

HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819

LATE

JANUARY 31, 2008

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS

TESTIMONY ON SB 2641
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Tokuda and Members of the Committee:

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 supports the intent of this measure. However, we have concerns about some unintended consequences that may occur if passed.

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 losing something else, faster than agricultural lands -- and that is farmers.

We are concerned that the suggested moratorium 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 moratorium could be viewed as a "downzoning" by lenders, resulting in decreased land values ensuing in decreased borrowing ability due to a downgraded collateral value.

We understand the real threat of developing agricultural lands and that further checks and balances may be needed until we establish incentives for important agricultural lands. One suggestion is that we mandate the Land Use Commission and/or the County to obtain prior approval from the Department of Agriculture on all rezoning, special use permits, and agricultural subdivisions projects on agricultural lands. This will ensure that DOA's expertise and knowledge on the validity of the project and that no substantial negative impact will be on existing and future agricultural activity. This will also give DOA the strength it needs to be taken seriously. This suggestion will mandate that no project will be approved without the DOA's approval or how the developer will address the DOA's concerns. Other suggestion is to provide additional requirements such as requiring the developers to provide an agricultural impact statement, limiting the size of the farm dwelling and requiring an agricultural business plan be submitted on an annual basis. These are just some of the suggestions that can assure that agricultural lands are being utilized in a way that is in the best interest of the agricultural industry .

We respectfully request the legislature to move quickly to enact the necessary incentives to implement the IAL process ...one that truly results in farming and ranching activity. Strong, viable farming and ranching activity, contributing to Hawaii's self sufficiency and economy is the best way to curb development on lands in the agricultural district and keep them in production.

Thank you for allowing us to testify on this measure.



Legislative Testimony

SB 2641, RELATING TO IMPORTANT AGRICULTURAL LANDS

Senate Committee on Agriculture and Hawaiian Affairs

January 31, 2007

2:45 p.m.

Room: 224

The Office of Hawaiian Affairs **SUPPORTS** SB 2641, which would establish a five-year moratorium on the development of agricultural lands located in the State for which general planning has not commenced.

This bill proposes to affect non-permitted uses in an agricultural district and aims specifically at lands with a productivity rating of A or B, which means that they are prime agricultural lands. Article XI, section 3, of the Hawai'i State Constitution; Hawai'i Revised Statutes, Chapter 205; and even county ordinances all address the need to protect our agricultural lands. These multiple layers of concern reflect the Constitutional mandate that the Legislature shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands in this State.

The 1976 Legislature acted upon this when they assigned Class A and B agricultural lands additional protection against county approval of agricultural subdivisions. This bill will take further steps towards fulfilling this wisely thought out mission.

This bill could also further the goal of lessening our dependence on imported foods. As the legislature knows, our State relies highly on agricultural products that are shipped here from all over the world, yet could be grown here very well. In addition to fulfilling existing mandates, this bill would serve to keep prime agricultural lands in the use intended for them, while providing sustainability and independence to our local agricultural industry.

Therefore, OHA urges the Committees to PASS SB 2641. Thank you for the opportunity to testify.

LATE TESTIMONY



Hawaii's Thousand Friends

25 Malunui Ave., Suite 102, PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

January 31, 2008,

Testimony via email

COMMITTEE ON AGRICULTURE AND HAWAIIAN AFFAIRS

Senator Jill Tokuda, Chair

Senator J. Kalani English, Vice Chair

SB 2641

RELATING TO IMPORTANT AGRICULTURAL LANDS

Committee Chair and members:

Hawaii's Thousand Friends, a statewide non-profit land use organization, supports the establishment of a five-year moratorium on the development of agricultural lands located in the State for which general planning has not commenced.

Issues that were identified by the Agriculture Working Group, that met in 2003 for 6 months, as potential roadblocks to comprehensive planning for agricultural and rural lands and identification of IAL still remain largely unresolved. Such as; length of procurement and contracting for a consultant to assist in mapping IAL, obtaining adequate funding from the State to carry out Act 183 mandates, competing for small pool of consultants, need for a better understanding of rural, non-IAL ag lands and IAL interface, finding better ways to regulate what is farming and not-farming, and adoption of county plans.

