

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
THURSDAY, FEBRUARY 18, 2010
3:00 P.M.
ROOM 308

HOUSE BILL NO. 2294, H.D. 1
RELATING TO AGRICULTURE

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2294, H.D. 1. The purpose of this bill is to make various amendments to the agricultural inspection and biosecurity laws, which includes the following (1) Exempts aggregate bulk freight, cement bulk freight, coal bulk freight, and liquid bulk freight from the Pest Inspection, Quarantine, and Eradication Service Fee; (2) Increases the purposes for the expenditures from the Pest Inspection, Quarantine, and Eradication Fund; (3) Requires the deposit of fees and fines relating to agricultural inspections into the Pest Inspection, Quarantine, and Eradication Fund; and (4) Repeals the Permit Revolving Fund, and Microorganism Import Certification Revolving Fund and transfer the moneys in those funds into the Pest Inspection, Quarantine, and Eradication Fund. The department supports this measure with some changes to Section 4 and would also like to provide additional supporting comments on this bill.

When Act 3 passed in the 2008 special session, it broadened the imposition of a fee for the inspection, quarantine, and eradication of invasive species contained in any freight to include not only commercial container shipments, but air freight, or any other means of transporting freight, whether foreign or domestic, that is brought into the State.

However, the 2008 legislation did not provide for the enforceability of collecting these fees from the person responsible for paying the freight charges, nor did it address the collection of said fees by to the transportation company and the failure by the transportation company to forward them to the department. By providing for a penalty for failure to pay or remit the service fee as proposed in this bill, accountability is established for the collection and remittance of said fees to the department. Therefore, the proposed provisions in this bill should assure the proper collection and deposit of the inspection, quarantine, and eradication service fee for incoming commercial freight.

The department also agrees with the several proposed definitions under Section 3 of this measure as it pertains to bulk freight that is sometimes pre-processed, or inspected and certified, and/or is unpackaged, homogenous materials, and without mark or count, that are usually free-flowing and bought and sold by weight or volume. As proposed in this bill, the department is supportive of the exemption from the fee for any aggregate bulk freight, cement bulk freight, coal bulk freight, or liquid bulk freight; however, the department would like to state for the record that although the aforementioned types of bulk freight may pose a very low-risk for invasive species entry, the surface vessel transporting these items may serve as a vector of invasive species, such as mosquitoes, rodents, and other human-related disease pathogens.

We would like the following amendments to Section 4:

"SECTION 4. Section 150A-4.5, Hawaii Revised Statutes, is amended to read as follows:

"(a) There is established in the state treasury the pest inspection, quarantine, and eradication fund, into which shall **be** deposited:

- (1) Legislative appropriations for inspection, quarantine, biosecurity, and eradication services;
- (2) Service fees, charges, and penalties collected under section 150A-5.3^[;] and section 150A-23;
- (3) Fees imposed for services pursuant to this chapter or rules adopted under this chapter;

(4) Fines for violations of this chapter;

~~[(3)]~~ (5) Federal funds received for biosecurity, pest inspection, control, management, quarantine, and eradication programs;

~~[(4)]~~ (6) Grants and gifts;

~~[(5)]~~ (7) All interest earned or accrued on moneys deposited in the fund;
and

~~[(6)]~~ (8) Any other moneys made available to the fund.

(b) The moneys in the pest inspection, quarantine, and eradication fund shall be expended by the department for the operation of pest inspection, quarantine, eradication, biosecurity, and monitoring programs, related facilities, the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department~~[-]~~training and education of inspectors and agricultural industry."

Testimony of The Nature Conservancy of Hawai'i
Commenting on H.B. 2294, HD1 Relating to Agriculture
House Committee on Finance
Thursday, February 18, 2010, 3:00pm, Rm. 308

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawai'i submits the following comments on H.B. 2294, HD1 Relating to Agriculture:

- **We strongly support reasonable service fees and meaningful fines (SECTION 2.) for failure to pay such fees** for the Hawai'i Department of Agriculture's (HDOA) invasive species inspection, quarantine and eradication activities. This is an appropriate way to support the critical functions of the HDOA to protect our economy, environment, health, and lifestyle from the introduction and spread of pests and diseases.
- **We are very concerned about creating a variety of precedent setting exemptions (SECTION 3.) to the service fees** collected by the HDOA for invasive species inspections. While the proposed exemptions appear to attempt to cover cargo that is perceived as low-risk pathways for invasive species, HDOA's inspectors still may need to conduct inspections of this cargo or its means of conveyance depending on its point of origin to ensure that indeed no pests are present. Furthermore, sand, gravel and crushed stone, especially from certain international sources, are well-known pathways for insects, spiders, weed seeds, and nematodes.

