

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
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**JOINT HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
CONCERNS AND AGRICULTURE**

**TESTIMONY REGARDING HB 2739
RELATING TO STATE ENTERPRISE ZONES**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: JANUARY 29, 2008
TIME: 8:30AM
ROOM: 325

This bill would provide farmers with an alternative means of obtaining and maintaining enterprise zone (EZ) benefits.

The Department of Taxation ("Department") takes **no position** on the merits of this bill. The Department defers to the Department of Business, Economic Development and Tourism ("DBEDT") and the Department of Agriculture regarding this bill's merits.

The State currently provides tax breaks for qualifying businesses in an Enterprise Zone. Under section 209E-11, Hawaii Revised Statutes (HRS), certain types of businesses in the enterprise zone that satisfy hiring requirements are exempt from the state general excise and use tax for up to seven years. Qualified businesses can also claim two partial state income tax credits under section 209E-10, HRS:

1. **An income tax credit based on taxes due the State.** The tax credit is equal to 80 percent of the taxes due for the first tax year, which decreases by 10 percent for each year thereafter, over the next six years;
2. **An income tax credit based on unemployment taxes paid.** The tax credit is equal to 80 percent of the unemployment taxes paid during the first year, which decreases by 10 percent for each year thereafter, over the next six years.

The Department notes that pursuant to HRS 209E-10, DBEDT has been tasked with certifying to the Department the applicability of the tax credit for a qualified business against any taxes due to the State.

This bill amends the requirements of the state enterprise zone program by:

Department of Taxation Testimony

HB 2739

January 29, 2008

Page 2 of 2

1. Allowing the Department of Business, Economic Development, and Tourism to extend tax incentives to qualifying agricultural businesses for the duration of the effects of a *force majeure*;
2. Enabling agricultural businesses to remain eligible for the tax incentives under the Program during any period of interruption caused by a *force majeure* event;
3. Adds a definition of "leased employee" AND "joint employment" to HRS § 209E-2, and amends HRS § 209E-2 to include "leased employees" and "joint employees" in the definition of "full-time employees";
4. Amends HRS § 209E-10 to allow agricultural business as the only businesses that could use retail sales of value-added products from crops grown within an EZ to count toward certification for the tax credit.
5. Adds clarifying language to HRS § 209E-11 that an agricultural business is not exempt from general excise tax on gross proceeds of agricultural retail sales.

Revenue losses are estimated to be \$800,000 for fiscal year 2009, \$2.4 million for fiscal year 2010, \$800,000 for fiscal year 2011 and \$550,000 per year thereafter.



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

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
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MARK K. ANDERSON
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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
AND BUSINESS CONCERNS AND THE HOUSE COMMITTEE ON
AGRICULTURE**

Tuesday, January 29, 2008
8:30 A.M.
State Capitol, Conference Room 325

in consideration of
HB 2739
RELATING TO STATE ENTERPRISE ZONES

Chairs Yamashita and Tsuji, Vice-Chairs Wakai and Bower, and Committee
members:

The department supports the concept of HB 2739. There have been many good ideas introduced this legislative session that support the State's economic development goals. We hope the legislature will see fit to support, pass and fund these ideas, together with the priorities of the Executive's Supplemental Budget.

Agriculture is a vital component of Hawaii's economy, preserving open space essential to tourism and helping to protect our environment. Currently, there are more than 5500 farms, but as of 2006, only 44 participated in the Enterprise Zone (EZ) Partnership. In 2005, only 12 of the 44 firms qualified for benefits, 4 companies did not qualify and the remaining 21 farmers did not file their annual reports. Common reasons

for not filing included closing the business or knowing that qualification criteria had not been met.

This bill also helps farmers cope with natural disasters by allowing them to retain EZ eligibility when their operation has been negatively affected and then resume production, with the time added to their full participation period. This change would have benefited many farmers affected by the Spring 2006 floods on Oahu and Kauai and a few on the Big Island whose water systems were damaged by the Kiholo earthquake.

The department, however, has a major concern over the revision contained on Page 4, lines 13 through 18, which increases the average annual number of full-time employees of the agricultural business by 15 percent by the ends of the fourth, fifth, sixth and seventh years of eligibility. Presently, all eligible businesses need to increase full-time employees by 10 percent each year for the term of their eligibility. We feel that the current language requiring the 10 percent increase is adequate. Singling out agricultural businesses for a higher increase to 15% would make it more difficult for agricultural businesses to qualify. Many small farms cannot consistently meet the EZ job growth and retention requirements as it now stands. The increase from 10 percent to 15 percent would adversely affect these small farmers who, as a whole, do not farm large acreages, and therefore, primarily rely on family and one or two hires.