It is impossible to pass legislation that encompasses all the outstanding issues related to IAL, rural and non-IAL land use during the short legislative session. This breather from case by case development on agricultural land gives the counties, Office of Planning, Department of Agriculture and Department of Land and Natural Resources time to understand each entities role and what is needed to ensure that Act 183 is viable in all counties.



MAUI CONTRACTORS
ASSOCIATION

LATE

January 31, 2008

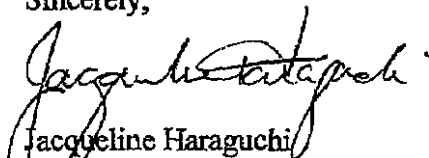
Senator Jill Tokuda, Chair
Committee on Agriculture and Hawaiian Affairs
State Capitol, Room 224
Honolulu, HI 96813

Re: SB 2641, Relating to Important Agricultural Lands

Chair Tokuda and committee members, I am Jacqueline Haraguchi, executive director for the Maui Contractors Association. We represent over 200 members and 8000 employees in Maui County. We feel that this proposed bill is too broad in terms of the general plan commencement. Who determines if the General Plan has commenced? Currently Maui county planning department has been holding up the general plan process for over a year now due to issues at the county level. We all know how important it is to address growing and planning issues for the people of Hawaii however, does it make it right for the county to hold up the process? Ultimately it is the local people who suffer those consequences.

In Maui county agricultural lands play an important role in the development of affordable housing for the people who work and reside in most areas. It is the goal of the Maui Contractors Association to provide housing for the local people of Hawaii.

Sincerely,


Jacqueline Haraguchi
Executive Director
Maui Contractors Association

**Sandra Duvauchelle
993A Malaiki Road
Wailuku, Hawaii 96793**

LATE

January 31, 2008

Senator Jill Tokuda, Chair
Committee on Agriculture and Hawaiian Affairs
State Capitol, Room 224
Honolulu, HI 96813

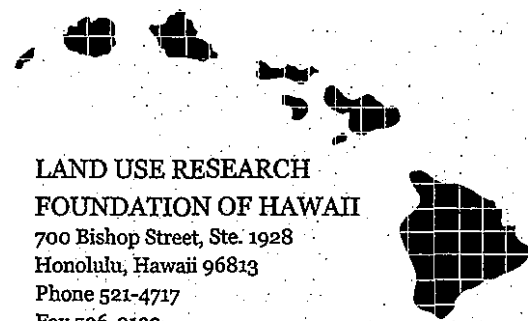
Re: SB 2641, Relating to Important Agricultural Lands

Chair Tokuda and committee members, I am Sandra Duvauchelle, my husband and I are both contractors and run a small business with about 12 employees. We feel that this proposed bill is too broad in terms of the general plan commencement. Who determines if the General Plan has commenced? Currently Maui county planning department has been holding up the general plan process for over eight years now due to issues at the county level. We all know how important it is to address growing and planning issues for the people of Hawaii however, does it make it right for the county to hold up the process? Ultimately it is the local people who suffer those consequences.

In Maui county agricultural lands play an important role in the development of affordable housing for the people who work and reside in most areas. If our County keeps getting hit on all fronts for no construction work what so ever, we are going to have to relocate. My husband is local born and raised on Molokai and the thought of having to leave our home and families to find work is heart breaking.

Sincerely,

Sandra L Duvauchelle
JD Equipment Services, Inc.
Sandra L. Duvauchelle, General Contractor



LAND USE RESEARCH
FOUNDATION OF HAWAII
700 Bishop Street, Ste. 1928
Honolulu, Hawaii 96813
Phone 521-4717
Fax 536-0132

January 31, 2008

The Honorable Jill Tokuda, Chair and Members
Senate Committee on Agriculture and Hawaiian Affairs
Hawaii State Capitol, Room 244
Honolulu, HI 96813

BY E-MAIL

Dear Chair Tokuda and Members:

Subject: Testimony on Senate Bills No. S.B. 2641 Relating to Important Agricultural Lands

My name is David Arakawa, Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulations affecting common problems in Hawaii.

