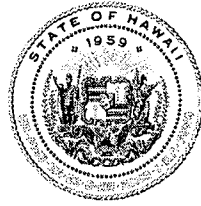
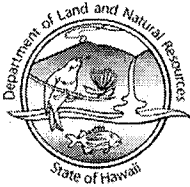


**HB 979,
HD1, SD1
Testimony**

LINDA LINGLE
GOVERNOR OF HAWAII



LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Wednesday, March 24, 2010
9:30 AM**

State Capitol, Conference Room 211

**In consideration of
HOUSE BILL 979, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO THE ENVIRONMENT**

House Bill 979, House Draft 1, Senate Draft 1 proposes to direct funds from the "Special Land and Development Fund" (SLDF) and the Land Conservation Fund (LCF) to invasive species control and mitigation, reforestation, and sediment run-off mitigation. The Department of Land and Natural Resources (Department) opposes this bill.

The Department's general fund has been cut 32% over the past 3 years, special fund revenues have declined 35% over the past 3 years, and the Department has lost 80 positions in the recent Reduction-in-Force this past year. Any further cuts or additions of new unfunded mandates will likely result in loss of staff and maintenance and operations of core departmental mission.

The SLDF is used to pay payroll, fringes and operating expenses for the Department's Land Division, the Office of Conservation and Coastal Lands, and most recently, the Dam Safety Program as mandated by the 2009 Legislature. Due in large part to numerous "special fund" raids by the Legislature, the SLDF's current revenue stream is now barely sufficient to maintain these operating expenses. It is imperative that the SLDF have an adequate cash balance not only to cover usual payroll, operations and programs of the Department. As such, the Department is opposed to redirecting those funds at the expense of meeting its existing salary obligations for Department staff, ongoing core operations and maintenance responsibilities on state lands, and existing natural resource management projects. Redirection of funds from the SLDF will result in additional layoffs of Department staff and inability to maintain basic operations and maintenance responsibilities. The Department is opposed to dismantling needed core programs for a temporary response to budget shortfall. It will take years to reestablish dismantled programs.

The portion of this bill amending Section 173A-5, HRS, proposes to expand the uses of the LCF to include invasive species control and reforestation. The revenue going into the LCF has declined 43% over the past 4 years and estimated amounts currently going into the fund will allow the Legacy Land Conservation Program to continue at a scaled back level for Fiscal Year 10 and Fiscal Year 11. This fund supports civil service staff, program administration and operations, and the actual acquisition costs to purchase and protect important lands as a legacy for our children. The Department approach is to continue this worthwhile program to acquire important conservation, agricultural, cultural, recreational and open space lands at a scaled back level, only funding those projects that are ready to close. Department is opposed to redirecting these funds from the current purpose of protection and acquisition of important resources value lands because it would largely dismantle the program when it is at a reduced maintenance level now.

Rather than permanently redirect funding for a worthwhile program, we should look at the resources and capacity available in the Department, the Department of Agriculture, the Oahu Invasive Species Committee, the United States Fish and Wildlife Service, and the United States Department of Agriculture Animal and Plant Health Inspection Service, to see what kind of rapid response can be mounted against the coqui discovery in Waimanalo and other similar events that will occur in the future. The Department has concerns with redirecting the Department's special funds every time there is an invasive species or natural resource emergency to deal with. All of these programs need to have secured funding to provide the core level of service needed to protect and manage the public trust resources.



Conservation Council for Hawai'i

Testimony Submitted to the Senate Committee on Ways and Means

HB 979 HD 1 SD 1 Relating to the Environment
Hearing: Wednesday, March 24, 2010 9:30 am Room 211

Opposition to HB 979 HD 1 SD 1

Aloha. Conservation Council for Hawai'i supports the intent of HB 979 HD 1 SD 1, which is to increase efforts to control invasive species and promote reforestation and prevent runoff. However, the Land Conservation Fund is not large enough to support these programs and fulfill the goals for which the fund was created. Please find other sources of funding, including support from the General Fund and a special new water fees for reforestation efforts. Please do not raid special funds that are set up to do equally important work, but which do not have enough money to cover the additional programs and mandates in HB 979, especially in light of being raided by the legislature via other bills this session.

Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler



Hawai'i's Voice for Wildlife – *Ko Leo Hawai'i no na holoholona lohiu*

Telephone/Fax 808.593.0255 • email: info@conservehi.org • web: www.conservehi.org
P.O. Box 2923 • Honolulu, HI 96802 • Office: 250 Ward Ave., Suite 212 • Honolulu, HI 96814
President: Maura O'Connor * Treasurer: Kim Ramos * Secretary: Douglas Lamerson
Directors: Madelyn D'Enbeau * Maka'ala Ka'aumoana * Hannah Springer
Executive Director: Marjorie Ziegler

Testimony of The Nature Conservancy of Hawai'i
(Provided by Mark Fox, Director of External Affairs)
Opposing H.B. 979, SD1 Relating to the Environment
Senate Committee on Ways & Means
Wednesday, March 24, 2010, 9:30am, Room 211

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawai'i'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.

Though The Nature Conservancy appreciates the intent of H.B. 979, SD1 to find additional sources of funding for invasive species control and reforestation, we are concerned the permanent amendment to authorize Land Conservation Fund (LCF) and Special Land & Development Fund (SLDF) revenue to be used for these purposes will negatively affect the existing important programs supported by these funds.

