

Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 28, 2010 12:53 PM
To: AGRtestimony
Cc: tina500@juno.com
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: h2294-10.pdf

Testimony for AGR 1/29/2010 9:00:00 AM HB2294 ✓

Conference room: 312
Testifier position: comments only
Testifier will be present: No
Submitted by: Lowell L. Kalapa
Organization: Tax Foundation of Hawaii
Address: 126 Queen St. Honolulu
Phone: 536-4587
E-mail: tina500@juno.com
Submitted on: 1/28/2010

Comments:

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Inspection, quarantine, and eradication service tax

BILL NUMBER: HB 2294

INTRODUCED BY: Tsuji, Chang, Chong, Evans, Ito, Manahan, McKelvey, Wooley, Yamashita

BRIEF SUMMARY: Amends HRS section 150A-5.3 to change the inspection, quarantine, and eradication service fee into a tax. The inspection, quarantine, and eradication tax shall be administered by the department of taxation with the proceeds deposited into the pest inspection, quarantine, and eradication fund and delineates that HRS chapters 231 and 232 shall be applicable to the collection, enforcement and appeal of the tax.

Amends HRS section 150A-4.5 to provide that any fees imposed for services or fines for violations of agricultural inspections shall be deposited into the pest eradication, quarantine, and eradication fund.

Amends HRS section 150A-5.3 to require the inspection, quarantine, and eradication tax to be collected by the transportation company, who shall collect the tax from the person responsible within 15 days of delivery of the freight to that person and forward the payment to the department of taxation within 45 days of receipt.

Repeals HRS section 150A-6.7, permit revolving fund, 150A-48, microorganism import certification revolving fund and provides that from July 1, 2010, the fees under those sections shall be deposited into the pest inspection, quarantine, and eradication fund.

On the effective date of this act: (1) all moneys in the permit revolving fund and microorganism import certification revolving fund on June 30, 2010 shall be transferred to the pest inspection, quarantine, and eradication fund; (2) all unpaid obligations of the permit revolving fund and microorganism import certification revolving fund on June 30, 2010 shall become payable from the pest inspection, quarantine, and eradication fund; and (3) the permit revolving fund and microorganism import certification revolving fund shall cease to exist.

Between July 1, 2010 and September 30, 2010, the department of agriculture shall adopt or amend existing rules to impose or increase fees authorized to be charged under HRS chapter 150A without regard to the public notice and public hearing requirements of HRS section 91-3, the small business impact review requirements of HRS chapter 201M, or the limit on fee increases under HRS section 92-28. Stipulates that the department shall set the fees at amounts intended to generate, together with the pest inspection, quarantine, and eradication tax, sufficient revenues to pay the operation and maintenance costs of implementing the agriculture inspection and biosecurity programs of HRS chapter 150A. If the department of agriculture has not complied with the preceding requirements, then the fee charged for each inspection conducted under authority of HRS chapter 150A shall be \$_____ commencing October 1, 2010.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: This measure proposes to change the designation of the inspection, quarantine, and eradication service fee and charge into a tax to be collected by the department of taxation and provides that HRS chapters 231 and 232 shall be applicable to the collection, enforcement and appeal of the tax. Under the proposed measure, it appears that the department of taxation will be assuming the collection and enforcement duties of the inspection, quarantine, and eradication tax while the department of agriculture would still be responsible for setting the amount of the other fees such as the fees for certificates of inspection which are to be deposited into the pest eradication, quarantine, and eradication fund. While this will result in additional duties for the department of taxation, additional funds should be allocated to the department of taxation for the added cost to administer this tax including additional personnel.

It is also curious why the measure also allows the department of agriculture to increase fees charged under HRS chapter 150A without regard to the public hearing requirements. The department would then be able to set any rate or fee which must be administered by the department of taxation who has no control over what amount is charged. Apparently this effort will set up this new tax to be a target of future raids based on the court case *Hawaii Insurers' Council v. State of Hawaii* wherein it was decided that fees imposed for a specific service could not be used for any other purpose unless it was a statutorily imposed tax. Thus, this proposal reclassifies the stated inspection fees as a tax which will allow lawmakers to tap the receipts of the special fund for other purposes than those delineated in this part of the law. This sets a dangerous precedent and represents poor public finance policy.

