

ACT 223

H.B. NO. 2179

A Bill for an Act Relating to Lower Hamakua Ditch.

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

SECTION 1. The legislature finds that the lower Hamakua ditch is a more-than-century-old agricultural water system that, at its historical high point, provided irrigation water to farmers in the Hamakua area at a maximum delivery capacity of approximately forty million gallons per day. A 2008 study by the department of natural resources and environmental management within the college of tropical agriculture and human resources at the University of Hawaii at Manoa found that use of water from the lower Hamakua ditch averaged twelve million gallons per day at that time.

In 1999, a federal watershed project grant provided funding and assistance for the restoration of the lower Hamakua ditch following years of neglect due to the closure of the sugar plantation which it had primarily served. Since then, diversified agricultural production has increased in the area served by the ditch and has been instrumental in the economic recovery of the region. The legislature finds that imposing a cap on water delivery fees for water provided by the lower Hamakua ditch further encourages use of that water, particularly by small family farmers, thereby supporting agricultural production and further increasing economic growth in the Hamakua area.

The purpose of this Act is to encourage agricultural production and economic growth by setting a limit on the water delivery fee for water provided by the lower Hamakua ditch irrigation system.

SECTION 2. 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) Establish and certify the total amount of acreage assessments to be levied annually and collect the assessments within each project;
- (2) Set and from time to time revise tolls that it shall charge for the water provided by its facilities, subject to the rate policies established hereunder; provided that the toll for water provided by the lower Hamakua ditch shall not exceed 20 cents per one thousand gallons;
- (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;
- (4) Govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with these priorities;
- (5) Charge and collect water tolls, fees, and other charges established in connection herewith;
- (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;
- (7) Hold, clear, and improve property;
- (8) Borrow money for any of the purposes hereunder;
- (9) Insure or provide for the insurance of the property or operations of the board against such risks as the board may deem advisable;
- (10) Include in any construction contract executed in connection with a project, stipulations requiring that the contractor and any sub-contractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions 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;
- (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;
- (14) Accept a security interest in real or personal property for a debt re-structured under a payment plan for delinquent water tolls, acreage assessments, or other related irrigation project accounts subject to the rate of interest set forth in paragraph (12); and
- (15) Foreclose upon or otherwise enforce the security interest accepted under paragraph (14) by any method provided for by law and to hold title to, maintain, use, manage, operate, sell, lease, or otherwise dispose of that personal or real property to recover the debt secured.”

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2015; provided that on June 30, 2025, this Act shall be repealed and section 167-6, Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

(Approved July 7, 2014.)