

ACT 97

H.B. NO. 2965

A Bill for an Act Relating to Agricultural Water Security.

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

SECTION 1. In accordance with the strategic plan developed by the United States Department of Agriculture, the legislature finds that agricultural water security is essential to maintain public health and well-being; ensure future cultivation of food, fiber, and energy crops; and enhance rural recreation and community aesthetics. On October 15, 2006, the Kiholo earthquake caused considerable damage to irrigation systems in the Waimea and Hamakua areas on the island of Hawaii, causing the agricultural water users to depend on ground water to supply water to the ditch systems and incurring costs for the transmission of water and energy to run pumps.

On October 15, 2006, the governor proclaimed these areas to be disaster areas and directed government agencies to take such action and employ such measures for water supply and other emergency functions as necessary. Furthermore, the governor's proclamation suspended statutes, including those relating to procurement, public lands management, water development, the state water code, and public utilities. These emergency measures are to continue until an appropriate time for termination is determined by the governor.

The legislature further finds that agricultural water systems are critical for agricultural production and that measures should be implemented to allow appropriate responses to conditions caused by natural disasters such as earthquakes.

The purpose of this Act is to ensure the security of the agricultural water supply by authorizing emergency measures to be taken in response to damages caused by natural disasters, such as the damage to the Waimea and Hamakua agricultural water systems.

SECTION 2. Chapter 209, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§209- Agricultural water systems; emergency power. When the governor has declared that a disaster has occurred for any portion of the State, pursuant to section 209-2, which results in damage to an agricultural water system that necessitates the temporary use of electrical power or backup generators to pump ground water for irrigation until the system can be repaired, the person who controls, operates, or manages the system may negotiate an agreement for the production of emergency power for the agricultural water system. The agreement shall terminate when the governor determines that the disaster emergency relief period is terminated.

If the negotiated agreement is with an independent power producer that is not currently regulated by the public utilities commission, the execution of the agreement shall not cause the independent power producer to become subject to the jurisdiction of the public utilities commission.”

SECTION 3. New statutory material is underscored.¹

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SECTION 4. This Act shall take effect upon its approval.
(Approved May 22, 2008.)

Note

1. Edited pursuant to HRS §23G-16.5.