

Honolulu, Hawaii

MAR 16 2007

RE: H.B. No. 902
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 902, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL TAX CREDITS,"

begs leave to report as follows:

The purpose of this measure is to achieve long-term agricultural viability and use of important agricultural lands by creating an incentive for farmers to designate their lands as important agricultural lands.

Specifically, this measure:

- (1) Creates a nonrefundable tax credit that grants a one hundred per cent credit for qualified agricultural costs incurred in Hawaii during the taxable year;
- (2) Reduces the tax credit by the amount of funds received by an agricultural business during the taxable year from the Irrigation Repair and Maintenance Special Fund under section 167-24, Hawaii Revised Statutes;
- (3) Appropriates an unspecified amount to the Department of Taxation for the costs to administer the Important Agricultural Land Agricultural Business Tax Credit; and



- (4) Appropriates an unspecified amount to the Department of Agriculture for the costs to administer the Important Agricultural Land Agricultural Business Tax Credit.

Testimony in support of this measure was submitted by the Department of Agriculture; the Agribusiness Development Corporation; Alexander and Baldwin, Inc.; the Hawaiian Commercial and Sugar Company; the Kauai Coffee Company, Inc.; the Hawaii Farm Bureau Federation; the Maui County Farm Bureau; the Hawaiian Electric Company; the Maui Electric Company, Ltd.; the Hawaii Electric Light Company, Inc.; the Hawaii Agriculture Research Center; the Hawaii Crop Improvement Association; and the Land Use Research Foundation of Hawaii. Testimony in opposition to this measure was submitted by one individual. The Department of Taxation and the Tax Foundation of Hawaii submitted comments.

In 2005, the Legislature enacted Act 183, Session Laws of Hawaii 2005, to preserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands. Furthermore, the Legislature acknowledged that agricultural viability is a vital component of a diversified agricultural industry, and established a process to identify incentives to encourage farmers and landowners to designate their lands as important agricultural lands. Your Committee finds that establishing a tax credit incentive program for agricultural businesses on important agricultural lands will assist in enhancing the agricultural viability on important agricultural lands.

Of particular note, your Committee received a fiscal impact statement from the Department of Taxation that this measure, if passed, would result in a revenue loss to the State of approximately \$27,800,000. However, the fiscal impact statement submitted did not specify the methodology by which the fiscal impact was calculated or whether the stated amount was calculated as a one-time loss or on an annual basis.

The Department of Taxation indicated to your Committee that the tax credit should only be limited to costs associated with important agricultural lands. The only connection between the tax credit and important agricultural land is that more than fifty per cent of the land the agricultural business owns, leases, or uses is important agricultural land. Thus, a qualified taxpayer could claim a tax credit for costs associated with land that is not



important agricultural land as long as more than fifty per cent of the agricultural business' land is important agricultural land. Your Committee believes this concern merits further discussion by the Committee on Economic Development and Taxation and the Committee on Ways and Means.

Accordingly, your Committee has amended this measure by:

- (1) Adopting similar language in S.B. No. 1221, S.D. 1, that also establishes an Important Agricultural Land Agricultural Business Tax Credit;
- (2) Adopting the suggestion made by Alexander and Baldwin, Inc. by deleting any references in this measure that may infer that the tax credit establishes sufficient incentives and protections to authorize the Land Use Commission to start designating lands as important agricultural lands pursuant to section 9, Act 183, Session Laws of Hawaii 2005;
- (3) Adopting the suggestions made by the Agribusiness Development Corporation by:
 - (A) Transferring the administrative responsibilities from the Agribusiness Development Corporation to the Department of Agriculture as the Development Corporation believes that the Department is better staffed and experienced to handle these tasks;
 - (B) Clarifying that the written statement that a taxpayer claiming the tax credit is required to submit to the Department of Agriculture will be certified by the Department; and
 - (C) Clarifying that agricultural processing facilities include facilities that treat, wash, handle, or package agricultural products;
- (4) Changing the effective date of this measure from July 1, 2020, to taxable years beginning after December 31, 2006, for the tax credit and July 1, 2007, for the appropriations to the Department of Taxation and the Department of Agriculture; and



- (5) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee believes that this measure, as amended, fulfills the intent of this measure, which is to achieve the long-term agricultural viability and use of important agricultural lands.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 902, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 902, H.D. 2, S.D. 1, and be referred to the Committee on Economic Development and Taxation.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,




RUSSELL S. KOKUBUN, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 902 HD2	WAH, EDT, WAM	03/14/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol				X
HEE, Clayton				X
SLOM, Sam	X			
TOTAL	3	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

*Only one measure per Record of Votes