Our preference is that there are no complete exemptions to the inspection fee and recommend that a significantly lower fee structure be considered for these bulk freight items to account for their significant weight and that they are somewhat easier to inspect because they are not containerized.

We do appreciate the effort to add some qualifying language to the bulk freight exemptions. However, we should not delude ourselves into thinking that pre-processing, inspection and certification, especially in foreign countries, will always be a safe substitute for inspection by our own State Department of Agriculture.

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TESTIMONY

HB 2294HD1 RELATING TO AGRICULTURE

Chair Oshiro and Members of the Committee:

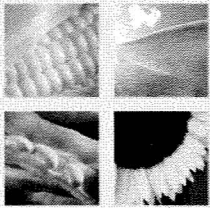
Hawaii Farm Bureau Federation on behalf of our farmer and ranch families and organizations **support HB 2294HD1 with amendments**, clarifying the Hawaii Biosecurity Law.

The Hawaii Biosecurity Law passed in 2008 provides a valuable roadmap to increasing Hawaii's level of self sufficiency while protecting the environment. As most new laws, clarifications are often required.

This measure seeks to clarify those goods that require collection of fees. The intent of the fees is to pay for the necessary inspection of goods. There are imported products which we know do not carry a threat of pests and so do not require inspections. This measure seeks to clarify this matter. We support the changes as proposed in HD1. However, we request an additional change. Some of the fertilizer brought into the State is in the form of true bulk. It comes filled in a Matson container ...not in bags or pallets but as pellets. This is no different from the aggregate or other construction material that has been processed. Documentation of processing can be provided. Affordable fertilizer has been a major issue due to widely fluctuating fossil fuel prices. This is a basic building block for successful agriculture, a cornerstone to the Biosecurity Plan. We therefore request the following addition, CHANGE IN CAPS

""Aggregate bulk freight"" means man-made, unpackaged, pre-processed, inspected and certified, homogenous particulate material used in construction, **OR AGRICULTURE**, without mark or count and usually free-flowing, bought and sold by weight or volume, such as clean sand, gravel, crushed stone, slag, recycled concrete, and geosynthetic aggregates.

HFBF strongly requests your support of this measure with the suggested amendment to clarify the Hawaii Biosecurity Law. If there are any questions, please contact Luella Costales at 848 2074. Thank you



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Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti
HB 2294 HD1, Relating to Agriculture
The House Committee on Finance
Thursday, February 18, 2010
Room 308, 3:00 pm

Position: Support

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

My name is Alicia Maluafiti, Executive Director of 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.

The seed industry appreciates – and has testified in support – of most legislative solutions to generate revenue and address the loss of the agricultural inspectors and other staff at the Hawaii Department of Agriculture. Our dialogue with the HDOA these past few months as well as our role at the state legislature demonstrates our sincere commitment to seek out solutions that are fair and balanced. We do this in recognition of the growth of the seed industry in Hawaii, our responsibility to support the regulatory authority of the HDOA, and our collective ability to absorb some of the financial burden on behalf of the agricultural industry - as best we can.

HB 2294 is another important and collaborative legislative solution involving a number of allies and stakeholders from the agricultural industry to providing the Dept. of Agriculture with efficient and reliant alternatives to fiscally sustain their department.

Mahalo for the opportunity to comment.

