

Honolulu, Hawaii
Feb 15, 2008

RE: H.B. No. 2357
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture, to which was referred H.B. No. 2357 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS,"

beg leave to report as follows:

The purpose of this measure is to establish new policies regarding the districting and protection of land in state agricultural districts.

Specifically, the measure protects agriculture by designating land as "important agricultural land", including:

- (1) Certain land in the Central Oahu/North Shore area;
- (2) Land within state agricultural parks;
- (3) State-owned land that the Department of Agriculture determines should remain or be included in the state agricultural district; and
- (4) Other land in the State that is within a "relevant county agricultural zoning district".

Your Committees received testimony in support of the intent of the measure from the Department of Agriculture, the Department of Business, Economic Development, and Tourism, and the Hawaii



Agriculture Research Center. Your Committees received testimony in opposition to the measure from the Hawaii Farm Bureau Federation, the Maui County Farm Bureau, the Chamber of Commerce of Hawaii, the Land Use Research Foundation of Hawaii, the Kamehameha Schools, Maui Land and Pineapple Company, Inc., Alexander and Baldwin, Inc., Dole Food Company Hawaii, and Castle and Cooke Hawaii. Your Committees received a request to defer the measure from the City and County of Honolulu's Department of Planning and Permitting.

Your Committees find that one of the main provisions of Act 183, Session Laws of Hawaii 2005, requires the State and counties to establish incentives that would prompt landowners to voluntarily petition to designate their lands as "important agricultural lands". Section 9(a) of Act 183 requires the enactment of incentives as a prerequisite to the designation of "important agricultural land" and adoption of maps by the Land Use Commission. In order to encourage informed decision-making by the legislature, section 9(b) of the Act 183 requires the Department of Agriculture, with the Department of Taxation's assistance, to prepare a report on proposed incentives to the legislature before the 2007 regular session.

The Department of Agriculture has fulfilled this requirement by submission of the *Final Report On The Incentives For Important Agricultural Lands, Act 183, SLH 2005*.

After reviewing the report and considering the testimony received on this measure and House Bill No. 2808, your Committees have decided to adhere to the Act 183 process for designating important agricultural land. Your Committees recognize that both the public and private sectors have expended much time and energy towards following that process. Your Committees feel that this effort should not be wasted by enactment of the new process proposed in this measure.

Accordingly, your Committees have replaced the contents of this measure with the provisions of House Bill No. 2808 (which was heard on the same day as this measure), but with the following amendments:

- (1) The H.D. 1 deletes the real property tax credit (formerly in part III, sections 6 and 7, of H.B. No. 2808). Your Committees have made this deletion because the tax credit would have been a subsidy to the counties. The counties would not decrease real property



taxes on "important agricultural lands" since the farmers and landowners would have been made whole by the tax credit;

- (2) The H.D. 1 amends the maximum lot coverage percentage for a residential unit on an important agricultural land parcel from "twenty per cent" to "blank per cent" (page 8, line 7). Your Committees recommend that the percentage inserted later be less than twenty percent;
- (3) The H.D. 1 renames the tax credit for cost incurred on important agricultural land to: "the important agricultural land qualified agricultural cost tax credit" (page 9, lines 11 to 14, and elsewhere in sections 8 and 9) and requires the taxpayer to obtain a letter specifying the qualified agricultural cost from the Department of Agriculture (page 12, line 16). Your Committees have made these amendments at the suggestion of the Department of Taxation in testimony for H.B. No. 2808;
- (4) The H.D. 1 deletes the Water Code amendments concerning the public trust doctrine (formerly sections 15 and 16, of H.B. No. 2808), but retains the amendments requiring additional information in the water use and development plans (section 13, pages 20 to 22). Many testifiers on H.B. No. 2808 objected to the amendments to the public trust doctrine provisions. Your Committees have been persuaded by their arguments, and consequently, those provisions are not included in the H.D. 1. Your Committees, however, have retained the amendments requiring additional information in the water use and development plans. Your Committees believe that the information would be valuable to farmers and landowners and expressly state that these amendments are not intended in any way to revise or otherwise affect the public trust doctrine;
- (5) The H.D. 1 amends the provision relating to the land use permit for agricultural processing facilities to provide consistency with the environmental-related permit provisions for such facilities (page 22, line 18, to page 23, line 3);

The H.D. 1 also amends the section on health- and environmental-related permits to correct a statutory



reference. The correction substitutes "part III of chapter 205" for "this part" (page 24, line 4). Your Committees note that these amendments are only technical in nature;

- (6) The H.D. 1 deletes the provisions relating to satisfying affordable housing requirements in the rural districts and the automatic reclassification of agricultural land to rural districts (formerly part IX, sections 20 to 23, of H.B. No. 2808). Instead, your Committees have addressed these incentives in House Bill No. 2807, H.D. 1;
- (7) The H.D. 1 adds a declaration that satisfies the requirement for important agricultural land incentives (section 16, page 24) under section 9(a)(2)(A) of Act 183, Session Laws of Hawaii 2005; and
- (8) Finally, the H.D. 1 changes the effective date to "July 1, 2020" (page 25, line 4) to allow further discussion on the measure.

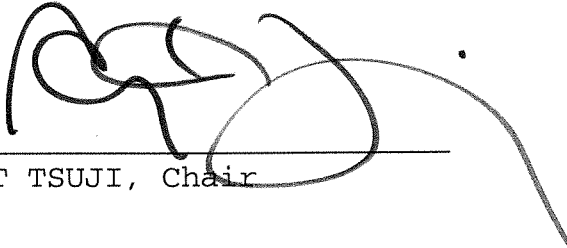
Your Committees also request the Committee on Finance to consider the amendments proposed by the Department of Agriculture and Department of Taxation regarding the tax credits in the H.D. 1. These proposed amendments are more appropriately addressed by that Committee.

Your Committees find that this measure, as amended, is a major step in the actual designation of "important agricultural land" as contemplated by article XI, section 3, of the state constitution that was ratified almost thirty years ago. Your Committees believe that, with the H.D. 1, landowners will have sufficient incentives to voluntarily petition for designation of their lands.

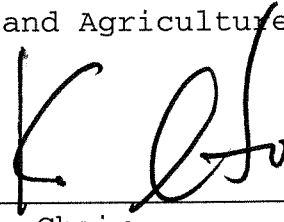
As affirmed by the records of votes of the members of your Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2357, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2357, H.D. 1, and be referred to the Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Water, Land,
Ocean Resources & Hawaiian
Affairs and Agriculture,



CLIFT TSUJI, Chair



KEN ITO, Chair



