

**HAWAII FARM BUREAU FEDERATION
2343 ROSE STREET
HONOLULU, HI 96819**

MARCH 28, 2008

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

**TESTIMONY ON
SB 2646, SD 2, HD 1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Priority

*2005
Act 183*

Chair Oshiro and Members of the Committees:

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

The Hawaii Farm Bureau Federation **strongly supports SB 2646, SD 2, HD 1, with amendments, providing mechanisms to begin the IAL process.** Since enactment of the Constitutional Mandate, HFBF has consistently worked for passage of IAL legislation. Working with the landowners, we finally see that this vision can become a reality. But we need the support of the Legislature, the Administration and County Governments.

*HB 2357
public
purpose
given the State's
financial
situation*

The incentives within this package were developed over time with many discussions. They cover a wide range of incentives covering the critical areas for long term agricultural expansion in Hawaii. We understand as these incentives are passed, a similar package must be passed by the Counties. We respectfully request that the Legislature lead the path. Please do not put us in a position of the State waiting for the Counties and the Counties waiting for the State to enact incentives first. The lead by the State will send a loud message to the Counties that the IAL process can happen if everyone cooperates in the process.

The price tag for this measure is often called to question. HFBF believes agriculture is key to increasing Hawaii's self sufficiency as well as an important component to fighting invasive species ...a key topic in discussion. So, the question should be, what is the price for self sufficiency?

We respectfully request your strong support in passing this Bill and getting the IAL process started. We must not forget, IAL only happens because there are farmers and ranchers. IAL is not a land use initiative. It is an agricultural viability initiative.

We are working with LURF and it's members as well as respective state agencies to further discuss this measure. We continue to believe that some assurance of water for IAL is critical.

Page 2 – Hawaii Farm Bureau

House Finance Committee (3/28/08) - SB 2646, SD 1, HD 1

We would like to add on page 17, Section 8, another subparagraph (4) to read:

(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.

This qualified cost will provide the needed assurance for the possibility of incurred costs.

We respectfully request your support and passage of SB 2646, SD 1, HD 1. Thank you.



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



LATE

BY E-MAIL

March 28, 2008

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

Testimony in support of HB 2646, SD2, HD1 Relating to Agricultural Lands

Dear Chair Oshiro and Members:

My name is Dave Arakawa, and I am the 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 regulation affecting common problems in Hawaii.

We appreciate the opportunity to provide testimony our testimony **in strong support of SB 2646 SD2, HD1**, which is the Senate's version of the Important Agricultural lands ("IAL") Omnibus Bill. This bill provides incentives and protections for farmers operators to establish and sustain viable agricultural operations on IAL; however, it does not presently include any significant landowner incentives to designate IAL. Thus, we would also **strongly recommend that your Committees approve three amendments to the bill**, relating to: (1) tax credits for the costs of applications and appeals relating to water allocations for IAL; and (2) incentives for designating IAL (similar to the language in HB 2807, HD2), whereby landowners may satisfy affordable housing requirements on rural lands, and (3) also petition the Land Use Commission ("LUC") for reclassification of portions of their other agricultural lands to rural, urban or conservation, as long as the reclassification is already consistent with existing County plans.

Background relating to Act 183 and IAL Incentives. Thirty years ago, during the 1978 Constitutional Convention, the concept of incentives to encourage the designation and farming of IAL was made a part of Hawaii's Constitution. Twenty-seven years later, in 2005, the Legislature passed Act 183, Relating to Important Agricultural Lands. The Act emphasizes farmers, land owners and the government working together to incentivize the creation and promotion of viable agricultural operations on IAL, as opposed to merely focusing on designating a certain number of acres of land based solely on soil classifications. Act 183 was a direct result of building consensus among the agricultural stakeholders on areas of agreement as opposed to focusing on areas of disagreement. Act 183 represents a collaboration of a variety of different interests

groups, community representatives and agricultural stakeholders, including the Hawaii Farm Bureau Federation (“Farm Bureau”), LURF and the Department of Agriculture (“DOA”).