The DLNR's Land Conservation Fund, Natural Area Reserve Fund (NARF), and Special Land and Development Fund are all short of revenue and have their own very important priorities and missions to support. The LCF's land acquisition and the NARF's watershed and invasive species programs are already experiencing cuts of more than 50% because the conveyance tax source of funding is drastically reduced with the down real estate market. We don't think that statutorily authorizing new expenditures from the LCF or SLDF will provide significant benefit to any one program, but may only serve to dilute or shift limited funds around between needy programs.

For example, in Fiscal Year 2007 the Legislature's provision of additional funding for coqui frog control was really a shifting of existing funds from other invasive species control programs, which then caused layoffs in the Island Invasive Species Committees' control programs and a hiatus in the Hawai'i Invasive Species Council's research grant program. Last Summer, \$600,000 was diverted from the Hawai'i Invasive Species Council's invasive species control, outreach and research programs to mitigate cuts in the critical prevention programs of the Department of Agriculture, *i.e.*, to prevent layoffs of 21 Plant Quarantine inspectors. Ironically, the control and outreach programs that have been cut are exactly the programs that most need to be activated now for the rapid response to the coqui frog outbreak in Waimanalo. However, diverting funds from other already diminished conservation programs may only serve to exacerbate the overall problems facing the protection of our environment and quality of life.

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O'ahu Land Trust

Bringing People and Places Together for Generations to Come

212 Merchant Street, Suite 320 * Honolulu * Hawai'i * 96813

Senate Committee on Ways and Means
Wednesday, March 24, 2010, 9:30 a.m., Room 211

Subject: Opposing H.B. 979, SD1 Relating to the Environment

The O'ahu Land Trust is in favor of continuing to find additional sources of funding to provide for invasive species control and reforestation but humbly requests another source of funding be identified for this important challenge rather than a permanent amendment to authorize Land Conservation Fund (LCF) and Special Land & Development Fund (SLDF) revenue be used for these purposes.

This amendment will have a severe negative impact on existing important programs already affected by the current economic conditions. The LCF's land acquisition and NARF's watershed and invasive species are already experiencing a 50% reduction because the conveyance tax source of funding has been drastically affected by the down real estate market. This amendment will further impact these programs and shift funds to other needy programs to the detriment of all of the mandated but underfunded programs.

We ask that you oppose this bill.



THE
TRUST
for
PUBLIC
LAND



HAWAII

**THE TRUST FOR PUBLIC LAND'S TESTIMONY
IN OPPOSITION TO HB 979, SD1 RELATING TO THE ENVIRONMENT**
Senate Committee on Ways & Means
Wednesday, March 24, 2010, 9:30am, Room 211
<http://www.capitol.hawaii.gov/emailtestimony>.

The Trust for Public Land's (TPL's) Hawaiian Islands Program was one of the many conservation organizations that supported the passage of the Legacy Lands Act in 2005, which established the Legacy Land Conservation Fund or Land Conservation Fund (LCF). While TPL appreciates the intent of HB 979, SD1 to attempt to find additional sources of funding for invasive species control and other beneficial activities, we are concerned that a permanent amendment to authorize LCF and Special Land & Development Fund (SLDF) to be used for new purposes will negatively affect the existing important programs supported by these funds.

The LCF's land acquisition program, as well as the Natural Area Reserve Fund, are funded by the real estate conveyance tax, and have already experienced cuts of more than 50% because of the drastic downturn in the real estate market. Programs funded by LCF, NARF, and the SLDF have all suffered disproportionate cuts higher than any other state program. Each fund has their own important priorities and missions to support. Statutorily authorizing additional expenditures from the drastically cut LCF or SLDF will not likely provide any significant benefit to any one or more programs, and may only dilute or shift limited funds around between needy programs. In other words, robbing a penniless Peter to pay a penniless Paul does not make either destitute person or program any better off, and may result in unintended negative consequences.

For example, in a transaction TPL hopes to close by March 31, the State will be acquiring 3,592 acres at Honouliuli Preserve for less than \$1 million from the State Land Conservation Fund, leveraging over \$3.3 million of federal dollars. In addition, private

donations of \$345,000 will establish an endowment to support the State's management of the Preserve in the future. The Preserve will conserve important watershed above the Pearl Harbor Aquifer, O'ahu's main source of drinking water, and important native habitat for dozens of threatened and endangered species, and treasured Hawaiian cultural sites. If money from the LCF had been diverted for other, admittedly worthy and urgent purposes, this once in a lifetime opportunity to secure and protect this significant area and bring in over \$3.6 million in federal and private dollars would have been lost to the State and the future generations of Hawai'i's people.. The LCF must be available to allow these types of projects and opportunities to occur. The LCF should not be further reduced (having suffered 50% reductions already) and diluted for other purposes.

We appreciate the intent of the bill in attempting to find other sources of money for admittedly worthy purposes, but must oppose the bill.

Mahalo for this opportunity to testify -

A handwritten signature in cursive script, appearing to read "Lea Hong". The signature is written in black ink and is positioned below the text "Mahalo for this opportunity to testify -".

Lea Hong
Hawaiian Islands Program Director
524-8563 (office), 783-3653 (cell)

Dale B. Bonar, Ph.D.
400 Auli'i Drive
Pukalani, Hawaii 96868

March 23, 2010

Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

Senate Ways and Means

RE: HB979 Opposition Testimony

As an active proponent of the Legacy Land Act in 2005, and the current Chair of the Legacy Lands Conservation Commission, I am writing in strong opposition to the use of Legacy Land Funds for the continued maintenance and support for state environmental programs "*such as invasive species control and mitigation and reforestation and sediment run-off mitigation*" on "*all lands under the control and management of the board (BLNR)*" as would be permitted by this bill.