Thus, while the original intent of this law was to establish a revenue stream to pay for the cost of inspection to prevent or eradicate invasive species, changing the nomenclature from fee to tax sets this fee up for possible future raids by the legislature for other purposes at the expense the eradication and inspection program.

Digested 1/28/10

Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 28, 2010 4:11 PM
To: AGRtestimony
Cc: mnakahata@gmail.com
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: HB2294 amendments to biosecurity agr.pdf

Testimony for AGR 1/29/2010 9:00:00 AM HB2294

Conference room: 312
Testifier position: support
Testifier will be present: Yes
Submitted by: Mae Nakahata for Luella Costales
Organization: HFBF
Address:
Phone: 808 2819716
E-mail: mnakahata@gmail.com
Submitted on: 1/28/2010

Comments:
Testifier will be Luella Costales



Hawaii Farm Bureau
F E D E R A T I O N

2343 Rose Street, Honolulu, HI 96819
Phone: (808) 848-2074; Neighbor Islands: 1-800-482-1272
Fax: (808) 848-1921; e-mail: info@hfbf.org

TESTIMONY

HB 2294 RELATING TO THE DEPARTMENT OF AGRICULTURE

Chair Tsuji and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of our farmer and ranch families and organizations support HB 2294 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.

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

**HB 2294
RELATING TO AGRICULTURE**

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

JANUARY 29, 2010

Chair Tsuji and Members of the House Committee on Agriculture:

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, "A BILL FOR AN ACT RELATING TO AGRICULTURE."

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.

Section 4 of this bill incorporates provisions specifying deadlines within which the transportation company must collect the fee from the shipper/importer and transmit the fee to the State. Matson generally has two categories of freight shipments, freight shipments on a cash basis and freight shipments on a credit basis. With payments for both Matson service charges and the invasive species user fee generally being paid by credit based freight shipments 30 to 45 days after the arrival of the freight, the implementation of the proposed provisions to require the transportation company to collect the fee from the shipper/importer within 15 days of the delivery of the freight will be problematic. We respectfully suggest that this section be amended to instead establish a 15 day deadline within which the transportation company must bill the tax to the shipper/importer and a 45 day deadline within which the shipper/importer must pay the tax to the transportation company. We have attached the following suggested language for your consideration:

"§150A-5.3 Inspection, quarantine, and eradication service [~~fee and charge.~~] tax. (a) There is imposed a [~~fee~~] tax for the inspection, quarantine, and eradication of invasive species contained in any freight, including but not limited to marine commercial container shipment, air freight, or any other means of transporting freight, foreign or domestic, not including liquid bulk freight or cement bulk freight, that is brought into the State. **The transportation company shall bill the tax to the person responsible for paying the freight charges to the transportation company within fifteen days of the delivery of the freight.** The [~~fee~~] tax shall be paid by the person responsible for paying the freight charges to the transportation company~~[-, who]~~ **within forty five days of receipt of the bill. The transportation company** shall collect the [~~fee~~] tax and forward the payment to the department [~~at the port of disembarkation;~~] of taxation within forty-five days of receipt; provided that the transportation company shall not be liable for any [~~fee~~] tax that is not paid by the person responsible for paying the freight charges to the transportation company.

The department of taxation shall [~~deposit the fee~~] transmit the taxes collected to the director of finance for deposit into the pest inspection, quarantine, and eradication fund under section 150A-4.5. Chapters 231 and 232 shall apply for the purpose of collecting the tax, enforcing payment by the person responsible for paying the tax, and appealing an assessment of the tax.

(b) The [fee] tax shall be assessed and collected on the net weight of the imported freight computed on the basis of 50 cents for every one thousand pounds of freight brought into the State, or part thereof."

Thank you for the opportunity to testify.

Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 28, 2010 9:38 AM
To: AGRtestimony
Cc: stangonan@tnc.org
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: HB2294 TNC Testimony 01 29 10.pdf

Testimony for AGR 1/29/2010 9:00:00 AM HB2294 ✓

Conference room: 312
Testifier position: comments only
Testifier will be present: Yes
Submitted by: Mark Fox
Organization: The Nature Conservancy
Address:
Phone:
E-mail: stangonan@tnc.org
Submitted on: 1/28/2010

Comments:

Testimony of The Nature Conservancy of Hawai'i
Commenting on H.B. 2294 Relating to Agriculture
House Committee on Agriculture
Friday, January 29, 2010, 9:00am, Rm. 312

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 Relating to Agriculture:

- **We are very concerned about creating a variety of exemptions to the service fees collected by the Department of Agriculture for inspection services.** While the proposed exemptions as currently written in H.B. 2294 appear to cover cargo that may not be a high-risk pathway for invasive species, the Department's inspectors still may need to conduct inspections of this cargo or its means of conveyance to ensure that indeed no pests are present, which costs money and time.
- **We are opposed to redefining the inspection fee as a tax and giving collection authority to the Department of Taxation.** This disconnects the collection of the fee from the inspection service being provided by the Department of Agriculture and may be contrary to federal Constitutional and statutory law that otherwise allows the collection of such fees by states.

Invasive insects, diseases, snakes, weeds, and other pests are one of the greatest threats to Hawaii's economy, natural environment, and the health and lifestyle of its people.

The Hawai'i Department of Agriculture (HDOA) is responsible for the inspection of arriving cargo and interisland cargo shipments to protect the state from introduction of unwanted plant and animal pests and diseases. The Department developed a multi-faceted Biosecurity Plan to enhance its efforts with more inspectors, more efficient and effective inspection services, joint state-federal inspection facilities, and agreements with importers and producers for improved sanitary protocols before items are shipped to Hawai'i. Past financial and personnel support provided by the Legislature, has been essential to implementing this plan.

Unfortunately, the current general fund budget conditions in the State have caused drastic—and potentially catastrophic—reductions in the Department's capability to inspect incoming cargo. The Department's inspection capacity has dropped so far below anything that can reasonably be expected to be effective that there is a good chance that we won't know what new pest has arrived in Hawai'i until there is an outbreak of some kind. This could include a human disease outbreak.

BOARD OF TRUSTEES

S. Haunani Apoliona Christopher J. Benjamin Zador W. Brown, Jr. Samuel A. Cooke Peter H. Ehrman
Kenton T. Eldridge Thomas Gottlieb Peter Ho Stanley Hong J. Douglas Ing Mark L. Johnson Dr. Kenneth Kaneshiro
Bert A. Kobayashi, Jr. Faye Watanabe Kurren Duncan MacNaughton Bonnie P. McCloskey Bill D. Mills
Wayne Minami Michael T. Pfeffer H. Monty Richards Jean E. Rolles Scott Rolles Crystal K. Rose Eric Yeaman

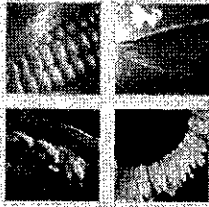
Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 27, 2010 9:30 PM
To: AGRtestimony
Cc: admin@hciaonline.com
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: HB2294_Agriculture_HseAGR.pdf

Testimony for AGR 1/29/2010 9:00:00 AM HB2294 ✓

Conference room: 312
Testifier position: support
Testifier will be present: Yes
Submitted by: Alicia Maluafiti
Organization: Hawaii Crop Improvement Association
Address: 91-1012 Kahi'uka Street Ewa Beach, HI 96706
Phone: (808) 224-3648
E-mail: admin@hciaonline.com
Submitted on: 1/27/2010

Comments:



**HCIA 2008-2009
Board of Directors**

President

Adolph Helm

Vice President

Fred Perlak

Treasurer

John Anderson

Secretary

Alka Napier

Directors At Large

Mike Austin

Ray Foster

David Gilliland

Cindy Goldstein

Laurie Goodwin

Kirby Kester

Paul Koehler

Leslie Poland

Martha Smith

Mark Stoutemyer

Jill Suga

Past President

Sarah Sivan

Executive Director

Alicia Maluafiti

Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti
HB 2294, Relating to Agriculture
The House Committee on Agriculture
Friday, January 29, 2010
Room 312, 9:00 am

Position: Support

Aloha Chair Tsuji, Vice Chair Wooley 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.

