

Honolulu, Hawaii

MAR 02 2007

RE: S.B. No. 1877  
S.D. 2

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

Madam:

Your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Ways and Means, to which was referred S.B. No. 1877, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose of this measure is to establish incentives and protections for important agricultural lands pursuant to chapter 205, part III, Hawaii Revised Statutes, by exempting owners of land designated as important agricultural lands from paying real property taxes, and allowing landowners of important agricultural lands to provide dwelling units for farmers and employees who work on the land, and their families.

Specifically, this measure:

- (1) Exempts owners of real property designated as important agricultural lands from paying real property taxes, and makes an appropriation to the counties to offset any revenues lost as a result of exempting these landowners from real property taxation; and
- (2) Allows landowners to develop, construct, and maintain dwelling units for farmers, employees, and their families on lands designated as important agricultural lands; provided that the landowner complies with certain conditions.



Testimony in support of this measure was submitted by the Department of Agriculture; the Department of Business, Economic Development, and Tourism, Office of Planning; the Hawaii Farm Bureau Federation; Maui Land and Pineapple Company, Inc.; Alexander and Baldwin, Inc.; Hawaiian Commercial and Sugar Company; Kauai Coffee Company, Inc.; the Hawaii Association of REALTORS; and Castle and Cooke Hawai'i. Testimony in opposition to this measure was submitted by the Mayor, County of Hawaii; the Finance Department, County of Hawaii; the Department of Corporation Counsel, City and County of Honolulu; two Council Members, Maui County Council; and the Sierra Club. The Department of the Attorney General and the Tax Foundation of Hawaii submitted comments.

The Legislature enacted Act 183, Session Laws of Hawaii 2005, to establish standards, criteria, and mechanisms to identify important agricultural lands and implement the intent and purpose of Article XI, section 3, of the Hawaii State Constitution. However, incentive and protection programs must be established before the Land Use Commission can begin to designate lands as important agricultural lands. Your Committees find that exempting landowners from the real property taxation that is assessed from their important agricultural lands will provide an incentive for landowners to file with the Land Use Commission for an important agricultural land designation. Your Committees further find that allowing landowners to develop, construct, and maintain dwelling units for farmers and employees who farm or work on important agricultural lands will also provide landowners with an incentive to file for an important agricultural land designation, as well as promote diversified agricultural production.

Your Committees note from the concerns indicated in written testimony that providing a real property taxation exemption for important agricultural lands may pose a constitutional issue. Article VIII, section 3 of the State Constitution provides that, all functions, powers, and duties relating to the power of real property taxation is exercised exclusively by the counties. However, your Committees strongly believe that an incentive relating to real property taxation is necessary to establish incentive programs for important agricultural lands.

Accordingly, your Committees have amended this measure by:

- (1) Deleting the real property tax exemption and appropriation provisions under part I of this measure



and inserting language that establishes an important agricultural lands tax credit that:

- (A) Provides a landowner of important agricultural land an income tax credit equal to one hundred per cent of the actual amount of county real property taxes paid by the taxpayer;
  - (B) Provides a maximum amount of \$10,000,000 for the total aggregate tax credits claimed for each taxable year;
  - (C) Requires the taxpayer claiming the credit to provide information on an annual basis to the Department of Agriculture that will enable a quantitative and qualitative assessment of the impact of the tax credit; and
  - (D) Requires the Department of Agriculture to determine on an annual basis if the important agricultural land subject to the tax credit is in productive agricultural use, based on a ten-year farm plan submitted to and approved by the Department;
- (2) Adding an additional provision under part II of this measure that requires the combined total of farmer and employee dwelling units and all appurtenances situated on land controlled by the farmer or the employee's employer to occupy no more than twenty per cent of the total land area of the important agricultural land to encourage agricultural production of the land, not residential uses;
- (3) Emphasizing under part II of this measure that the farmers and employees must actively and currently work on the designated important agricultural land upon which their dwelling unit is situated;
- (4) Changing the effective date of the entire measure to July 1, 2050, to ensure ongoing discussion on this matter;
- (5) Changing the effective date of the important agricultural lands tax credit from applying to taxable years beginning after December 31, 2006 to December 31,



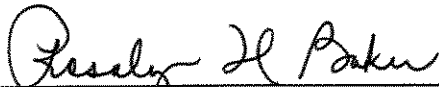
2008, as lands will not be designated until proper incentive and protection programs are established and implemented, pursuant to section 9 of Act 183, Session Laws of Hawaii 2005; and

- (6) Making technical, nonsubstantive amendments for the purposes of style and consistency.

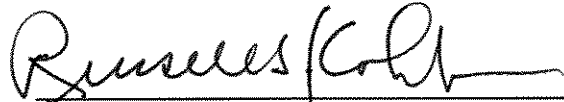
Your Committees believe that this measure, as amended, fulfills the intent of this measure, which is to establish incentives and protections for important agricultural lands.

As affirmed by the records of votes of the members of your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1877, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 1877, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committees on Water, Land,  
Agriculture, and Hawaiian  
Affairs and Ways and Means,



ROSALYN W. BAKER, Chair



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>SB 1877 SDI</i>	Committee Referral: <i>WAH/WAM</i>	Date: <i>2/28/07</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)	<i>X</i>			
TOKUDA, Jill N. (VC)	<i>X</i>			
FUKUNAGA, Carol	<i>X</i>			
HEE, Clayton				<i>X</i>
SLOM, Sam	<i>X</i>			
<b>TOTAL</b>	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>[Signature]</i>				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	

\*Only one measure per Record of Votes