This proposed use of funds on any state lands under BLNR control is entirely contrary to reason this Act was passed. It was clearly understood to be for acquisition of Legacy Lands, which are defined specifically in HRS 173-85. The amendment to 173-85 passed last year added a small (5%) allocation that could be made for management of any acquired Legacy Lands, but did not include other lands in the state.

Do there need to be additional funds for the Invasive Species and environmental management programs? Absolutely! However, taking critical funding from one environmental program to shore up another program that badly needs its own dedicated funding source is simply robbing Peter to pay Paul. In previous years, monies from the Natural Areas Reserve Fund have been allocated to other programs, much to the detriment of the Natural Areas (in which there is also the necessity of invasives control)!

This permanent change to the Legacy Land program is NOT the way to go. That's not what it was established for and it's a dangerous path.

Sincerely,



Dale B. Bonar

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: oluolu@maui.net
Subject: Testimony for HB979 on 3/24/2010 9:30:00 AM
Date: Tuesday, March 23, 2010 2:31:35 PM

Testimony for WAM 3/24/2010 9:30:00 AM HB979

Conference room: 211
Testifier position: oppose
Testifier will be present: No
Submitted by: Helen Nielsen
Organization: Individual
Address: 1942 Main St. Ste. 104 Wailuku HI 96793
Phone: 808 283-1038
E-mail: oluolu@maui.net
Submitted on: 3/23/2010

Comments:

The Legacy Lands Fund was not created to do other conservation programs besides protecting lands by acquisition or by conservation easements. Most times these funds are leveraged with matching funds found elsewhere. It was not created to be raided for other purposes. While I appreciate the dire need for these other programs and locating sources of funding, I do not believe this fund should be used for these other purposes. It dilutes the whole idea of this fund.

**HB 2290,
HD2, SD1
Testimony**

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512

SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

WRITTEN TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS
WEDNESDAY, MARCH 24, 2010
9:30 a.m.
Room 211

HOUSE BILL NO. 2290, HOUSE DRAFT 2, SENATE DRAFT 1
RELATING TO AGRICULTURE

Chair Kim, Vice Chair Tsutsui and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2290, House Draft 2, Senate Draft 1. The Department of Agriculture offers comments.

The purpose of this bill is to carry out Article XI, Section 3 of the Hawaii Constitution but limits the effect of the amendments to Oahu. We note that the constitutional mandate is statewide and should be the application of the proposed amendments in this measure so that all counties are subject to the same land use laws.

The bill amends Chapter 519 (real property leases) by mandating an extension of leases of private agricultural land entered into after July 1, 2010, if these leases provide for renegotiation and the lessees have made or plan to make substantial improvements to the leased lands. The extension of the existing lease in this situation is to be no less than 75 percent of the original lease term; however the lessor may agree to a shorter term if offered by the lessee; and any additional terms and conditions agreed upon by the parties shall be "reasonable".

The amendments proposed in Senate Draft 1 appear to address the concern that the mandatory lease extension as originally proposed was an unconstitutional impairment of existing contracts. However, we have two other concerns that are not fully addressed in Senate Draft 1:

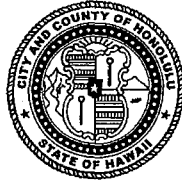
1. It appears this bill would not apply to those leasehold farms such as truck farms that have no "substantial improvements" other than irrigated and planted fields (what is substantial?)
2. This amendment may have the adverse unintended consequence of causing owners of agricultural lands with "A" and "B" soils no longer offer leases with provision for renegotiation, or not allow "substantial improvements" to the leased lands.

Further, this bill amends Section 205-3.1 by repealing the counties authority to approve boundary amendment petitions for agricultural parcels less than 15 acres and containing "A" and "B" rated soils. The amendment to Section 205-4 prevents the Land Use Commission (LUC) from reclassifying agricultural lands with "A" and "B" ratings if they meet four criteria to protect agricultural activities and resources from urbanization. We will defer to the counties and the LUC on the effect of these proposed changes as it shifts authority previously given to the counties back to the LUC.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
TELEPHONE: (808) 768-8000 • FAX: (808) 768-6041
DEPT. WEB SITE: www.honoluluapp.org • CITY WEB SITE: www.honolulu.gov

MUFI HANNEMANN
MAYOR



DAVID K. TANOUÉ
DIRECTOR

ROBERT M. SUMITOMO
DEPUTY DIRECTOR

March 24, 2010

The Honorable Donna Mercado Kim, Chair
and Members of the Committee on Ways and Means
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Kim and Members:

**Subject: House Bill No. 2290, HD2, SD1
Relating to Agriculture**

The Department of Planning and Permitting (DPP) **opposes** House Bill No. 2290, HD2, SD1, which seeks to add new criteria for boundary amendments on Oahu which involve land rated A or B under the Land Study Bureau classification system. The bill also adds regulations to lease renegotiations, but our department takes no position on the lease proposal. We note that SD1 of House Bill No. 2290 replaced its contents with Senate Bill No. 2780 SD2. We testified earlier in **opposition** to Senate Bill No. 2780.

