

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES,
AND HAWAIIAN AFFAIRS, AND AGRICULTURE
FRIDAY, FEBRUARY 1, 2008
8:30 a.m.
Room 325**

**HOUSE BILL 2359
RELATING TO AGRICULTURAL LANDS**

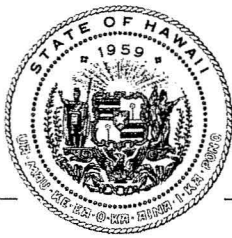
Chairpersons Ito and Tsuji and Members of the Committees:

Thank you for the opportunity to testify on House Bill No. 2359 that expedites the identification and designation of Important Agricultural Lands (IAL) by pre-identifying potential IAL as:

1. Agricultural lands zoned by the counties in their most protective district as of July 1, 2010. An example is AG-1 Restrictive Agriculture in the city and County of Honolulu. If counties who do not have a more restrictive district fail to establish one by June 30, 2010, then all county-zoned agricultural land will be subject to designation as IAL. Agricultural lands that are designated by the counties in a less restrictive zone, will be automatically designated into the Rural District such as the City's AG-2 General Agriculture zone, will be zoned by the
2. About 22, 358 acres of Dole Food Company and Kamehameha Schools land north of Wahiawa towards Waialua and Haleiwa;
3. About 4,291 acres within State Agricultural Parks; and
4. State-owned lands selected by the Department of Agriculture.

The existing Agricultural District will be reduced in acreage, with the lands remaining in the Agricultural District becoming IAL and the remaining lands automatically put into the Rural District. This bill amends the policies and criteria affecting the management and reclassification of IAL, and requires the Legislative Reference Bureau, by the 2009 legislative session to provide amendments to conform Chapter 205 to this bill.

The Department of Agriculture supports the intent of this bill and deeply appreciates the concern among some members of the Legislature that the effort that went into crafting the IAL legislation that protects the best agricultural lands for agricultural production must continue forward and without delay, especially in these increasingly uncertain economic times. We, too, are concerned that the momentum generated three years ago that resulted in the passage and enactment of Act 183, the Important Agricultural Lands Act, is being lost because of the lack of incentives sufficient to meet legislative satisfaction and certain conditions that are part of the Act itself. House Bill 2359, while aggressive in its attempts to “get the ball rolling”, does not directly address how this effort will be integrated into Chapter 205, especially since the county-initiated identification of potential IAL and the landowner voluntary identification of IAL process remains in place.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
MARY LOU KOBAYASHI
PLANNING PROGRAM ADMINISTRATOR
OFFICE OF PLANNING

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Statement of
MARY LOU KOBAYASHI
Planning Program Administrator, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES AND
HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE**
Friday, February 1, 2008
8:30 AM
State Capitol, Conference Room 325

in consideration of
HB 2359
RELATING TO AGRICULTURAL LANDS.

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, and Members of the House Committees on Water, Land, Ocean Resources, and Hawaiian Affairs and Agriculture.

The Office of Planning (OP) supports the intent of HB 2359, but does not support the bill in its current form. HB 2359 would add a new section to Chapter 205, Hawaii Revised Statutes, establishing a new procedure by which lands in the relevant County agricultural zoning district, selected Central Oahu lands, lands in State agricultural parks, and State-owned lands that the Department of Agriculture (DOA) has determined should remain in the Agricultural District, are designated by the Land Use Commission as important agricultural lands. Lands not designated as important agricultural lands would be reclassified by the Land Use Commission to the State Rural District without further

proceedings, and the Agricultural District would include only lands designated as important agricultural lands. The bill amends the definition of important agricultural land, as well as policies and criteria related to the management and redistricting of important agricultural lands, which take effect July 1, 2009. The bill also directs the Legislative Reference Bureau to submit legislation to the 2009 Legislative Session for amendments to conform Chapter 205 to the bill.

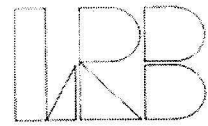
OP has concerns regarding a number of provisions in this bill, which are discussed in our testimony on HB 2357, a similar measure that includes other amendments to Chapter 205 to conform to the alternative designation procedure that this bill defers to the Legislative Reference Bureau effort.

