

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

DUANE K. OKAMOTO
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 Fax: (808) 973-9613

TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
FRIDAY, MARCH 26, 2010
11:00 A.M.

SENATE BILL NO. 2523, S.D. 2, H.D. 1
RELATING TO AGRICULTURAL INSPECTIONS

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 2523, S.D. 2, H.D. 1.

The department supports this measure and would like to provide some comments and suggest revisions for your consideration.

The following language should be added under Section 1, on page 1, line 8, in a new paragraph to reflect an important purpose of Senate Bill No. 2523, S.D. 2, H.D. 1:

“(2) Imposes fines for failure to timely pay, bill, or remit the pest inspection, quarantine, and eradication service fee;”

The remaining paragraphs thereafter in Section 1 will need to be renumbered, so that there will be a total of six purposes for this measure instead of the five that were listed in H.D. 1.

Another minor revision that should be noted under Section 2, on page 3, lines 3 through 5, is a reformat change so that these lines are left justified to line up with the first three lines of subsection (a) that are found above paragraph (1). The reason for this correction is that the text, "shall pay a fine of two times the amount of the inspection, quarantine, and eradication service fee or \$50, whichever is higher.", refers to both paragraphs (1) and (2) under subsection (a).

Under Section 13, on page 15, lines 3 thru 10, the word "branch" is used in paragraphs (5), (6) and (7), however other sections within chapter 150A, Hawaii Revised Statutes, consistently refer to the "department" rather than the "branch". Therefore, the department would like to recommend that the affected paragraphs be revised as follows:

- "(5) A fee for treatment or destruction of infested commodities performed by the department shall be \$50 per parcel;
- (6) A fee for the use of a quarantine house operated by the department shall be \$50 per room per month; and
- (7) A storage fee of \$5 per day shall be charged for commodities stored at any department office, forty-eight hours after written notification."

These amendments are included in the attached SB2523, SD2, HD1, Proposed HD2.

A BILL FOR AN ACT

RELATING TO AGRICULTURAL INSPECTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The purpose of this Act is to address the issue of agriculture in Hawaii. More specifically, this Act includes the following major amendments:

- (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) ~~Imposes fines for failure to timely pay, bill, or remit the pest inspection, quarantine, and eradication service fee;~~
- [+2+] (3) Clarifies and expands the purposes for which funds may be expended from the pest inspection, quarantine, and eradication fund;
- [+3+] (4) Requires the deposit of fees and fines relating to agricultural inspections into the pest inspection, quarantine, and eradication fund;

- (
- [+4+] (5) Repeals the permit revolving fund and microorganism import certification revolving fund and transfers moneys in those funds into the pest inspection, quarantine, and eradication fund; and
- [+5+] (6) Directs the department of agriculture to adopt or amend rules to impose or increase fees under chapter 150A, and sets a fee schedule to go into effect if the department fails to do so in a timely manner.

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

(

"§150A- Failure to pay or remit the inspection, quarantine, and eradication service fee; fines. (a) The following fines shall be imposed for failure to pay, bill, or remit the inspection, quarantine, and eradication service fee as provided for in section 150A-5.3:

- (1) A person responsible for paying the freight charges to the transportation company who fails to pay the fee; or
- (2) A transportation company that fails to:
- (A) Bill the fee, within fifteen days of the delivery of the freight, to the person

responsible for paying the freight charges
to the transportation company; or

- (B) Remit the fee to the department within forty-
five days of collecting the fee from the
person responsible for paying the freight
charges to the transportation company,

shall pay a fine of two times the amount of the inspection,
quarantine, and eradication service fee or \$50, whichever
is higher.

(b) All fines shall be paid to the department and
deposited into the pest inspection, quarantine, and
eradication fund under section 150A-4.5."

SECTION 3. Section 150A-2, Hawaii Revised Statutes,
is amended by adding four new definitions to be
appropriately inserted and to read:

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

"Cement bulk freight" means unpackaged, homogenous
cement, without mark or count, that is usually free-flowing
and bought and sold by weight or volume.

"Coal bulk freight" means unpackaged, homogenous coal, without mark or count, that is usually free-flowing, bought and sold by weight or volume, and used as a fuel.

