



State of Hawaii
DEPARTMENT OF AGRICULTURE
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LATE TESTIMONY

TESTIMONY OF RUSSELL KOKUBUN CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE
Wednesday, February 8, 2012
Room 312
9:00 A.M.

HOUSE BILL NO. 2150 RELATING TO AGRICULTURAL LANDS

Chairperson Tsuji and Members of the Committee:

Thank you for this opportunity to provide testimony on House Bill No. 2150 that proposes to amend Sections 205-2 and -4.5 to identify photovoltaic systems producing energy solely for use by the fee or leasehold owner of the property as a permissible use in the Agricultural District. The Department of Agriculture supports efforts to reduce operational costs of bona fide farmers, however we do not support this measure as written.

Sections 205-2 and -4.5 already permit solar energy facilities on Land Study Bureau "D" and "E" rated lands without an area restriction, and "B" and "C" rated lands with an area restriction of ten percent of the acreage of the parcel or twenty acres of land whichever is lesser. In both cases, solar energy facilities are permitted without requiring a relationship to an agricultural activity. Only Land Study Bureau "A" rated land does not allow solar energy facilities.

It is our understanding that under the current law described above, a fee or leasehold owner in the Agricultural District with "D" and "E" rated lands should be able to construct and operate photovoltaic systems (which we presume to be synonymous



with solar energy facilities) to produce electricity for their agricultural activities and perhaps sell the excess electricity produced, which the proposed amendment does not provide for. The same conclusion applies to the fee or leasehold owner in the Agricultural District with "C" and "B" rated lands, except that there is the area coverage restriction of ten percent or twenty acres, whichever is less. Only on "A" rated lands are photovoltaic systems (solar energy facilities) not a permitted use.

The measure as written would amend Section 205-2(d)(7) (page 2, lines 18-20) by making "photovoltaic systems producing energy solely for use by the fee or leasehold owner of the property" not subject to the area limitations established in Section 205-2(d)(6) that permits solar energy facilities on Land Study Bureau "D" and "E" rated lands without an area restriction, and "B" and "C" rated lands with an area restriction of ten percent of the acreage of the parcel or twenty acres of land whichever is lesser. If "B" and "C" agricultural lands are to be part of the proposed amendment, the amending language has to be clear that the photovoltaic systems are subject to the provisions in Section 205-2(d)(6).

Furthermore, the amendment to Section 205-4.5(a)(10) (page 6, lines 7-9) would create an exception for photovoltaic systems on "A" rated agricultural land if it is to produce energy solely for use by the agricultural activities of the fee or leasehold owner of the property. This is contrary to Section 206-4.5(a)(19) which states:

"(19) **Solar energy facilities** that do not occupy more than ten per cent of the acreage of the parcel, or twenty acres of land, whichever is lesser; provided that this use **shall not be permitted on lands with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class A.**" (bold emphasis added)

Based on this existing statutory language, the Department does not support photovoltaic systems on "A" rated agricultural lands.

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

hashem1 - Julie

From: mailinglist@capitol.hawaii.gov
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To: AGRtestimony
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Subject: Testimony for HB2150 on 2/8/2012 9:00:00 AM

Testimony for AGR 2/8/2012 9:00:00 AM HB2150

Conference room: 312
Testifier position: Support
Testifier will be present: Yes
Submitted by: Juanita Kawamoto Brown
Organization: Environmental Caucus of the Democratic Party of Hi
E-mail: farmfreshhawaii@gmail.com
Submitted on: 2/8/2012

Comments:
We support this legislation.

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