OP's key concern for this bill is the uncertainty created by designating important agricultural lands using the proposed procedure without regard to the existing voluntary and County-led designation processes in place. As there is no certainty as to the form the legislative proposals submitted by the Legislative Reference Bureau will take or that they will be enacted, it is unlikely that DOA and the Counties will commit the resources to a new designation process if their efforts will be jeopardized or nullified by the failure to enact legislation to bring Chapter 205 into alignment with this proposal. For this reason, we recommend this bill be held.

Thank you for the opportunity to offer these comments.

Ken H. Takayama
Acting Director

Research (808) 587-0666
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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Written Testimony Only

HB2359

RELATING TO AGRICULTURAL LANDS

**Presented to the House Committees on Water, Land,
Ocean Resources & Hawaiian Affairs and on Agriculture
Twenty-fourth State Legislature, Regular Session of 2008
By Ken H. Takayama, Acting Director
Legislative Reference Bureau
Friday, February 1, 2008**

Chairs Ito and Tsuji and Members of the Committees:

I am Ken Takayama, Acting Director of the Legislative Reference Bureau. Thank you for this opportunity to testify on H.B. No. 2359. The Bureau takes no position either for or against the measure, and our testimony is focused solely upon section 8 of the bill.

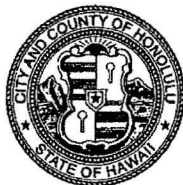
Section 8 of this bill requires the Bureau to develop legislation proposing amendments to the state Land Use Law, chapter 205, Hawaii Revised Statutes, to conform to changes made by this measure. In its present form, the requirements for the Bureau appear to be manageable.

We therefore ask that if this measure is to pass, that section 8 not be amended. Our concern is that well-intended efforts to "clarify" an item of this nature may have the unintended consequence of broadening its scope.

Thank you very much for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR

HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUÉ
DEPUTY DIRECTOR

February 1, 2008

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land, Ocean
Resources & Hawaiian Affairs

The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chairs Ito and Tsuji and Members:

**Subject: House Bill 2359
Relating to Agricultural Lands**

The Department of Planning and Permitting requests a **deferral** of House Bill 2359. This bill sets new criteria for the designation of Important Agricultural Lands (IAL), and sets new deadlines for state boundary amendments and county zone changes.

This bill would significantly change the process and criteria adopted under Act 183 (2005), which was based on many, many hours of public discussion. While there is some appeal to individual provisions of House Bill 2359, the significant changes it represents overall should be given the same amount of public deliberation as was done for Act 183.

Some of our concerns are:

- The deadline of July 30, 2010 is insufficient to make any desired changes to state districts and county zoning, especially in light of Chapter 343, HRS requirements that may need to be satisfied. Although Section 2 of the bill declares that Chapter 343 would not apply, we have separate county ordinances that invoke the need for Chapter 343 compliance, and we may want to retain this requirement.
- The proposal to allow counties to be responsible for redesignation of IAL which are fifteen acres or less may not be appropriate if protection of IAL is a compelling state interest.
- The provision that lands within the state agricultural district on June 30, 2010 which are no longer in the district on the following day, but fall within the rural district, needs clarification. Is it the intent that for any such action, the only redistrict recourse is rural, and not conservation or urban?

The Honorable Ken Ito, Chair
and Members of the Committee on Water, Land, Ocean
Resources & Hawaiian Affairs

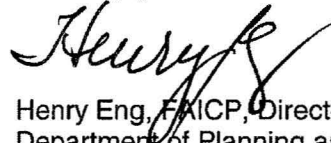
The Honorable Clift Tsuji, Chair
and Members of the Committee on Agriculture
House of Representatives
Re: House Bill 2359
February 1, 2008
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- The bill is unclear about the relationship between state land use districts and county zoning. Section 1(c) (1) of the measure seems to suggest that counties can change the state land use district of lands by just enacting a rezoning ordinance. This is not true; they are two separate actions.
- Provisions may inadvertently dictate and handicap county rezoning actions that may not be related to IAL.

This is a very complex bill and we feel the counties need more time to study the implications of the proposed measure. Please defer House Bill 2359.

Thank you for the opportunity to testify.

Sincerely yours,



Henry Eng, FAICP, Director
Department of Planning and Permitting

HE:jmf
hb2359-k.doc

HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

JANUARY 30, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON WATER, LAND, OCEAN RESOURCES AND HAWAIIAN AFFAIRS
AND
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY

HB 2357 RELATING TO AGRICULTURAL LANDS
HB 2359 RELATING TO AGRICULTURAL LANDS
HB 2684 RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Ito, Chair Tsuji and Members of the Committees:

My name is Alan Takemoto, Executive Director, of the Hawaii Farm Bureau Federation, which is the largest non-profit general agriculture organization representing approximately 1,600 farm and ranch family members statewide.