We appreciate the opportunity to provide our testimony **in opposition to S.B. No. 2641**. The proposed bill would substantially undermine the policies and procedures and frustrate the purposes of Act 183, SLH 2005, relating to Important Agricultural Lands ("IAL") and is not supported by any legal nexus to Act 183. Furthermore, the proposed bill has been proposed without the input and consensus of agricultural stakeholders. The purpose, policies, procedures outlined in Act 183 should be followed and given a chance to work, and **S.B. No. 2641 should be rejected**. If the legislature desires to follow and support Act 183, it should **instead approve S.B. No. 2646**, which is a result of a consensus among agricultural stakeholders and provides incentives and protections to establish and sustain viable agricultural operations on IAL.

S.B. No. 2641. This proposed bill would establish a five-year moratorium (proposed to sunset on 6/30/2013) on the development of agricultural lands located in the State for which general planning has not commenced. Under this proposal, the term "general planning" means projects for which planning, design or construction has already commenced. It is proposed to apply to all lands within the State designated in an agricultural district with an overall (master) productivity rating of class A or B. During the moratorium, the bill allows building or development projects which are permissible uses within an agricultural district under section 205-4.5, Hawaii Revised Statutes.

The proposed bill would undermine the policies and procedures and frustrate the purposes of Act 183. The legislature is fully aware of the significance in the successful passage, just two years ago, of Act 183 Relating to Important

Agricultural Lands. Act 183 established policies and procedures for the identification of IAL and provides a process to develop protection, incentive measures and agricultural viability for IAL. Act 183 also established certain “milestones” for performance on the part of the legislature, administration, private landowners/farmers, and the Counties. The Act was a direct result of building consensus on areas of agreement as opposed to focusing on areas of disagreement. While some may feel that it is not perfect; it does represent a collaboration of a variety of different interests groups, community representatives and agricultural stakeholders.

There is no legal nexus to support the proposed five-year moratorium. No purpose, rationale or justification is stated in support of the proposed moratorium. Such a lengthy moratorium, which lacks any legal nexus or connection to furthering the IAL purposes or process, could be found to be an illegal taking under the United States Constitution.

The proposed bill is not supported by the consensus of agricultural stakeholders. The five-year moratorium proposed in the proposed bill significantly alters the agreements reached in building the consensus on Act 183. We believe that changes of the type proposed in this bill will undermine the past efforts and significantly set back the IAL designation process.

Conclusion. LURF **opposes S.B. No. 2641**, based on the following grounds: The proposed bill would substantially undermine the policies and procedures and frustrate the purposes of Act 183 and the identification and designation of IAL; it is not supported by any legal nexus to Act 183; and it has been proposed without the input and consensus of agricultural stakeholders. It is LURF’s position that the purpose, policies, procedures outlined in Act 183 should be followed and given a chance to work, and **S.B. No. 2641 should be rejected**. If the legislature desires to follow and support Act 183 and the IAL identification and designation process, it should **instead approve S.B. No. 2646**, which is a result of a consensus among agricultural stakeholders and provides incentives and protections to establish and sustain viable agricultural operations on IAL.

LURF appreciates the opportunity to express our views on this matter.

The Honorable Jill N. Tokuda
Chairperson, Agriculture and Hawaiian Affairs Committee

LATE

SB2641 RELATING TO IMPORTANT AGRICULTURAL LANDS

Thursday, January 31, 2008
Conference Room 224

My name is DeGray Vanderbilt. I am Chairman of the Molokai Planning Commission and a member of the Molokai Water Working group, which is advisory to the State Commission on Water Resource Management.

I am testifying today as an individual in opposition of SB 2641

It's hard to put this general bill in perspective, especially how it relates to all the other agricultural and bills impacting agricultural water that needs to be reserved for future generations to make agricultural lands productive for food production, which have been cut loose onto the legislature this session.

What is the point of the Bill. A five year moratorium if it applied flat out for all agricultural lands that are productive or potentially productive would have some teeth..

