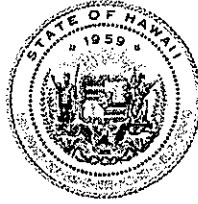
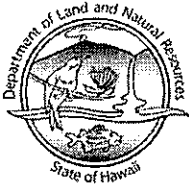


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**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 Senate Committee on  
WATER, LAND AND HOUSING**

**Tuesday, February 8, 2011  
1:15 P.M.  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 1559  
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Senate Bill 1559 proposes to establish incentives for important agricultural lands, including the reduction of unnecessary infrastructure requirements, expediting permitting procedures, tax incentives, and funding mechanisms for dams that provide irrigation for agriculture activities. The Department of Land and Natural Resources (Department) defers to the Department of Taxation on the cost implications of this measure. The Department supports the intent of this measure as it appears to assist certain landowners in bringing their dams and reservoirs into compliance with safety standards. However, we do not support and have concerns on these specific provisions of the measure:

- 1) The Department has concerns about its role to annually certify tax credits and business exemptions to the Department of Taxation. We are not the appropriate agency to conduct these certifications as this task does not fall within the Department's expertise and oversight. We recommend this task be directed to an appropriate agency that has oversight consistent with the intent of this measure.
- 2) Although the Department appreciates the intent to expand eligible deposits into the Dam and Reservoir Safety Special Fund as defined under 179D-25 HRS, we have concerns if the use of the barrel tax is appropriate for general operating expenses of the Department's dam safety program.
- 3) Section 13 appropriates an unspecified amount of general funds to be expended by the Department for the restoration of dams located within land designated as important agricultural lands. It appears the intent of this provision is to assist certain private landowners in restoring

**WILLIAM J. AILA, JR.**  
INTERIM 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  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

their dams. The Department is not the appropriate agency to expend these funds for the purpose specified. The funds should be directed to the appropriate agency that has the means to provide public funds for private purposes consistent with the intent of this measure.

Thank you for the opportunity to comment.

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 SENATE COMMITTEES ON WATER, LAND, AND HOUSING AND  
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS

THURSDAY, FEBRUARY 3, 2011  
3:30 P.M.  
CONFERENCE ROOM 224

SENATE BILL NO. 1559  
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chairs Dela Cruz and Espero and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 1559. The purpose of this measure is to create new incentives for designated Important Agricultural Lands (IAL) such as a property tax exemption, provide for additional guidance to the counties for certain existing incentives such as priority improvements permit processing, establishing preferential electricity rates, and divert a portion of the Act 73 barrel tax to cover costs related to irrigation water impoundment.

The Department of Agriculture agrees with the general intent of this measure but recommends that the provisions in the IAL Law (Part III of Chapter 205, HRS) and the IAL Incentives Law (Act 233, 2008 SLH), which are the result of broad-based and intensive stakeholder deliberation over four years, not be subject to revision at this time. Further, the fact that the counties have not prepared maps and reports to identify potential IAL in accordance with Section 205-47 has prevented the continued implementation of the IAL Law. Senate Bill 1152 that requests an appropriation to assist the counties in completing IAL mapping should resolve this issue.

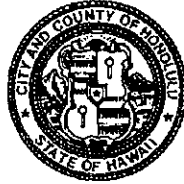


Thank you, again, for this opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

PETER B. CARLISLE  
MAYOR



DAVID K. TANOUE  
DIRECTOR

JIRO A. SUMADA  
DEPUTY DIRECTOR

February 8, 2011

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Water, Land, and Housing  
State Senate  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Dela Cruz, and Members:

**Subject: Senate Bill No. 1559  
Relating to Important Agricultural Lands**

The Department of Planning and Permitting (DPP) **opposes** Senate Bill No. 1559. It proposes certain incentives for Important Agricultural Lands (IAL), including priority permit processing, additional requirements for county general plans, real property exemptions, preferential energy consumption rate, and preferential insurance rates. Further, the Bill requires the Department of Agriculture (DOA) to take the place of our department in determining a project's required infrastructure improvements.

Our position is based on the following concerns:

1. PART I, County building permits; priority processing. Building permits are currently processed on a first-come, first-served basis. Priority processing of a permit application involving IAL would place all other permit applications behind the priority application. The loss of time for these "sidetracked" applications will likely cause an increase in their carrying costs. This is not a fair and equitable process, and ultimately bad for the rest of the economy.