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. It also established certain “milestones” for performance on the part of the legislature, State administration, private landowners, farmers, and the Counties. Most importantly, Act 183 requires **a complete set of incentives for both the farm operators and the land owners**, before a declaration of satisfaction can be issued to confirm that the requirements of HRS §205-46 and Part II, §9 of Act 183, SLH 2005 have been fully met. The process of the approval of IAL incentives is ongoing, and we anticipate further work to be done by the agricultural and landowner stakeholders, by state legislators, as well as by county administrators and council members with respect to IAL incentive legislation. Thus, “the clock should not start” on IAL designations (declaration of satisfaction), until there is a comprehensive IAL incentive package that addresses both incentives for farming interests and landowners.

SB 2646 SD2, HD1. This proposed bill would provide the following incentives to establish and sustain viable agricultural operations on important agricultural lands, including the following:

- **PART II State Income Tax and General Excise Tax (“GET”).** Exclusion from income tax and exemption from GE tax collected on IAL leases. This bill would amend Chapter 235, HRS by adding a new section that would allow rental income from agricultural leases on IAL to be excluded from gross and adjusted gross income, and taxable income, under certain conditions. This measure would also exempt rental income derived from agricultural leases on IAL from the general excise tax law, under certain conditions;
- **PART III Residential (Agricultural Workforce) Housing.** Allow agricultural workforce dwelling units on IAL lands to be used exclusively by farmers, employees and their immediate family members who actively and currently farm on the IAL lands. Total land area for housing shall not exceed an unspecified percentage of total IAL; the farmers’ and employees’ dwelling units must meet all applicable building code requirements; the landowner shall not plan or develop a residential subdivision; and the plans for the dwelling units must be supported by Agricultural Plans which are approved by the DOA;
- **PART IV Important Agricultural Land Qualified Agricultural Cost Tax Credits.** Provides tax credits for qualified agricultural costs for, among other things, plans, design, engineering, construction, renovation, repair, maintenance and equipment primarily for agricultural purposes for roads, utilities, agricultural processing facilities, water wells, reservoirs, dams, water storage facilities, pipelines, ditches or irrigation systems, agricultural workforce housing, other related professional costs. The five (5) years of tax credits are as follows: 50% of qualified agricultural costs for the year the costs are expended; 20% for the following year; and 10% for the following three (3) years. Includes refundable tax credit to support farmers with limited income. The maximum caps for these credits shall be set by the legislature. Every taxpayer who applies for the credits shall submit an annual written statement which will include information which will allow the quantitative and qualitative assessment of the outcomes of the tax credit to be determined. The Department of Agriculture (“DOA”) in consultation with the Department of Taxation (DOTAX), shall submit

- an annual report evaluating the effectiveness of the tax credit, and findings and recommendations to improve the effectiveness of the tax credit to further encourage the development of agricultural businesses;
- **PART V Loan Guaranty Program for Important Agricultural Lands.** This would allow the Chairperson of the Board of Agriculture, after consultation with the Director of Finance (confirmation of sufficient funds), to guarantee loans made by commercial lenders (authorized to do business in Hawaii) to agricultural producers to develop and implement agricultural projects on IAL. The terms of the loans shall be as follows: for operating costs – ten (10) years, for capital improvement costs – twenty (20) years. The interest rate charged on the loan shall be one percent below the commercial lender's prime rate. The loan guarantee may be for up to eighty-five percent (85%) of the outstanding principal amount of the loan, but shall not include fees or accrued interest. The maximum amount of the loan shall not exceed \$2.5 million;
 - **PART VI Information for State DOA Agricultural Water Use and Development Plan and Master Irrigation Inventory Plans.** The proposed bill would include the following:
 - Require the inventory to cover both public and private irrigation water systems;
 - Add the identification of source of water used for agricultural operations, particularly those on IAL;
 - Add the identification of current and future water needs for agricultural operations, particularly those on IAL; and
 - Add that each county water use and development plan include a status of water and land development on IAL.
 - **PART VII State Priority Permit Processing for Agricultural Processing Facilities.** Requires any applicable state agency issuing permits to establish and implement a procedure for the priority processing of permit applications and renewals, at no additional costs, for agricultural processing facilities which process crops or livestock from an agribusiness with a majority of lands held, owned, or used as IAL.
 - **PART VIII Declaration of Satisfaction.** This provision declares that this Act establishes the incentives for the designation of IAL in satisfaction of section 205-46, Hawaii Revised Statutes ("HRS"), and section 9 of Act 183, Session Laws of Hawaii 2005 (SLH").
 - **PART IX Mapping, designation and management of public IAL.** New language from HB 2361, HD1 was added, which requires the Department of Land and Natural Resources ("DLNR") and DOA to jointly identify and map public lands to be designated as IALs; requires the Land Use Commission to designate those lands identified by DLNR and DOA as IALs; and transfers management responsibility over the lands designated as IALs to DOA.

Support for the Farm Bureau and LURF Omnibus IAL Incentives Package.

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. Act 183 represents a collaboration of a variety of different interests

groups, community representatives and agricultural stakeholders, including the Hawaii Farm Bureau Federation (“Farm Bureau”) and LURF.

LURF’s Recommendation for Amendments to SB 2646 SD2 HD1. LURF has worked with the Farm Bureau and both have agreed to propose the following amendments, which provide incentives relating to irrigation water to assist in maintaining viable agricultural operations and other measures to provide significant incentives for landowners to designate IAL:

- **Addition to Part V**, allowing tax credits for expenses for applications and appeals relating to agricultural water allocations. We understand that the Hawaii Farm Bureau will provide the language for this addition.
- **A new PART X**, which would be very similar to the IAL landowner incentive language in HB 2807 HD2, which would:
 - (1) allow a landowner, who has been granted a declaratory order from the LUC) to designate all or some of the landowner's land as IAL, to fulfill a state or county affordable housing assessment (assessment) by providing affordable housing in lands zoned as rural in lieu of satisfying the assessment in the urban district;
 - (2) revises the landowner petition process for IAL designation by specifying that a farmer or landowner may petition LUC for declaratory order to designate lands as IAL and allowing farmers or landowners that petition the LUC for declaratory order to seek, in the same petition, a reclassification of land from the agricultural district to the rural district, urban district, conservation district, or a combination of any, if said reclassification is consistent with the relevant county general plan, and subject to other certain conditions.
 - This new section should be almost identical to HB 2807, HD2, except for the following revisions: deletion of references to “in perpetuity,” deletion of land classification criteria that is inconsistent with Act 183, and allowing for future credits for landowners who designate IAL.
- **PART VII, the “declaration of satisfaction” provision, warrants further discussion.** Further discussions and work will be necessary by the farmers, landowners and legislators this session, as well as with the counties. A declaration of satisfaction may be premature at this time, because it depends on the final versions of H.B. No. 2357 HD1, SD1; SB 2646 SD2, HD1 and H.B. No. 2807, H.D. 2, SD1. We believe that if all the parties work together (including the counties), perhaps such a declaration could be made soon.

Conclusion. LURF strongly supports SB 2646 SD2, HD1, which is Senate’s version of the IAL Omnibus Bill, and provides incentives and protections for farmer operators to establish and sustain viable agricultural operations on IAL. However, Act 183 calls for a comprehensive package of meaningful incentives for both farmers and landowners, and unfortunately, the current version of SB 2646, SD2 HD1 does not include meaningful landowner incentives. Thus, LURF would respectfully request that your Committee also to add the amendments proposed by LURF and the Farm Bureau, which will then create a comprehensive IAL incentive package that addresses both incentives for farmers and landowners to develop viable agricultural operations throughout the State of Hawaii.

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