

Honolulu, Hawaii

FEB 14 2007

RE: S.B. No. 1221
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 S.B. No. 1221 entitled:

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

begs leave to report as follows:

The purpose of this measure is to achieve the 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 establishes an agricultural business investment tax credit that:

- (1) Creates a nonrefundable tax credit that is equal to one hundred per cent of the aggregate investments made in a qualified agricultural business, including agricultural business investments made by the agricultural business itself;
- (2) Staggers the payment of the tax credit over a five-year period;
- (3) Provides a partial recapture if the investment is withdrawn or sold during that five-year period or if the business no longer qualifies as a qualified agricultural business; and



- (4) Caps the total credit to be generated in a particular tax year at \$2,500,000.

Testimony in support of this measure was submitted by the Agribusiness Development Corporation; the Hawaii Farm Bureau Federation; the Maui County Farm Bureau; the Hawaii Crop Improvement Association; the Land Use Research Foundation; Alexander and Baldwin, Inc.; Hawaiian Commercial and Sugar Company; and Kauai Coffee, Inc. The Department of Taxation 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.

The Department of Taxation and the Agribusiness Development Corporation indicated and your Committee recognizes that the language in this measure is vague in connection with important agricultural lands. Furthermore, there were many questions raised regarding how the tax credit would be calculated, and how the capped tax credit amount would be applied to the aggregate investments. The Department of Taxation and the Agribusiness Development Corporation also requested further clarification on their roles in providing and monitoring the investment tax credit.

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 \$50,000,000. 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.

Accordingly, your Committee has amended this measure by deleting its contents and inserting language from S.B. No. 1220,



which establishes an important agricultural land agricultural business tax credit that creates a nonrefundable tax credit that grants a one hundred per cent credit for qualified agricultural costs incurred in Hawaii during the taxable year. This tax credit is reduced 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.

With respect to S.B. No. 1220, the Department of Taxation also raised concerns in its testimony regarding the definition of "qualified agricultural costs". Furthermore, the Department of Taxation and the Agribusiness Development Corporation requested clarification on their roles in providing and monitoring the tax credit. Thus, your Committee requested that the Hawaii Farm Bureau Federation work with the Department of Taxation to address the Department's concerns and questions.

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 \$75,000,000. 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.

Accordingly, your Committee has further amended this measure by:

- (1) Clarifying the roles of the Agribusiness Development Corporation and the Department of Taxation in determining the types of information that is necessary on an annual basis to enable a quantitative and qualitative assessment of the outcomes of the tax credit;
- (2) Requiring the taxpayer to submit information to the Agribusiness Development Corporation prior to the last day of the taxable year following the close of the taxpayer's taxable year in which qualified costs were expended;
- (3) Requiring that any taxpayer failing to submit information to the Agribusiness Development Corporation will not be eligible to receive the tax credit, and any



tax credit already claimed for that taxable year will be recaptured in total and added to the taxpayer's liability for the taxable year in which the recapture occurs;

- (4) Clarifying further the definition for "agricultural business" and "qualified agricultural costs";
- (5) Providing an appropriation for the Department of Taxation and the Agribusiness Development Corporation to cover the costs to administer the important agricultural land agricultural business tax credit; and
- (6) Making technical, nonsubstantive amendments for the purposes of consistency and style.

The Hawaii Farm Bureau Federation indicated and your Committee recognizes that the definition for "qualified agricultural costs" merits further discussion and believes that the dialogue should be continued by the Committee on Economic Development and Taxation and the Committee on Ways and Means.

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 S.B. No. 1221, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1221, 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.:* <i>S.B. 1221</i>	Committee Referral: <i>WAH, EDT, WAM</i>	Date: <i>2/12/07</i>		
<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)	/			
TOKUDA, Jill N. (VC)				/
FUKUNAGA, Carol				
HEE, Clayton				
SLOM, Sam			/	
TOTAL	3		1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Clayton Hee</i>				
Distribution: Original Yellow Pink File with Committee Report Clerk's Office Drafting Agency				

*Only one measure per Record of Votes