As an alternative, the state could provide grants to qualifying projects to use the Third Party Review option. The use of certified plan checkers would expedite the review process, but not affect our queue lines.

The new Part I proposal is vague about its applicability. Does reference to "development related permits" include zoning permits and subdivision approval? The proposed new subsection (b) is not needed, as our building code already exempts minor agricultural structures from obtaining a building permit, and additional exemptions are being contemplated.

The Honorable Donovan M. Dela Cruz, Chair  
and Members of the Committee on Water, Land, and Housing  
State Senate  
Re: Senate Bill No. 1559  
February 8, 2011  
Page 2

2. Part II, County general plans. The City and County of Honolulu's General Plan is a comprehensive document of broad objectives and policies which sets for the long-range aspirations of Oahu's residents and the strategies and actions to achieve them. Although we believe the purpose of defining IAL is fulfilled by existing objectives in our current General Plan, we could consider specific reference to IAL. However, it is not the appropriate venue to replicate a State law that has statewide implications, nor is it the vehicle to identify incentives and implementation plans to any degree of detail. This may be more appropriately a function of the State Department of Agriculture (DOA).

We are also concerned that this proposed Part II essentially amends Chapter 205, HRS, and potentially creates a conflict for the counties. This Part would add new criteria for county identification of IAL, but does not similarly amend the criteria to be used by the State Land Use Commission on the final decision on IAL designation. We may end up with two different sets of IAL.

3. Part VII, IAL and infrastructure. Developments will often trigger various infrastructure upgrades depending on associated impacts. Issues of basic health and safety are involved. While the DOA is regularly consulted on agricultural subdivision applications regarding farming uses, they are not experts on infrastructure standards, including county, state and federal requirements. Moreover, we do not believe they have qualified engineers to review infrastructure plans nor qualified inspectors to perform the field inspections done by the city. Lastly, if the improvements are not built to city standards, the city will not accept them as part of the city system, and therefore, will not maintain them. Thus, it would be prudent for development to comply with the county ordinances and rules.

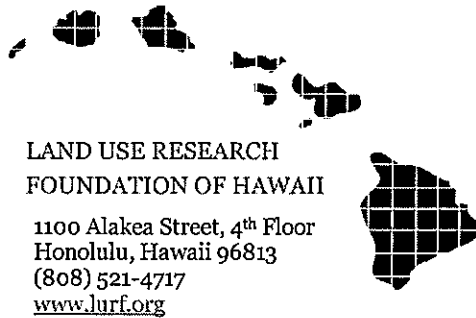
In short, we have many concerns about this measure. Please hold Senate Bill No. 1559. Thank you for the opportunity to testify.

Very truly yours,

  
David K. Tanoue, Director  
Department of Planning and Permitting

DKT: jmf

sb1559-IAL-ks.doc



February 3, 2011

Senator Donovan M. Dela Cruz, Chair and Senator Malama Solomon, Vice Chair  
Committee on Water, Land and Housing  
Senator Will Espero, Chair and Senator Michelle N. Kidani, Vice Chair  
Committee on Public Safety, Government Operations, and Military Affairs

**Testimony of the Land Use Research Foundation of Hawaii in Support of SB 1559  
Relating to Important Agricultural Lands.**

**Thursday, February 3, 2011 at 3:30 p.m. in CR 224**

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.

We appreciate the opportunity to provide our testimony **in strong support of SB 1559**, and to offer comments.

**SB 1559.** This bill establishes incentives for important agricultural lands, including reduction of unnecessary infrastructure requirements, expedited permitting procedures, tax incentives, and funding mechanisms for dams that provide irrigation for agricultural activities on important agricultural lands.

**LURF's Position.** The purpose of this bill is to implement the underlying intent and objectives of the Important Agricultural Lands (IAL) laws (Hawaii Revised Statutes [HRS] Sections 205-41 to 52) which 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 IAL laws established a new paradigm which 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.**

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use concurrently with the process of identifying important agricultural lands

as required under the Act. Such incentives and programs were identified and noted in Act 183 to specifically include, amongst other things:

1. Reduced infrastructure requirements and facilitated building permit processes for the construction of dedicated agricultural structures;
2. Tax incentives that include tax credits and general excise tax exemptions;
3. Incentives that promote investment in agricultural businesses or value-added agricultural development, and other agricultural financing mechanisms; and
4. Incentives and programs that promote long-term or permanent agricultural land protection, and the establishment of a dedicated funding source for these programs.