We object to Sections 3 and 4 of the bill because it is unclear what quantity of A or B rated land would trigger the provisions. If this bill passes as written, even a small sliver of A or B rated land would have to go through the lengthier boundary amendment process in accordance with Section 205-4 as opposed to the shorter process for lands under 15 acres currently handled by counties. Additionally, Chapter 205 has an established and deliberate process for amending land use boundaries that works well. This bill, as written would only add redundant language to Chapter 205. Furthermore, we oppose this bill because there is no clear rationale for the proposed criteria to apply only to Oahu when the proposed criteria should apply equally to the neighbor islands.

In short, please file House Bill No. 2290, HD2, SD1.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David K. Tanoue", is written over a horizontal line.

David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf
hb2290hd2sd1-rh.doc

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ROBERT Q. BRUHL
Vice President, Development

March 22, 2010

VIA EMAIL

The Honorable Senator Donna Kim Mercado
Chair, Hawaii Senate Committee on Ways and Means
State Senate
The State Capitol
Honolulu, HI 96813

RE: **Opposition** to Senate Bill 2290, relating to agriculture (the "Bill"), redrafted to include the contents of SB2780

Dear Chair and Respected Committee Members,

I am Bob Bruhl, vice president of development for D.R. Horton-Schuler Homes. Schuler has a long history as a kama'aina company, and we are proud of our accomplishments as one of Hawaii's leading residential developers. We feel that throughout our 40-year journey of operating in Hawaii, we have strived to be thoughtful land stewards and welcome neighbors. Indeed, we believe that the strength of our relationships throughout the State and amongst your colleagues who know us well would confirm this. I hope that you understand that it is from that perspective from which this letter is written, and we appreciate the opportunity to submit it.

We **oppose HB 2290** in its current form (with the original contents replaced en masse with SB 2780) and respectfully request that you not pass it out of Committee.

This Bill has significant flaws. In its essence, it is seeking a method by which lands now under agricultural production can be preserved. While we do not disagree with such a noble and erstwhile objective, we would like to offer:

- **We view this Bill as an impediment to reasonable Lessor-Lessee terms and conditions.** If law in blanket fashion were to preset a term as important as lease extensions, which is usually negotiated as part of the full give-and-take package customary to any such deal (and perhaps based on their relationship and historical performance under a lease), how can one ever enter into such a "lease" in the first place?

- **This Bill is bad for agriculture.** The Farm Bureau testified against SB 2780 and its was dead-on. This bill will make it far more difficult for farmers to obtain leases. If farmers cannot secure leases and perhaps instead are given “licenses” or “entry rights” to farm, they will have significant challenges securing financing since they cannot evidence control over the land for adequate periods of time over which to amortize their investments – without the financing, their ability to invest dwindles, as their capital dries up, their businesses will undoubtedly be adversely affected.
- **This Bill is redundant, and is a loophole to another more important law.** The Important Agricultural Lands (“IAL”) law was passed last year, after six years of work by hundreds of stakeholders, to establish a rational process to identify and process by which lands most appropriate can be preserved in agriculture. Why side-step it with a law that is so general, and one that doesn’t consider important county directed growth policies and the conditions surrounding each property (as IAL can)?
- **This Bill is limited in scope (today).** Why is this Bill limited to Oahu? There are A&B ag lands throughout the state. What precludes this Bill from being a vehicle in the future to unfair, lopsided conditions in favor of lessees in all sorts of leases, such as commercial, industrial and residential properties throughout the state? It would be a difficult precedent.
- **This Bill has been supported by incorrect facts.** Consider that regardless of what has been claimed in testimony by others to date, GIS confirms that there is over 40,000 acres of A&B rated lands on Oahu, nearly 95% of which are outside the county-designated Urban Growth Boundaries and its adopted Development Plan areas. In essence, they are not at risk at all. The amount of remaining developable is, and this is a debate that many groups – from the North Shore to the central corridor to Windward to East Oahu -- would need to weigh in on. Are they all aware of the potential adverse impacts this Bill could have on land planning? That there areas’ development plans could be reopened to accommodate growth now not allowed in Ewa, the area this Bill targets?
- **Should the Legislature depend on the ALISH rating?** The ALISH Report was prepared nearly 30 years ago for purposes mostly related to the wind-down of pineapple production. Are we all certain that it was designed to be relied on in manner referenced in this Bill?

Thank you for the opportunity to submit our testimony.

Sincerely,





HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO
Gentry Pacific Design Center, Suite 215A * 560 N. Nimitz Highway, #50 * Honolulu, Hawaii 96817
(808) 524-2249 - FAX (808) 524-6893

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President
Bricklayers & Ceramic Tile Setters
Local 1 & Plasterers/Cement Masons
Local 630

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Glassworkers Local 1944

GARY AYCOCK
Boilermakers, Ironship Builders
Local 627

LYNN KINNEY
District Council 50
Painters & Allied Trades Local 1791

EUGENE SOQUENA
Operating Engineers Local 3

DOUGLAS FULP
International Assoc. of Heat & Frost
Insulators & Allied Workers Local 132

RONAN KOZUMA
Hawaii Teamsters & Allied
Workers Local 996

PETER GANABAN
Laborers' International Union of
North America Local 368

VAUGHN CHONG
Roofers, Waterproofers & Allied
Workers United Union of Roofer
Local 221

March 22, 2010

Honorable Senator Donna Mercado Kim, Chair
Honorable Senator Shan S. Tsutsui, Vice Chair
Members of the Senate Committee on Ways and Means
Hawaii State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: **IN OPPOSITION OF HB 2290, HD2, SD1**
RELATING TO AGRICULTURE
Hearing: Wednesday, March 24, 2010, 9:30 a.m.

