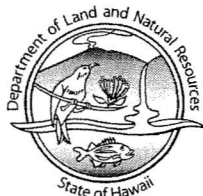


LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**on Senate Bill 2646, Senate Draft 2, House Draft 1 – RELATING TO IMPORTANT
AGRICULTURAL LANDS**

**BEFORE THE HOUSE COMMITTEE ON
FINANCE**

March 28, 2008

Senate Bill 2646, Senate Draft 2, House Draft 1 is to provide incentives and protections to establish and sustain viable agricultural operations on important agricultural lands (IAL). The Department of Land and Natural Resources (Department) comments are limited to Part VI, which amends §174C-31(e) and §174C-31(f), Hawaii Revised Statutes (HRS), as it relates to the State Agricultural Water Use and Development Plan (AWUDP) and the County Water Use and Development Plans (CWUDPs) respectively, of the State Water Code, and Part IX which requires the Department and the Department of Agriculture (DOA) to identify and map public lands that should be designated important agricultural lands and subsequently be turned over to DOA. The Department does not feel the amendments proposed in these Parts (VI and IX) are necessary. Moreover, while the Department has no objection to working with DOA to identify IAL as called for in Part IX, the Department notes that additional resources will be required to produce the maps contemplated by the measure. As such, the Department has concerns with the budgetary implications any mapping obligations imposed by this bill will have on the Executive Supplemental Budget request.

The amendments to §174C-31(e)(3) and (4), HRS, in Part VI are unnecessary because the Department's *Statewide Framework for Updating the Hawaii Water Plan (2000)*, recommends that the AWUDP address both the sources of water and the current and future water needs for existing and future agricultural land uses. This includes any lands designated as Important Agricultural Lands (IAL). Further, the amendment to §174C-31(f)(1), HRS, is unnecessary because §174C-31(f)(1), HRS, already requires the CWUDPs to include an inventory of existing agricultural water uses, which includes water uses for lands designated as IAL.

The Department believes the proposed revisions to Section 171-3, HRS, in Part IX are unnecessary because other sections in Chapter 171, HRS, already provide for the Governor with the prior approval of the Board of Land and Natural Resources to set aside public lands to any department or agency of the State. Moreover, Act 90, Session Laws of 2003, specifically directed the Department to transfer all public lands classified for agricultural use to DOA for the management as agricultural resources and development of farms on as widespread a basis as

possible. As such, public lands identified as 'IAL' can and will be set aside to DOA without the necessity of this measure.

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 COMMITTEE ON FINANCE
FRIDAY, MARCH 28, 2008
4:30 P.M.
ROOM 308

SENATE BILL NO. 2646, S.D.2, H.D.1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2646, S.D.2.,H.D. 1. The Department of Agriculture supports this measure; however, we have concerns about the possible adverse budgetary impact that this bill may have on the Executive Supplemental Budget request request and defer to the Department of Budget and Finance and the Department of Taxation on the fiscal implications of this bill. We offer the following comments on Parts III, IV, and V.

Part III
Residential Housing

The Department prefers that agricultural housing on IAL be referred to as "farm dwellings" rather than "residential units" so as to be consistent with Chapter 205. These dwellings are to be built and maintained by the landowner of Important Agricultural Lands (IAL), therefore it should be specified that these dwellings are for lease by farmers and their immediate families who actively and currently farm on IAL and occupy minimal space on the lands in order to optimize the production capacity of the lands. We recommend adding more specific language that provides for clustering thereby minimizing the dwelling footprint.

Our specific recommendations are as follows (new language is double-underscored and deleted language is bracketed and stricken):

SECTION 6. Chapter 205, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§205- **Important agricultural land; ~~[residential housing]~~ farm dwellings and employee housing.** A landowner whose agricultural lands are designated as important agricultural lands ~~[qualifying under section 205-44]~~ may develop, construct, and maintain ~~[residential]~~ farm dwellings and employee housing [units] for farmers, employees, and their immediate famil[ies]y members on these ~~[important agricultural]~~ lands; provided that:

- (1) The farm~~ers~~ dwellings [units] shall be used exclusively by farmers and their immediate family members who actively and currently farm on important agricultural land upon the parcel or lot ~~[which]~~ where the dwelling is situated; provided further that the immediate family members of a farmer may live in separate dwelling units situated on the same designated land;
- (2) Employee dwellings [units] shall be used exclusively by employees and their immediate family members who actively and currently work on important agricultural land upon the parcel or lot ~~[which]~~ where the dwellings ~~[is]~~ are situated; provided further that the immediate family members of the employee shall not live in separate dwellings [units] and shall live with the employee;

- (3) The ~~[total]~~ land area upon which the farmer and employee dwellings ~~[units]~~ and all appurtenances are situated shall not occupy more than 5,000 square feet per dwelling of the parcel or lot of the landowner ~~[— per cent of the total important agricultural land area controlled by the farmer or the employee's employer]~~. The counties shall determine the appropriate density of dwellings per lot or parcel, however, consideration should be given to cluster development so as to maximize the land area in agricultural production;
- (4) The farmers' and employee dwellings ~~[units]~~ meet all applicable building code requirements;
- (5) Notwithstanding section 205-4.5(a)(12), the landowner shall not plan or develop a residential subdivision on the important agricultural land; and
- (6) ~~[The]~~ Landowners shall submit farm plans ~~[for]~~ and other evidence to the counties specifying how their lands are to be put into agricultural use and how the number of proposed dwellings are needed to meet the labor requirement of the respective farms ~~[farmers' and employee dwellings units shall be supported by agricultural plans that are approved by the department of agriculture]~~."

Part IV
IAL Tax Credit

We note that this incentive as currently described has significant cost implications.

- This should be a refundable tax credit for the first three years only to encourage voluntary declaration of lands as important agricultural lands. Thereafter, any unused portion of the credit should be allowed to be carried forward in subsequent years until exhausted. We offer the following recommendation:

On page 12, delete lines 11-16 and replace with:

- (e) If the credit under this section exceeds the taxpayer's net income tax liability in the first three taxable years following the effective date of this measure, the excess of the credit over the liability shall be refunded to the taxpayer. Thereafter, if the tax credit under this section exceeds the taxpayer's net income tax liability, the excess of the credit over the liability may be used as a credit against the taxpayer's net income tax liability in subsequent years until exhausted; provided that no refunds or payments on account of the credits allowed by this section shall be made for amounts less than \$1.

- In order to receive the tax credit for agricultural housing, we prefer that all of the housing units are occupied by farmers or employees for agricultural businesses and their immediate family members rather than a simple majority. We offer the following recommendation:

On page 16, delete lines 13-16 and replace with:

- (i) The housing units are solely occupied by farmers or employees for agricultural businesses and their immediate family members;

Part V Loan Guaranty

We defer to the department of budget and finance as to the language of Part V, Section 12 and will work with budget and finance to determine an appropriate loan guaranty cap and reasonable reserve requirement for each loan.

