LINDA LINGLE
Governor

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

Bill No. 1248

Support Y N

Date 3/23/09

Time 1709

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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
TUESDAY, MARCH 24, 2009
9:00 A.M.
CONFERENCE ROOM 325

SENATE BILL NO. 1248, S.D. 1, H.D. 1
RELATING TO STATE ENTERPRISE ZONES

Chairperson Morita and Members of the Committee:

Thank you for the opportunity to comment on Senate Bill No. 1248, S.D. 1, H.D. 1. The purpose of this bill is to improve the state enterprise zone program by allowing limited liability companies to be included under the definitions of "qualified businesses" and "service businesses," by extending the enterprise zone tax credits and exemptions for businesses engaged in the manufacturing of tangible personal property or in the producing or processing of agricultural products for an additional seven years, and by allowing the receipts, sales and employees of a business's establishments in all enterprise zones located within the same county to count towards qualification requirements.

The Hawaii Department of Agriculture (HDOA) acknowledges the merit of this measure as we believe that agriculture producers would benefit from an extension of enterprise zone tax credits and neighborhood revitalization programs that create agricultural jobs. However, we caution that an extension of tax credits and exemptions in this difficult economic period may be detrimental to the state budget and defer to the Department of Taxation as to the budgetary impact.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
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Bill No. 1248

Support Y N

Date 3/23/09

Time 1716

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HOUSE COMMITTEES ON ENERGY & ENVIRONTMENTAL PROTECTION

TESTIMONY REGARDING SB 1248 SD 1 HD 1
RELATING TO STATE ENTERPRISE ZONES

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 24, 2009
TIME: 9AM
ROOM: 325

In addition to making technical amendments, this legislation extends the income tax credit and general excise tax exemption for qualified businesses engaged in the manufacturing of tangible personal property or in the production or processing of agricultural products within an enterprise zone for an additional seven years.

The House Committees on Economic Revitalization, Business & Military Affairs and Agriculture amended the agriculture portion of the measure to require agriculture businesses pay the general excise tax on their revenues.

Given the current economic situation, the Department opposes the tax provisions in this measure due to their budgetary impact. The Department also offers comments on this legislation.

FINANCIAL CONCERNS—Under the current law, qualified businesses operating within an enterprise zone are given income tax credits ranging from 80% of their income tax liabilities in the first year of becoming a qualified business, to 20% in the seventh year (the percentage tax credit incrementally decreases by 10% per year for the second through the sixth years). Qualified businesses receive an additional income tax credit equal to a percentage of unemployment taxes paid during the first seven years of operations (using the same percentage schedule noted above). Moreover, subject to limited exceptions, qualified businesses are fully exempt from general excise tax for the first seven years of operating as a qualified business within an enterprise zone. This measure would extend the income tax credits (applying a 20% rate) and general excise tax exemption for qualified businesses that are manufacturers of tangible personal property or producers or processors of agricultural products for an additional seven years. The Department cannot support this measure at this time as the extension of such credits and exemption would result in significant revenue losses, exacerbating the budget shortfall.

OTHER COMMENTS – If this measure proceeds forward, the Department suggests that the amendment to subparagraph 3(A) of subsection (b), §209E-9, HRS, which addresses the extension of the credits, be clarified so that the "higher level of employment" that must be satisfied specifically references the level of employment attained in the seventh year of operating as a qualified business.

REVENUE IMPACT AND METHODOLOGY– Assuming a current effective date, this proposal is estimated to reduce total tax collections by about $300,000 annually.

William P. Kenoi
Mayor

Randall M. Kurohara
Director

Diane L. Ley
Deputy Director

County of Hawaii

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Bill No. 1248
Support Y N
Date 3/23
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March 24, 2009

The Honorable Hermina Morita, Chairperson
And Members of the House Committee on Energy and Environmental Protection
The Honorable Ken Ito, Chairperson
And Members of the House Committee on Water, Land & Ocean Resources
Hawaii State Capitol, Conference Room 325
415 South Beretania Street
Honolulu, HI 96813

RE: Senate Bill No. 1248, SD1, HD1 Relating to State Enterprise Zones

Dear Chairpersons Morita and Ito, and Committee Members:

Thank you for this opportunity to submit testimony regarding Senate Bill 1248, SD1, HD1, relating to State Enterprise Zones (EZ). The County of Hawaii Department of Research and Development strongly supports Senate Bill 1248, SD1, HD1, which allows manufacturers and agricultural producers to renew their EZ eligibility for an additional seven (7) years; and allows receipts, sales, and employees of a business establishment located within multiple enterprise zones in the same county to count toward qualification requirements.