Dear Chair Mercado Kim, Vice Chair Tsutsui and the Committee on Ways and Means

For the Record my name is Buzz Hong, the Executive Director for the Hawaii Building & Construction Trades Council, AFL-CIO. Our Council is comprised of 16- construction unions and a membership of 26,000 statewide.

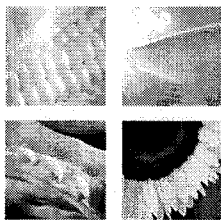
The Council OPPOSES the passage of HB 2290, HD2, SD1 that Provides for mandatory extension of agricultural leases.

Thank you for the opportunity to submit this testimony in opposition of HB 2290, HD2, SD1.

Sincerely,

William "Buzz" Hong
Executive Director

WBH/kb



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

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Alicia Maluafiti

Testimony By: Alicia Maluafiti
HB 2290 HD2, SD1, Relating to Agriculture
The Senate Committee on Ways and Means
Wednesday, March 24, 2010
Room 211, 9:30 am

Position: Strongly Oppose SD1

Aloha Chair Kim, Vice Chair Tsutsui and members of the Committee:

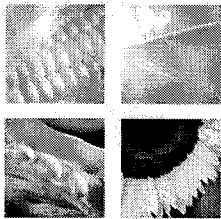
My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association, a nonprofit trade association representing the agricultural seed industry in Hawaii. HCIA requests that bill be amended to its House Draft 2 form.

HB 2290 HD 2 is critical to not only the agricultural industry, but to the health and safety of the entire state. This bill – in its original form - is an important and necessary attempt to mitigate further cutbacks to the Dept. of Agriculture as a result of Hawaii's fiscal crisis and the department's reliance on the general fund to support the ag inspector positions. It is an important, comprehensive and necessary initiative because of all the state departments impacted by the furloughs and reduction in force, the Department of Agriculture suffered the greatest loss. We must restore the Dept. of Agriculture positions and minimize future losses to the department in the face of a worsening budget crisis.

The new Senate Draft further impedes on our ability to reasonably negotiate sub-lease terms with other farmers. As the largest agricultural commodity in Hawaii, the seed industry has access to large acres of leased or purchased agricultural lands. Recognizing the difficulty of farmers secure land, many seed companies now collaborate with farmers, as well as the Farm Bureau, to put new and displaced farmers back on agricultural land at affordable prices. This bill serves as a disincentive and ties the hands of farmers interested in working together to ensure the viability of agricultural in Hawaii. In addition, the bill challenges our own ability to secure or retain leased lands because of the restrictions imposed by the bill.

HB 2290 SD 1 circumvents the IAL process.

The agricultural community worked for years with other allies and stakeholders to pass the Important Agricultural Lands ("IAL") law to identify lands most appropriate for agricultural preservation. We have more than 40,000 acres of A and B rated lands on Oahu – nearly 95% which is outside the county-designated Urban Growth Boundaries. HB 2290 SD 1 trivializes the IAL effort and creates a loophole to bypass that process. If we are truly committed to minimizing urban sprawl and its



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

encroachment upon important agricultural lands, then we must honor the IAL process and support the county plans that address future growth on Oahu.

We ask the committee to please reinsert the language from HB 2290 HD 2 back into the bill. Mahalo.

Mahalo for the opportunity to comment.

**HCIA 2008-2009
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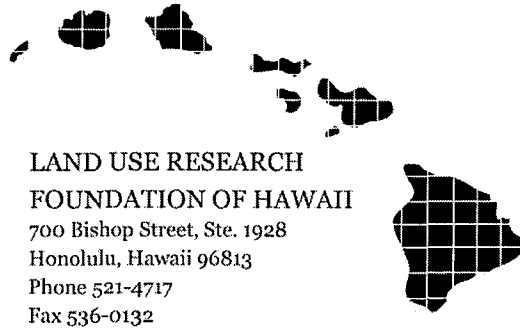
Jill Suga

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Via E-mail: WAMTestimony@capitol.hawaii.gov

March 24, 2010

Senate Committee on Ways and Means
Public Decision making on HB 2290, HD2, SD1
Wednesday, March 24 at 9:30 a.m. in CR 211

Opposition to HB 2290, HD2, SD1
Relating to Agricultural Lands
(Alteration of agricultural leases and boundary amendment prohibition)

The Honorable Chair Donna Mercado Kim, Vice Chair Shan Tsutsui and Members of the Senate Committee on Ways and Means,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF respectfully, but strongly opposes the current HB 2290, HD2, SD1 in the SD1 version. This bill in its SD1 version would unconstitutionally mandate an extension of at least seventy-five percent of the original lease term when a lessee renegotiates a lease and makes or seeks to make substantial improvements on class A or B rated agricultural lands in a county with a population of over five hundred thousand residents. In addition, HB 2290, HD2, SD1 allows for a shorter term or termination of a lease only if offered by the lessee and requires that any additional terms and conditions of the lease be mutually agreed upon. HB 2290, HD2, SD1 also illegally prohibits any boundary amendment of any A or B agricultural designated land.

LURF is in support of the original version of HB 2290, HD2, which proposed to establish the Agriculture Inspection and Certification Special Fund under the Department of Agriculture (DOA) for the inspection, certification, weighing, or grading of agricultural commodities that are to be imported into, exported from, or shipped within the state.; would deposit all fees, civil penalties, and other moneys collected by DOA into the Special Fund; would allow DOA to enter into agreements with government and private agencies to hire and pay inspectors to perform certification and audit

services, maintain food safety, and establish and maintain an Internet food safety promotional and reporting system; would repeal the Certification Services Revolving Fund; would require the establishment or increase of certain fees to cover the operation and maintenance costs of agriculture inspection and certification programs, and central services and departmental administrative expense assessments; and would appropriate funds for DOA's agriculture inspection and certification program. Unfortunately, these provisions were recently deleted from the bill by the Senate Water, Land, Agriculture & Hawaiian Affairs (WTL) in its SD1 version.

LURF strongly opposes the new SD1 version of HB 2290, HD2, which now mandate the extension of Agricultural leases and prohibition on amendment of land use district boundaries. HB 2290, HD2, SD1 unconstitutionally changes the terms of existing Agricultural leases by mandating the extension of leases on Class A or B agricultural lands for a period not less than 75% of the original lease term if the lessee has made improvements, or is seeking to make improvements. The bill also unfairly prohibits the landowner from amending the land use district boundary of such lands under certain criteria.

LURF respectfully **opposes** HB 2290, HD2, SD1 based on, among other things, the following:

- **Unintended negative consequences for farmers – land owners could prohibit construction of farm improvements and revoke long-term agricultural leases.** LURF also supports the conservation and protection of important agricultural lands and supports the IAL law, however, this bill is unconstitutional, unfair, and will likely cause unintended negative consequences for farmers - - In order to avoid the mandatory lease extensions, some landowners may prohibit farm improvements, cancel existing long-term agricultural leases, or require month-to-month revocable licenses for all of their A and B agricultural lands.
- **Unintended negative consequences for farmers – Limitation of active farming operations.** LURF also supports and encourages active farming operations on IAL, however, Part II of this bill is unconstitutional, unfair and will likely cause unintended negative consequences for farmers - - In order to retain the flexibility to file a future district boundary amendments, some landowners others may cease active farming operations on much of their A and B agricultural lands.
- **Unconstitutional violation of the Contracts Clause of the U.S. Constitution.** HB 2290, HD2, SD1 illegally impairs the right to freely contract for Agricultural lease contracts after July 1, 2010, because it unfairly restricts and limits the terms of future leases by creating a new right; requires new conditions favorable to lessees and imposing different liabilities (lease extension for not less than 75% of the original term); and only allows the lessee the right to offer a shorter lease extension or to end the agreement..
- **Inconsistent with spirit, intent and principles of the IAL law.** The IAL laws were enacted to fulfill the mandate in Article XI, Section 3, to the Hawaii State Constitution, “to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.” The IAL laws established a “new paradigm,” which avoids requirements and mandates, but instead focuses on promoting agricultural viability; incentives for farmers and landowners to designate lands as IAL and to

build necessary infrastructure; an initial 3-year period for voluntary IAL designation; and allows boundary amendments of A and B Agricultural lands. However, HB 2290, HD2, SD1 is inconsistent with the IAL law, because the IAL law is not based on A and B soil classifications; the IAL law is not based on government requirements and mandates which impose mandatory lease extensions for agricultural lands, and the IAL law does not prohibit boundary amendments.

- **Unconstitutional Taking under IAL Law.** Under the IAL law, landowners were encouraged to designate 50% of their lands as IAL, and in return, they would be eligible for various incentives including the opportunity to reclassify their IAL lands (including A & B designated lands) to conservation, rural or urban state land use designations. To the extent that a landowner has already designated their lands as IAL, this bill retroactively revokes the right of that landowner to reclassify their A & B designated lands.
- **Not supported by IAL Agricultural stakeholders.** The IAL laws were based on input and consensus of the Hawaii Farm Bureau, LURF and other agricultural and government stakeholders over the past several years. HB 2290, HD2, SD1 is not supported by the Farm Bureau, LURF and many other agricultural stakeholders.
- **Ignores County General Plans and the detailed and lengthy approval processes for county plans, LUC boundary amendments and County zoning.** The land uses shown on existing County General Plans and other county community plans are a result of various staff and administrative reviews, numerous public hearings and Council and Planning Commission approval processes. Having gone through the County General Plan and other planning processes, some landowners may want to amend their State land use boundaries and change their zoning to be consistent with the County General Plan and other County plans, however, HB 2290, HD2, SD1 would prohibit such boundary amendments, and thus, ignores the County General Plans and the various land use approval processes. To change land uses to comply with the General Plan, a landowner must also go through further lengthy and expensive land use approval processes at the State Land Use Commission (LUC) and County zoning, which involve public hearings and input, introduction of evidence and may be subject to contested case hearings and judicial appeals. By prohibiting boundary amendments consistent with General Plans, HB 2290, HD2, SD1 is inconsistent with Act 28 (2008), which amended the Land Use Commission (LUC) decision-making criteria to require that the LUC specifically consider the County General Plan, and all community, development, or community development plans adopted pursuant to the county general plan, as they relate to the land subject to boundary amendments.

CONCLUSION. The intent and application of HB 2290, HD2, SD1 are unconstitutional, profoundly anti-business and bad public policy, and therefore we respectfully request that **this Committee:**

- **Delete the SD1 revisions, which now mandate the extension of Agricultural leases and prohibition on amendment of land use district boundaries; and**
- **Retain the original content of the HD2 version of HB 2290.**

Thank you for the opportunity to express our **opposition to HB 2290, HD2, SD1** and request that it be amended and retain the language from the HD2 version.

MONSANTO HAWAII

2104 Lauwiliwili Street
Kapolei, Hawaii 96707

March 24, 2010

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS & MEANS

TESTIMONY ON
HB 2290, HD 2, SD 1
RELATING TO AGRICULTURE

Chair Kim and committee members:

My name is Alan Takemoto, Community Affairs Manager for Monsanto.

HB 2290 HD 2, SD 1, attempts to protect agricultural lands on Oahu; and provides for a mandatory extension of agricultural leases.

This bill as written in Senate Draft 1 is problematic and concerning as it directly impacts our company land holdings on Oahu both in fee and under lease. We as landowners and tenants understand and recognize the difficulty of the farmer's ability to secure land. As such, we are collaborating with farmers to put new and existing farmers back on agricultural lands at affordable prices. This bill serves as a disincentive and ties the hands of both landowner and farmers interested in working together to ensure the viability of agriculture in Hawaii.

The original contents of HB 2290, HD 2 is critical to the social and economic well being of Hawaii's economy and environment. Particularly, it is important to the agricultural industry as it provides for an agriculture inspection and certification special fund under the department of agriculture. This bill provides the Department of Agriculture the ability to set up a fee for service program that will help offset the cost of agricultural inspections and certification.

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 that this program will allow the Department of Agriculture to have a comprehensive effort that seeks an alternative and a solution.

For these reasons, we cannot support the existing Senate Draft 1 and ask that the original intent of House Draft 2 be reinserted.

Thank you for the opportunity to submit testimony.

Testimony to the Committee on Ways and Means

DATE: Wednesday March 24th, 2010

TIME: 9:30 a.m.

PLACE: Conference Room 211

RE: HB 2290 RELATING TO AGRICULTURE

Chair Mercado Kim, Vice Chair Tsutsui and Members of the Committee,

Syngenta Hawaii strongly opposes HB 2290 SD1 in its current form. My name is Laurie Goodwin and I am representing Syngenta Hawaii which employs over 450 people in Kunia on Oahu and Kekaha on Kauai. In its original form HB 2290 HD2 was a critical attempt to mitigate cutbacks in the Department of Agriculture. It was a comprehensive and vital initiative to restore DOA positions and minimize future potential losses to the department in the face of a worsening economic climate in Hawaii.

The new Senate Draft will further obstruct our ability to negotiate sub-lease terms with other farmers. The seed industry is the #1 agricultural commodity in the State of Hawaii and as such has access to large acres of leased and purchased land. We recognize the difficulty farmers and ranchers are facing to secure land, and have begun developing collaborative efforts to sublease land parcels at affordable prices. This bill will serve as a disincentive to this approach. Additionally, the current draft circumvents the Important Agricultural Land process and will create a loophole to bypass the IAL process.

Thank you for the opportunity to submit testimony.

Mahalo,

Laurie Goodwin

Laurie Goodwin
Hawaii State Affairs Manager
Syngenta Hawaii
7050 Kaunualii Highway | Kekaha, HI 96752
PO Box 879 | Waimea, HI 96796
office: 808-337-1408 Ext. 120 | mobile: 808-652-0768
laurie.goodwin@syngenta.com

syngenta

Hawaii





The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
15 South Beretania Street
Conference Room 211
Honolulu, HI 96813

Aloha Chair and Committee Members,

RE: Opposition to House Bill 2290, Relating to Agriculture (Meeting date: March 24, 2010, 9:30a.m.)

I respectfully oppose House Bill 2290, which is bad for the agriculture industry in Hawaii.

Ultimately this bill does not support farmers, who often need major financing sources to sustain their farming operations. This bill will make it difficult for farmers to obtain leases. Without secured leases, farmers cannot prove their business models, and without these critical components, their businesses will not survive.

Mahalo,
Gale Braceros
Site Coordinator
Site III- Ewa-Ewa Beach
Phone: 232-6437

kim2 - Jo Ann

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 22, 2010 7:14 PM
To: WAM Testimony
Cc: Luella@hfbf.org
Subject: Testimony for HB2290 on 3/24/2010 9:30:00 AM

Testimony for WAM 3/24/2010 9:30:00 AM HB2290

Conference room: 211
Testifier position: comments only
Testifier will be present: No
Submitted by: Luella Costales
Organization: HFBF
Address:
Phone:
E-mail: Luella@hfbf.org
Submitted on: 3/22/2010

Comments:

HFBF is concerned about the impact on future leases with landowners. Would landowners be less willing to lease to our farmers and ranchers for fear of mandatory lease terms?

kim2 - Jo Ann

From: Charles Zahn [czahn@hawaii.rr.com]
Sent: Tuesday, March 23, 2010 12:08 AM
To: WAM Testimony
Subject: House Bill 2290

Measure: House Bill 2290, Relating to Agriculture
Hearing date: March 24, 2010 at 9:30 a.m.

The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
415 South Beretania Street
Conference Room 211
Honolulu, HI 96813

RE: Opposition to House Bill 2290, Relating to Agriculture

Dear Chair Kim and Respected Committee Members,

As a longtime Makakilo resident and active member of the community, I strongly oppose House Bill 2290. This Bill has been supported by incorrect facts.

