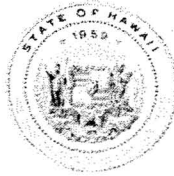


LINDA LINGLE  
Governor



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

**WRITTEN TESTIMONY OF SANDRA LEE KUNIMOTO  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON FINANCE  
WEDNESDAY, APRIL 8, 2009  
4:30 P.M.  
CONFERENCE ROOM 308**

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

Chairperson Oshiro 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.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE  
GOVERNOR  
THEODORE E. LIU  
DIRECTOR  
MARK K. ANDERSON  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
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Telephone: (808) 586-2355  
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Statement of  
**THEODORE E. LIU**  
Director

Department of Business, Economic Development, and Tourism  
before the

**HOUSE COMMITTEE ON FINANCE**

Wednesday, April 8, 2009

4:30 PM

State Capitol, Conference Room 308

in consideration of  
**SB 1248 SD1 HD1**  
**RELATING TO STATE ENTERPRISE ZONES.**

Chair Oshiro, Vice-Chair Lee and Committee members:

Given the current fiscal difficulties, the Department opposes the enactment of this bill. SB1248 SD1 HD1 extends EZ 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. It also allows the receipts, sales, and employees of a business's establishments in all enterprise zones located within the same county to count towards qualification requirements. Lastly, it removes from the current EZ program the research, development, sale, or production of genetically-engineered agricultural products as an eligible business activity.

Thank you for the opportunity to offer these comments.

# 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

# Testimony before the House Committee on

## Finance

### S.B. 1248 SD1 HD1 – Relating to State Enterprise Zones

Wednesday, April 8, 2009  
4:30 pm, Conference Room 308

By Arthur Seki  
Director of Technology  
Hawaiian Electric Company, Inc.

Chair Oshiro, Vice Chair Lee and members of the Committee:

My name is Arthur Seki—I am the Director of Technology at Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company (HECO) and its subsidiaries, Maui Electric Company (MECO) and Hawaii Electric Light Company (HELCO) hereinafter collectively referred to as HECO.

HECO supports S.B. 1248 SD1 HD1, which amends the state enterprise zone language and opens the area for renewable energy activities. Land availability and incentives for renewable energy development continue to be issues.

HECO offers these recommendations for your consideration:

1. Page 3, line 1—“Production of electric power from wind energy...” Replace wind energy with “renewable energy”. This will help all types of renewable energy development that may occur in the state enterprise zones.
2. Allow areas offshore to be located in the state enterprise zone for ocean energy development such as wave energy. As you may know, there are a number of ocean energy projects in Hawaii:
  - Ocean Power Technology (New Jersey) continues its wave buoy demonstration project off Kaneohe Marine Corp Base. A third buoy was deployed in June 2007. This demonstration includes an underwater electrical cable installed about 1 mile off Kaneohe Marine Base. HECO

engineers provided technical review and support for the interconnection design of this electrical system.

- OceanLinx (Australia) continues their development of a small wave farm off Pauwela Point on the northeast coast of Maui.
- Hawaii Natural Energy Institute was recently awarded a multi-year, multi-million dollar grant as a National Marine Renewable Energy Research Center. This Center will facilitate the development and implementation of commercial wave energy systems and assist the private sector in moving ocean thermal energy conversion systems beyond proof-of-concept to pre-commercialization, long-term testing. HECO is an industry partner in this program.

Thank you for the opportunity to present this testimony.

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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FAX NO: (808) 587-1560

## HOUSE COMMITTEES ON FINANCE

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

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: APRIL 8, 2009**

**TIME: 4:30PM**

**ROOM: 308**

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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. The House Committee on Energy & Environmental Protection passed this measure without additional amendments.

**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.

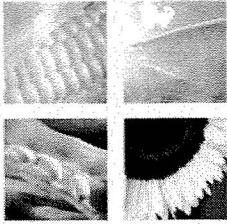
**FINANCIAL CONCERNS**—Under the current law, qualified businesses operating within an enterprise zone are given income tax credits ranging from 80% of their income tax liabilities in the first year of becoming a qualified business, to 20% in the seventh year (the percentage tax credit incrementally 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.

**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.





# Hawaii Crop Improvement Association

*Growing the Future of Worldwide Agriculture in Hawaii*

Testimony By: Alicia Maluafiti  
SB 1248sd1, hd1, Relating to State Enterprise Zones  
Hse FIN Committee  
Wednesday, April 8, 2009  
Room 308, 4:30 pm

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**Past President**  
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**Executive Director**  
Alicia Maluafiti

Position: Oppose As Written

Chair Oshiro and Members of the Hse FIN Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

Although HCIA member companies do not participate in EZ tax credits and exemptions, we strongly believe that agriculture enterprise zones, and the proposed extensions of the credits to include manufacturers and processors of agricultural products are of benefit to other qualified agribusinesses. We have supported SB 1248sd1 and other agriculture enterprise zone bill vehicles because it supports the nurturing and growth of Hawaii's agriculture industry.

However, we stand in strong opposition to SB 1248sd1, hd1 because of the deletion of references to genetically engineered agricultural products. This may have impact on the Hawaii papaya industry, floral industry and other farmers that may use a tool that is federally approved and in the case of food product, scientifically and government sanctioned as safe as conventional food products. Further, the HD1 in its definition of "Eligible business activity" (3) allows for the all types of medical or maritime biotechnology products to qualify for inclusion in the ag enterprise zones. Genetic engineering is a part of the spectrum of biotechnology.

SB 1248sd1,hd1 appears to be discriminatory against one segment of Hawaii's struggling business sectors and based on philosophical belief rather than on facts and support for a diversified, sustainable economy.

Thank you for the opportunity to testify.