The Hawaii Farm Bureau Federation OPPOSES HB 2357, HB2359 AND HB2684 defining alternate procedures for identification of Important Agricultural Lands..

The purpose of the Important Agricultural Lands initiative is agricultural viability. As policies and measures that support agriculture, farming and ranching are provided, agriculture will become a desirable career with long term viability -- not a hope but a reality. Strong agricultural enterprises will seek to keep their lands in agriculture, thereby having truly IMPORTANT AGRICULTURAL LANDS.

We understand the concern behind this Bill. Many lands that are productive agricultural lands could be developed before the current IAL process is implemented. There is fear that these lands will forever be lost.

We, on the other hand, fear that designation of lands as "Important Agricultural Lands" without associated measures that support and incentivize farming and ranching operations, will result in vacant lands ...zoned agriculture but without actual agricultural activity. Hope is not a strategy. In reality, we are loosing something else, faster than agricultural lands – and that is farmers.

We are concerned that the suggested Bills can have unintended consequences. For example, our farmers and ranchers already have a difficult time qualifying for loans that will allow them to expand their operations. The Bills could be viewed as a "downzoning" by lenders, resulting in decreased land values ensuing in decreased borrowing ability due to a downgraded collateral value. Thank you.



Maui County Farm Bureau

*An Affiliate of the American Farm Bureau Federation and Hawaii Farm Bureau Federation
Serving Maui's Farmers and Ranchers*

TESTIMONY

HB 2357 RELATING TO AGRICULTURAL LANDS HB 2359 RELATING TO AGRICULTURAL LANDS HB 2684 RELATING TO IMPORTANT AGRICULTURAL LANDS

HEARING BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND COMMITTEE ON WATER, LAND & HAWAIIAN AFFAIRS

Chair Tsuji and Ito and Committee Members:

My name is Warren Watanabe, Executive Director of the Maui County Farm Bureau, a non-profit general agriculture organization and an affiliate of the Hawaii Farm Bureau Federation.

Maui County Farm Bureau, on behalf of its member farmers, ranchers and agricultural organizations **strongly opposes** HB 2357, HB2359 and HB 2684 replacing the current IAL process.

While these Bills speak towards the implementation of Act 183, Important Agricultural Lands, the crux of these Bills remains "Land Use". Act 183 was passed with support from landowners as well as farmers because for the first time, after 30 years of trying to pass IAL legislation, a Bill was introduced that addressed agriculture ...the criteria needed to ensure agricultural activity on Important Agricultural Lands.

We understand the concern that while the IAL process occurs, agricultural lands deemed to be ideal for crop production may be developed. However, we must not forget, we have many lands that are currently fallow due to lack of farmers or because farmers have found it too difficult to remain viable. On Maui, there are over 100 acres of ideal farmland which just 5 years ago, had fields of cabbage, onion, lettuce and other vegetables providing not only for the Maui market but for Oahu as well. The farmers were third generation farmers, owning their own lands, equipment and homes on the land. Yet, viability was difficult. Approaching or past 50 years of age, their retirement looked bleakso they have found employment outside of their farms and their lands now lie idle, ripe for development. It is because of cases such as this, that we feel strongly that the implementation of IAL cannot be a land use issue but a farmer viability issue. The incentives incorporated in the proposed IAL omnibus measure addresses the large picture needs for long term commitment by landowners and farmers to agriculture.

As a leader of Maui County Farm Bureau, it has been difficult seeing these farmers leave an occupation I know they loved. Seeing them worry about retirement after spending decades working

hard growing crops and providing for the people of Hawaii is heartbreaking. We have a few young farmers. They are realists. They have given themselves a timetable. If they are not successful within a set timeframe, they plan to exit farming. These farmers have recently suffered major damage during the storms in early December. How much they will be able to recover is in question. When I look at the IAL measures, the first question in my mind is " Will it save these farmers?"

