

STAND. COM. REP. NO.

1268

Honolulu, Hawaii

March 27, 2009

RE: S.B. No. 1152

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 Committees on Agriculture and Water, Land, & Ocean Resources, to which was referred S.B. No. 1152 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURAL LANDS,"

beg leave to report as follows:

The purpose of this bill is to preserve agricultural lands for agricultural use by imposing a 100 year moratorium on certain building and development projects on agricultural lands located in the 22<sup>nd</sup> and 23<sup>rd</sup> Senatorial Districts on Oahu.

HPC Foods, Ltd., and numerous concerned individuals supported this bill. The Office of Planning, Department of Planning and Permitting of the City and County of Honolulu, Kamehameha Schools, Land Use Research Foundation of Hawaii, and Bank of Hawaii opposed this bill. The Department of Agriculture and Hawaii Farm Bureau Federation submitted comments.

Your Committees note that significant issues were raised in testimony submitted for this measure. Concerns were raised regarding the long duration of the moratorium which may be perceived as a permanent restriction on private land, the lack of legal or factual justification for the moratorium, the lack of a variance process, and potential for litigation. Concerns were also raised regarding whether the provisions of this bill are sufficient to carry out the intent of preserving agricultural lands for agricultural use. This bill appears to remain silent on whether a landowner faced with the moratorium may simply petition

SB1152 HD1 HSCR AGR-WLO HMS 2009-3384

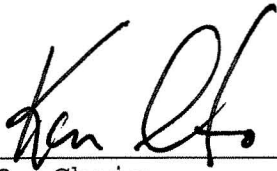


to reclassify lands out of the agricultural district, and the measure also does not address some of the critical needs of many agricultural operations, including the need to access reliable and stable sources of water. This measure may also have the unintended consequence of hampering efforts by landowners and farmers to subdivide their property to build employee housing and farm dwellings.

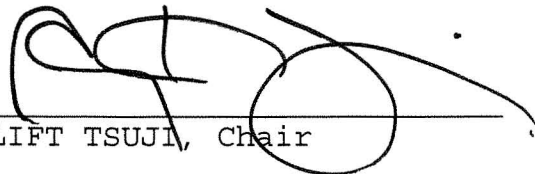
In light of these concerns, your Committees have amended this measure by changing its effective date to July 1, 2109. Other technical, nonsubstantive amendments have been made for style, clarity, and consistency.

As affirmed by the records of votes of the members of your Committees on Agriculture and Water, Land, & Ocean Resources that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1152, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1152, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committees on Agriculture and  
Water, Land, & Ocean Resources,



KEN ITO, Chair



CLIFT TSUJI, Chair





State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

**Record of Votes of the Committee on Water, Land, & Ocean Resources**

<b>Bill/Resolution No.:</b> SB 1152	<b>Committee Referral:</b> AGR/WLO, JUD	<b>Date:</b> 3/25/09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
WLO Members	Ayes	Ayes (WR)	Nays	Excused
1. ITO, Ken (C)	✓			
2. HAR, Sharon E. (VC)	✓			
3. CABANILLA, Rida	✓			
4. CHANG, Jerry L.	✓			
5. CHONG, Pono	✓			
6. COFFMAN, Denny	✓			
7. HERKES, Robert N.	✓			
8. LEE, Chris	✓			
9. LUKE, Sylvia				✓
10. MORITA, Hermina M.		✓		
11. SAGUM, Roland D., III		✓		
12. CHING, Corinne W.L.				✓
13. THIELEN, Cynthia		✓		
<b>TOTAL (13)</b>	8	3		2
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small>committee acronym(s)</small>				
<b>Vice Chair's or designee's signature:</b> _____ 				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				