

ACT 97

H.B. NO. 3073

A Bill for an Act Relating to Irrigation Project Acreage Assessments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 167-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The board of agriculture shall also have the power[:] to:
- (1) [To establish] Establish and certify the total amount of acreage assessments to be levied annually and collect the assessments within each project;
  - (2) [To set] Set and from time to time revise tolls [which] that it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; [to establish]
  - (3) Establish priorities between the several lands included in a project according to the use to which the lands are put or other reasonable basis for classification; [to govern]
  - (4) Govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with [such] these priorities;
  - [(3) To charge] (5) Charge and collect [such] water tolls, fees, and other charges established in connection herewith;
  - [(4) To sell,] (6) Sell, exchange, transfer, assign, or pledge any property, real or personal, or any interest therein, to any person, firm, corporation, or government, except as prohibited by the laws of the State;
  - [(5) To hold,] (7) Hold, clear, and improve property;
  - [(6) To borrow] (8) Borrow money for any of the purposes hereunder;
  - [(7) To insure] (9) Insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
  - [(8) To include] (10) Include in any construction contract [let] executed in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions [which] that the federal government may have attached to its financial aid of the project[.];
  - (11) Delegate to the chairperson or employees of the department, subject to the board’s control and responsibility, powers and duties as may be lawful or proper for the performance of the functions vested in the board;
  - (12) Set, charge, and collect interest and a service charge on delinquent payments due on water tolls, acreage assessments, or other related accounts; provided that the rate of interest shall not exceed one per cent per month and the service charge shall not exceed \$7 for each delinquent payment; and

- (13) Collect delinquent acreage assessments in accordance with sections 231-61 to 231-70; provided that the chairperson shall have all of the powers provided to the director of taxation or state tax collector under chapter 231 that may be necessary or convenient to collect delinquent acreage assessments."

SECTION 2. Section 167-19, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) All irrigation projects established pursuant to this chapter shall be administered by the board of agriculture. In making the final determination to establish a project, the board shall [determine]:

- (1) Determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project[.]; and
- (2)<sup>1</sup> Cause to be prepared by the engineering program manager a map setting forth in detail the exterior boundaries of the lands to be included within the project and an acreage assessment roll listing all known land occupiers whose lands are to be included within the project. The proportion of acreage assessments to be borne by pasture land [may], [in] at the discretion of the board, may be less than but not more than the proportion to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The proportions to be borne by agricultural and pasture lands shall be certified [to the director of taxation] by the board and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project, and then only in the manner and within the limitations specified in conjunction therewith.

The board shall determine and certify [to the director of taxation] on or before March 31 of each year [(1)] the amount of acreage assessments necessary in that calendar year for the acquisition, construction, and maintenance of irrigation facilities for each project, and [(2)] the acreage of agricultural and pasture land of each land occupier within the project. The department shall immediately notify the land occupiers by certified mail or registered letter of the amounts assessed on the respective properties and the payment due date.

(b) Upon the board's certification the [director of taxation or the director's properly authorized deputies or other assistants,] chairperson, or the chairperson's designee, shall determine the acreage assessment to be levied against the property of each land occupier in the following manner:

- (1) By determining the amount of acreage assessments to be borne by the agricultural land and the pasture land within the project according to the proportion previously certified [to the director] by the board;
- (2) By dividing the amount of acreage assessment to be borne by the agricultural land by [a] the number of acres of agricultural land within the project and multiplying the quotient by the number of acres of agricultural land of the occupier within the project; and
- (3) By dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of the land occupier within the project.

The acreage assessments shall be in addition to any real property taxes, and shall

be collected by the [director of taxation in the same manner as the taxes.] board together with the monthly water tolls. Except in the case of public lands and lands designated as “available lands” under the Hawaiian Homes Commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed agricultural or pasture land, or both, of the land occupier included within the project forms a part. Acreage assessments levied pursuant to this chapter shall be a lien against each lot or parcel of land assessed from the date of board certification declaring the assessment, and these liens shall have priority over all other liens except real property tax liens and prior recorded state tax liens on real property. The lien may be foreclosed in the same manner as liens for [real property] taxes [and] in accordance with sections [246-55 to 246-61.] 231-61 to 231-70. In case of the foreclosure of any homestead land pursuant to [such] sections 231-61 to 231-70, the foreclosure sale shall be subject to chapter 171. In the case of public lands and lands designated as “available lands” under the Hawaiian Homes Commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon the board of land and natural resources or the Hawaiian homes commission, as the case may be, for payment.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved May 27, 1992.)

**Note**

1. Should be underscored.