However, a five year moratorium on only A and B lands for which general planning has not commenced. It's hard to find any lands, especially those controlled by the large land owners for which some type of planning has not commence.

I am sure all the major landowners will be supportive of this Bill. Why wouldn't they be?

On Molokai there are major tracts of productive agricultural land, including Homestead lands that are not A and B lands. Most of the pastureland on Molokai and throughout the State are not rated A or B.

The preservation of productive agriculture lands and the water resources needed to insure their productivity for future generations is in front and center as the County of Maui moves forward with its review of its General Plan, which includes the Molokai Community Plan.

Some of the early statements that have been approved to support sustainable agriculture in the future are as follows as approved by the Molokai, Lanai and Maui Planning Commissions:

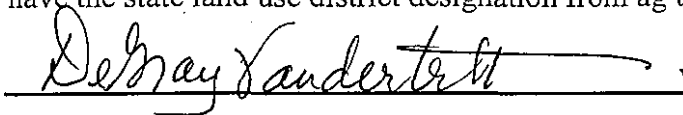
Protect prime, productive and potentially productive lands from competing non-agricultural land uses and preserve water resources to allow these lands to be used for future generations for sustainable food production.

Ensure that adequate, sustainable supplies of water are available for sustainable agriculture use prior to entitling lands for development.

Diversify sustainable forms of agriculture and aquaculture.

On Molokai we have a large tract of land at La'au Point that a developer wants to develop up to 400 luxury homes to be marketed to pentamillionaires. This is on ag land that is not rated A or B but is ideal for raising orchids and/ or for a number of aquaculture ventures.

The CCR's will restrict and agriculture on these lands that the developer is seeking to have the state land use district designation from ag to rural

A handwritten signature in cursive script, reading "DeGray Vanderbilt", is written over a solid horizontal line.

DeGray Vanderbilt

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Chairperson, Agriculture and Hawaiian Affairs Committee

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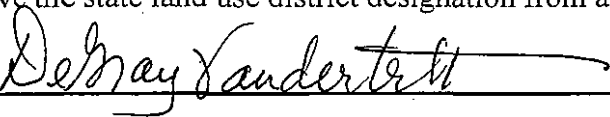
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DeGray Vanderbilt

February 1, 2008
Kohala, Hawaii

LATE

Senator Jill Tokuda, Chairperson
Agriculture and Hawaiian Affairs Committee
Hawaii State Capitol, Room 218
415 South Beretania Street Honolulu, HI 96813

Honorable Senator Tokuda,

We support your bill SB 2641. The following documents demonstrate the need for land use law changes at the State level. These documents were created by concerned citizens, farmers and ranchers of Kohala, Hawaii. Similar concerns are mirrored around the island of Hawaii by citizens, farmers and ranchers who are in the same circumstances.

We implore you to help us.

From the Citizens of Kohala

Contact:
Mike Isaacs
808-987-8704
kohala1@yahoo.com

**Land Use - Home Rule
COMMUNITY DEVELOPMENT PLAN (CDP)**

We, the silent majority (taxpayers), have allowed the county council (9 members, the planning commission (9 members) and the planning director (1 person) to decide the future of our districts (land use impacts).

For every good land use law- there is a process to circumvent it. The General Plan can be amended, special use permits allow any unusual and reasonable use, variance can be applied for, the planning director can change things administratively - the list goes on.

**Blatant circumvention of established state land use laws - Hokulia - Ehh!
We broke the law - so change it (County Of Hawaii).**

The favored process for land speculation is to buy a property (acreage) then apply for a zoning change, then sit on it for one or more years. When the market is high, sell it for a profit. Prime example- Waikoloa. That 20,000 acre parcel has probably changed ownership four or more times, appreciating out of sight with nothing being built and no end of speculation in sight. Our politicians (past & present), have allowed land speculation to run amok and We pay for it with higher property taxes and higher rent. Today most people cannot afford to buy a home at the prices now being asked.

Any zoning change should be made with two basic conditions (there are none now). First: time limit to start building and reasonable completion date (determined by project size). Second: zoning cannot be grandfathered- meaning if you sell the property - zoning becomes null and void. It cannot be passed on to the new buyer.

