

NEIL ABERCROMBIE
Governor



RUSSELL S. KOKUBUN
Chairperson, Board of Agriculture

JAMES J. NAKATANI
Deputy to the Chairperson

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

TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
WEDNESDAY, APRIL 6, 2011
5:00 P.M.
CONFERENCE ROOM 308

SENATE BILL NO. 1393, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO AGRICULTURE

Chair Oshiro and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 1393, Senate Draft 2, House Draft 1. The purpose of this measure is to provide tax credits for costs of capital investments in aquacultural facilities and remediation of dams and reservoirs in compliance with State law; and include areas in dams and reservoirs designated as Important Agricultural Lands (IAL) in the total area calculation for IAL, provided that the dams and reservoirs are on IAL and supply irrigation water to agricultural lands the majority of which is designated IAL. The dams and reservoirs are not to be included in the total area calculation when a landowner is seeking to use the "85-15" IAL incentive. The Department of Agriculture supports the intent of including dams and reservoirs as IAL as described in Section 1 of this measure, but defers to the Department of Taxation regarding the fiscal impacts of the two proposed tax credits.

Section 1 allows dams and reservoirs to be identified and designated as Important Agricultural Lands (IAL) if they are physically part of and provide irrigation water to identified and designated IAL agricultural lands. Without irrigation water, full productive use of designated IAL will be difficult to achieve. While the linkage between

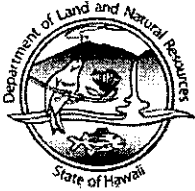


irrigation water and IAL may appear commonsense, the IAL identification criteria (Section 205-44) do not include dams and reservoirs as potential and eligible for IAL designation even if they have a direct relationship to designated IAL lands. Regardless, IAL designations by the Land Use Commission to date have included some irrigation infrastructure.

The IAL identification criteria in Section 205-44 may need to be amended to account for the amendment proposed in Section 1 of this measure. This would ensure that the identification of potential IAL by the ongoing voluntary process (Section 205-45) and the county process (Section 205-47) considers dams and reservoirs that are on designated IAL and provide water to agricultural lands the majority of which are designated IAL.

Thank you, again, for the opportunity to testify on this measure.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
FINANCE**

**Wednesday, April 06, 2011
5:00 PM
State Capitol, Conference Room 308**

**In consideration of
SENATE BILL 1393, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO AGRICULTURE**

Senate Bill 1393, Senate Draft 2, House Draft 1 proposes that dam and reservoir areas designated as important agricultural lands shall be included in the total acreage calculation for important agricultural lands, and provides tax credits and exemptions for dam and reservoir remediation and aquacultural activities. The Department of Land and Natural Resources (Department) supports the intent of this measure, as it appears to assist certain landowners in bringing their dams and reservoirs into compliance with current safety standards. The Department defers to the Department of Taxation regarding the cost implications of this measure.

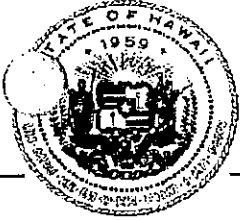
Thank you for the opportunity to comment.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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
KAIHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
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Statement of
JESSE K. SOUKI
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Wednesday, April 6, 2011
5:00 PM
State Capitol, Conference Room 308

in consideration of
SB 1393, SD2, HD1
RELATING TO AGRICULTURE.

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

SB 1393, SD2, HD1 allows dams and related reservoirs areas to be included in the total acreage calculation for important agricultural lands and provides for a dam or reservoir remediation and aquaculture facilities tax credits.

OP defers to the Departments of Taxation and Agriculture as to whether the proposed tax credits would be duplicative of existing important agricultural land tax incentives contained in Section 235-110.93, HRS.