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The House of Representatives
Committee on Finance
Thursday, February 18, 2010
3:00 p.m., Conference Room 308
State Capitol

Testimony in Support of the Intent of HB 2294 HD1

Aloha Chair Oshiro, Vice Chair Lee, and Members of the Committee,

The Coordinating Group on Alien Pest Species (CGAPS) **supports the intent of HB 2294 HD1, Relating to Agriculture**, and submits the following comments:

CGAPS is uncomfortable with exempting certain cargo from the inspection fee because it is viewed as less likely to carry pests. This ignores the other types of inspection and treatment that may be needed. If the vessels themselves are loaded in Guam, then they pose a risk of carrying brown tree snakes and must be inspected. Despite federal quarantine measures to stop the spread of Red Imported Fire Ants on vehicles on U.S. highways, they have spread to nearly every southern state—the vehicles themselves are vectors for the spread of pests. In addition, the State Aquatic Invasive Species Plan calls for additional measures at Hawaii ports to deal with pests brought in ballast water and via hull fouling, two pest issues that are not adequately addressed presently. Providing a blanket exemption for certain commodities does not let the transportation company or importer take responsibility for the fact that ALL arrivals pose a risk.

Mahalo for your time and consideration.

Sincerely,

Christy Martin
CGAPS PIO

**HB 2294 HD1
RELATING TO AGRICULTURE**

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

FEBRUARY 18, 2010

Chair Marcus Oshiro and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and Matson Navigation Company, Inc. (a subsidiary of A&B) on HB 2294 HD1, "A BILL FOR AN ACT RELATING TO AGRICULTURE." We support this bill.

In 2008, amendments were enacted to broaden the scope of the invasive species user fee from one that assessed fees only on freight brought into Hawaii by maritime containers to one that assessed fees on all modes by which commercial freight is brought into the State, including air and maritime containerized and non-containerized freight. We understand that at present this invasive species user fee is utilized to fund the agricultural inspection and biosecurity programs, which includes invasive species inspection services for both maritime and air freight entering into the State. We support the present broad based application of the invasive species user fee that requires all shippers to pay for these inspection services through the payment of this fee.

Matson has dedicated a considerable amount of time, effort, and expense to implement the assessment, collection, and disbursement of this new fee by the effective date of August 1, 2008. We were successful in starting up the collection of this new fee by the effective date and have since been diligently proceeding with its implementation.

This bill establishes penalties for the non-payment of the invasive species user fee and authorizes exemptions from the assessment of the invasive species user fee for liquid, cement, coal, and aggregate bulk freight. We believe that the general structure of the penalties section for the non-payment of the invasive species user fee is fair and reasonable. We also support the above mentioned exemptions from the fee, as we understand that these exemptions should not impair the State's ability to alleviate the entry of invasive species into our State.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.

Grace Pacific
CORPORATION
P.O. Box 78 / Honolulu, Hawaii 96810

Administrative Office (808) 674-8383 fax (808) 674-1040
Paving Office (808) 645-3991 fax (808) 642-3206
Quarry Office (808) 672-3545 fax (808) 672-3998



Representative Marcus Oshiro, Chair
House Committee on Finance

Thursday, February 18, 2010; 3:00 p.m.
Hawaii State Capitol, Conference Room 308

RE: HB 2294 HD1 – Relating to Agriculture

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

I'm Robert Creps, Senior Vice President of Grace Pacific Corporation ("Grace Pacific"). Grace Pacific supports HB 2294 HD1 to the extent it exempts aggregate bulk freight from the inspection fee.

Section 436 of the federal Agriculture Risk Protection Act of 2000, preempts the states from regulating items in foreign commerce. This bill acknowledges that and clarifies that cement, coal and aggregate bulk freight are exempted from the inspection, quarantine and eradication service fee and charge. The exemption language in HB 2294 HD1 will make state law consistent with federal law.

Grace Pacific has been importing crushed granite aggregate from British Columbia for use in hot-mix asphalt and manufactured C-33 sand from British Columbia for use in ready-mix concrete and hot-mix asphalt since 2007. The manufacturing process for the C-33 sand involves the excavation of glacial deposits of granite with large scrapers, and then crushing and washing to the finished product specifications. The manufacturing process for the crushed aggregate is similar, with the excavation conducted by drilling and blasting the hard rock granite. Both processes are subject to strict quality control standards of the American Society for Testing and Materials, designed to detect and prevent deleterious and organic material in the finished product.