Hawai`i Island has, by far, the largest extent of agricultural lands, number of farms and has the highest yield of agricultural products in the state. As a result of this, there is also a significant number of manufacturing operations related to agricultural production. It has been recognized that many crops take years to grow and reach market; thus the seven (7) year timeframe for the EZ program is insufficient for agricultural businesses to take advantage of EZ income tax credit benefits, since frequently there will be no revenues to pay taxes on during the growing out phase. Both agriculture and manufacturing are two business sectors that the Department strongly supports and allowing these businesses to renew their participation for an additional seven (7) in the EZ program, will greatly assist them during this challenging economic period.

The Department also supports allowing a business establishment located in multiple enterprise zones within the same county to qualify for the EZ program. Often operations are located in a rural enterprise zone area where labor and land is more affordable, and the sales and administrative offices may be located in an urban enterprise zone area, such as Hilo and Kona where more professionals and white collar labor is available.

Presently, businesses with split operations are not eligible for the EZ program because they are located in two or more enterprise zones. As land values increase, the practice of utilizing more affordable locations in other designated zones for production purposes will increase in the future.

The proposed amendments in Senate Bill 1248, SD1, HD1 will serve to modernize the EZ program by addressing these changing business models and allow additional agriculture and manufacturing businesses to participate in this employment-generating program; hence, your Committees' favorable consideration of this bill would be appreciated.

Sincerely,

Diane Ley

Diane Ley
Deputy Director

LATE TESTIMONY

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Expand enterprise zone eligibility

BILL NUMBER: SB 1248, HD-1

INTRODUCED BY: House Committees on Economic Revitalization, Business, and Military Affairs and Agriculture

BRIEF SUMMARY: Amends HRS section 209E-2 to amend the definition of "qualified business" to include a limited liability company as an eligible entity to receive enterprise zone benefits.

Amends HRS section 209E-9 to provide that the receipts, sales, and employees of a business' establishment in all enterprise zones located within the same county shall count toward enterprise zone qualification requirements.

Amends HRS section 209E-10 to provide that qualified businesses engaged in the manufacturing of tangible personal property or the producing of agricultural products shall be eligible for an extension of enterprise zone benefits for an additional seven years.

Amends HRS section 209E-11 to disallow genetically-engineered products and genetically-engineered agricultural products from receiving enterprise zone benefits. Also provides that the state general excise tax exemption for qualified businesses engaged in the manufacturing of tangible personal property or the producing of agricultural products shall extend for a maximum of fourteen years.

EFFECTIVE DATE: July 1, 2112

STAFF COMMENTS: This measure proposes to allow business entities that are structured as limited liability companies to receive enterprise zone benefits. The measure also extends enterprise zone benefits for certain businesses for an additional seven years, after its first seven-year period expires.

In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid for a period of seven years and also allows the sale of items sold by such businesses to be exempt from the general excise tax.

While it appears that it is the intent of the legislature to encourage new and existing businesses to expand their employment bases and increase their marketing territories, enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out businesses for preferential treatment merely confers preferences for those businesses at the expense of all other taxpayers.

Concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses. Enterprise zones are merely an abdication of government's responsibility to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need. It should be noted in a recent article in Chief Executive Magazine, Hawaii was number 41 in a ranking of the best states in which to do business. Hawaii also ranked number 49 in business friendliness, and number 49 in the cost of business.

Instead of expanding the enterprise zone program, the program should be repealed in favor of across-the-board tax relief for all businesses in Hawaii. For example, the consultant to the most recent Tax Review Commission suggested that all business-to-business transactions be exempt from the general excise tax as a means of reducing not only the cost of doing business in Hawaii but the overall cost of living.

Indeed, has there been a comprehensive evaluation of the program and do lawmakers know exactly how much enterprise zone businesses have benefitted and whether or not they have created the jobs promised when the program was first established? If, in fact, lawmakers believe that they need these special zones to attract businesses and to create jobs, what does that say about those areas of the state that are not so favored? Does, in fact, Hawaii's harsh business climate and poor reputation for a place to invest come as a result of providing such tax breaks at the expense of those businesses and individuals who cannot claim these tax incentives? Does the high burden of taxes have to be maintained because "tax relief" is extended to only a chosen few? This is the problem that lawmakers have created in recent years as they single out zones like these or select industries for most favored status. If that is the case, then lawmakers should hang out a sign that says don't come to Hawaii or invest in Hawaii unless you can secure a tax break from the legislature.

Digested 3/24/09