ordinances that impose  
5 agrivoltaics requirements in addition to the requirements  
6 established pursuant to sections 141- and 205-4.5(a)(21).

7 As used in this subsection, "agrivoltaics" has the same  
8 meaning as defined in section 141- ."

9 SECTION 5. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

15 SECTION 6. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 7. This Act shall take effect upon its approval.

18

INTRODUCED BY: Mike Gabbard



# S.B. NO. 2371

**Report Title:**

DAB; Public Utilities Commission; LUC; Counties; Agriculture; Agrivoltaics; Landowners; Beginning Farmers; Reports; Solar Energy Facilities; Renewable Energy; Special Permits

**Description:**

Requires a landowner leasing agricultural sub-parcels on property used for agrivoltaics to prioritize lease offers for beginning farmers. Requires a landowner leasing agricultural sub-parcels on property used for agrivoltaics to submit an annual agrivoltaics compliance report to the Department of Agriculture and Biosecurity. Authorizes DAB to penalize any landowner that fails to meet agrivoltaics requirements. Authorizes the development of solar energy facilities on agricultural lands with productivity ratings of B, C, or D under certain conditions. Authorize a county planning commission to issue special permits for agrivoltaics requirements before the approval of the Land Use Commission under certain conditions.

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