OP prefers the language in HB 744, SD1, which requests that the Legislature amend Hawaii Revised Statutes Chapter 205 by creating a new section to allow dams and related reservoir areas designated as important agricultural lands (IAL) that support cultivation of crops, game and fish propagation, or commercial animal production to be included in the total acreage calculation for important agricultural lands, but not included in the 85/15 percent acreage

calculation for a declaratory order to designate lands into the state urban, rural or conservation district. HB 744, SD1 helps to clarify when a dam and related reservoir should be allowed in IAL.

Thank you for the opportunity to provide these comments.

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
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FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

HOUSE COMMITTEE ON FINANCE

TESTIMONY OF THE DEPARTMENT OF TAXATION REGARDING SB 1393, SD 2, HD 1 RELATING TO AGRICULTURE

TESTIFIER: FREDERICK D. PABLO, DIRECTOR OF TAXATION (OR
DESIGNEE)
COMMITTEE: FIN
DATE: APRIL 6, 2011
TIME: 5:00PM
POSITION: OPPOSED

This measure provides tax credits for dam remediation, agricultural facilities, certain agricultural processing facilities, and certain agricultural housing.

The Department of Taxation (Department) supports the concept of incentives for Hawaii's agricultural industries.

However, the Department opposes this bill because it is duplicative of the existing important agricultural lands qualified agricultural costs credit, HRS § 235-110.93 (IAL credit). The IAL credit is the product of a taskforce comprised of Department personnel working in conjunction with representatives of the Department of Agriculture and other stakeholders. The Department suggests amending existing incentives before adding additional incentives.

TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, GENERAL EXCISE, Dam or reservoir remediation tax credit;
aquacultural facility tax credit

BILL NUMBER: SB 1393, HD-1

INTRODUCED BY: House Committees on Agriculture and Water, Land, and Ocean Resources

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to establish an income tax credit of ___% of the cost of all remediation measures for remediation of dams or reservoirs as directed by the department of land and natural resources (DLNR). The following costs and expenses are ineligible to be claimed for this credit: (1) costs recoverable by DLNR for emergency measures taken by the department to protect life or property; (2) attorney's fees recoverable by DLNR; and (3) costs incurred in complying with an order of DLNR issued pursuant to HRS subsection 179D-24(f), regardless of whether the taxpayer is ultimately successful in any challenge to that order. Stipulates that a successor landowner of a remediated dam or reservoir subject to this section shall not be eligible to claim the tax credit allowed by this section.

Defines "dam," "remediation" and "reservoir" for purposes of the measure.

The credit shall be nonrefundable with any excess credit applied to subsequent tax liability until exhausted. Requires all claims for credits under this section, including any amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Allows the director of taxation to adopt any rules under HRS chapter 91 to carry out this section.

Adds a new section to HS chapter 235 to allow taxpayers to claim a credit for the cost of capital investments in aquacultural facilities equal to ___% of the amount of capital investments in aquacultural facilities. Defines "aquacultural facilities" as infrastructure used in the propagation, cultivation, or farming of aquatic plants and animals in controlled or selected environments for commercial purposes or authorized stock enhancement purposes including hatcheries; on-shore and off-shore farms including ponds and off-shore cages or nets; harvesting facilities; and processing facilities.

A successor owner of aquacultural facilities subject to this section shall not be eligible to claim the tax credit allowed by this section.

The credit shall be nonrefundable with any excess credit applied to subsequent tax liability until exhausted. Requires all claims for credits under this section, including any amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year for which the credits may be claimed. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the credit. Allows the director of taxation to adopt any rules under HRS chapter 91 to carry out this section.

EFFECTIVE DATE: July 1, 2020

STAFF COMMENTS: If the proposed measure is enacted it would merely grant preferential tax treatment to a select group of taxpayers and do so without regard to the taxpayer's need for tax relief - in this case the remediation costs for dams or reservoirs and capital investments in aquacultural activities. Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. This is a point that was underscored by the representative from the national Conference of State Legislatures recently before the House Finance Committee when she noted that "the tax system is the mechanism by which governments raise the revenues to provide government services." Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount.

The second point to remember about tax credits used as incentives is that they are nothing more than the expenditure of public dollars albeit out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as kind about the expenditure of these funds when schools go wanting for books and repairs, or when there isn't enough money for social service programs. Utilizing tax credits other than to alleviate an excessive tax burden cannot be justified and is of a questionable benefit relative to the cost for all taxpayers.

It should be remembered that the tax system is not an efficient method to accomplish such goals. In addition, the proposed measure would grant preferential treatment to a select group of taxpayers at the expense of other taxpayers who are ineligible for the exemption, and, therefore, its enactment cannot be justified.

Finally, it is amazing that a measure like this would have progressed so far in a session where lawmakers are faced with a budget shortfall in the hundreds of millions of dollars. Perhaps the advocates of this measure do not believe that tax credits represent real money, that they only become a liability if someone undertakes the specified activity. Unfortunately, there is no way of predicting how many will come forth to invest in dam remediation or aquacultural facilities until it is too late. This is the case with the Act 221 credits that got out of hand draining over a billion dollars from the general fund over its ten-year run. If policymakers want to assist owners of dams in remediation of those structures, a direct appropriation would be far more accountable and transparent.

More importantly in the aftermath of the disaster in Japan, lawmakers have a lot more to worry about as the prospects for economic recovery sink with the demise of the eastbound visitor traffic. While the mitigation of the state's dam and reservoir system may be a high priority, consideration of the proposed tax credits should be measured against all other priorities for the state at this time and be viewed as an appropriation of state funds as opposed to "fantasy" funding.

Digested 4/5/11



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

2343 Rose Street, Honolulu, HI 96819
PH: (808)848-2074; Fax: (808) 848-1921

April 5, 2011

TESTIMONY

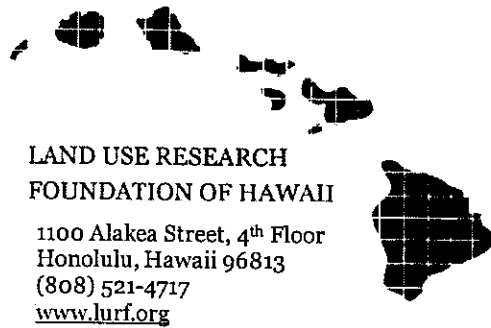
Re: SB1393HD1 RELATING TO AGRICULTURE

Chair Oshiro and Members of the Committee:

Hawaii Farm Bureau Federation on behalf of commercial farm and ranch families and organizations in the State **strongly supports SB1393HD1.**

Todate, I have listened to people in hearings in both House and Senate advocating for the importance of agriculture to provide for Hawaii's increased self sufficiency. Hawaii Farm Bureau Federation has always believed this to be one of the missions of our organization – to grow and raise agricultural products so everyone can pursue careers of their choice without worry. The Important Agricultural Lands initiatives passed, Act 183 and Act 233 sought to grow farmers and ranchers so we could have viable farms and ranches and in so doing, preserve agricultural lands for future generations. And, to do this farmers and ranchers need water. Many of the farms and ranches rely on dams and reservoirs that need modifications to meet Dam Safety requirements. The incentives will be important to facilitate compliance with these legal requirements.

We respectfully request your support of this measure. We appreciate this opportunity to provide our opinion on this important matter. If there are questions, please contact Warren Watanabe at 2819718. Thank you.



LAND USE RESEARCH
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April 6, 2011

Representative Marcus R. Oshiro, Chair and Representative Marilyn B. Lee, Vice Chair
House Committee on Finance

Support of SB 1393, SD 2, HD 1, Relating to Agriculture. (Provides that dams and related reservoir areas designated as important agriculture lands (IAL) shall be eligible for inclusion in the total acreage calculation for IAL [provided that they are located within property designated as IAL and provide irrigation water to agricultural lands, the majority of which are IAL]; provides tax credits and exemptions for dam and reservoir remediation and aquacultural facilities.)

Wednesday, April 6, 2011 at 5:00 p.m. in CR 308

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.