We offer the following recommendation:

On page 19, delete lines 10-17.

~~(3) — After consultation with the director of finance, the State possesses sufficient funds to provide an appropriate reserve for the loan guaranty and which, in the director of finance's judgment, are in excess of the amounts necessary for meeting the immediate requirements of the State and will not impede or hamper the fulfillment of the financial obligations of the State.~~



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR
ABBEY SETH MAYER
INTERIM DIRECTOR
OFFICE OF PLANNING

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Statement of
ABBEY SETH MAYER
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Friday, March 28, 2008
4:30 PM
State Capitol, Conference Room 308

in consideration of
SB 2646, SD 2, HD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Office of Planning (OP) supports the intent of SB 2646, SD 2, HD 1, and defers to the Department of Taxation (DoTAX) on the fiscal implications of the bill and the means to address them. OP believes this legislation is critical to initiating the process for designating important agricultural lands and urges the Committee to adopt amendments that address DoTAX's concerns as well as the agricultural land use policy concerns outlined in our testimony. Language for specific amendments are included in this testimony.

SB 2646, SD 2, HD 1 provides a set of agricultural incentives that will help sustain agriculture in Hawaii by offsetting our higher production and distribution costs, and helping our products be more competitive in local and global markets. A strong agricultural industry contributes to a strong rural economy and promotes economic diversity and food and energy security for our island state.

OP supports Part IX of SB 2646, SD 2, HD 1, which authorizes the Departments of Agriculture (DOA) and Land and Natural Resources (DLNR) to identify public lands that should be designated as important agricultural lands by the Land Use Commission (LUC), which lands would then be managed by DOA. We offer technical amendments that add clarity and certainty to the designation process.

Amendments to Address Specific Concerns

1. Sections 6 and 8, Important agricultural land; agricultural housing.

The language should clearly limit the incentive to agricultural housing on designated important agricultural lands (IAL), and should include a cap on the total acreage of IAL used for agricultural housing and requiring clustering so as not to fragment productive IAL. The following amendments would address these concerns.

- a. Page 7, line 21 through page 8, line 3, Make explicit the agricultural housing focus:

“§205- Important agricultural land; [residential] agricultural housing. A landowner [of lands qualifying under section 205-44] may develop, construct, and maintain [residential] dwelling units for lease or rent to farmers, agricultural employees, and their families[;] on land designated as important agricultural land pursuant to this part; provided that:...”

- b. Page 8, lines 18-22, Limit the area developed for agricultural housing.

There should be a cap on the total acreage to be removed from agricultural use, to avoid residential expansion that is inappropriate for rural areas. As there will be considerable variation in how IAL leases and parcels will be configured, this poses difficulty in setting the policy standard for this element. At a minimum, we recommend:

- 1) Limiting the total land area per farm dwelling to the minimum lot size allowed under the Department of Health's (DOH) individual wastewater system rules (currently 10,000 square feet), and consider capping the total amount of land for agricultural dwellings at ____ acres; and
 - 2) Requiring the housing to be clustered on a contiguous land area, sited away from the most productive agricultural land, and with limited infrastructure and site improvements to minimize impervious surface area as appropriate for rural areas.
- c. Page 9, line 9, Include a requirement for lease provisions that ensures that agricultural housing will be maintained for agricultural purposes:

“(7) The renewal and termination of dwelling unit leases shall be contingent upon active agricultural operations or agricultural employment on the land controlled by the farmer or the agribusiness employer.”

- d. Section 8, Important agricultural lands agricultural business tax credit, Paragraph (D), agricultural housing.

Paragraph D, page 16, defines a separate, more permissive set of standards for agricultural housing on IAL in the tax codes, which conflict with the agricultural housing standards in Section 6. Rather than insert conflicting agricultural housing standards in the tax codes, it is more appropriate and consistent to have costs related to agricultural housing as defined in Chapter 205, HRS, under Section 6 of the bill be defined as a “qualified agricultural cost” under Section 8. OP recommends the following amendment for this.

- 1) Page 16, line 11 through page 17, line 3, Replace current language with:

“(D) Agricultural housing provided pursuant to section 205- , as enacted under section 6 of this Act.”

2. Sections 2, 8, 14 and 15, Definitions of agricultural business are inconsistent.

The various tax incentives should use the same definition for “agricultural business,” either one already defined in the tax codes or one of those used in the bill. Variation in definition will only complicate administration of the tax codes, as some types of agricultural producers would be eligible for one incentive but not another.

3. Part IX, page 26, line 1-20, Language clarifying the process for designation of State-owned IAL.

OP offers the following amendments to provide more certainty regarding the timing and process for the identification and designation of State-owned important agricultural lands, to include at a minimum one public informational meeting in the designation process.

“§205- Important agricultural lands; public lands. (a)

Notwithstanding any law to the contrary, [before] by December 31, 2009, the department of agriculture and the department of land and natural resources shall [collaborate to identify] **submit maps to the land use commission that delineate public lands as defined under section 171-2 that should be designated important agricultural lands as defined in section 205-42[and shall cause to be prepared maps delineating those lands]. The departments shall collaborate in the identification process [In making the designations, the departments] and shall use the standards and criteria of section 205-44 in the delineation of lands for designation.**

[(b) The designation of important agricultural lands pursuant to this section shall not be subject to the district boundary amendment procedures of section 205-3.1 or 205-4 or declaratory order procedures of section 205-45.]

~~[(e)]~~**(b)** Notwithstanding any law to the contrary, ~~[beginning January 1, 2010, after]~~ **within ninety days of the** receipt of the maps of public lands identified as important agricultural lands pursuant to subsection (a), the commission shall designate the public lands as important agricultural lands and adopt the maps of those public lands. **The commission shall conduct at least one public informational hearing on the proposed maps of state important agricultural lands. The proceeding of this section shall be a quasi-legislative, non-adjudicatory function of the land use commission and shall be exempt from chapter 91. All meetings of the proceeding shall be subject to part I of chapter 92. Any decision under this section shall require five affirmative votes. The important agricultural lands designation shall take effect upon the commission's approval of the maps of important agricultural lands.** Upon designation, the public lands shall be subject to this ~~[chapter]~~ **part.**”

4. Reinstatement of a fiscally-responsible tax credit for real property tax payments on IAL that is enrolled in a county agricultural dedication program.

We defer to the Department of Taxation on how such a credit should be structured, but we support continued discussion of this tax credit. Agricultural dedication programs are a common tool in other localities and states with successful agriculture and agricultural land protection programs.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

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HOUSE COMMITTEE ON FINANCE

TESTIMONY REGARDING SB 2646 SD 2 HD 1 RELATING TO AGRICULTURAL LANDS

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: MARCH 28, 2008

TIME: 4:30PM

ROOM: 308

This bill provides an income tax and general excise tax exemption for rental proceeds of certain leases of important agricultural lands. This bill also provides a tax credit for important agricultural land costs.