There are 19 principle individuals (excluding the water commission) who determine what will impact each district, now and in the future. Ten of these individuals are appointed. Do any of these 19 individuals know your community. NO! Do they care about what impacts your community NO! Even if your county council member knows and cares - it is still 18- 1 Not Good.

All districts are in the process of putting together their C. D. P.'s. All districts can put 'Home Rule' into their C.D.P.'s. It's very simple. Before any developer applies for any zoning change concerning multiple units, residential, shopping center, resort or business), they have to present a conceptual proposal of this project to that districts land use board- FIRST.

Whatever the Districts Board decides (straight up or down vote - yes or no) cannot be overruled or amended by the county. The board would consist of people who live in that district who do not work for a developer or real estate company. They would be appointed by their peers (People who live in that district).

Do not expect the County to give in without a battle. We need all Districts to include Home Rule into their C.D.P.'s and be prepared to stand together if the County council tries to remove Home Rule from our C.D.P.'s.

Land Use will determine the long term quality of life in all districts. The time is now.

Puna, Kau, North & South Kona, North & South Kohala, Hamakua and Hilo - put "Home rule in your C.D.P.

GROWTH

1. Draft North Kohala's *Vision Statement* and Community Values
2. Revise Community profile
3. Draft "Environmental Concept"

Problem:

1. Agriculture land is being cut up, sold and re-sold by land speculators with county approval
2. County Planning Department and Planning Commission are approving inappropriate use of prime A and B rated agriculture lands for retreat resorts, gated communities, overnight camping and golf courses.

Result:

1. Agriculture land has become extremely expensive! forcing farmers and ranchers to give up their leases or sell their land.
2. Property taxes have unfairly gone up on nearby properties
3. Unfair property tax benefits have been given to non-agriculture users of ag land.
4. The cumulative impacts on local infrastructure created by non-ag use have never been addressed.
5. Inappropriate use of ag land does not create good employment opportunities for the local community.
6. The high cost of real estate has forced many to live with 3 or 4 generations in one residence.
7. Local families pay high property tax for small residential lots, while those in ag (nonagricultural) subdivisions pay lower rates.

Solution:

TAX BREAKS

1. Provide land owners with state and county tax discounts and tax credits to make it beneficial to commit their property to commercial agriculture use for a specified period of time (10 years) with no escape clause.
2. The state needs to provide farmers and ranchers the same tax breaks that QHTB's (new businesses) receive.
3. The county needs to provide a minimum 5-year progressive property tax break for commercial ag land. First year should be 20% of the ag land rate and increasing 20% per year until reaching the full rate in 5 years.
4. The property tax rate for land under commercial agriculture use, including agricultural structures and land in actual production should be substantially less than all other uses of ag land, residential, resort or commercial land.

EDUCATION

5. Agriculture courses need to be restored to Kohala Elementary to High School (K-12). Hands on involvement by students 9th to 11th grade with farmers and ranchers for credit. Students in 10th to 12th grade can mentor students in K to 8th grade.
6. The community should foster partnerships and activities with UH Manoa, USDA Pacific Rim Agriculture Research Center, CITAR or other federal, state, county or private entity that can enhance agriculture education and application.

LAND USE LAWS

7. Zoning for multiple unit development - such as resorts, commercial complexes, residential subdivisions - should not be passed on to new owners if the project, as approved, is not built by the original developer. All entitlements should be tied to the original owner/applicant and should not be transferred to the new owner.
8. The county should abide by construction deadlines set by re-zoning, not routinely extend all deadlines multiple times. Projects not substantially completed by the first deadline should face down zoning.
9. The county should issue no Special Use Permits on all prime rated A and B ag lands unless the use is related to commercial agriculture.
10. No A or B rated agriculture land should be rezoned to less than 20-acre agriculture with the following exceptions - affordable housing, living and recreational complexes for senior citizens and commercial ag parks.

COMMUNITY GROUP

There is a need for a working group, partnering with an established non-profit group, to access government agencies and private organizations for agricultural grants to aid farmers and ranchers.