SB 1393, SD 2, HD 1. This bill proposes to make dams and reservoirs designated as Important Agricultural Lands (IAL) eligible for inclusion in the "total acreage" calculation for IAL, provided that they are located within property designated as IAL and provide irrigation water to agricultural lands, the majority of which are IAL. The bill also proposes to establish tax credits and exemptions for dam and reservoir remediation and for aquacultural facilities.

LURF's Position. LURF supports this bill because it is consistent with the spirit, intent and principles of the IAL laws; proposes amendments and additions to the existing law to support agriculture and assist agriculture-related businesses; and provides mechanisms through which the IAL laws may be implemented.

The IAL laws were enacted to fulfill the mandate in Article XI, Section 3 of 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 "new paradigm" established by the IAL laws avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure.

Local farmers and agricultural stakeholders are consequently relying on the legislature and State agencies to assist them through efforts, including implementing mechanisms, which will allow them to utilize the IAL laws to continue working toward expansion of diversified agriculture; promoting the agricultural self-sufficiency of the State; and protecting water as a vitally important resource, including and incorporating dams and reservoirs.

LURF thus strongly supports legislation intended to further the underlying spirit and principles of the IAL laws, including this bill, which amends and expands the existing laws to support agriculture, including dams and reservoirs, and to aid agriculture-related businesses.

Based on the above, we respectfully request this Conference Committee's **favorable consideration of SB 1393, SD 2, HD 1.**

Thank you for the opportunity to present testimony regarding this matter.

**SB 1393 HD1
RELATING TO AGRICULTURE**

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

APRIL 6, 2011

Chair Marcus Oshiro and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B), Hawaiian Commercial & Sugar Company (a division of A&B) and Kauai Coffee Company (a subsidiary of A&B), on SB 1393 HD1, "A BILL FOR AN ACT RELATING TO AGRICULTURE." We support this bill.

Alexander & Baldwin and its agricultural companies Hawaiian Commercial & Sugar Company (HC&S) and Kauai Coffee Company, have 18 regulated reservoirs on Kauai and 30 on Maui, the majority of which are in active use by HC&S and Kauai Coffee Company. Because these dams and reservoirs are a vital part of our agricultural operations, they are operated, monitored, and maintained on an on-going basis. These facilities enable the storage of water so that HC&S and Kauai Coffee can better weather periods of drought. These facilities also enable us to make optimum use of water resources—by capturing waters during heavy rainfall periods, less has to be used from surface water sources and wells during other times. They are absolutely integral to our ability to continue to keep tens of thousands of acres in agriculture in this state.

We understand that DLNR has overseen the implementation of Phase I investigative studies and inspections for all regulated dams and reservoirs in the State

of Hawaii. As a result of these Phase I investigative studies and inspections, several additional dam and reservoir safety action items are being recommended, many with significant cost implications to the owners of dams and reservoirs. These additional action items include various geotechnical/stability studies, hydraulic/hydrology studies, upstream control valve studies, spillway improvements, and other miscellaneous construction items.

The additional costs required to meet dam and reservoir safety regulatory requirements may create an undue financial burden for dam and reservoir owners, the majority of whom are farmers or agricultural operations that rely on these facilities for their livelihood. Smaller farmers and agricultural operations who utilize water from dams owned by others may be negatively impacted should the dam owner decide to permanently breach their facilities because of the undue increase in operating and capital expenses prompted by regulatory expenses and requirements of DLNR's dam and reservoir safety program. Owners of multiple dams, will be particularly hard hit.

This bill will provide tax credits for the remediation of dams as directed by DLNR. We believe that this bill will greatly assist dam and reservoir owners as they grapple with financing the significant additional costs to upgrade their dams and reservoirs so that they can meet regulatory requirements. This bill is a cooperative approach to what is really a broader community issue. By providing dam owners with a financial incentive to improve their facilities, the likelihood that more of these facilities will be kept in continued operation, and fewer decommissioned due to the cost of complying with the new regulations, will be increased. We believe that with the assistance of this tax credit,

dams and reservoirs can continue to serve as a valuable water resource for Hawaii's agricultural industry and its communities.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.