HB 2294 is another important legislative solution to providing the Dept. of Agriculture with efficient and reliant alternatives to fiscally sustain their department.

Mahalo for the opportunity to comment.

91-1012 Kahi'uka Street
Ewa Beach, HI 96706
Tel: (808) 224-3648
director@hciaonline.com
www.hciaonline.com

SAH - Subcontractors Association of Hawaii
1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-2938
Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

January 29, 2010

Testimony To: House Committee on Agriculture
Representative Clift Tsuji, Chair

Presented By: Tim Lyons
President

Subject: H.B. 2294 - RELATING TO AGRICULTURE

Chair Tsuji and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill. Our testimony today represents the collective thoughts of nine separate and distinct subcontracting associations:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII

HAWAII FLOORING ASSOCIATION

HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION

PACIFIC INSULATION CONTRACTORS ASSOCIATION

PAINTING AND DECORATING CONTRACTORS ASSOCIATION

PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII

ROOFING CONTRACTORS ASSOCIATION OF HAWAII

SHEETMETAL CONTRACTORS ASSOCIATION OF HAWAII

TILE CONTRACTORS PROMOTIONAL PROGRAM

We are opposed to this bill because we are having a hard time understanding why cement bulk freight and liquid bulk freight should be exempt from the tax.

In theory, when this tax was adopted, it was our understanding that it was in order to offset fees for inspections of containers against the intrusion of invasive species. Why cement would be exempt and not containers full of prepackaged pesticides or roofing material or drywall material or other items when invasive species also have no interest in "hitching a ride" in those containers, we have no idea however, we do know that we think it is inherently unfair to start exempting certain types of materials without looking at all materials that perhaps ought to be exempt.

Based on the above, we are opposed to the passage of this bill.

Thank you.

Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 27, 2010 1:42 PM
To: AGRtestimony
Cc: christym@rocketmail.com
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: HB 2294 012910.doc

Testimony for AGR 1/29/2010 9:00:00 AM HB2294

Conference room: 312
Testifier position: support
Testifier will be present: No
Submitted by: Christy A. Martin
Organization: CGAPS
Address:
Phone: 8087220995
E-mail: christym@rocketmail.com
Submitted on: 1/27/2010

Comments:
committee requests 5 copies



The House of Representatives
Committee on Agriculture
Friday, January 29, 2009
9:00 a.m., Conference Room 312
State Capitol

Aloha Chair Tsuji, Vice Chair Wooley and Committee Members,
The Coordinating Group on Alien Pest Species (CGAPS) **supports HB 2294,**
Relating to Agriculture.

This bill makes several needed changes that clarify and improve Act 3, which established an inspection fee of 50 cents per 1,000 lbs. of incoming cargo. In particular, it inserts a fee for non-compliance, which should help ensure participation by all importers and timely payment into the fund.

CGAPS respectfully requests your support of HB 2294. Mahalo for your time and consideration.

Sincerely,

Christy Martin
CGAPS PIO

Arlina Agbayani

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 28, 2010 3:39 PM
To: AGRtestimony
Cc: alan.takemoto@monsanto.com
Subject: Testimony for HB2294 on 1/29/2010 9:00:00 AM
Attachments: HB 2294 Ag inspection testimony.doc

Testimony for AGR 1/29/2010 9:00:00 AM HB2294

Conference room: 312
Testifier position: support
Testifier will be present: Yes
Submitted by: Alan Takemoto
Organization: Monsanto
Address:
Phone: 292-3205
E-mail: alan.takemoto@monsanto.com
Submitted on: 1/28/2010

Comments:

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

January 29, 2009

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON
HB 2294
RELATING TO THE DEPARTMENT OF AGRICULTURE

Chair Tsuji 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 to making the Hawaii Department of Agriculture capable of meeting the needs of all farmers and related organizations. 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.