"Liquid bulk freight" means unpackaged, homogenous liquid goods, without mark or count, that are usually free-flowing and bought and sold by weight or volume, such as oil, or other complex mixture of petroleum hydrocarbons, bituminous liquids such as asphalt, gasoline, and fuel oils."

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

"§150A-4.5 Pest inspection, quarantine, and eradication fund. (a) There is established in the state treasury the pest inspection, quarantine, and eradication fund, into which shall be deposited:

- (1) Legislative appropriations for biosecurity and pest inspection, quarantine, and eradication services;
- (2) Service fees, charges, and penalties collected under section 150A-5.3[+];
- (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 biosecurity and pest inspection, quarantine, eradication, [biosecurity,] and monitoring programs, related facilities, [and] the execution of emergency remedial measures when pests are detected in the course of inspection and quarantine activities by the department[-], training of inspectors, education of the agricultural industry, permit and certificate holders, and the general public as to import requirements, and for any other purposes deemed necessary to carry out the purposes of this chapter. In addition, the moneys shall be expended to facilitate the processing and issuance of permits and microorganism import documents and for the operations, activities, and monitoring of permitted and certified plants, animals, and microorganisms."

SECTION 5. Section 150A-5.3, Hawaii Revised Statutes, is amended to read as follows:

"§150A-5.3 Inspection, quarantine, and eradication service fee and charge. (a) There is imposed a fee 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, but not including aggregate bulk freight, cement bulk freight, coal bulk freight, or liquid bulk freight, that is brought into the [~~State-~~] state. The transportation company shall bill the fee to the person responsible for paying the freight charges to the transportation company within fifteen days of the delivery of the freight. The fee 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 from the person responsible and forward the payment to the department at the port of disembarkation [~~+~~] within forty-five days of receipt of the fee; provided that the transportation company shall not be liable for any fee that is not paid by the person responsible for paying the freight charges to the transportation company.

The department shall deposit the fee into the pest inspection, quarantine, and eradication fund under section 150A-4.5.

(b) The fee 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,~~] state, or part thereof."

SECTION 6. Section 150A-21, Hawaii Revised Statutes, is amended to read as follows:

"[~~+~~]**\$150A-21**[+] **Certification for shipment.** The department may certify as to the pest condition or post treatment of shipments when officially required. Fees may be charged for certificates in certain instances[~~-~~] and shall be deposited into the pest inspection, quarantine, and eradication fund."

SECTION 7. Section 150A-23, Hawaii Revised Statutes is amended to read as follows:

"[~~+~~]**\$150A-23**[+] **Nursery stock certificate.** The department may issue and authorize the use of nursery stock certificates by any shipper complying with its regulation for nursery inspection. Shipments accompanied by these certificates may move to other localities within the county or to other counties without inspection at destination. Nursery stock certificates may be issued for interstate

shipments. Fees may be charged for nursery certification[-] and shall be deposited into the pest inspection, quarantine, and eradication fund. Nursery stock certificates shall not be altered or misused.

The department may revoke or suspend the right to use any nursery stock certificate which is issued to any person who fails to comply with requirements for [~~their~~] use of the certificate."

SECTION 8. Section 150A-31, Hawaii Revised Statutes, is amended to read as follows:

"~~+~~§150A-31~~+~~ **Certificate for shipment.** The department may certify as to the pest condition of honey bee shipments when health certificates are officially required. Fees to cover the department's certification costs may be charged for health certificates as provided by rule[-] and shall be deposited into the pest inspection, quarantine, and eradication fund. Health certificates shall not be altered or misused."

SECTION 9. Section 150A-42, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Fees may be assessed for the processing and issuance of a certificate and for inspections related to the certificate, as established by rule and shall be deposited into the pest inspection, quarantine, and

eradication fund. Fees may vary according to the type of certification issued and the costs incurred for inspections[-]; provided that the fees shall be deposited into the pest inspection, quarantine, and eradication fund."

SECTION 10. Section 150A-6.7, Hawaii Revised Statutes, is repealed.

~~["§150A-6.7 Permit revolving fund. (a) There is established in the state treasury a revolving fund to be known as the permit revolving fund to be administered by the department. The permit revolving fund shall consist of:~~

- ~~(1) Legislative appropriations;~~
- ~~(2) User fees as authorized by rule;~~
- ~~(3) All interest earned on or accrued to moneys deposited in the permit revolving fund;~~
- ~~(4) Grants and gifts; and~~
- ~~(5) Any other moneys made available to the permit revolving fund from other sources.~~

~~(b) The department shall expend moneys in the permit revolving fund to:~~

- ~~(1) Facilitate the processing and issuance of permits;~~

- ~~(2) Amend lists of creatures prohibited or allowed for import;~~
- ~~(3) Comply with monitoring activities;~~
- ~~(4) Train personnel, and provide educational workshops, materials, and equipment; and~~
- ~~(5) For any other purpose deemed necessary to carry out the purposes of this part."]~~

SECTION 11. Section 150A-48, Hawaii Revised Statutes, is repealed.

~~["~~§150A-48~~ **Microorganism import certification revolving fund.** (a) There is established in the state treasury the microorganism import certification revolving fund which shall be administered by the department for the purposes of this section. The microorganism import certification revolving fund shall consist of:~~

- ~~(1) Legislative appropriations to the microorganism import certification revolving fund;~~
- ~~(2) Certification and inspection fees, as authorized by rule;~~
- ~~(3) All fines collected pursuant to this part;~~
- ~~(4) Reimbursements for any costs paid by the department to remediate any impending danger or actual emergencies involving microorganisms imported pursuant to certificate;~~

- ~~(5) All interest earned on or accrued to moneys deposited in the microorganism import certification revolving fund;~~
- ~~(6) Grants and gifts to the microorganism import certification revolving fund; and~~
- ~~(7) Any other moneys made available to the microorganism import certification revolving fund from other sources.~~

~~(b) The balance in the microorganism import certification revolving fund shall not exceed \$500,000. All amounts in excess of \$500,000 shall be deposited to the credit of the state general fund.~~

~~(c) The department shall expend moneys in the microorganism import certification revolving fund for the development, administration, and operation of the microorganism import certification program, including but not limited to personnel, training, materials and equipment, compliance monitoring activities, educational workshops for certified importers and applicants for certification, evaluation and remediation of impending threat or actual emergencies related to microorganisms imported pursuant to certificate, and for any other purpose deemed necessary to carry out the purposes of this part.~~

~~(d) The department may set fees, by rule, for educational workshops for certified importers or applicants for certification."]~~

SECTION 12. (a) The repeal of section 150A-6.7 and section 150A-48, Hawaii Revised Statutes, shall not rescind any fees authorized or imposed under those sections that would have been deposited into the permit revolving fund or the microorganism import certification revolving fund. From July 1, 2010, the fees under those sections shall be deposited into the pest inspection, quarantine, and eradication fund.

(b) On July 1, 2010:

- (1) All moneys in the permit revolving fund and microorganism import certification revolving fund as of 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 as of 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.

SECTION 13. (a) Between July 1, 2010, and September 30, 2010, the department of agriculture shall adopt new or amend existing rules to impose or increase the fees authorized to be charged under chapter 150A, Hawaii Revised Statutes, without regard to the public notice and public hearing requirements of section 91-3, Hawaii Revised Statutes, the small business impact review requirements of chapter 201M, Hawaii Revised Statutes, or the limit on fee increases under section 92-28, Hawaii Revised Statutes. The department shall set the fees at amounts intended to generate, together with the inspection, quarantine, and eradication service fee, sufficient revenues to pay the operation and maintenance costs of implementing the agriculture inspection and biosecurity programs of chapter 150A, Hawaii Revised Statutes, and the central services and departmental administrative expense assessments of section 36-27 and section 36-30, Hawaii Revised Statutes.

(b) If, by September 30, 2010, the department of agriculture has not complied with subsection (a), then the fee charged for each inspection or certification conducted

under authority of chapter 150A shall be as follows,
effective October 1, 2010:

- (1) A fee for inspection, safeguarding, witnessing departure, witnessing treatment, or certification requiring the services of personnel beyond regular work hours, including pre-shift, post-shift, holidays, or days off shall be \$50 plus mileage reimbursement, and an additional fee shall be assessed, which shall include applicable charges for overtime wages, fixed charges for personnel services, and meals;
- (2) A fee for any inspection during regular work hours conducted away from the port or office, including an inspection for safeguarding, witnessing departure, witnessing treatment, or certification, but excluding those inspections subject to the inspection, quarantine, and eradication service fee under section 150A-5.3, Hawaii Revised Statutes, shall be \$50 per hour plus mileage reimbursement;
- (3) An annual fee for nursery certification shall be \$100;
- (4) A fee for follow-up inspections required to correct deficiencies found in a certification

inspection or inspections to remedy out-of-state rejections shall be \$50 per hour plus mileage reimbursement;

- (5) A fee for treatment or destruction of infested commodities performed by the branch department shall be \$50 per parcel;
- (6) A fee for the use of a quarantine house operated by the branch department shall be \$50 per room per month; and
- (7) A storage fee of \$5 per day shall be charged for commodities stored at any branch department office, forty-eight hours after written notification.

The fee shall be deposited into the pest inspection, quarantine, and eradication fund.

(c) Any subsequent amendments to the rules adopted or amended pursuant to subsection (a) or the fees established under subsection (b) shall be subject to all applicable provisions of chapter 91, chapter 201M, and section 92-28, Hawaii Revised Statutes.

SECTION 14. All inspection, quarantine, and eradication fees that have accrued prior to the effective date of this Act and have been exempted by this Act shall be waived.

SECTION 15. There is appropriated out of the pest inspection, quarantine, and eradication fund the sum of \$ or so much thereof as may be necessary for fiscal year 2010-2011, and shall be expended by the department of agriculture for the purposes of the fund.

SECTION 16. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 17. This Act shall take effect on July 1, 2010; provided that sections 3 and 5, upon approval, shall take effect retroactive to July 1, 2007.

Report Title:

Pest Inspection, Quarantine, and Eradication Service Fee

Description:

Makes various amendments to the agricultural inspection and biosecurity laws, including 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) Imposes fines for failure to timely pay, bill, or remit the pest inspection, quarantine, and eradication service fee; (3) Expands the purposes for expenditures from the Pest Inspection, Quarantine, and Eradication Fund; (4) Requires the deposit of fees and fines relating to agricultural inspections into the Pest Inspection, Quarantine, and Eradication Fund; (5) Repeals the Permit Revolving Fund and Microorganism Import Certification Revolving Fund and transfers the moneys in those funds in the Pest Inspection, Quarantine, and Eradication Fund; and (6) Waives exempted fees. Effective July 1, 2010. (SB2523 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

S.B. NO. 2523, S.D. 2, H.D. 1, RELATING TO AGRICULTURAL INSPECTIONS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, March 26, 2010 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call Haunani Burns, Deputy Attorney General, at 586-1180.

Chair Oshiro and Members of the Committee:

The Department of the Attorney General has a legal concern with what appears to be a technical error in this bill.

According to the House Committee on Agriculture's Standing Committee Report No. 892-10, this bill's purpose, in relevant part, is to exempt certain types of bulk freight from the inspection fee imposed by section 150A-5.3, Hawaii Revised Statutes, on freight entering the State and to waive inspection fees that accrued prior to this bill's enactment, provided the bill exempts those fees.

Section 17 of this bill provides that the bill, when enacted, will take effect on July 1, 2010, but that "sections 2 and 3, upon approval, shall take effect retroactive to July 1, 2007." (See page 16, lines 6-8.)

Section 2 of this bill imposes a fine for failure to timely pay, bill, or remit the inspection fee under section 150A-5.3. (See page 2, line 5, to page 3, line 5.) By making section 2 retroactive to July 1, 2007, fines for failure to timely pay, bill, or remit the inspection fee would be made retroactive to that date. This would violate constitutional due process

Testimony of the Department of the Attorney General
Twenty-Fifth Legislature, 2010
Page 2 of 2

because the punished behavior was not punishable at the time the behavior occurred.