Thank you for the opportunity to offer these comments.

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE OKAMOTO
Deputy to the Chairperson

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

**BEFORE THE HOUSE COMMITTEES ON ECONOMIC DEVELOPMENT & BUSINESS
CONCERNS AND AGRICULTURE
JANUARY 29, 2008
8:30 A.M.**

**HOUSE BILL NO. 2739
RELATING TO STATE ENTERPRISE ZONES**

Chairperson Yamashita, Chairperson Tsuji, and Members of the Committees:

Thank you for the opportunity to comment on House Bill No. 2739. The purpose of this bill is to qualify agricultural businesses for enterprise zones and allow them to receive benefits in case of a force majeure event.

The Hawaii Department of Agriculture (HDOA) supports the intent of this bill as it allows qualified agricultural businesses in the Enterprise Zone (EZ) program to remain eligible for all tax incentives while experiencing a force majeure event and also extends the seven-year eligibility period by the duration of the loss.

To add clarity to the bill, HDOA would like to suggest a definition for the term "force majeure." It may include damaging weather or natural disasters such as high wind, thunderstorm, fire, flood, lava flow, drought, tidal wave, hurricane, epidemic disease, pest outbreak and earthquake.

Additionally, in Section 4 (Page 4; lines 10-18), we wish to point out that agribusinesses, in general, will find it challenging to meet the increase in full-time employee requirements, especially when agricultural labor is in short supply. An alternate performance measure such as an annual increase in gross income by two

percent is more attainable. This was proposed by DBEDT in bills for several years and we suggest these criteria be revived.



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**TESTIMONY BEFORE THE HOUSE COMMITTEES ON
ECONOMIC DEVELOPMENT & BUSINESS CONCERNS
AND
ON AGRICULTURE**

HOUSE BILL 2739

RELATING TO STATE ENTERPRISE ZONES

January 29, 2008

Chairmen Yamashita and Tsuji and Members of your respective Committee:

My name is Stephanie Whalen. I am President and Research Director of the Hawaii Agriculture Research Center (HARC). I am testifying today on behalf of the center, our research and support staff, and our members and clients.

HARC supports House Bill 2739 Relating to State Enterprise Zones.

Recognizing the uniqueness of agricultural businesses as this proposal does will be very helpful in maintaining the viability of agriculture. In the transition from large scale farming to smaller and more diverse farms it is imperative that the statutes also change and adapt to the needs of this situation. Many of the newer crops do not require year round labor but with the diversity developing shared or leased employees just makes sense. Whereas diversity existed under one employer in the past which allowed year round employment by one company, that diversity is now manifested in many independent farms where peak and shorter employment periods is the norm.

It is exciting to see legislation now developing to support this diversification of agriculture that has been the goal for over 3 decades.

Thank you for the opportunity to testify in support of Hawaii's agricultural needs but in opposition to this proposed measure.

**Hawaii
Crop
Improvement
Association**

Sarah Styan, President
P.O. Box 609
Waimea, Hawaii 96796
Phone: 808- 338-8300 ext 113

Testimony by: Sarah Styan
HB 2739, Relating to State Enterprise Zones
House EDB/AGR Committee
Tuesday, Jan. 29, 2007
Room 325: 8:30 am

Position: Support

Chairs Yamashita and Tsuji, and Members of the House EDB/AGR Committee:

My name is Sarah Styan. I am a Kauai resident, President of HCIA and research scientist of Pioneer Hi-Bred International, Waimea Research Station. The HCIA represents seed production and research facilities operating in Hawaii for nearly 40 years. The HCIA is comprised of five member companies that farm an estimated 8,000 acres on four islands, valued at \$97.6 million in operating budget (2006/2007 HASS). We are proud members of Hawaii's diversified agriculture and life sciences industries.

This is a measure that will facilitate the growth of Hawaii's agricultural industry by creating agricultural enterprise zones, in which farmers in specified rural areas may receive incentives for farming. It takes into account some of the unique challenges that farming brings to agricultural enterprise zones, primarily labor availability and weather conditions, and allows for certain value-added agricultural sales towards certification for this credit.

We support the provisions that allow for continued benefit of tax incentives during a force majeure event. The definitions for "joint employer" and "leased employee" are appreciated because in today's tight labor market, some of the agricultural employees are leased employees or may be employed by more than one farmer.

Thank you for the opportunity to present testimony.