The House Committees on Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture amended the measure by inserting the contents of HB 2357 HD 1.

The Department of Taxation (Department) has concerns with this legislation.

I. INCOME TAX & GENERAL EXCISE TAX EXCLUSION.

This bill seeks to amend Chapter 235 and 237, relating to the income and general excise taxes respectively, to exclude from taxation income earned and proceeds received from certain important agricultural land leases with the following terms:

- 20 years; or
- Any other lease length term, mutually agreed upon by the parties if the lease rent is set by an independent appraisal using the lower of comparable value or agricultural capitalization methodologies.

The Department's comments and concerns apply equally to both the income tax exclusion under Chapter 235 and the general excise tax exemption under Chapter 237 because these proposed amendments are nearly identical—

EXCLUSION/EXEMPTION OF LEASE RENT; REVIEW BY THE DEPARTMENT OF AGRICULTURE—In Part II, Section 2, the language of subsection (a) of the income tax exclusion should read as follows:

"§235- Rental income from agricultural leases on important agricultural lands excluded from gross income. (a) In addition to the exclusions in section 235-7, there shall be excluded from gross income, adjusted gross income, and taxable income, rental income, including lease rents, in an amount not to exceed \$ _____ that is received by a taxpayer subject to the taxes imposed by this chapter, that is derived from agricultural leases on lands identified and designated as important agricultural lands pursuant to part III of chapter 205, for the taxable year the rental income was realized; provided that:

- (1) The minimum length of the initial lease term shall be:
 - (A) Twenty years or more; or
 - (B) A lease term of less than twenty years that is mutually agreeable to the lessor and lessee, if the amount of the lease rent is set by an independent appraisal using the lower of the comparable value or agricultural capitalization appraisal methodologies and the lease arrangement, including the amount of the lease rent determined by an appraisal, is reviewed and approved by the department of agriculture; and
- (2) The lease is in effect and the lessee is continuously and substantially undertaking agribusiness on leased land, pursuant to chapter 205, as verified by the department of agriculture on a regular basis using a process determined by the department of agriculture; provided that the exclusion shall not apply if the lease is terminated or the department of agriculture determines that the leased land is not continuously and substantially used for agribusiness.

The rest of subsection (a) is unnecessary and confusing. The language in subsections (b) and (c) should remain the same.

RENTAL INCOME—The Department points out that the rental income exemption under the general excise tax provision may be unintentionally overbroad. This provision could be read to exempt "all rental income," even rental income from non-agricultural land.

The Department suggests the following amendments:

"(4) Income received as lease rents as provided in section 235-_____ in an amount not to exceed \$ _____."

II. ECONOMIC IMPACT; ADDITIONAL APPROPRIATIONS.

The Department offers for the Committee's consideration an amendment to the appropriation sections of this measure to include both the Department of Taxation and Department of Agriculture's involvement in studying the economic impacts of this measure. Primarily, the Department points out that it is the only agency with access to federal and state tax information. However, Department of

Agriculture serves as the experts in the subject matter of this legislation. The Department believes that the following appropriations may best serve the intent of the Legislature in discerning this bill's effectiveness:

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2008-2009 for the department of taxation to collect and analyze data to make an aggregated quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from income and general excise taxation, including one full-time equivalent (1.0 FTE) economist position for the department of taxation.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

SECTION 5. The department of taxation, in consultation with the department of agriculture, shall submit to the legislature an annual report, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2010, regarding the quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from income and general excise taxation.

Also, the Department requests a general appropriation to ensure proper administration of the tax credits provided by this measure. The administration of the tax credit will require substantial costs relating to developing administrative rules, developing forms, modifying the Department's computer system, public outreach, processing, among other necessary activities:

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$150,000 or so much thereof as may be necessary for fiscal year 2008-2009 for the department of taxation to administer the important agricultural land qualified agricultural cost tax credit, including forms modification, computer enhancements, public outreach, tax processing, and other incidental costs.

The sum appropriated shall be expended by the department of taxation for the purposes of this Act.

The Department of Agriculture concurs with the foregoing requests for appropriations and the allocations of study and report obligations.

III. REVENUE ESTIMATE.

This legislation will result in the following revenue impact to the general fund, assuming the bill were effective for FY 2009:

Total Revenue Loss Projection	
Year	Total
FY2009	\$ 7.15 million
FY2010	\$ 9.94 million
FY2011	\$ 11.33 million
FY2012	\$ 12.72 million
FY2013	\$ 14.12 million
Annually thereafter	\$ 14.12 million

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2646, S.D. 2, H.D. 1

March 28, 2008

RELATING TO IMPORTANT AGRICULTURAL LANDS.

Senate Bill No. 2646, S.D. 2, H.D. 1, proposes, among other things, to amend Chapter 155, Hawaii Revised Statutes, by adding a new section that would authorize the chairperson of the board of agriculture to guarantee loans relating to agricultural projects located on important agricultural lands.

The Department opposes the wording contained in the proposed section below and recommends language in Part V, Section 12 be amended as follows:

“§155-____...(3) The department of agriculture possesses sufficient funds to provide an appropriate reserve for the loan guaranty and which, in the chairperson of the board of agriculture’s judgment, are in excess of the amounts necessary for meeting the immediate requirements of the department of agriculture and will not impede or hamper the fulfillment of the financial obligations of the department of agriculture.”

In addition, we recommend that the Department of Agriculture (AGR) establish a maximum loan guaranty cap as the amount guaranteed will count against the State’s debt limit.

Furthermore, the AGR should also determine a reasonable reserve requirement for each loan guaranteed under this section. As the bill authorizes the AGR to guarantee

loans, it is prudent for the AGR to both establish a reasonable reserve requirement and manage such reserve in order to ensure the making of the loan guarantees will not impact the AGR's ability to meet its financial obligations.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

March 28, 2008

The Honorable Marcus Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

**Subject: Senate Bill 2646 SD2, HD1
Relating to Important Agricultural Lands**

The Department of Planning and Permitting **opposes** certain elements of Senate Bill 2646 SD2, HD1, which would provide incentives to establish and sustain agricultural operations on Important Agricultural Lands (IAL), and amend the process to designate IAL.

We are deeply supportive of designating and protecting IAL lands. We appreciate the financial incentives offered by this measure. However, we cannot support the land use provisions of Senate Bill 2646, SD2, HD1 with respect to farm dwellings and expedited processing, and the exemption from the county surcharge on state tax.

