

STAND. COM. REP. NO.

440

Honolulu, Hawaii

FEB 18 2011

RE: S.B. No. 1393  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2011  
State of Hawaii

Sir:

Your Committee on Water, Land, and Housing, to which was referred S.B. No. 1393 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the inclusion of dams and reservoirs serving Important Agricultural Lands in the total acreage calculation for Important Agricultural Lands;
- (2) Provide tax credits for dam remediation, aquacultural facilities, certain agricultural food processing facilities, and certain agricultural worker housing;
- (3) Grant priority to aquacultural activities in state-owned harbors;
- (4) Amend the definition of "agricultural activities" in section 166-2, Hawaii Revised Statutes, to include aquaculture;
- (5) Provide a general excise tax exemption to qualified agricultural food processing facilities; and
- (6) Require the Department of Agriculture to establish requirements for agricultural worker housing.



Your Committee received testimony in support of this measure from the Hawaii Farm Bureau Federation; Alexander & Baldwin, Inc.; and one individual. Your Committee received testimony in opposition to this measure from the Department of Taxation; and the Department of Business, Economic Development, and Tourism's Office of Planning. Your Committee received comments on this measure from the Department of Transportation; the Department of Land and Natural Resources; and the Department of Agriculture.

Your Committee finds that the Department of Land and Natural Resources' investigative studies and inspections of dams and reservoirs in the State that, while for the health and safety of citizens of the State, have resulted in a multitude of recommended actions that have imposed extreme financial burdens for some dam and reservoir owners, many of whom are farmers and agricultural operators who rely on these facilities for their livelihood. Your Committee further finds that providing tax credits applicable to expenses incurred in response to directives from the Department of Land and Natural Resources increases the likelihood that more of these facilities will be kept in continued operation. Your Committee also finds that other financial incentives, such as a tax credit for aquacultural facilities, will also encourage and increase agricultural activities in the State, but that some of the credits originally contemplated in this measure are duplicative of existing tax credits.

Your Committee finds that giving aquacultural activities priority over leisure craft and houseboats in state-controlled harbor facilities will encourage sustainable food production for the State, but recognizes that the maritime activities in commercial harbors must take precedence.

Your Committee also finds that though it is desirable to create a set of requirements specifically for the construction of farm dwellings, building codes are within the expertise and purview of the counties and that at this time the Department of Agriculture is not equipped to assume these duties.

In consideration of the above findings in conjunction with the testimony presented, your Committee has determined that certain sections of this measure are unnecessary while others require further clarification. Therefore, your Committee has amended this measure by:



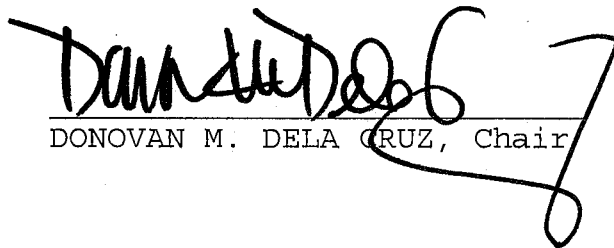
- (1) Deleting language that would have placed all dams and reservoirs, including small facilities exempted under existing law, under the jurisdiction of the Department of Land and Natural Resources;
- (2) Allowing dams and reservoirs to be included in the total area calculation of Important Agricultural Lands used to qualify for incentives pursuant to section 205-46, Hawaii Revised Statutes;
- (3) Disallowing dams and reservoirs to be included in the total area calculation of Important Agricultural Lands used in a petition for a declaratory order designating Important Agricultural Lands in combination with the reclassification of agricultural land to the rural, urban, or conservation district;
- (4) Including reservoirs in the tax credit for remediation of dam facilities;
- (5) Deleting the tax credits for agricultural food processing facilities and agricultural worker housing;
- (6) Clarifying that the priority given to aquacultural activities in harbors shall not apply to the State's commercial harbors;
- (7) Appropriately placing the provision relating to aquacultural activities in harbors in chapter 200, Hawaii Revised Statutes, relating to ocean recreation and coastal area programs, rather than in chapter 266, Hawaii Revised Statutes, relating to harbors;
- (8) Deleting language that would have included the care and production of aquatic life as an agricultural activity in chapter 166, Hawaii Revised Statutes;
- (9) Deleting language specifying that dams and reservoirs are support infrastructure conducive to agricultural productivity, which would have facilitated the designation of lands upon which dams and reservoirs are located as Important Agricultural Lands; and



- (10) Deleting requirements that the Department of Agriculture develop building code requirements for farm dwellings and employee housing.

As affirmed by the record of votes of the members of your Committee on Water, Land, and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1393, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1393, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land, and  
Housing,

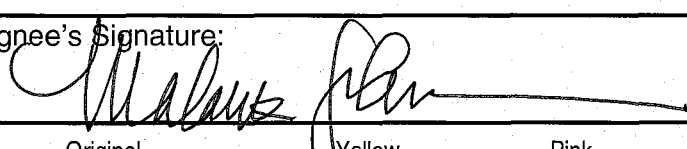


DONOVAN M. DELA CRUZ, Chair



The Senate  
Twenty-Sixth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Water, Land, and Housing**  
**WLH**

|  |                     |                 |                     |          |
|--|---------------------|-----------------|---------------------|----------|
| Bill / Resolution No.:*  | Committee Referral: | Date:           |                     |          |
| SB1393   | WLH, WAM            | 2-15-11         |                     |          |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____                                      |                     |                 |                     |          |
| The Recommendation is:   |                     |                 |                     |          |
| <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313 |                     |                 |                     |          |
| Members  | Aye                 | Aye (WR)        | Nay                 | Excused  |
| DELA CRUZ, Donovan M. (C)  | /                   |                 |                     |          |
| SOLOMON, Malama (VC)   | /                   |                 |                     |          |
| FUKUNAGA, Carol  |                     |                 |                     | ✓        |
| RYAN, Pohai  | /                   |                 |                     |          |
| SHIMABUKURO, Maile   |                     |                 |                     | ✓        |
| TOKUDA, Jill N.  | /                   |                 |                     | ✓        |
| SLOM, Sam  |                     |                 |                     |          |
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| <b>TOTAL</b>   | <b>4</b>            |                 |                     | <b>3</b> |
| Recommendation:  |                     |                 |                     |          |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted   |                     |                 |                     |          |
| Chair's or Designee's Signature:   |                     |                 |                     |          |
|    |                     |                 |                     |          |
| Distribution:  |                     |                 |                     |          |
| Original   | Yellow              | Pink            | Goldenrod           |          |
| File with Committee Report   | Clerk's Office      | Drafting Agency | Committee File Copy |          |

\*Only one measure per Record of Votes