We must not lose sight of the goal of having active agriculture on these lands that contribute towards not only Hawaii's level of self sufficiency but to Hawaii's economy. Agriculture is not just a lifestyle ...it is first and foremost a business that provides food and fiber for the people. When planes cannot fly and ships cannot sail, agriculturally zoned lands without farmers and ranchers growing crops and raising livestock will be useless ...it will be too late. Today, we must commit to grow farmers and ranchers and in that process have lands that remain in agriculture --- truly Important agricultural Lands. This is the vision behind the crafters of the existing Important Agricultural Lands Legislation.

We respectfully request that these **Bills be held and focus be placed on enacting incentives** so landowners will designate their lands as Important Agricultural Lands as soon as possible. Time is of the urgency. We cannot lose any more farmers or ranchers.



TESTIMONY TO THE HOUSE COMMITTEES ON WATER, LAND, OCEAN RESOURCES
& HAWAIIAN AFFAIRS & AGRICULTURE
FRIDAY, FEBRUARY 1, 2008 AT 8:30 A.M.
ROOM 325, STATE CAPITOL

RE: H.B. 2359 Relating to Agricultural Lands

Chairs Ito and Tsuji, Vice Chairs Karamatsu and Brower, Members of the Committees:

The Chamber of Commerce of Hawaii opposes HB 2684 as drafted.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 2359 purposes to establish new policies regarding the districting and protection of land in state agricultural districts. Under this Act, all lands in agricultural districts are designated "important agricultural land" for the purpose of article XI, section 3, of the state constitution. This Act rejects the previous approach of establishing a two-tier agricultural districting and protection system, one for "important agricultural land" and the second for "other agricultural land".

Act 183, SLH 2005 established a process to identify important agricultural lands (IAL). The IAL designation was established during the 1978 Constitutional Convention. A significant amount of effort was invested by many different groups and individuals who participated in a legislative initiated process in developing Act 183.

Act 183 was based on promoting agricultural viability and simply identifying agricultural lands believed to be important. Act 183 provides for incentives to be enacted that would assist in making agribusinesses viable and thus, allow for designation of IAL based on "growing" agribusiness.

Over the past two sessions, legislation has been introduced to create incentives to promote agricultural viability in Hawaii. In addition, efforts were made to have the Counties enact incentives to promote agricultural viability in their respective counties. So far, these incentives have not been put in place.

The bill before you proposes to designate all agricultural lands as "important agricultural lands." We believe this bill does not take into consideration the agribusiness viability in designating important agricultural lands. Therefore, we ask that the Legislature consider developing a meaningful incentive package to assist agribusiness grow instead.

For these reasons, The Chamber does not support HB 2359 and ask that the bill is respectfully held. Thank you for the opportunity to submit testimony.

**HB 2359
RELATING TO AGRICULTURAL LANDS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

FEBRUARY 1, 2008

Chair Ito, Chair Tsuji, and Members of the House Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural companies Hawaiian Commercial & Sugar Company and Kauai Coffee Company, Inc. on HB 2359, "A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS." We respectfully oppose this bill.

After over twenty five years of debate, negotiation, and compromise, the IAL Law was finally passed in the 2005 Legislative Session. After years of pursuing a land-use approach to this constitutional mandate, the IAL law that was successfully passed was one premised on the principle that the best way to preserve agricultural lands is to preserve agricultural businesses and agricultural viability. As such, Act 183 (2005) not only provides the standards, criteria, and processes to identify and designate important agricultural lands (IAL) to fulfill the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution, it also provides for the passage of a package of incentives designated to support and encourage sustained, viable agricultural activity on IAL—prior to the designation of IAL. Once the package of incentives is passed, IAL may be designated in one of two ways --- by voluntary petition by the farmer/landowner to the

State Land Use Commission (LUC); or subsequently by the Counties filing a petition to designate lands as IAL pursuant to a County identification and mapping process. In either case, the LUC must find that the lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law prior to designation.

HB 2359 proposes to amend the present IAL Law in a significant manner. It would basically serve to undermine the basic premise of Act 183, as well as the specified process to identify and designate IAL. This bill repeals provisions in the present IAL Law which specify the need for the Legislature to declare, by law or concurrent resolution, that there are sufficient incentives in place to support viable agricultural operations on IAL **prior** to the identification and designation of IAL. We believe that incentives are vitally needed prior to the start of the IAL identification and designation process to ensure long term agricultural productivity and use—and thus preservation—of IAL for farmers.

