

STAND. COM. REP. NO.

692

Honolulu, Hawaii

March 5, 2009

RE: H.B. No. 1226

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Agriculture, to which was referred H.B. No. 1226 entitled:

"A BILL FOR AN ACT RELATING TO GENETICALLY MODIFIED PLANT ORGANISMS,"

begs leave to report as follows:

The purpose of this bill is to prohibit state administrative regulatory actions and county regulatory actions from banning or otherwise regulating activities related to genetically modified plant organisms, with certain exceptions.

The Department of Agriculture and several organizations and individuals supported this bill. Numerous organizations and concerned individuals opposed this bill. An organization and an individual submitted comments.

Your Committee notes that this bill includes exceptions to the preemption provisions. The provisions of this bill are not superior to any county ordinance that became effective before January 1, 2009, and that prohibits any person from taking certain actions relating to particular species of genetically engineered plant organisms. Your Committee intends that the exemption apply only to Hawaii County Ordinance No. 08-154 which prohibits any person from testing, propagating, cultivating, raising, planting, growing, introducing, or releasing genetically engineered or recombinant DNA taro or coffee in the County of Hawaii. Your Committee does not intend that the exemption apply to any future

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amendment to Ordinance No. 08-154 that may attempt to expand its applicability to other plant organisms. Your Committee deems that this amending ordinance would not meet the condition of being effective before January 1, 2009. Your Committee recognizes that concerns have been raised regarding the date of January 1, 2009, as it relates to the exception for county ordinances that take effect before this date. As this measure does have implications for home rule and is still a work in progress, your Committee welcomes continued discussion on this matter.

Your Committee finds that biotechnology will become increasingly important in the future to feed the population of the United States and the world, and meet their energy demands. Scientific research and improvement of food and energy crops will be necessary to increase productivity, yield, quality, and drought, pest, or disease resistance.

Your Committee also recognizes the importance of biotechnology in the economy of the state. In the agricultural industry of Hawaii, the seed corn component now ranks second. Your Committee believes that productive sectors of the state's economy should be promoted in these difficult times within parameters that do not endanger the public health.

Accordingly, your Committee acts favorably on this bill. Your Committee finds that it will provide a level of legal protection in Hawaii for the genetic modification of plant organisms and use of genetically modified plant organisms. Your Committee believes that the legal protection is necessary to promote investor and business confidence in the biotechnology industry. Your Committee further finds that, if done in compliance with federal requirements, the genetic modification of plant organisms will be conducted safely.

After consideration of House Bill No. 1663, Regular Session of 2009, however, your Committee recognizes that the genetic modification of Hawaiian taro or use of genetically modified Hawaiian taro is not appropriate within the state. Consequently, by separate action, your Committee has approved House Bill No. 1663, in an amended form, H.D. 1, which, among other things, prohibits certain activity with respect to Hawaiian taro.

To be consistent with that action, your Committee believes that this bill should be revised to specify that it shall not be superior to any state statute that prohibits the development, testing, propagation, release, importation, planting, or growing



within the State of Hawaii of any genetically modified Hawaiian taro.

Your Committee recognizes that this revision is not necessary since this bill prohibits certain "state administrative regulatory actions" and "county regulatory actions" which, as defined in this bill, do not include a "state statute". Your Committee, however, has chosen to include the express provision in this bill to allay concerns with respect to Hawaiian taro.

Finally, your Committee has not defined "Hawaiian taro" in this bill. Your Committee intends that "Hawaiian taro" mean the same as defined in House Bill No. 1663, H.D. 1. It is your Committee's intent to have that measure and this measure passed and enacted together as a complementary package.

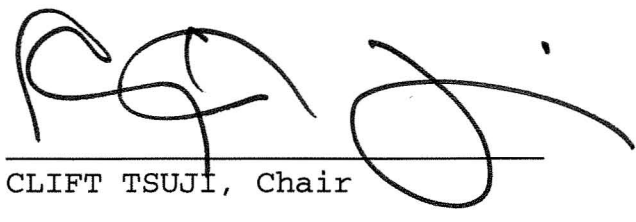
In light of these discussions, your Committee has amended this measure by;

- (1) Deleting the provision that establishes that the provisions of this bill are not superior to any state administrative regulatory action or county regulatory action that bans, restricts, or otherwise regulates the genetic modification of taro or the testing, planting, or growing of genetically modified taro;
- (2) Establishing that the provisions of this bill are not superior to any state statute that prohibits the development, testing, propagation, release, importation, planting, or growing of any genetically modified Hawaiian taro within the state; and
- (3) Making technical, nonsubstantive amendments for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1226, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1226, H.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Agriculture,



CLIFT TSUJI, Chair