With respect to farm dwellings, we recognize the importance of providing for them in the state agricultural district. However, under Part III, Section 6 imposes more caveats on farm dwellings. It creates a distinction between farmers' dwellings and employee dwellings. We fail to see why this is critical; the only purpose for this distinction appears to be to allow a farmer's immediate family to live separately from the farmer, while an employee's family cannot. We question whether this is a compelling state interest under Chapter 205, which governs the land use commission and the statewide districting of lands. We believe this is far too detailed for statewide application, and should be better addressed by county zoning and other regulatory codes.

Section 6 would also regulate the amount of land area which is occupied by dwellings and all appurtenances, although the exact limit is yet to be determined. However, rather than fix a standard across all farm lands, it may be more prudent to determine the allowable amount based on the merits of the request and the characteristics of the land on which the dwellings are to be located, the type of agricultural activity occurring on-site as well as nearby. For example, on Oahu, an agricultural lot may only have 2 farm dwellings as of right; any more will require either subdivision action or cluster approval. Also, for your information, each farm dwelling, including all accessory uses is limited to 5,000 square feet of land.

The Honorable Marcus Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
Re: Senate Bill 2646 SD2, HD1
March 28, 2008
Page 2

We propose that sub-section 205- (5) be deleted. It stipulates that residential subdivisions would not be allowed on IAL. Please be aware that under the city's zoning code, the only type of dwellings allowed under agricultural zoning is a farm dwelling, which must be tied to agricultural income from the same lot. Therefore, we do not process a subdivision request for strictly residential use. Also, the language of this sub-section states that a landowner shall not "plan" a residential subdivision. This is problematic and unenforceable.

Part VII of the bill would mandate priority processing for any permits under Titles 13 and 19, HRS, with respect to agricultural processing facilities. From a land use perspective, this would affect state land use boundary amendments, state special permits, special management area use permits, and shoreline setback variances. It may also affect "201H" affordable housing requests that have a relationship with agriculture, but we assume it does not affect Chapter 343 environmental documents.

We reiterate our support for the protection of IAL and the need for new incentives to keep these lands in active agricultural use. However, agricultural processing facilities, and many other uses are noble public initiatives, but cannot all be assigned permit priority. When one project is given priority, it means placing that application ahead of all others, which means the processing of applications for other projects will be delayed even longer.

Your Committee must be cautious not to short circuit time-tested procedures in a rush to support the latest cause *du jour*. It seems that more and more causes are emerging with each seeking to expedite processing in the name of promoting or protecting a particular need or interest. We ask that if the legislature is adamant on establishing permit priorities, it does so within the full context of considering all types of projects, a formidable task. If the legislature is so inclined, we are ready to participate in such a discussion.

Alternatively, consider funding the Third Party Review program for agricultural processing facilities. Under this program, building permit plans would be reviewed by qualified private sector companies and individuals who would essentially perform the review work normally done by city staff. By using this option, the building permit process can be shortened without affecting other projects and permit applications already in line for processing.

Part IX of the Bill would direct the departments of agriculture and land and natural resources to identify the public lands that should be designated as IAL. Under proposed subsection (b), this process would not include the state land use commission boundary amendment procedures, or the declaratory order procedures for IAL designation outlined under Chapter 205, HRS. Yet proposed subsection (c) stipulates that after January 1, 2010, the identified lands shall be designated by the commission as IAL, and the respective maps adopted by the commission. Regardless of the timeframe, we believe that the lands proposed for IAL designation by the state departments should be part of the county mapping process so that

The Honorable Marcus Oshiro, Chair
and Members of the Committee on Finance
The House of Representatives
Re: Senate Bill 2646 SD2, HD1
March 28, 2008
Page 3

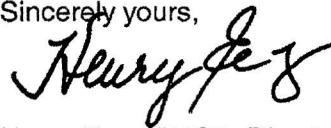
designation of all IALs can occur with a regional perspective under an inclusive, public review process, rather than by isolated decisions based on land ownership.

Lastly, we are concerned about the potential loss of income to the county transit project by the proposed GET exemption under Section 3 of the bill. While we do not object to excluding agricultural lease income from GET, we request that this income not be excluded from the surcharge tax.

To sum, please amend House Bill 2646 SD2, HD1 as requested above, before passage.

Thank you for the opportunity to testify.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Henry Eng".

Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
sb2646sd2hd1-kh.doc

Personal Testimony Presented before the
House Committee on Finance
March 28, 2008
4:30 p.m.
by
Dr. Andrew G. Hashimoto

SB 2646, SD2, HD1: Relating to Important Agricultural Lands

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Andrew Hashimoto, and I serve as Dean of the UH Mānoa College of Tropical Agriculture and Human Resources (CTAHR). I am pleased to provide personal testimony on Senate Bill 2646, SD2, HD1, which provides incentives and protections to establish and sustain viable agricultural operations on important agricultural lands, and provides for the designation of important agricultural lands on public lands. This testimony is presented from the perspective of the dean of CTAHR and someone who has participated in the Important Agricultural Lands discussions for the past five years. It does not represent the position of the University of Hawai'i.

I support SB 2646, SD2, HD1.

In 1978, the Hawaii State Constitution was revised to add Article XI, Section 3, which mandates: "The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands." Act 183, Session Laws of Hawai'i 2005 established 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.

SB 2646, SD2, HD1 represents another step toward securing the future of agriculture in Hawai'i. The incentives and protections provided by SB 2646, SD2, HD1 reflect years of discussion and study in which diverse groups have come together with the common goal of conserving important agricultural lands and ensuring a vital, sustainable agricultural industry in the state. SB 2646, SD2, HD1 will create value and stability for landowners and agribusinesses and will promote the establishment and long-term survival of agricultural ventures on important agricultural lands.

Thank you for the opportunity to testify on this bill.



**The Chamber of
Commerce of Hawaii**
Since 1850

**Testimony to the House Committee on Finance
Friday, March 28, 2008 at 4:30 p.m.
Conference Room 308, State Capitol
(Agenda #3)**

RE: SENATE BILL NO. 2646 SD2 HD1 IMPORTANT AGRICULTURE LANDS

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

My name is Christine H. H. Camp, Chair of the Chamber of Commerce of Hawaii, Land Use and Transportation Committee. The Chamber of Commerce of Hawaii supports the intent of S.B. No. 2646 SD 2 HD1 provided specific amendments are incorporated.

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.

S.B. No. 2646 SD 2 HD1 has been replaced with the wording contained in HB 2357. The present version of the bill now provides for the following:

1. Does not require the amount of lease rent to be reviewed or approved by DOA if the lease term is shorter than 20 years for purposes of the income tax and general excise tax exemptions;
2. Does not include the IAL real property tax credit;
3. Provides that an unspecified percentage of total IAL land area may be occupied by the farmer and employee dwelling units;
4. Refers to the IAL agricultural business tax credit as the IAL qualified agricultural cost tax credit;
5. Requires a taxpayer to obtain a letter from DOA specifying the qualified agricultural costs that will be claimed, rather than authorizing the taxpayer to request one;
6. Requires DOA to identify sources of water for agricultural operations, particularly on IAL and current and future water needs on IAL;
7. Declares that the incentives for IAL in this Act satisfy the requirements of section 205-46, Hawaii Revised Statutes, and section 9 of Act 183, Session Laws of Hawaii 2005;
8. Does not provide a sunset date;
9. Requires the Department of Land and Natural Resources (DNLR) and DOA to jointly identify and map public lands to be designated as IAL;
10. Requires the Land Use Commission to designate those lands identified by DNLR and DOA as IAL; and
11. Transfers management responsibility over the lands designated as IAL to DOA.

Page 2 of 2

The Chamber of Commerce of Hawaii Testimony on SB 2646 SD2 HD1
March 28, 2008

Act 183, SLH 2005 established a process to identify important agricultural lands (IAL). The IAL designation was established during the 1978 Constitutional Convention. 27 years passed before Act 183 was passed.

Act 183 was based on the promoting "Agricultural Viability" as opposed to 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, attempts were also made to have the Counties enact incentives to promote agricultural viability in their respective counties. Neither of these efforts have resulted in meaning incentives being put in place to stimulate interest in designating lands IAL.

In order to declare that this bill satisfies the requirements of Act 183 in providing the necessary incentives, we believe that the House considers adding the wording from HB 2807 to this bill and allow for reclassification of agricultural lands to rural or urban, consistent with County plans, in exchange for lands being designated IAL. Currently, the House bill allows for a 4:1 ratio or 80%/20% meaning that for every 4 acres of agricultural lands designed by the LUC as IAL, the LUC may reclassify 1 acre of agricultural lands to urban or rural, as long as the reclassified lands fall within areas identified for urban expansion by the Counties. We strongly support this as an incentive for IAL designation and suggest that while further discussions are occurring on the specific ratios, the House include this provision in SB 2646.

Passage of this bill without suggested amendment should not constitute fulfilling the spirit and intent of Act 183 when it was drafted.

We strongly support SB 2646 with our proposed amendment. We believe that meaningful incentives are needed to promote and the growth of agribusinesses in the State. It is through this growth that we will be able to preserve and protect viable agricultural operations in Hawaii.

Thank you for this opportunity to express our views.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, Exclusion for rental income; tax credit on important agricultural lands

BILL NUMBER: SB 2646, HD-1

INTRODUCED BY: House Committees on Water, Land, Ocean Resources and Hawaiian Affairs and Agriculture

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to exclude from state income taxation the gross income, adjusted gross income, taxable income, the rental income, including lease rents, derived from agricultural leases on lands identified and designated as important agricultural lands received by a taxpayer. The exclusion shall not exceed \$ _____. Requires each taxpayer who claims the exclusion to annually provide information to the department of agriculture to enable an aggregated quantitative and qualitative assessment of the impact of the exclusion.

Amends HRS section 237-24.75 to exempt from the general excise tax, rental income, including lease rents, derived from agricultural leases on lands identified and designated as important agricultural lands. The exemption shall not exceed \$ _____.

Specifies that the minimum term of the lease term for the income tax exclusion or the general excise tax exemption shall be 20 years or any other lease term mutually agreeable to the lessor and lessee as further delineated in the measure.

Appropriates an unspecified amount of general funds for fiscal 2009 to permit the department of agriculture to collect and analyze data to make an aggregated quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from the income and general excise tax. Directs the department of agriculture to submit a report annually to the legislature on the quantitative and qualitative assessment of the impact of the exclusion of rental income from important agricultural lands from the income and general excise tax beginning with the 2010 regular session.

Adds a new section to HRS chapter 235 to allow taxpayers to claim a refundable important agricultural lands qualified agricultural cost tax credit of the qualified agricultural costs incurred by an agricultural business during the taxable year provided that the credit amount shall be reduced by the amount of funds received by an agricultural business from the irrigation repair and maintenance special fund. The credit shall be 50% of the qualified agricultural costs made up to a maximum of \$ _____; 20% in the following year up to a maximum of \$ _____; 10% in the next three years up to a maximum of \$ _____ for each year. No other income tax credit may be claimed for agricultural costs for which a credit is claimed under this section.

Requires the department of agriculture, in consultation with the department of taxation, to evaluate the effectiveness of the tax credit. Further requires the department of agriculture, in consultation with the department of taxation, to determine the types of information that must be submitted annually to enable a

quantitative and qualitative assessment of the credit to be determined. Requires the taxpayer, by the end of the taxable year following the close of the taxable year in which the qualified costs were expended, to submit a written statement to and certified by the department of agriculture to be eligible to receive the credit. Stipulates that this statement shall be a public document.

Appropriates an unspecified amount of general funds for fiscal 2009 to the department of taxation for the costs to administer the important agricultural land qualified agricultural tax credit. Appropriates an unspecified amount of general funds for fiscal 2009 to the department of agriculture for the costs to administer the important agricultural land qualified agricultural cost tax credit and one full-time equivalent planner position for the department.

Makes further nontax appropriations and amendments to establish incentives and protections relating to important agricultural lands.

EFFECTIVE DATE: July 1, 2008; applicable to tax years beginning after December 31, 2007

STAFF COMMENTS: This measure proposes an incentive to encourage landowners to have their lands designated as important agricultural lands through the use of an income tax exclusion and a general excise tax exemption on rental income derived from such lands. It also proposes additional tax relief to landowners by proposing a tax credit for qualified agricultural costs incurred on important agricultural lands.

While it appears that this measure is proposed as an incentive to encourage the agricultural use of lands which qualify as important agricultural lands, it should be remembered that the tax system is not an efficient method to accomplish such goals. In addition, since the proposed measure would grant preferential treatment to a select group of taxpayers at the expense of other taxpayers who are ineligible for the exemption, its enactment cannot be justified. This proposal makes the assumption that just because the lease rent from lands that are farmed as important agricultural lands would be exempt from taxation, the landowners will not convert those lands to some other use.

If, in fact, there is a much higher use for those lands where the return on investment will be greater than the rent realized from leasing it out for agricultural use, the land owner will, in fact, convert the lands short of any obstacle placed in the way such as permitting and zoning hurdles. What the exemption does do is reward those landowners whose land has no better use than farming. It is not the cost of the tax, both net and gross income, that determines whether or not a landowner keeps such a scarce commodity in a particular use. Indeed, if land use and zoning rules do not permit any other use, the landowner may have no other choice but to lease it for as agriculture and enjoy the exemptions as well. For the lessee who would be the farmer, the tax is not the key factor in determining whether or not to engage in farming as much as it is the amount of the rent to be paid. The supply and demand of lands for farming will determine the market as far as the rate charged for that rental.

