

# SB2856

Proposes a constitutional amendment to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

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

**Before the Senate Committees on  
WATER, LAND AND HOUSING  
and  
JUDICIARY AND LABOR**

**Wednesday, February 15, 2012  
10:00 A.M.  
State Capitol, Conference Room 16**

**In consideration of  
SENATE BILL 2856  
PROPOSING AN AMENDMENT TO  
ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO  
ASSIST DAM AND RESERVOIR OWNERS**

Senate Bill 2856 proposes an amendment to the Hawaii State Constitution, to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners. The Department of Land and Natural Resources (Department) strongly supports this Administration measure as it could assist dam and reservoir owners by providing an economic means to bring their facilities up to current safety standards.

The implementation of the Dam and Reservoir Safety Act of 2007 mandates dam and reservoir owners to bring their dams and reservoirs into compliance. Over 80 per cent of the dams in Hawaii were constructed before 1940 to support the sugarcane plantations. Due to the age of these facilities and deferred maintenance due to demise of the sugar industry, without needed safety improvements, many dams could pose risks to life and property due to dam failures. Depending on the extent of the required improvements, some dam and reservoir owners may not have the resources to fund them.

Dams and reservoirs provide many public benefits as a potential resource for agriculture, water supply, recharge, flood control, hydropower and other beneficial uses. Dams are a critical part of our state infrastructure, providing benefits upon which our communities and industries depend. The alternative of bringing a dam into compliance would be to decommission the structure entirely, which would preempt the many benefits that dams provide.

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  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON WATER, LAND, AND HOUSING AND  
JUDICIARY AND LABOR  
SENATE BILL NO. 2856

February 15, 2012

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII  
STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

Senate Bill No. 2856 proposes amendments to Article VII, Section 12 of the Hawaii State Constitution, to authorize the State to issue special purpose revenue bonds to assist dam and reservoir owners.

The Department supports this administration bill as it will provide dam and reservoir owners with a means to enhance dam and reservoir safety. Although this mechanism is offered in order to give some form of financing options and flexibility to property owners, please note that there are significant procedural and compliance requirements that must be met before any special purpose revenue bonds could be structured for any transaction. The compliance requirements would be placed on dam and reservoir owners who will need to, at the very least, be able to generate sufficient revenues in order to support the issuance of special purpose revenue bonds for this purpose.

Thank you for the opportunity to provide testimony on this measure.



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

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### **SENATE COMMITTEE ON WATER, LAND, AND HOUSING**

### **SENATE COMMITTEE ON JUDICIARY AND LABOR**

Wednesday February 15, 2012 10:00 pm Room 016

#### **SB 2856 PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.**

Chairs Dela Cruz and Hee, Vice Chairs Solomon and Shimabukuro and Members of the Committee:

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 2856.

After the tragedy at Kaloko, this legislature passed new laws to improve the safety of our State's Dams and Reservoirs. Late last year, the Board of Land & Natural Resources approved new regulations which in part requires dam and reservoir owners to do extensive engineering studies and requires significant upgrades to dams and reservoirs built in the past under best management practices (many over engineered by plantations) and requiring that they be brought up to current engineering standards. No one argues that public safety should be taken lightly, and we agree that protection of life and property be the first priority. While we might argue that many of these dams and reservoirs have met the safety "test of time", some regulators argue that the passage of time has made them unsafe. As an analogy, what would happen if we required all buildings in downtown Honolulu to be retrofitted to today's building standards to withstand a large earthquake, for the safety of the public. Of course that would be impractical and impossible, but this is what is being asked of our States Dams and Reservoirs. Furthermore the new rules and regs use a "one size fits all" mentality, imposing on dams that barely exceed the regulatory threshold the same requirements as for the largest dams in our State (in some cases over 250 times the size).

We do not believe that the intent of the Dam and Reservoir safety law is to put farmers and ranchers out of business or to encourage them to decommission existing water resources. We believe these new rules and fees would lead to the closure of many dams and reservoirs, the opposite of what we need in this State if we want to increase our agricultural self sufficiency and improve our food security.

Issuance of Special Purpose Revenue Bonds to assist dam and reservoir owners is one important step to help assure that they can afford to keep reservoirs open and water flowing to farmers and ranchers.

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

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 13, 2012 10:15 PM  
**To:** WLH Testimony  
**Cc:** diamondbranchhi@aol.com  
**Subject:** Testimony for SB2856 on 2/15/2012 10:00:00 AM

Testimony for WLH/JDL 2/15/2012 10:00:00 AM SB2856

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Brendan Balthazar  
Organization: Maui Cattlemens Assn.  
E-mail: [diamondbranchhi@aol.com](mailto:diamondbranchhi@aol.com)  
Submitted on: 2/13/2012

Comments:



February 14, 2012

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice Chair  
Committee on Water, Land, and Housing

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice-Chair  
Committee on Judiciary and Labor

**Support of SB 2856, Relating to Special Purpose Revenue Bonds; Constitutional Amendment; Dams and Reservoirs. (Proposes a constitutional amendment to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.)**

**Wednesday, February 15, 2012, 10:00 a.m., in Conference Room 016**

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.

LURF appreciates the opportunity to provide testimony **in support of SB 2856, and to offer comments.**

**SB 2856.** The purpose of this bill is to propose an amendment to article VII, section 12, of the Hawaii state constitution, to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.

