

STAND. COM. REP. NO. 1759-08

Honolulu, Hawaii

AJPH, 2008

RE: S.B. No. 2646
S.D. 2
H.D. 2

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

Sir:

Your Committee on Finance, to which was referred S.B. No. 2646, S.D. 2, H.D. 1, entitled:

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

begs leave to report as follows:

The purpose of this bill is to provide a comprehensive set of incentives to establish and sustain viable agricultural operations on lands designated as important agricultural lands (IALs). This bill, among other things;

- (1) Excludes income from certain agricultural leases on lands designated as IALs from the income tax;
- (2) Exempts income from certain agricultural leases on lands designated as IALs from the general excise tax (GET);
- (3) Allows landowners who have designated their agricultural lands as IALs to construct residential dwellings for farmers, employees, and their families on the IALs, subject to certain conditions;
- (4) Establishes an IAL Qualified Agricultural Cost Tax Credit (IAL Tax Credit) for qualified agricultural costs incurred by taxpayers, up to an unspecified maximum amount per year for each taxpayer;

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- (5) Authorizes the Chairperson of the Board of Agriculture to guarantee agricultural loans for agricultural projects located on IALs;
- (6) Requires the Department of Agriculture (DOA) to include the water needs of IAL agricultural operations when developing the Water Use and Development Plan;
- (7) Requires the priority processing of permit applications for agricultural processing facilities submitted by an agribusiness, where the majority of the agribusinesses' lands are designated as IALs; and
- (8) Requires:
 - (A) DOA and Department of Land and Natural Resources (DLNR) to collaborate to identify and map public lands that should be designated as IALs;
 - (B) The Land Use Commission to designate these lands as IALs; and
 - (C) Management of such lands to be transferred to DOA.

BlueEarth Biofuels, Dole Food Company Hawaii, Alexander & Baldwin, Inc., Hawaiian Commercial & Sugar Company, Kauai Coffee Company, Inc., Hawaii Crop Improvement Association and a concerned individual supported this bill. The Department of Budget and Finance, Department of Planning and Permitting of the City and County of Honolulu, and Sierra Club, Hawaii Chapter opposed this measure. DLNR, DOA, Department of Business, Economic Development, and Tourism, Department of Taxation (DOTAX), Chamber of Commerce of Hawaii, Tax Foundation of Hawaii, Maui County Farm Bureau, Hawaii Association of REALTORS, Castle & Cooke Hawaii, Land Use Research Foundation of Hawaii, and Hawaii Farm Bureau Federation submitted comments.

Your Committee has amended this measure by:

- (1) Specifying in the purpose section that the provisions of this bill meet the requirement for incentives under Act 183, Session Laws of Hawaii 2005;
- (2) Requiring DOA to maintain records of and certify the exclusions from the income tax for IALs for the taxable year;




- (3) Establishing an annual aggregate cap of \$2,500,000 for the income tax exclusion and establishing certification procedures for administering the exclusion;
- (4) Establishing an annual aggregate cap of \$2,500,000 for the GET exemption to be implemented by rule;
- (5) Instead of DOA, appropriating funds for DOTAX to collect and analyze data to assess the impact of the income tax exclusion and GET exemption;
- (6) Instead of DOA, requiring DOTAX, in consultation with DOA, to submit annual reports regarding the impact of the income tax exclusion and GET exemption to the Legislature beginning with the Regular Session of 2010;
- (7) Revising the IAL Tax Credit by:
 - (A) Inserting specific amounts for the annual caps for each taxpayer;
 - (B) Making it non-refundable;
 - (C) Establishing certification procedures for administering the credit;
 - (D) Including regulatory processing, studies, and legal and other consultant services related to water supply and right to farm within the list of costs that qualify for the credit;
 - (E) Requiring DOTAX, in consultation with DOA, to submit annual reports regarding the impact of the credit to the Legislature beginning with the Regular Session of 2010; and
 - (F) Prohibiting the credit from being claimed in taxable years beginning after December 31, 2014, except for carryforward amounts previously claimed;
- (8) Clarifying that the total amount of the state guaranty on agricultural loans for agricultural projects located on IALs shall not exceed \$2,500,000 in any tax year;



- (9) Requiring DOTAX, in consultation with DOA, to submit to the legislature annual reports regarding the impact of the loan guaranty program;
- (10) Making the income tax exclusion, GET exemption, and IAL Tax Credit apply to taxable years after December 31, 2008;
- (11) Repealing the Attractions and Educational Facilities Tax Credit for Ko'olina Resort and Marina and Makaha Resort; and
- (12) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2646, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2646, S.D. 2, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