If these tax exemptions and credits are adopted, why shouldn't small businesses also ask for a similar exemption on their lease rents as many do not own their own place of business. As with homeowners faced with rising valuations of their homes, everyone doesn't want to pay more or even their fair share. Granting classes of taxpayers exemptions without regard to their need for tax relief is poor tax policy, erodes the tax base and shifts the burden to other taxpayers, unless . . . lawmakers are willing to give up spending as much as they have been accustomed to doing with hard earned tax dollars.

Rather than merely handing out a tax preference where there is no indicator of financial or economic need for that tax break, state government should explore ways to support farmers in not only making important agricultural lands available for rent at reasonable costs but also insure that the crops produced command a reasonable rate of return with such skills as marketing, packaging and distribution. Granting a tax break on the rent received from important agricultural lands does not insure that farmers will be successful and be able to continue farming those important agricultural lands.

This measure proposes an income tax credit to assist agricultural businesses that own, hold, or use a majority of their lands as important agricultural lands. While the proposed measure would grant a tax credit of 50% of the qualified agricultural costs incurred by an agricultural business for the first year, 20% in the second year and 10% for the next three years, this would result in a partial subsidy of those costs by the state as it would pay for those improvements indirectly and through the back door called tax credits. While the proposed measure would grant tax credits regardless of a taxpayer's need for tax relief, the adoption of this measure would result in other taxpayers who do not qualify for the credit paying for those improvements that are owned by one taxpayer.

If the intent of lawmakers is to pay for such improvements out of the public treasury, than an appropriation of public funds is more appropriate. A specific appropriation would have to compete with all other demands on the public treasury and would have to undergo the scrutiny of lawmakers as they set priorities for the state's limited resources.

Note well that in order to qualify for the credit, at least 50% of the land the agricultural business owns, leases, or uses is declared important agricultural land pursuant to HRS chapter 205, part III. It has been nearly 30 years since the 1978 constitutional convention inserted the provision that important agricultural lands be preserved for agricultural use. Although HRS chapter 205 was recently established and no findings or declarations have been made, there is no doubt that the problems that plagued the designation of important agricultural lands for the last 30 years will continue to plague the implementation of chapter 205. Further, lawmakers should question the implementation of this proposal. Will the credit apply if the parcels of lands are not contiguous or for that matter the qualifying improvements are made to that portion of the agricultural businesses' lands that are not declared important agricultural lands? Since a qualifying expenditure for the credit includes costs for agricultural processing facilities that process crops or livestock, will a processing or packaging plant located in an industrial area qualify for the credit? If indeed, declarations are made under HRS chapter 205 and claims are made for the credit, this proposal could prove to be a costly incentive. On the other hand, if the track record of declaring important agricultural lands is any indicator, this credit may never be used. In any case, a sunset date should be set so lawmakers can evaluate the success or failure of this credit.

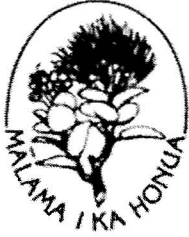
The long and short of it is that the people of the state of Hawaii will be subsidizing all qualified costs of these businesses for years to come. Though it looks like a five-year credit, the credit is claimed over a period of five years after the costs are incurred up to 100% of those costs in year one. But do not overlook the fact that 100% of the costs incurred in year two will also qualify for the 100% return of the money expended albeit over the next five-year period. What other business in Hawaii can have their operating and capital costs paid for by the taxpayers except for perhaps high technology businesses? Meanwhile, the poor taxpayer continues to slave under the tax burden that is funding some private enterprise all in the name of designating important agricultural lands.

It should be noted that this tax proposal appears to be an incentive, if not a subsidy, to encourage

agricultural activity in the state. If the ultimate goal is to perpetuate agricultural activity then the problem needs to be approached from the opposite end, that is, what can state government do to support and encourage agricultural activity so that farmers can earn a profitable living farming the land? To date, all state government has done is to stand in the way of successful farming enterprises by burdening farmers with regulation upon regulation. The state has to be a part of the solution and not a part of the problem. Enacting tax incentives, as this measure proposes, does not address the problems faced by farmers today and in the future.

From a planning point of view, because the designation of important agricultural lands is being left up to the landowner who happens to be engaged in agricultural activity basically on a commercial scale, it precludes taking a holistic approach to the future of Hawaii. Instead of being able to step back and deciding what the current and future needs of the people of Hawaii are and will be, there will be a willy-nilly approach to land use planning. Instead of policymakers setting directions for the future, they are throwing out carrots of tax incentives so they can abdicate their responsibility for setting land use planning priorities. Even the Final Report on Incentives for Important Agricultural Land would have preferred that important agricultural lands be designated but acknowledges that no policymaking body has had the will, if not the courage, to undertake the task in the nearly 30 years since that amendment was added to the constitution. Thus, this proposal is not only fiscally irresponsible but it is a demonstration of how elected officials shrink from their responsibility to make a decision.

Digested 3/27/08



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.537.9019 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON FINANCE

March 28th, 2008, 4:30 P.M.

(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO SB 2646 SD2 HD1 (PART III ONLY)

Chair Oshiro and members of the Finance Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, opposes SB 2646 SD2 HD1, an omnibus agricultural measure, because of its allowance of residential housing on lands deemed "important agricultural lands" (Part IV of the measure). While we fully support efforts to increase the attractiveness and viability of farming in Hawai'i, we must balance those interests against other critical environmental and societal goals while minimizing the opportunity for commercial interests to exploit resources at the public's and future generations' expense.

We are concerned about the invitation to allow residential development on lands that are identified as the best ("important") agricultural lands—particularly occupying up to 20% of the important agricultural land (IAL), which was a percentage specified in earlier drafts of this measure.

First, the counties historically have been lax in defending the land use law and preventing rural sprawl on agricultural lands. Due to weak enforcement of agricultural land protection, farmland has been subject to the type of real estate speculation that drives up the price of land further out of reach for local residents and local farmers. It has made it difficult to effectively plan Hawaii's future and ensure orderly development. Further, residential developments on ag-zoned lands do not allow for adequate public input on the impact on our community. Although this measure contains controls on what type of housing may be built, it still may open the door to further abuse unless additional protection is put into place. This committee has considered measures in the past that would effectively close some of the loopholes exploited by developers to create "ag housing." Those measures should be reexamined this session.

Second, while we understand that housing for farm workers is important to support farm activities, why does the residential housing need to be built on lands designated as "important?" Such housing should be put on adjacent rural lands or, if absolutely necessary, on agricultural lands that are not designated as "important."

Finally, allowing important agricultural lands to be covered with development is antithetical to the constitutional charge to protect agricultural lands. If this committee is unwilling to delete this part of SB 2646 SD2 HD1, this acreage allowance should at least be reduced to a more appropriate percentage, perhaps 1 – 2% of the total acreage.

Thank you for the opportunity to testify.



Maui County Farm Bureau

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

HEARING BEFORE THE
FINANCE COMMITTEE

**TESTIMONY ON
SB 2646, SD 2, HD1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chair Ito, Chair Tsuji 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 SUPPORTS** SB2646 SD@, an IAL Omnibus Bill providing incentives to begin the IAL process, **with amendments**.

Important Agricultural Lands is a Agricultural Viability initiative. While there are examples of agricultural successes across the state we have more examples of agriculture struggling or failing. During the past year we have seen dairies close so now we only have dairies on the Big Island after next month. Egg farms now can be counted on one hand. I think both of these industries are agricultural commodities critical to self sufficiency, yet we are loosing them. What will be next? When will the people of Hawaii get excited that we may be loosing agriculture and do something about it?

This Initiative is the chance. It provides the incentives needed to have farmers and landowners commit to long term agricultural operations.

One of the incentives is working with the Counties for a package. On Maui I saw a project we were very excited about fall to the wayside because of delayed permitting. An expansion that originally was expected to cost \$600,000 and provide an opportunity for two of the siblings to return from college to work on the farm was lost. These farm youngsters were taking college classes to prepare them in business and marketing to take over this operation. Yet, delayed permitting made this vision just a dream. The \$600,000 price tag mushroomed to \$1.2 million ...beyond the reach of the farmers. We must not let these opportunities continue to pass us.

The cost associated with the tax incentives with questions about the level at which a cap should be placed has been raised. The Hawaii Department of Agriculture estimates the ANNUAL cost to control the little fire ant to be in the neighborhood of \$210 million. The estimated revenue loss due to the tax incentives is not even half of the amount. Instituting the IAL program and encouraging locally grown high risk crops will reduce our risk of introduction of these invasive species. These initiatives should

not only be looked at as an investment towards Hawaii's sustainability and increased self sufficiency but also as a cost containment measure.

Throughout the process, water has been a much debated issue. As farmers and ranchers it is very obvious that lands without access to affordable and reliable water supplies cannot support viable farming and ranching operations. The amendment proposed by HFBF addresses this issue. Uncompensated or expenditures, farmers sitting in courtrooms instead of working in fields, defending water do not grow crops or livestock ...in fact it will result in failure of the operations. If such actions requiring a defense of agricultural access to water does not occur, this tax credit will not be used.

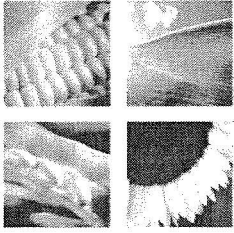
Additionally, despite the Right to Farm provisions in Hawaii State Statutes, there are numerous examples in which our farmers and ranchers need to expend resources to protect such rights. Therefore, we respectfully suggest the following amendment to address the water and right to farm issues. Added to the "qualified agricultural costs" under Part IV:

(4) Regulatory processing, studies, legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.

Both provisions would support the long term use of designated IAL for their intended purpose. We do not want to see lands designated as IAL be removed due to the above reasons.

We respectfully request that the suggested **level of tax credits be restored.** We also request your **support towards the passage of this Bill with the suggested amendments to provide a comprehensive package of incentives to support Important Agricultural Lands.. With its passage, the process will provide the basis for landowners to designate their lands as Important Agricultural Lands as soon as possible.** We support all amendments proposed by HFBF. Time is of the urgency. We cannot lose any more farmers or ranchers.

Thank you very much for this opportunity to provide our opinion and your consideration of our proposals.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony by: Sarah Styan

SB2646hd1, Important Agricultural Lands

House FIN Committee

Friday, March 28, 2008

Room 308: 4:30 pm

Position: Support

Chair Oshiro, and Members of the House FIN 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.

HCIA expresses its support for the Legislature in its policy work for the designation of important agriculture lands. This measure addresses incentives and protections to establish and sustain agricultural operations on IAL. These incentives and protections range from tax exemptions and credits, loan programs, agricultural workforce housing, zoning recommendations for affordable housing on rural lands, and county incentives. In particular we support the work of the AWUDP. Without water, the best agriculture lands are not of any use.

All aspects of incentives and protections are needed and supported. We ask for your support of this measure. I can be reached at 808-338-8300 ext. 113 if there are any questions.

Thank you for the opportunity to present testimony.

**HCIA 2007-2008
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March 28, 2008

The Honorable Marcus Oshiro, Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: S.B. 2646, SD2, HD1 Relating to Important Agricultural Lands
Hearing Date: Friday, March 28, 2008 @ 4:30 p.m., Room 308

Dear Chair Oshiro and Members of the Committee on Finance.

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS® (HAR) **supports the intent** of S.B. 2646, SD2, HD1.

S.B. 2646, SD2, HD1 provides mechanisms for incentives for the preservation of important agricultural lands (IAL) and the long term expansion of agriculture in Hawaii. The preservation of IALs and long-term agricultural productivity in Hawaii is best assured through meaningful incentives for the designation of IALs.

Mahalo for the opportunity to testify

**SB 2646 SD2 HD1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

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

MARCH 28, 2008

Chair Oshiro and Members of the House Committee on Finance:

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 SB 2646 SD2 HD1, "A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS." We support 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.

Rental Income On Agricultural Leases

This bill provides both an exclusion from gross income and an exemption from general excise taxes for rental income derived from agricultural leases on lands identified and designated as IAL. In addition to encouraging land owners to lease their IAL lands to active farming operations, these provisions should also result in a reduction in the amount of the rent charged to the farmer for the IAL parcel. We believe that this provision should assist in sustaining active agricultural operations on IAL designated lands.

Housing

Housing accommodations for farmers and their employees is an important component in the success of many agricultural operations. This provision will allow residential dwellings for farmers, their employees and their families on IAL subject to a list of conditions and criteria. With Hawaii's high housing costs and tight labor market, the ability for the farmer to have housing accommodations on IAL in the immediate vicinity of their crops is anticipated to be of significant benefit to IAL farming operations.

Infrastructure Tax Credit

Major infrastructure requirements such as irrigation systems, roads and utilities, and agricultural processing facilities play a critical role in the survival of many agricultural businesses, and the infrastructure tax credit portion of this bill will provide important financial support for IAL related farming operations. In addition to assisting

these agricultural operations in the repair and maintenance of their existing infrastructure, this tax credit will also serve as a stimulus to encourage these entities to expand their operations or to enhance their operating efficiencies through the installation of new agricultural infrastructure, equipment, and other related improvements to service their farming operations. Importantly, this bill also includes provisions to require the quantitative and qualitative assessment of this tax credit, so that the Legislature, and others, can have access to information on the effectiveness of this incentive program.

Loan Guaranty

The loan guarantee portion of this bill will authorize low cost loans for farmers to establish or expand their IAL related agricultural operations or to develop necessary IAL related infrastructure. These provisions will assist in providing farmers with a means of obtaining necessary financing to initiate, maintain, or to expand their agricultural businesses. We believe that this loan guarantee may especially be useful to the smaller farming operations that may experience difficulty in obtaining financing in the open financial market.

Expedited Permits

This bill will also establish and implement a procedure for the priority processing of permit applications and renewals for agricultural processing facilities that process crops or livestock from an IAL related agricultural business. It is anticipated that this bill will result in a total net time savings for an IAL related agricultural processing facility to obtain their necessary permits, which should result in an overall cost savings for the facility. We believe that this incentive may encourage agricultural processing facilities to

process crops or livestock from IAL related agricultural businesses, thus increasing the availability of these services to IAL related agricultural businesses.

Based on the aforementioned, we respectfully request your favorable consideration on this bill.

Thank you for the opportunity to testify.

Castle & Cooke
Hawai'i



100 Kahu Avenue
Mililani, Hawaii 96789-3997
P.O. Box 898900
Mililani, Hawaii 96789-8900
(808) 548-4811 Fax (808) 548-6670

March 28, 2008

Honorable Marcus Oshiro, Chair
Honorable Marilyn Lee, Vice Chair
House Committee on Finance
Hawai'i State Capitol, Conference Room 308; 4:30 p.m.
415 South Beretania Street
Honolulu, HI 96813

RE: SB 2646 SD2 HD1 - Relating to Important Agricultural Lands – Support with Changes
House Committee on Finance
March 28, 2008, 4:30 p.m., Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee:

I am Harry Saunders, President of Castle & Cooke Hawai'i. We appreciate the opportunity to testify on SB 2646 SD2 HD1 which would provide incentives to landowners who designate their land as important agricultural lands.

The intent of Act 183 (2005) "is not only to set policies for important agricultural lands and to identify important agricultural lands but also to provide for the development of incentives for agricultural viability in Hawaii, particularly for agricultural enterprises that farm important agricultural lands and for landowners that designate their lands as important agricultural lands. These incentives would be designed to promote the retention of important agricultural lands for viable agricultural use over the long term."

We support the farm operator incentives as contained in SB 2646 SD2 HD1 and landowner incentives proposed in HB 2807, HD2 and respectfully request that the dialog continue to further refine and create a comprehensive incentive package. For these reasons, we ask your Committee to consider further refining to SB 2646 SD2 HD1.

We strongly feel that a comprehensive incentive program for both farmers and landowners is essential to move IAL forward. And, we respectfully point out that LAND is the key component to this issue and its use and benefit to address farmers and landowners must be considered.

Mahalo for your interest in hearing our position. Should you have any questions, feel free to contact Carleton Ching, Vice President of Government and Community Relations, at 548-3793, or Mark Takemoto, Natural Resources Administrator at 548-6656.

Sincerely,
Harry A. Saunders
President

Castle & Cooke Hawai'i consists of the Hawai'i subsidiaries of Castle & Cooke, Inc. which include Castle & Cooke Homes Hawai'i, Inc., Castle & Cooke Properties, Inc., Castle & Cooke Resorts, LLC and other subsidiaries



Food Company Hawaii

1116 Whitmore Avenue Wahiawa, Hawaii 96786

March 28, 2008

Honorable Marcus Oshiro, Chair
Honorable Marilyn Lee, Vice Chair
House Committee on Finance
Hawai'i State Capitol, Conference Room 308; 4:30 p.m.
415 South Beretania Street
Honolulu, HI 96813

RE: SB 2646 SD2 HD1 Relating to Important Agricultural Lands – SUPPORT
House Committee on Finance
March 28, 2008, 4:30 p.m., Conference Room 308

Aloha Chair Oshiro, Vice Chair Lee and Members of the Committee:

I am Dan Nellis, Operations Director of Dole Food Company Hawaii ("Dole"). Thank you for the opportunity to share our views on SB 2646 SD2 HD1 - Relating to Important Agricultural Lands.

Dole supports the establishment of meaningful incentives for all impacted landowners who voluntarily designate their valuable agricultural lands as a condition to implementing the Important Agricultural Lands (IAL) Act. But it is imperative that such a comprehensive package include meaningful and adequate options for all landowners in different situations, not just independent farmers and small landowners.

We support these and other incentives proposed in HB 2807, HD2 that allow for concurrent designation of IAL and the reclassification of agricultural lands to Rural or Urban District so long as the reclassification is consistent with the relevant county general plan.

As you consider IAL legislation, please remember that it is important that any IAL package include a sufficient variety of incentives such that there is attraction for voluntary designation in a multitude of scenarios. The intent of the IAL was to set policies for and to establish the

framework for identifying important agricultural lands; however, it should also provide for the development of true incentives for agricultural viability in Hawai'i.

As always, we are grateful for the opportunity to share our views with you.

Sincerely,

Dan Nellis
Operations Manager, Dole Food Company Hawaii



TESTIMONY IN STRONG SUPPORT OF SB 2646, SD2, HD1 – House Finance Committee

March 28, 2008

4:30 PM – Conference Room 308

Chair Oshiro and respected committee members, I am Landis Maez, President of BlueEarth Biofuels. BlueEarth Biofuels is building a state-of-the-art biodiesel plant on Maui which will significantly advance the State toward fossil fuel independence. We will eventually be replacing all of the petroleum diesel used by the Maui Electric Company with sustainable (as certified via independent 3rd party audit) biodiesel and moving Maui closer to real fossil fuel independence while making a significant positive impact on life-cycle greenhouse gas emissions.

BlueEarth's philosophy is all about 'Doing It Right' and setting the bar very high for our industry. Part of 'Doing it Right' includes creating local feedstock sources to; enhance our energy security, create jobs within the agricultural sector, preserve our agricultural lands, and re-green fallow agricultural lands with important revenue producing crops.

In walking-the-walk, BlueEarth is investing heavily in the required brick-and-mortar to stimulate meaningful local agriculture investment and will be sharing our profits with local agriculture for ongoing bio-crop infrastructure development. More importantly, we have fully committed to buying local feedstock when it becomes available and will do so under long-term contracts (including adequate financial guarantees for each of those contracts) with growers as they need not shoulder the out-year price and quantity risk burden for their new crops and associated agricultural businesses.

BlueEarth Biofuels strongly supports SB 2646, SD2, HD1, which provides the stimulus and incentives required to preserve important agricultural lands. This coupled with the biodiesel industry's responsibility to secure long-term financially backed offtake contracts with local farmers and producers will further enhance our State's ability to meet the environmental, energy security, and economic challenges that lie ahead.

We see this bill as a way to preserve our important agricultural lands and a positive step towards ending the State's dependence on fossil fuels. Thank you for your time and consideration in allowing me to submit written testimony.