Consider that regardless of what has been claimed in testimony by others to date, GIS confirms that there is over 40,000 acres of A&B rated lands on Oahu, nearly 95% of which are outside the county-designated Urban Growth Boundaries and its adopted Development Plan areas. In essence, they are not at risk at all. The amount of remaining developable is, and this is a debate that many groups – from the North Shore to the central corridor to Windward to East Oahu -- would need to weigh in on.

Are all of these communities aware of the potential adverse impacts this Bill could have on land planning? If we want to “keep the country country” – as these communities have declared – we need to allow for responsible and careful growth, which is the immediate plan for the ‘Ewa plain.

Thank you,

Charles Zahn

The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
415 South Beretania Street
Conference Room 211
Honolulu, HI 96813

RE: Opposition to House Bill 2290, HD2, SD1, Relating to Agriculture
(Meeting date: Wednesday March 24, 2010, 9:30a.m.)

Aloha Chair and Committee Members,

I am a longtime 'Ewa Beach resident and for many years I have been involved in the community, through the 'Ewa Beach Lions Club, Weed & Seed and the 'Ewa Neighborhood Board. Thank you for allowing me to comment on HB2290. I strongly oppose this bill, as I believe it will be most detrimental to our future here on the 'Ewa Plain, and ultimately the entire island.

If we do not follow through with the growth plans set by the City and State decades ago, where will my children and their children live? The Second City, when fully developed, will present many opportunities for us. If we do not allow for smart growth we jeopardize other communities around the island that have been designated to stay green and in "ag."

Finally, it seems as though this Bill is targeting one developer, D.R. Horton. Why is law being drafted to tamper with this company's operations? Is that legal?

Thank you,

Coby Lynn

91-1139 Hanakahi Street
'Ewa Beach, HI 96706

Phone: 223-0907

kim2 - Jo Ann

From: Georgette Stevens [georgette.stevens@gmail.com]
Sent: Tuesday, March 23, 2010 9:13 AM
To: WAM Testimony
Subject: House Bill 2290

March 23, 2010

The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
15 South Beretania Street
Conference Room 211
Honolulu, HI 96813

Subject: Opposition to House Bill 2290, Relating to Agriculture (Meeting date: March 24, 2010, 9:30a.m.)

Aloha Chair and Committee Members:

Mahalo for this opportunity to comment on House Bill 2290, I oppose HB2290. This Bill – despite its language to “conserve and protect agricultural lands” does not help the agricultural industry. This bill will present farmers with many challenges, including obtaining leases, which may lead to difficulties in securing financing, and ultimately negatively affecting their operations.

In addition, this bill is unfair to the landowners. Think about what adverse impacts this may have for farmlands in the future.

Your time and consideration is greatly appreciate.

Georgette Stevens
P O Box 75414
Kapolei, HI 96707
306-7992

March 23, 2010

The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

RE: Opposition to House Bill 2290, Relating to Agriculture (Meeting
date: March 24, 2010, 9:30a.m.)

Aloha Chair and Committee Members,

I have lived in Makakilo for over 38 years. Throughout the years, I have witnessed immense growth in the greater Kapolei area. What was once land for sugar is now a vibrant and truly New City - full of opportunities for our young, local families. We have waited a long time for so many good things to come our way, and they are finally happening.

I would like to offer my comments on House Bill 2290, a bill which I strongly oppose. This Bill does not recognize County development plans. We have worked so hard for so many years to see our New City of Kapolei to fruition. We finally have Kualakai Parkway, expanding Kapolei Parkway, the proposed University of Hawai'i West O'ahu Campus, and the construction of Salvation Army Kroc Center. This Bill will erase the strategic planning and long-term vision for our community.

Furthermore, why is the Legislature working to save Aloun Farms? Clearly there is no excuse for slavery - here in Hawai'i, or anywhere for that matter.

We must move forward with our County's Ewa Development Plan to make the New City of Kapolei a reality.

Mahalo for your time and consideration.

Maeda Timson
92-684 Nohona St.
Kapolei, Hi. 96707
672-9414

The Honorable Donna Mercado Kim
Chairwoman, Senate Ways and Means Committee
Hawaii State Capitol
415 South Beretania Street
Conference Room 211
Honolulu, HI 96813

RE: OPPOSITION to House Bill 2290, Relating to Agriculture (Meeting date:
March 24, 2010, 9:30a.m.)

Dear Chair and Respected Committee Members,

For nearly 15 years I have been a resident in the Villages of Kapolei. The land my home sits on – like almost every other home in Kapolei – was at one time used for agriculture. Our entire Kapolei community was fields of sugar cane. It does not make sense that Ho'opili is being singled out to be preserved as "prime agricultural lands." What about the existing homes and development in the area? Why was it OK to build there but not at Ho'opili, especially when Ho'opili is going to bring jobs and create affordable homeownership opportunities for our local, working families?

The roadway connections in and around Kapolei and the 'Ewa Plain are finally coming to fruition. If we do not see the 'Ewa Development Plan - which includes Ho'opili - through to full completion, these roads, and the millions of dollars spent to build them will be wasted and ineffectual. We must immediately move forward as planned.

Thank you for allowing me to comment in opposition of House Bill 2290.

Thank you,
Linda Young

91-1059 Oaniani Street #1C
Kapolei, HI 96707