Section 3 of this bill provides definitions of certain types of bulk freight, including aggregate bulk freight, cement bulk freight, coal bulk freight, and liquid bulk freight. (See page 3, line 9, to page 4, line 8.) We note that section 5 of this bill expressly exempts the types of bulk freight specified in section 3 from the inspection fee imposed by section 150A-5.3. (See page 6, lines 8-10.) Section 5 also imposes timeframes for billing, payment, and remittance of the inspection fee. (See page 6, lines 11-22.) In view of the bill's purpose as stated in Standing Committee Report No. 892-10, it appears that, along with section 3, the exemption in section 5 for the specified types of bulk freight was intended to take effect retroactive to July 1, 2007. Section 3 and the portion of section 5 pertaining to the exemption for certain bulk freight would need to take effect retroactive to July 1, 2007, in order to exempt the types of bulk freight described in section 3 from the inspection fee from the date of the fee's inception. It does not appear that the bill intended to make the requirement in section 5 for timely billing, payment, and remittance of the inspection fee similarly retroactive.

Under the constitutional due process requirements, we believe that section 2 cannot validly be made retroactive. If this bill is to be passed, we recommend that section 17 be amended as follows: "This Act shall take effect on July 1, 2010; provided that section 3 and the exemption in section 5 relating to aggregate bulk freight, cement bulk freight, coal bulk freight, and liquid bulk freight shall take effect retroactive to July 1, 2007."



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

RE: SB 2523 HD1 RELATING TO INVASIVE SPECIES

Chair Oshiro and Members of the Committee:

Hawaii Farm Bureau Federation (HFBF) on behalf of our member farm and ranch families and organizations **strongly supports SB2236 HD1** setting up fines for enforcing the conditions of the biosecurity law and exempting certain goods from invasive species fees.

Implementation of Hawaii's Biosecurity Law is critical to Hawaii's future. The measure is important **not only to stop the introduction and spread of invasive species but to ensure that future projects such as Harbor and Port improvements that require EIS review do not get delayed** due to inadequate invasive species mitigation. What happened in the last decade at Kahului Airport with a lawsuit against the State should serve as evidence of what can happen if these measures are not put into place. Many of the improvements in the Harbor Master Plan are critical to ensure timely and affordable transportation of agricultural products from production centers to population centers.

We also support the suggested fee exemptions for low risk preprocessed true bulk products. It is our understanding that if warranted, these cargo can be inspected.

HFBF, respectfully requests your strong support of this measure. Thank you for this opportunity to voice our opinion on this matter. If there are any questions, please contact Mae Nakahata at 2810716.



Conservation Council for Hawai'i

Testimony Submitted to the House Committee on Finance

SB 2523 SD 2 HD 1 Relating to Invasive Species
Hearing: Friday, March 26, 2010 11 am Room 308

Opposition to Exemption from Inspection Fee

Aloha. Conservation Council for Hawai'i exempting bulk freight from the inspection, quarantine, and eradication service fee and charge. Bringing in these items from domestic and foreign sources could be pathways for invasive species. We understand that spiders were found in aggregate from China last year. What is going to be done to prevent this from happening again? We cannot rely on certification from the source that the material is clean. Other industries are watching this bill and lining up to request exemptions from the fee in the future. Exempting materials from the inspection fee is a bad idea, especially when we do not have enough agricultural inspectors, and will lead to further exemptions down the road. At some point, the legislature is going to find it difficult to say "no" to exemptions.

Charging an inspection fee to support the costs of inspecting these materials will help protect Hawai'i from invasive species. These materials should not be exempt from the existing inspection fee. We do not support any exemptions from the inspection fee, and particularly not for materials such as these that are known pathways for introduced species to enter Hawai'i.

We also ask you to increase the number of state agricultural inspectors at ports of entry to help enforce this law and maximize its effectiveness.

Please oppose exempting bulk freight from the fees. This section of the bill is not in the public interest. Mahalo nui loa for the opportunity to testify.

Marjorie Ziegler

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



The Nature Conservancy
Hawai'i Program
923 Nu'uauu Avenue
Honolulu, HI 96817

tel (808) 537-4508
fax (808) 545-2019
www.nature.org/hawaii

Testimony of The Nature Conservancy of Hawai'i
Commenting on S.B. 2523, HD1 Relating to Agricultural Inspections
House Committee on Finance
Friday, March 26, 2010, 11:00am, 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 supports S.B. 2523, HD1 and submits the following comments and a request for a technical amendment:

- **We support reasonable service fees and meaningful fines for failure to pay such fees** for the Hawai'i Department of Agriculture's (HDOA) invasive species inspection 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 of pests and diseases.
- **While we remain a bit concerned about creating a variety of exemptions to the service fees**, we understand that the Legislature may wish to provide limited exemptions for certain non-containerized bulk freight of great weight. We also appreciate the effort to craft these exemptions such that they apply only to certain processed bulk freight types that may have a reduced risk of pest introduction.
- **We request that Section 17 of the bill be amended to delete the retroactivity reference to Section 2 of the bill.** While we are comfortable with the exemptions in the bill (Section 3) being retroactive to the date fees were originally imposed, we do not think retroactive fines for failure to pay these fees is warranted. Fining authority commencing on July 1, 2010 should be sufficient to encourage payment of fees going forward.

Thank you for the opportunity to comment.

BOARD OF TRUSTEES

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

**SB 2523 SD2 HD1
RELATING TO AGRICULTURAL INSPECTIONS**

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

MARCH 26, 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 SB 2523 SD2 HD1, "A BILL FOR AN ACT RELATING TO AGRICULTURAL INSPECTIONS." 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.

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

Representative Marcus Oshiro, Chair
House Committee on Finance

Friday, March 26, 2010; 11:00 a.m.
Hawaii State Capitol, Conference Room 308; Agenda #2

RE: SB 2523 SD2 HD1 - Relating to Agricultural Inspections

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

My name is John DeLong, President of Hawaiian Cement, testifying in support of SB 2523 SD2 HD1 with a request to amend Section 17 to delete the reference to Section 2.

This bill provides an exemption for aggregate, cement, coal, and liquid bulk freight from the pest inspection, quarantine, and eradication service fee.

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 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 provide comments. We urge you to pass this measure with our requested amendment.

**HOUSE COMMITTEE ON
FINANCE**

March 26, 2010

Senate Bill 2523, SD 2, HD 1 Relating to Agricultural Inspections

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

AES supports Senate Bill 2523, SD 2, HD 1 Relating to Agricultural Inspections to the extent that it exempts "coal bulk freight" as that term is defined in the bill from inspection under Chapter 150A, HRS.

We understand that amendments are being proposed to delete "section 2" referenced in section 17 of the bill. We concur with the deletion. We urge passage of the measure with the deletion.

Thank you for the opportunity to present this testimony.

MONSANTO HAWAII

2104 Lauwiliwili Street
Kapolei, Hawaii 96707

March 26, 2010

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON
SB 2523, SD 2, HD 1
RELATING TO AGRICULTURE INSPECTIONS

Chair Oshiro and committee members:

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

We support SB 2523, SD 2, HD 1, which establishes an agriculture inspection and certification special fund under the department of agriculture.

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.

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

Administrative Office (808) 674-8383 fax (808) 674-1040
Paving Office (808) 845-3991 fax (808) 842-3206
Quarry Office (808) 672-3545 fax (808) 672-3998



Representative Marcus Oshiro, Chair
House Committee on Finance

Friday, March 26, 2010; 11:00 a.m.
Hawaii State Capitol, Conference Room 308; Agenda #2

RE: SB 2523 SD2 HD1 - Relating to Agricultural Inspections

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

I'm Robert Creps, Senior Vice President of Grace Pacific Corporation ("Grace Pacific") testifying in support of SB 2523 SD2 HD1, with a request to amend Section 17 to delete the reference to Section 2.

This bill includes an exemption for aggregate, cement, coal and liquid bulk freight from the inspection, quarantine and eradication service fee and charge.

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.

We ask for your support in passing SB 2523 SD2 HD1 with our requested amendment. Thank you.