The sand and aggregate are shipped on bulk freighters with the product being the sole cargo of the voyage. These ships are inspected for cleanliness at the load port by an independent inspector. The ship's cargos are subject to inspection and cleared by the United States Department of Agriculture prior to discharge in Hawaii.

Thank you for the opportunity to testify on this measure. We ask for your support in maintaining the exemption language.

**HAWAIIAN
CEMENT****A subsidiary of Knife River Corporation**

Representative Marcus Oshiro, Chair
House Committee on Finance

Thursday, February 18, 2010; 3:00 p.m.
Hawaii State Capitol, Conference Room 308

RE: HB 2294 HD1 - Relating to Agriculture

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

My name is John DeLong, President of Hawaiian Cement testifying in support of this bill to the extent it exempts cement and aggregate bulk freight from the inspection fee.

HB 2294 HD1 recognizes Section 436 of the federal Agriculture Risk Protection Act of 2000, preempting the states from regulating aggregate and cement bulk freight imported from other countries, among other things, and clarifies that aggregate and cement bulk freight are exempted from the inspection, quarantine and eradication service fee and charge. The exemptions in this bill will make state law consistent with federal law.

Hawaiian Cement imports dry bulk cargo including cement, pre-processed aggregate and sand that meet the stringent requirements of the American Society of Testing Materials. These dry bulk commodities typically take up an entire bulk freighter, a ship specially designed to transport unpackaged bulk cargo.

Before leaving for its destination, our pre-processed bulk cargo goes through a sampling and inspection process prior to shipment to ensure clearance by USDA Animal and Plant Health Inspection Service (APHIS) upon arriving into Hawaii.

Cement cargo is not a compatible environment to invasive species. When introduced to moisture, cement develops a high pH, which renders it incapable of sustaining most living organisms.

Thank you for the opportunity to comment on this measure. We ask for your support in maintaining the exemption language for aggregate and cement bulk freight for the foregoing reasons.

MONSANTO HAWAII
2104 Lauwiliwili Street, Suite 101k
Kapolei, Hawaii 96707

February 18, 2010

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

Agenda #3

TESTIMONY ON
HB 2294
RELATING TO AGRICULTURE

Chair Oshiro and committee members:

My name is Alan Takemoto and I am the Community Affairs Manager for Monsanto.

We support HB 2294 which makes various amendments to the agricultural inspection and biosecurity laws.

As the economy continues to struggle, the agricultural industry is confronted by a substantial decrease in agricultural inspection services statewide. The ability to move products in and out of the state as well as interisland is critical to our industry and our economy. With the anticipation of reduced agricultural inspections services, we appreciate all that the legislature and the HDOA has done in seeking alternatives and solutions.

As part of the farming community, we want to support every effort in making the Hawaii Department of Agriculture capable of meeting the needs of all farmers and related industries. We hope that by establishing a special fund specifically for the services rendered, the HDOA can provide the necessary services that are required to protect Hawaii's agricultural industry.

We know there is much more to be done and we want to help in facilitating the process by which we all can be a partner during these difficult times.

Thank you for the opportunity to submit testimony.

**HOUSE COMMITTEE ON
FINANCE**

February 18, 2010

House Bill 2294, HD 1 Relating to Agriculture

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing AES Hawaii, Inc (“AES”).

AES supports House Bill 2294, HD 1 Relating to Agriculture to the extent that it exempts “coal bulk freight” as that term is defined in the bill from inspection under Chapter 150A, HRS. AES operates an electricity generating unit at Kalaeloa, Oahu, which is fueled by coal brought from foreign sources. Such shipments are governed by the United States Department of Agriculture (USDA) and inspected by the USDA. AES has maintained that such shipments are exempt under federal law and therefore supports the exemption contained in the instant bill. We urge passage of the measure.

Thank you for the opportunity to present this testimony.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 17, 2010 6:34 PM
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Testimony for FIN 2/18/2010 3:00:00 PM HB2294

Conference room: 308
Testifier position:
Testifier will be present: No
Submitted by: Luella Costales
Organization: Hawaii Farm Bureau Federation
Address:
Phone:
E-mail: ashman.janet@gmail.com
Submitted on: 2/17/2010

Comments: