

ACT 185

S.B. NO. 3325

A Bill for an Act Relating to Carbon Sequestration Incentives.

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

SECTION 1. The legislature finds that climate change has led to an increase in the frequency of extreme weather events. These events serve to only complicate the already increased risks associated with the Hawaiian islands, which are the world's most isolated populated land masses. Extreme weather events put greater stress on the State's vulnerable food supply chain and water supplies. The potential for shortages highlights the State's need for greater food and water security, which can be achieved by increasing local food production.

The legislature further finds that Hawaii needs to reduce its contribution to climate change, increase local food production, improve soil health, and secure resilient water sources. Furthermore, in addition to cutting emissions from burning carbon, Hawaii needs to mitigate climate change by sequestering greenhouse gases through regenerative agriculture and forest preservation. Incentivizing nature-based actions that improve soil health and are carbon-positive provides rich and diverse co-benefits, such as restoring, maintaining, and improving landscape soil health and water security through payment-for-services programs. These programs would allow small farmers, ranchers, foresters, and landowners and lessees to be compensated for taking measures to help Hawaii reach its climate readiness goals.

Accordingly, the purpose of this Act is to:

- (1) Establish the Hawaii carbon smart land management assistance pilot program to promote keeping forests and farmlands intact and sequestering additional carbon on the lands; and
- (2) Repeal the carbon offset program.

SECTION 2. (a) There is established within the department of land and natural resources the Hawaii carbon smart land management assistance pilot program to incentivize carbon sequestration activities through incentive contracts that provide compensation for eligible practices by program participants.

(b) The department shall:

- (1) Administer or enter into an agreement or agreements for the administration of the pilot program;

- (2) Coordinate with relevant agencies to provide financial incentive payments to owners and lessees of eligible land for eligible practices over a designated period, with appropriate crediting for soil health and carbon benefits as specified in an incentive contract;
- (3) Establish and implement protocols to monitor and verify compliance with the terms of incentive contracts;
- (4) Make available to the public any modeling, methodology, or protocol resources developed to estimate the sequestration rates of potential projects;
- (5) Identify, evaluate, and distribute dedicated moneys to accomplish the purposes of the pilot program; and
- (6) Coordinate collaborations related to soil health and carbon sequestration modeling, methods, and inventory improvements.
- (c) The department, with assistance from relevant agencies, shall establish compensation rates and incentive contract terms for phase I activities within one year of the date of receipt of a program application. An incentive contract shall be for a term of no less than one year and no longer than thirty years, as determined by the owner or lessee; provided that the length of the contract term shall directly correlate with the rate of compensation paid pursuant to the contract.
- (d) The department shall coordinate with relevant agencies to assist the department in carrying out the purposes of the pilot program, including:
  - (1) Estimating sequestration rates for phase I and phase II activities;
  - (2) Conducting research to develop the technical underpinnings of compensation rates for phase II activities; and
  - (3) Conducting community and landowner outreach activities.
- (e) Landowners and lessees of eligible land may enter into an incentive contract upon approval of a program application on a form prepared by the department. An owner or lessee of eligible land currently engaged in eligible practices shall not:
  - (1) Be barred from entering into an incentive contract under this section to continue carrying out those eligible practices;
  - (2) Be prohibited from participating in the pilot program due to the owner or lessee's participation in other federal or state conservation assistance programs; or
  - (3) Be required to provide conservation easements.
- (f) Priority shall be given to phase I and phase II activities that:
  - (1) Are cost effective;
  - (2) Provide co-benefits to the State and the owner or lessee of eligible land;
  - (3) Have the potential to create jobs in the forestry or agriculture sectors and in rural communities; and
  - (4) Achieve community priorities, including food security or watershed protection.
- (g) On an annual basis, the department shall:
  - (1) Identify and prioritize selected soil health and carbon-positive activities;
  - (2) Recommend compensation rates and contract terms for eligible phase I activities;
  - (3) Assist in estimating sequestration rates for carbon-positive practices;
  - (4) Research and develop the technical underpinnings of compensation rates for phase II activities; and
  - (5) Conduct community and landowner outreach activities.
- (h) The department shall also identify co-benefits that may include:

- (1) Job creation;
- (2) Food security and agriculture for local consumption;
- (3) Water security;
- (4) Increased biodiversity;
- (5) Soil health; and
- (6) Invasive species reduction and removal.
- (i) The pilot program shall terminate on June 30, 2025.
- (j) As used in this section:

“Department” means the department of land and natural resources.

“Eligible land” means land in the State that is privately owned or public land that is leased to a private citizen at the time of initiation of an incentive contract.

“Eligible practices” means practices on eligible land that increase soil health, reduce carbon emissions, and promote carbon sequestration and storage over a designated period.

“Incentive contract” means a contract that specifies the following:

- (1) The eligible practices to be undertaken;
- (2) The acreage of eligible land;
- (3) The established rate of compensation;
- (4) A schedule to verify that the terms of the contract have been fulfilled; and
- (5) Other terms as the department deems necessary.

“Phase I activities” means activities identified as having a high likelihood of effectively achieving durable sequestration benefits at reasonable compensation rates across eligible land types, including:

- (1) One-time establishment and yearly monitoring activities that include:
  - (A) Reforestation;
  - (B) Windbreaks;
  - (C) Conservation tillage and reduced field pass intensity;
  - (D) Improved forages; and
  - (E) Control of invasive species; and
- (2) Yearly investment activities that include:
  - (A) Efficient nutrient management;
  - (B) Crop diversity through rotations and cover crops;
  - (C) Manure management;
  - (D) Rotational grazing and improved forages;
  - (E) Waste-stream-derived amendment application, including compost, biochar, and anaerobic digest;
  - (F) Improved cropping and organic systems; and
  - (G) Feed management.

“Phase II activities” means activities identified as having significant sequestration potential but requiring additional technical work to estimate the activities’ sequestration potential or to identify appropriate eligible land types, including:

- (1) Perennial biofuel feedstocks;
- (2) Methane capture;
- (3) Improved forest management;
- (4) Conservation easements; and
- (5) Other renewable energy options involving blended food and energy systems.

“Pilot program” means the Hawaii carbon smart land management assistance pilot program established by this Act.

SECTION 3. Section 225P-6, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed and stricken.<sup>1</sup>

SECTION 5. This Act shall take effect upon its approval.

(Approved June 27, 2022.)

**Note**

1. Edited pursuant to HRS §23G-16.5.