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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
Wednesday, February 3, 2010
8:30 A.M.

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Testimony

HOUSE BILL NO. 2775
RELATING TO AGRICULTURE

Chairperson Tsuji and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2775. The purpose of this bill is to establish fees for the processing of permits and other requests for the importation or possession of incoming plants, animals, and microorganisms into the State. The department supports this bill and would like to take this opportunity to provide general comments and minor revisions for your consideration.

Under its current administrative rules for import of animals and microorganisms, the department charges user fees for the processing and issuance of permits, as well as for issuance of a letter of authorization for certain types of microorganisms or the registration of microbial products. However, only certain animals or microorganisms are currently assessed these user fees under Hawaii Administrative Rules Chapter 4-71 (Non-Domestic Animal Import Rules) and Chapter 4-71A (Microorganism Import Rules). This bill will expand the assessment of a user fee to include plants as well as any request for a permit for plants, animals, or microorganisms that requires a rule change to change the listing of an organism for importation or possession. This change will provide much needed funding support to the department when evaluating import requests based upon available information on the organism requested for import, its intended use, and adequate safeguards and protocols to prevent escape or theft of the permitted species.

The department recognizes that this bill's requirement that the user fees collected shall be deposited into the pest inspection, quarantine, and eradication fund will strengthen the department's ability to (1) facilitate the processing and issuance of permits; (2) comply with post-entry monitoring activities; (3) provide for training and workshops, including educational materials and equipment; and (4) carry out other purposes deemed necessary to accomplish the departmental goals with regard to the processing and issuance of permits, letters of authorizations, or registrations.

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The department offers a number of revisions to the bill to: (1) address certain inconsistencies with other provisions in chapter 150A, Hawaii Revised Statutes; (2) reflect the need to preserve the department's discretion regarding the number of shipments allowed for certain types of imports; (3) repeal existing section 150A-7.5, Hawaii Revised Statutes, which Section 2 of this bill would duplicate; and (4) clarify the Section 2 language of proposed §150A- __ (c) regarding fees for permits and other methods of import. These proposed revisions are included in the attachment to the department's testimony. The department also notes that, as Section 4 of the bill would repeal the permit revolving fund under §150A-6.7, Hawaii Revised Statutes, the bill should provide for the transfer of any moneys in that fund to the pest inspection, quarantine, and eradication fund under §150A-4.5, Hawaii Revised Statutes, consistent with the Section 2 requirement that user fees to be established should be deposited in that fund.

Once again, thank you for the opportunity to testify on House Bill No. 2775.

(Attachment – See next page)

Attachment to Department of Agriculture Testimony on H.B. No. 2775

February 3, 2010, House Committee on Agriculture

RECOMMENDATION NO. 1: The Department of Agriculture recommends revisions at Section 2, page 2, lines 16 – 21 to be consistent with the different methods of import that chapter 150A, Hawaii Revised Statutes, authorizes for plants and animals (by permit), as distinguished from microorganisms (by permit, letter of authorization, or registration). See §§ 150A-6.1, 150A-6.2, and 150A-6.3, HRS, respectively.

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SECTION 2. Chapter 150A, Hawaii Revised Statutes, is revised by adding a new section to be appropriately designated and to read as follows:

“§150A- _____ User fees for processing requests for importation and possession; permits, letters of authorization, and registrations. (a) There is imposed a fee for processing requests that require a permit for the importation or possession of plants or animals and that require a permit, letter of authorization, or registration for the import and possession of microorganisms under this chapter. The fee shall be paid in full at the time of the submission of the request.

RECOMMENDATION NO. 2: Revision is recommended at Section 2, page 3, to proposed subsection 150A-__ (c) at lines 8-9, 12-14, lines 18-21, and at page 4, at lines 14-18, to change the phrase “unlimited shipments” to “up to an unlimited number of shipments”, and to add the phrase “as provided by permit”. Under the present proposed language of Section 2, the department is only authorized to issue permits for either a single shipment or an unlimited number of shipments of a plant, animal, or microorganism. The department believes that it is necessary to preserve the Board of Agriculture’s and department’s discretion to limit the number of shipments allowed for import to more than one and less than “unlimited” if circumstances warrant and it is deemed appropriate to do so. The revision proposed below will accomplish that. In addition, other minor language revisions are included below for clarity. For your consideration, only the affected paragraphs at page 3 at lines 8-9, 12-14, and lines 18-21, and at page 4, at lines 14-18, and lines 19-20, are provided for in the following suggested revisions from §150A- ____ (c):

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(c) The fee to process requests for importation and possession shall be as follows:

Page 3, at lines 8-9:

(2) \$ _____ for a permit for up to an unlimited number of shipments of restricted plants, as provided by permit, within one year of the date of issuance;

Page 3, at lines 12-14:

(4) \$ _____ for a permit for up to an unlimited number of shipments of conditionally approved animals, as provided by permit, occurring within one year of the date of permit issuance;

Page 3, at lines 18-21:

(6) \$ _____ for a permit for up to an unlimited number of shipments of restricted animals that require a permit for both importation and possession, as provided by permit and occurring within one year of the date of issuance;

Page 4, at lines 14-18:

(11) \$ _____ for a permit for up to an unlimited number of shipments of listed or unlisted microorganisms that require a permit for both importation and possession, as provided by permit, and within one year of the date of issuance or within a specified calendar year;

Page 4, at lines 19-20:

(12) \$ _____ for a letter of authorization for import of unlisted microorganisms;

RECOMMENDATION NO. 3: At Section 2 of the bill, on page 4, the word "specie" is mentioned twice at line 22, but is inconsistent with the statutory section that authorizes emergency permits for microorganism import. The word "specie" should be deleted so that paragraph (13) on page 4, at lines 21-22, should read as follows:

(13) "\$ for an emergency permit of an unlisted microorganism or a microorganism on the list of restricted microorganisms in an emergency or disaster situation."

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Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
HOUSE COMMITTEE ON AGRICULTURE
Wednesday, February 3, 2010
8:30 AM
State Capitol, Conference Room 312

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In consideration of
HB 2775 RELATING TO AGRICULTURE.

Chair Tsuji, Vice Chair Wooley and Members of the House Committee on Agriculture.

The High Technology Development Corporation (HTDC) supports the intent of HB2775 to establish fees for permits so that businesses may obtain them in a timely manner. To ensure that the assessment of these fees do indeed benefit the private sector, HTDC respectfully offers the following comments, or poses questions which may assist in further exploration of this very important issue:

1. From comments HTDC has fielded, the private sector entities do not generally object to fees for permits, especially if those fees cover expenses for the government entity to hire experts (so the decisions are based on science), and streamline the permitting process to make it more transparent and expeditious.
2. There are already fees assessed by the Dept. of Agriculture. Is legislation the best way to establish additional fees/fee structures? Would it slow down future process should the fees need to be adjusted?
3. The public deserves to know how long the permit process will take, not simply assess fees with the assumption that the process will be shorter. Should the timeframe be stated, there should be specific actions associated when deadlines are not met. (Should there be a standard fee that is relatively low, which promises x days, vs. expedited fee that promises less than x days for a higher fee?)
4. There are time limits listed in the administrative rules (e.g., Ch. 71A for restricted species). We need to make certain that this feature is not endangered, because it is the only assurance (though vague) private sector entities have to predict how long the permit process would take. One of the biggest factors the biotech companies need to take into account is the lead time for obtaining permits. This factor is so significant that it affects their ability to raise funds from potential investors. Any future legislation should set the scene for the rules to be further

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clarified. For example, the administrative rules are currently ambiguous as to what happens when a permit is not responded to within the specified timeline; is it an automatic approval?) These types of ambiguities and lack of transparency of procedure are the fundamental factors underlying concerns the private sector has with the permitting process.

5. We understand the additional collection of the fees would enable the Dept. of Agriculture to employ a microorganism specialist who can expedite the ruling process as well as update the list of qualified species. Currently, these lists are governed by the administrative rules. Therefore, when there is an opportunity to update the qualified species list (e.g., based on a committee ruling of an unlisted species), the Department is not able to simply update the list. The subsequent applicants do not gain the benefit of the committee's work.

While the establishment of permit fees is a step in the right direction, there are missing pieces to this particular bill. In the meantime, we look forward to the affected departments, legislators and private sector entities convening a committee to address permit process reform so that any fees assessed to the businesses will oil a streamlined system rather than merely provide a band aid to meet the needs of new industries such as biotechnology to help diversify Hawaii's economy.

Thank you for the opportunity to submit testimony in support.