We believe that this bill, by providing for and implementing the very incentives and programs for agricultural lands which were originally envisioned by agricultural stakeholders and expressly identified by the legislature, effectively carries out the intent and objectives of the IAL legislation and laws.

LURF is therefore in **support of SB 1559**, and we respectfully urge your favorable consideration. Thank you for the opportunity to present our testimony regarding this matter.





**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

February 1, 2011

**TESTIMONY**

**Re: SB1559 RELATING TO IMPORTANT AGRICULTURAL LANDS**

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

Hawaii Farm Bureau on behalf of our commercial farmers and ranchers on Kauai, strongly supports SB1559, establishing incentives for Important Agricultural Lands.

The Legislature enacted incentives associated with Important Agricultural Lands in 2008. Unfortunately, other than the income tax credit, other credits have not been implemented as required by law. Other incentives, though recommended were never implemented. This measure seeks to complete the enactment of incentives, encouraging landowners and farmers and ranchers to designate their lands as Important Agricultural Lands.

A major shortfall of Act 233 was the lack of County incentives. They were required by law but the Counties did not come forth with the incentives. This year, mapping by the Counties can begin. Landowners can continue to voluntarily designate their lands, however, this will no longer be the only method for designation. Coupled with mapping of lands that the Counties envision to remain in agriculture for the future should be investments in the industry to enable farmers and ranchers to not only remain viable but to increase their viability. The incentives proposed by this measure identify some of the key bottlenecks farmers and ranchers have faced over the years.

Counties are responsible for the preparation of General Plans. Many of the issues coming before the legislature involve land use changes, attempting to override the General Plans. This measure requires the Counties to incorporate IAL into their General Plan process. We respect home rule. As such, Counties should take all things into account including IAL as they determine their urban growth boundaries and other long term development plans.

The remaining suggested incentives focus on other measures that would increase agricultural viability. By designation, it is the intent of the State that these lands will contribute significantly towards Hawaii's sustainability and increased self sufficiency. None of this will happen by magic and in a global economy, it requires a dedicated commitment by everyone to continue local agriculture. This measure seeks to provide the basis to support Hawaii's agriculture for the future generations as commitments to have the land available are made.

Part V seeks to authorize insurers to provide preferred insurance rates to those on IAL lands. This is in line with:

**§286-139 Preferred insurance rate.** Insurers may provide preferential insurance rates to those persons who have favorable records to their credit. [L 1961, c 113, §2; Supp, §160-73; HRS §286-139]

We would be amendable to language that states:

Insurers may provide preferential insurance rates to owners or leasees of important agricultural lands, as designated pursuant to sections 205-44 and 205-45 who have favorable records to their credit.

The inclusion of the Committee on Public Safety, Government Operations and Military Affairs is strategic. We have a significant military presence in the islands. Like the rest of us that population would need to have food and other basic necessities in times of emergency. It is to their interest to have a strong local agricultural industry. In the area of Public Safety, agricultural lands and infrastructure play a key role in Public Safety. Our fields are pervious to rainfall and soak up much of the water. Can you imagine if all of that land was paved? The flooding that would happen would be many times that experienced this year. There has been much focus on the failure of Kaloko. What gets missed is the role of the the agricultural dams and reservoirs play in times of a brush or uncontrolled wildfire. Helicopters depend on them for a nearby source of water to extinguish the flames. Agriculture is beyond food ...it is energy, it provides the flowers that we enjoy and by having this local industry, we are able to protect our environment of new invasive species.

We respectfully request your strong support of this measure. If there are any questions, please contact Warren Watanabe at 2819718.

Thank you.



## **Hawaii Cattlemen's Council, Inc.**

P O Box 437199 Kamuela HI 96743  
Phone (808) 885-5599 • Fax (808) 887-1607  
e-mail: [HCattlemens@hawaii.rr.com](mailto:HCattlemens@hawaii.rr.com)

### SENATE COMMITTEE ON PUBLIC SAFETY, GOV OPERATIONS, & MILITARY AFFAIRS SENATE COMMITTEE ON WATER, LAND, AND HOUSING

Thursday February 3, 2011 3:30 pm Room 224

#### **SB 1559 RELATING TO IMPORTANT AGRICULTURAL LANDS**

Establishes incentives for important agricultural lands, including reduction of unnecessary infrastructure requirements, expedited permitting procedures, tax incentives, and funding mechanisms for dams that provide irrigation for agricultural activities on important agricultural lands.

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

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council strongly supports SB 1559.

Several years ago the Legislature enacted the Important Agricultural Lands (IAL) legislation to protect our important State Ag lands as required by our constitution. IAL is supposed to be incentive driven, to entice landowners to protect these Important Ag Lands. SB 1559 creates additional incentives to keep the process going and to keep the anticipated time table on track to protect Important Ag Lands.

Thank you for giving me the opportunity to testify in favor of this very important issue.



# Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803  
808.538.6616 hawaii.chapter@sierraclub.org

## SENATE COMMITTEE ON WATER, LAND, AND HOUSING

February 8, 2011, 1:15 P.M.  
(Testimony is 3 page long)

### TESTIMONY IN OPPOSITION TO SECTIONs 1 AND 4 OF SB 1559

Aloha Chair Dela Cruz and Members of the Committees:

The Hawai'i Chapter of the Sierra Club *opposes* section 1 of SB 1559, which could -- intentionally or not -- automatically approve undesirable development projects throughout Hawai'i. While we support efforts to encourage economic development, this measure may undermine the desired goals of the policy and run counter to the concept of a democratically administered society.

The Sierra Club also *opposes* section 4 of SB 1559, which simply shifts agricultural energy costs onto other ratepayers without advancing the State's clean energy goals. The same goal could be accomplished by shifting funding into agricultural-specific clean energy financing.

#### *I. Section 1 - "uses products grown on lands designated as important agricultural lands"*

Section 1 of this measure creates a 90-day automatic approval of any "construction project that uses products grown on lands designated as important agricultural lands." While seemingly well-intended to support businesses on important agricultural lands, this language would allow automatic approval of any hotel proposing to use fresh produce, any housing project committed to using fertilizer from an IAL farm, etc. Plainly this goes beyond the scope of the intent of this measure.

As an aside, it should be observed the phrase "Structures associated with important agricultural lands" is defined but then never used in SB 1559. Perhaps this was a drafting error?

Regardless, "automatic approval" of any permit is simply poor policy. Permits should be granted on their merits, not by mistake or governmental inefficiency. *No community should suffer because government failed to perform.* Consider:

- What happens when a building is automatically approved that doesn't meet health and safety standards? Is the State or County liable for any resulting injuries?
- What happens when additional information is required by the County and the deadline passes?
- What happens when complex issues like subdivision approval of a massive development project -- that directly impacts traffic, public access, and smart growth -- are automatically approved because of timing blunder?
- What happens if an applicant fails to submit all the necessary information? Would building, electrical and plumbing permits be deemed "approved" because the agency did not have a completed application?
- What happens when there is a complex environmental assessment that needs to be completed pursuant to Haw. Rev. Stat. Chapter 343 and the deadline passes?
- What happens when a contested case hearing is requested pursuant to chapter 91, HRS, and for any other period for administrative appeals and review and the deadline passes?
- Is it ever appropriate to automatically approve a permit that will irreparably damage the environment or native Hawaiian rights? Doesn't that violate protections provided by the State Constitution

## **II. Other Options.**

In looking at the perceived problem of agency delay, it's alarming that there is a lack of real information. What is the scope of the problem? Is it an actual problem or merely a perception? What agencies are misbehaving? Are there are other reasons for unusual delay that might be solved through other means?

The Senate may to consider requesting a DBEDT investigate the situation and make a detailed report as to the length of review of each type of permit/approval and the reason for the length of time. Or thinking outside of the box, the Senate could propose the creation of an Office of the Ombudsman to appropriately investigate the issue and be empowered to take different forms of action.

By identifying actual issues, we may be able to solve real problems rather than applying a ham-fisted, one-size-fits-all "solution" to a perceived problem.

***III. Section 4 - Preferential Energy Rates.***

Section 4 would establish preferential energy rates for agricultural activities on important agricultural lands. This would transfer the costs onto other rate payers and do little to assist the State in meeting its renewable energy goals.

The State could accomplish the same intent -- giving farmers a financial break -- by funding on-site renewable energy financing programs. This helps reduce electricity costs while also creating new jobs and furthering the States clean energy goals. This could be accomplished by allocating funds into the third-party administrator program with a direction that the funds be set aside for agricultural energy efficiency and renewable energy programs.

Mahalo for this opportunity to provide testimony.