This bill establishes statutory provisions that automatically identify and designate certain lands as IAL in the year 2010—without any deliberative analysis of compliance with the standards and criteria set forth in Act 183. The bill simply ‘anoints’ lands in Central Oahu and the North Shore, lands in certain State Agricultural Parks, and lands in relevant County Agricultural districts as IAL, and authorizes the Department of Agriculture to designate State owned lands as IAL. The above mentioned provisions serve to ‘trump’ and thus nullify the primary identification and designation process included in the present IAL Law that involves the input of the landowners and farmers and then empowers the LUC to make the final IAL decisions. We believe that input from the landowners and farmers—the parties most impacted by this law—is essential,

and there needs to be a body, like the LUC, to evaluate all lands under consideration for IAL designation to ensure that they are in compliance with the standards, criteria, objectives, and policies presently contained in the IAL Law. However, given that there ultimately will be an 'automatic' designation of IAL in 2010, it is highly unlikely that any landowner or farmer will voluntarily offer lands for designation as IAL, which again defeats the incentive (positive rather than punitive) approach strongly embodied in Act 183.

One of the compelling factors that resulted in the enactment of the IAL Law three years ago was a collaborative effort put forth by various entities and individuals to find common ground on this important issue. This bill will significantly alter consensus building agreements that were instrumental in the passage and enactment of the present IAL Law. We ask that the process to implement the identification and designation of IAL, which evolved from good faith efforts in 2005, be allowed to proceed, as presently outlined in the IAL Law. In short, please give it a chance to work.

Based on the aforementioned, we respectfully request that this bill be held in Committee.

Thank you for the opportunity to testify.



MAUI LAND & PINEAPPLE COMPANY, INC.

January 31, 2008

The Honorable Representative Ken Ito, Chair
The Honorable Representative Jon Riki Karamatsu, Vice Chair
Committee on Water, Land, Ocean Resources & Hawaiian Affairs
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

The Honorable Representative Clift Tsuji, Chair
The Honorable Representative Tom Brower, Vice Chair
Committee on Agriculture
Hawaii State House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Subject: HB 2359 – Relating to Agricultural Lands

Dear Honorable Chair Ito, Honorable Vice Chair Karamatsu, Honorable Chair Tsuji,
Honorable Vice Chair Brower and Committee Members:

Maui Land & Pineapple Company, Inc. strongly opposes HB 2359 – Relating to Agricultural Lands.

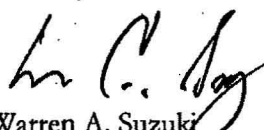
The subject legislation will designate agricultural zoned lands in Maui County as Important Agricultural Lands being that there is only one agricultural zoning district. Maui County is presently in the process of updating and amending the general plan and community plans. It is our understanding that during this process, lands in the agricultural zoning district will be reviewed and Important Agricultural Lands will be identified. Therefore, it is our position that this legislation is not necessary at this time.

Maui Land & Pineapple Company, Inc. respectfully requests that the subject legislation not be approved.

The Honorable Representative Ken Ito, Chair
The Honorable Representative Jon Riki Karamatsu, Vice Chair
The Honorable Representative Clift Tsuji, Chair
The Honorable Representative Tom Brower, Vice Chair
January 31, 2008
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We sincerely appreciate the opportunity to provide our testimony. If you have any questions or wish to discuss our testimony, please do not hesitate to contact me at (808) 877-3882.

Mahalo,


Warren A. Suzuki
Senior Vice President



KAMEHAMEHA SCHOOLS

February 1, 2008

The Honorable Ken Ito and Clift Tsuji, Chairs, and Members
Committee on Water, Land, Ocean Resources and Hawaiian Affairs
Committee on Agriculture
The House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Good Morning Chairs Ito and Tsuji and Members:

Testimony in Opposition of House Bill No 2359 Relating to Agriculture

I am Kapu C. Smith, Senior Land Asset Manager for Kamehameha Schools' Kawaioloa Plantation in Waialua, Oahu. I am here to testify in opposition to HB 2359. Although the bill has many issues we oppose, our main concern is the method of designating "important agricultural land" (IAL). Under this proposal, land including our property at Kawaioloa Plantation will be designated IAL by Tax Map Key in keeping with existing criteria of Act 183. As a result, both land which is capable of producing high agricultural yields and non productive agricultural lands will be given the IAL designation. For this reason, we continue to propose that the first incentive for IAL designation is the amendment of the current criteria to a more objective standard which would ensure that only IAL lands are designated.

Thank you for the opportunity to express our views on this matter.