Via Capitol Website

April 5, 2011

House Committee on Finance
Hearing Date: Wednesday, April 6, 2011
House Conference Room 308 at 5:00 p.m.

Testimony in Support of SB 1393, SD 2, HD 1 –
Relating to Agriculture

Honorable Chair Representative Marcus Oshiro, and Representative Marilyn B. Lee,
Vice Chair and members of the House Committee on Finance:

My name is Michael Tresler, and I am the Senior Vice President of Grove Farm Company, Inc. Grove Farm is headquartered in Lihue, and owns approximately 40,000 acres on Kaua'i, making it one of Kaua'i's largest private landowners. Throughout our transition from a sugar plantation to a sustainable community development and economic development company, we have remained committed to our island community and agriculture industry.

Grove Farm appreciates this opportunity to express our **strong support** of SB 1393, SD2, HD1, which authorizes the inclusion of dams and reservoirs serving important agriculture lands in the total acreage calculation for important agriculture lands; provides tax credits for dam remediation and aquacultural facilities.

Grove Farm's Position. As a longtime kama'aina company, Grove Farm is committed to continue being a responsible steward of our 'aina. We own and operate six reservoirs that are subject to DLNR's oversight. We believe that the bill is consistent with the spirit, intent and principles of the IAL laws and that it provides means through which the IAL laws may be implemented. The proposed amendment to the existing law also supports agriculture and assists agriculture-related businesses, such as aquaculture. Grove Farm is the majority owner of Hukilau Foods, an ocean-based, moi operation off the Leeward coast of Oahu and providing incentives and tax credits to support Hawaii's agricultural and aquacultural enterprises will make a profound, positive impact on each respective industry sectors.

Thank you for the opportunity to express our support for this matter.

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MONSANTO CO.
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TESTIMONY BEFORE THE
HOUSE COMMITTEE ON FINANCE

April 6, 2011

TESTIMONY ON SB 1393, SD 2, HD 1
RELATING TO AGRICULTURE

Aloha Chair Oshiro and members of the committee:

My name is Alan Takemoto, Community Affairs Manager for Monsanto Hawaii. Thank you for allowing us to testify on SB 1393, SD 2, HD 1. We support the provisions in section two which provides a tax credit for the remediation of dams and reservoirs as directed by DLNR.

We believe this tax credit will greatly assist dam and reservoir owners as they attempt to finance the costs to upgrade their dams and reservoirs so that they can meet regulatory safety requirements. This bill is a collaborative approach to what is really a broader community issue. Dams and reservoirs is a critical component to the agricultural industry in addressing and managing the efficient use of a very valuable water resource. We cannot afford not to maintain our dams and reservoirs, especially when we are trying to move towards food sustainability. Farmers and ranchers rely on the dams and reservoirs so that can capture and reuse water for irrigation system, especially during drought conditions.

By providing dam owners with a financial incentive to meet additional dam regulations, the landowners will be encouraged to keep their dams operating efficiently and safely. We believe that with the assistance of this tax credit, dams and reservoirs can continue to serve as a valuable water resource for Hawaii's agricultural industry and its communities.

We urge your favorable consideration. Thank you.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, April 05, 2011 4:58 PM
To: FINTestimony
Cc: gottlieb@hawaii.rr.com
Subject: Testimony for SB1393 on 4/6/2011 5:00:00 PM

Testimony for FIN 4/6/2011 5:00:00 PM SB1393

Conference room: 308
Testifier position: support
Testifier will be present: No
Submitted by: Alan Gottlieb
Organization: Hawaii Cattlemen's Council
Address:
Phone:
E-mail: gottlieb@hawaii.rr.com
Submitted on: 4/5/2011

Comments: