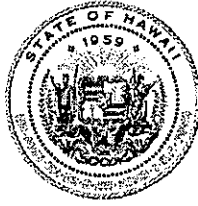
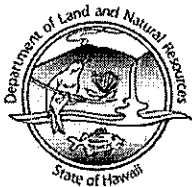


SB 1392

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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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

Testimony of
WILLIAM J. AILA, JR.
Chairperson

Before the Senate Committees on
AGRICULTURE
and
WATER, LAND AND HOUSING

Saturday, February 12, 2011
2:45 PM
State Capitol, Conference Room 225

In consideration of
SENATE BILL 1392
RELATING TO PUBLIC LANDS

Senate Bill 1392 proposes to create new regulatory provisions governing the lease or sale of public land to agricultural enterprises. The Department of Land and Natural Resources (Department) supports the general intent of this measure, however, offer the following comments.

The Department is particularly concerned about the duties imposed in paragraphs (1) and (2) on lines 13-15 of page 2 which requires the Board of Land and Natural Resources (Board) to determine the "economic feasibility and need for the proposed disposition" as well as the "minimum economic unit required for the successful undertaking of the specific use intended, taking into consideration soil fertility, soil condition, and availability of water." The Department and the Board does not have the expertise or the resources necessary to assess lands for suitability for the agricultural purposes stated in the bill. Such suitability analyses of soil conditions, water sources, site location, and other relevant information is usually performed by the Department of Agriculture in conjunction with the University of Hawaii's Tropical Agriculture Program.

Of equal if not greater concern is the obligation to subdivide and make improvements imposed on the Board by paragraph (3) on lines 19-21 of page 2 and lines 1-2 on page 3. It is a standard condition for all state land dispositions that the grantee or lessee is obligated to ensure that any development or use of State lands is in compliance with applicable state, county and federal laws. The Department's inadequate resources for securing appropriate entitlements for each potential grantee's or lessee's unique intended use of the property

necessitate this practice. The subdivision process and construction of roads and other infrastructure is both time-consuming and costly. Moreover, the Department is not in the road construction and maintenance business and roads are specifically excluded from the jurisdiction of the Department pursuant to the definition of "public lands" set forth in Section 171-2(3), Hawaii Revised Statutes (HRS).

Requiring the Board, and in turn the Department, to perform the additional duties imposed by this bill would place a tremendous burden on the Department's already severely limited fiscal, administrative and personnel resources. The Department continues to face severe budget cutbacks. The Department's general fund appropriations and special fund revenues have dropped significantly over the last several years, and the Department lost more than 10% of its positions over the past three years.

The Department is also concerned about the use of a new definition for "aquaculture" that could effectively exclude specific types of aquaculture or mariculture operations that are not located "directly adjacent to land" but are situated within the State's 3-nautical mile exclusive economic zone or the Federal and State 12-nautical mile joint jurisdictional limits. "Aquaculture" is similarly defined in Sections 187A-1, 183D-1, 205-2 and 219-2, HRS. None of those definitions include the "directly adjacent to land" qualifier. The Department is uncertain whether the change in definition is intentional, however, believes that consistency in use of terms in statute is the preferable alternative.



SB 1392
RELATING TO PUBLIC LANDS
Senate Committee on Water, Land, and Housing
Senate Committee on Agriculture

February 12, 2011

2:45 p.m.

Room 225

The **Office of Hawaiian Affairs** offers the following **comments on SB 1392**, which creates a new subpart to Hawai'i Revised Statutes chapter 171, part III, relating to "agricultural enterprises." The Beneficiary, Advocacy and Empowerment Committee of the OHA Board of Trustees voted to **OPPOSE** SB 1392 because the new subpart would authorize the state to sell public land to agricultural enterprises, including ceded land.

Much of the public land this bill would make available for fee simple purchase to "agricultural enterprises" are former government and crown lands of the Kingdom of Hawai'i that were ceded by the Republic of Hawai'i to the United States in 1898. Native Hawaiians still hold claims to these lands that have never been redressed. *See, e.g., P.L. 103-150 (1993)* ("the Republic of Hawaii . . . ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government"). OHA maintains that the state cannot diminish the ceded lands corpus until the Native Hawaiian people's claim to ceded lands has been resolved.

Mahalo for the opportunity to testify on this measure.



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

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February 11, 2011

TESTIMONY

RE: SB1392 RELATING TO PUBLIC LANDS

Chair Nishihara, Chair Dela Cruz and Members of the Committees:

Hawaii Farm Bureau Federation on behalf of commercial farm and ranch families and organizations across the state is in **strong support of SB1392** creating a mechanism for purchase of public lands by owners of agricultural operations.

We strongly agree with the intent of this measure to provide purchase options for certain public lands leased for agricultural use. This is a good public trust use to provide for increase self sufficiency.

In 2005, standards and criteria to identify Important Agricultural Lands was passed by the State Legislature. The crafters of the legislation were careful to not only address land but more importantly address the preservation of farmers and ranchers who work the land for it is only with the presence of these people that lands become agricultural lands -- otherwise, they are only open space.

This provision seeks to provide a purchase option for those who have existing leases. These leases would be for operating farms and ranches, the very entities the IAL measure seeks to protect. IAL is meant to include public lands as well as private lands. If the intent of this measure is to provide lands to farmers and ranchers for agricultural use, **designation of these lands as IAL along with the sale is reasonable.** This will ensure that these lands will remain in agricultural use for future generations in the public interest.

We respectfully request your support in moving this measure forward including an **amendment** to designate lands for sale as Important Agricultural Lands. If there are any questions please contact Warren Watanabe at 2819718. Thank you for this opportunity to provide our opinion on this matter.