

SB 3209

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 SENATE COMMITTEE ON AGRICULTURE & HAWAIIAN AFFAIRS
February 7, 2008
2:45 P.M.

SENATE BILL NO. 3209
RELATING TO TAX CREDITS

Chairperson Tokuda and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3209 which establishes a tax credit for qualified agricultural costs incurred by an agricultural business. The Department of Agriculture supports the intent of this bill provided that it does not negatively impact the priorities of the Executive Biennium Budget. We defer to the Department of Taxation as to the actual construction of the tax credit and offer the following comments:

- This should not be a refundable tax credit.
- There should be a recapture feature in the event that at the end of five years the individual or entity receiving the credit is no longer a qualified agricultural business.
- A sunset date for the credit should be established, we suggest a 10 year period from date of approval.
- 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.

**Hawaii
Crop
Improvement
Association**

Paul Koehler, Past-President, Board Member
2111 Piilani Highway
Kihei Hawaii 96853
Phone: 808-879-4074 Fax: 808-879-0499

Testimony by: Paul Koehler
SB 2915, Relating to Taro
Senate AHW Committee
Thursday, Feb. 7, 2008
Room 224: 2:45 pm

Position: Strong Support

Chair Tokuda, and Members of the Senate AHW Committee:

My name is Paul Koehler. I am a Maui resident, Past-President and sitting Board Member of HCIA. The HCIA represents seed production and research facilities operating in Hawaii. 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.

Appreciation is expressed for this and other taro measures introduced this year. While HCIA member companies do not grow taro, nor do we plan to grow taro, we have and continue to support the preservation and protection of taro in Hawaii. As testified in other sessions, HCIA respects the cultural significance of taro, and supports the Hawaiian community's discussion of research and development for taro.

We offer our support of SB 2915, which provides funding to support the continuation of the Department of Agriculture discussion under the auspices of SCR 206, as well as the specific appropriations listed to assist in the revision of Bulletin 84, Taro Varieties in Hawaii (1939), and for the protection of the Molokai taro varieties collection.

Thank you for the opportunity to present testimony.



MAUI LAND & PINEAPPLE COMPANY, INC.

February 5, 2008

The Honorable Senator Jill N. Tokuda, Chair
The Honorable Senator J. Kalani English, Vice Chair
Committee on Agriculture and Hawaiian Affairs
Hawaii State Senate
Hawaii State Capitol
415 South Beretania Street, Room 224
Honolulu, Hawaii 96813

Subject: SB 3209 -- Relating To Tax Credits

Dear Honorable Chair Tokuda, Honorable Vice Chair English and Committee Members:

Maui Land & Pineapple Company, Inc. strongly supports SB 3209 -- Relating to Tax Credits.

The subject legislation will provide for an agricultural land tax credit for qualified agricultural costs incurred by an agricultural business. Maui Land & Pineapple Company, Inc., through its agricultural subsidiary, Maui Pineapple Company, Ltd., has been farming pineapple on the island of Maui for almost 100 years. The company is currently in a transitional phase where the business model is being changed from being primarily a canned pineapple producer to a fresh whole pineapple supplier. The change in the business model requires significant investments in the business due to the difference in market demands. The market demands that fresh whole pineapple be supplied 12 months out of the year. Maui Land & Pineapple Company, Inc. is committed to making our business succeed for the long-term because of the significant part that the company has in the community. The incentive provided by the bill will help in achieving this objective.

Maui Land & Pineapple Company, Inc. respectfully requests your support of the subject legislation.

We sincerely appreciate the opportunity to provide our testimony. If you have any questions or wish to discuss our testimony, please do not hesitate to contact me at (808) 877-3882.

Mahalo,

Warren A. Suzuki
Senior Vice President

**SB 3209
RELATING TO TAX CREDITS**

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

FEBRUARY 7, 2008

Chair Tokuda and Members of the Senate Committee on Agriculture & Hawaiian Affairs:

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 3209, "A BILL FOR AN ACT RELATING TO TAX CREDITS." 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.

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 contained in 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.

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

Thank you for the opportunity to testify.

L E G I S L A T I V E

LATE**TAXBILLSERVICE**

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Agricultural land tax credit**BILL NUMBER:** SB 3209; HB 3342 (Identical)**INTRODUCED BY:** SB by Tokuda and 1 Democrat; HB by Chong, B. Oshiro, Tsuji, Yamashita

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow taxpayers to claim an agricultural land tax credit of the qualified agricultural costs incurred by the taxpayer 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 20% of the qualified agricultural costs made up to a maximum of \$50,000; 10% in the next three years up to a maximum of \$25,000 for each year. No other income tax credit may be claimed for agricultural costs for which a credit is claimed under this section. The credit shall be available for tax years beginning after December 31, 2007.

Delineates provisions for the determination of the credit in the case of a partnership, S corporation, estate, trust or other pass through entity. If a deduction is taken under IRC section 179 (with respect to election to expense depreciable business assets), no tax credit shall be allowed for that portion of the qualified cost for which the deduction is taken. Specifies that the basis of eligible property for depreciation of accelerated cost recovery system purposes shall be reduced by the amount allowable and claimed.

Tax credits in excess of income tax liability shall be refunded to the taxpayer provided such amounts are over \$1. Requires all claims for the credit to be filed on or before the twelfth month following the close of a taxable year.

Prior to claiming the credit, the taxpayer may request a letter from the department of agriculture specifying the qualified cost in the taxable year the credit will be claimed. Requires the taxpayer to provide information to the department of agriculture prior to the issuance of the letter.

Directs the department of agriculture, in consultation with the department of taxation, to determine the types of information necessary on an annual basis to enable a quantitative and qualitative assessment of the outcomes of the tax credit to be determined. Delineates procedures for the submission of the statement required to claim the credit.

Defines "agricultural businesses," "agricultural land," "net income tax liability" and "qualified agricultural costs" for purposes of the measure.

Directs the director of taxation to prepare the necessary forms to claim the credit, require proof of the claim, and adopt rules pursuant to HRS Chapter 91.

Requires the department of agriculture, in consultation with the department of taxation, to submit an annual report to the legislature evaluating the effectiveness of the credit, including findings and

SB 3209; HB 3342 - Continued

recommendations to improve the effectiveness of the credit to further encourage the development of agricultural businesses.

Appropriates \$ _____ in general funds for fiscal 2009 to the department of taxation for costs to administer the agricultural land tax credit.

Appropriates \$ _____ in general funds for fiscal 2009 to the department of agriculture for costs to administer the agricultural land tax credit including the hiring of one full-time equivalent planner as necessary staff. The appropriations shall take effect on July 1, 2008.

EFFECTIVE DATE: Upon approval as noted in the measure

STAFF COMMENTS: This measure proposes an income tax credit to assist agricultural businesses to make improvements to their infrastructure, roads, facilities, etc., on their agricultural lands. While the proposed measure would grant a tax credit of 20% of the qualified agricultural costs incurred by an agricultural business for the first year, and 10% in 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, its adoption 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. If this were an appropriation, would the taxpaying public be as enthusiastic in support if they knew they were paying for half of the cost of these improvements that would then belong to an individual? It is much akin to proposing that all taxpayers pay for half of the cost of a new house because the person building the house couldn't afford the full cost.

It should be noted that if this tax proposal is to encourage agricultural activity in the state, 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.

Digested 2/06/08