**LURF's Position.** LURF members include private property owners, farmers and ranchers who own, maintain, and utilize dams and reservoirs, and who consider such resources critical to conduct their agricultural operations and to sustain their businesses. These land owners and agricultural stakeholders believe SB 2856 will greatly assist with costs which must be incurred to bring their facilities to current safety standards, including requirements of the dam and reservoir safety program administered by the DLNR, particularly new safety requirements for dams and reservoirs imposed by the program, as well as costs which must be incurred for maintenance and upgrade of structures which are presently considered untenable.

As this Committee may already be aware, the unsustainable costs cast upon land owners and agricultural stakeholders by the safety program are a serious concern, as the enactment of overly burdensome regulations relating to maintenance and operation of

**Ka'u Farm Bureau  
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COMMITTEE ON WATER, LAND, AND HOUSING

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice Chair

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Wednesday, February 15, 2012  
TIME: 10:00 a.m.  
PLACE: Conference Room 16  
State Capitol  
415 South Beretania Street

TESTIMONY ON SB2856

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII  
STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

Aloha Chairs Dela Cruz and Hee and Vice Chairs Solomon and Shimabukuro, and Members of  
the Committees:

Ka'u Farm Bureau supports the abovementioned measure.

While dam and reservoir safety rules represent an important public safety initiative, the rules codified in HRS chapter 179D will have an adverse effect by reducing water storage capacity across the state. At a time when changing weather patterns have demonstrated alternating periods of drought punctuated by significant storm events, coupled with the noble goal of achieving food security for our island state, water storage is more critical than ever. The new rules, once enacted, will discourage new dam and reservoir construction, and in many cases cause dam and reservoir owners and to minimize the capacity or decommission existing storage capability.

Many of the reservoirs – built in an era of plantation agriculture—no longer generate enough revenue to be economically sustainable. But they are needed in ways few people have yet imagined. The issue of how to pay for the upgrading and maintenance of this critical infrastructure is now gaining more attention as the state's budget comes into focus.

Dams and reservoirs are the key not just to a future of sustainable agricultural system in Hawaii, but to the entire water and environmental health of the State. In addition to the conventional benefits of storing and delivering reliable water for agriculture in dry times, flood control during large storms, erosion control and the reduction of sediment loading on our near shore ocean reefs, reservoirs also ensure a supply of potable drinking water (after treatment).

Reservoirs also help recharge our ground water aquifers by capturing storm water (for later release) that would otherwise rush to the ocean. There is growing evidence is that there will be a pattern of fewer, but larger storms separated by longer intervals of drought. If the large rainfall

flows are not captured, overall ground water recharge may be significantly reduced. Groundwater is our primary source of drinking water and demand is relentlessly rising. We already face declining groundwater recharge every time we place hard impermeable surfaces (e.g. concrete) over previously open ground (agriculture).

The new Dam and Reservoir Safety rules will levy an additional burden on reservoir owners and Hawaii farmers. Fuel, labor, equipment, transportation, and other expenses are already higher in Hawaii than on the mainland, placing locally grown products at a competitive disadvantage. Inevitably, increased costs will be passed on to consumers and are counterproductive to efforts to grow more food in Hawaii. Some landowners will simply decommission their dams, abandon their reservoir systems and decide what to do with their now fallow lands when agriculture is no longer viable.

The issuance of Special Purpose Revenue Bonds will help owners and operators comply with the laws without placing undue burden on the state budget. The Constitutional Amendment proposed in this legislation is prerequisite to the issuance of these bonds. Please lend your support for SB 2856.

Mahalo,

Chris Manfredi  
President





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

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February 15, 2012

HEARING BEFORE THE  
SENATE COMMITTEE ON WATER, LAND AND HOUSING  
SENATE COMMITTEE ON JUDICIARY AND LABOR

TESTIMONY ON SB 2856  
RELATING TO PUBLIC LANDS

Room 16  
10:00 AM

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

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF strongly supports SB 2856, which proposes a constitutional amendment authorizing the issuance of special purpose revenue bonds to assist dam and reservoir owners.

Reliable and affordable water is the key to viable farms and ranches. Ranches and irrigated areas across the state depend on reservoirs and dams to carry them through times of little or no rainfall. Since the passage of the Dam and Reservoir Safety Law, owners and users of these structures have worked with DLNR to seek practical implementation measures while meeting the goal of safety. While the rules are one issue, the classification of the reservoirs continues to be a concern and we are working with staff to review the current status of the dams and reservoirs. This will determine how much work is needed.

In the case of high risk reservoirs, extensive engineering studies followed by corrective actions are placing extreme economic burdens on our farmers and ranchers. They all want to do the right thing. Safety is of utmost concern. At the same time, it is not the intent of the Dam and Reservoir Safety Law to put farmers and ranchers out of business as they try to comply with the measure. This bill provides a mechanism to reduce the premature decommissioning of dams and reservoirs. Testimony will be received by this

bid from farms and ranches across the state providing unique examples of impacts of this measure.

HFBF respectfully requests your assistance in passing this measure to protect our critical agricultural water infrastructure while complying with safety requirements. Thank you for this opportunity to provide our opinion on this important matter.

I can be reached at (808) 848-2074 if you have any questions. Thank you for the opportunity to testify on this matter.



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**SB 2856**

**PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII  
STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS**

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

**FEBRUARY 15, 2012**

Chair Dela Cruz, Chair Hee, and Members of the Senate Committees on Water, Land & Housing and Judiciary & Labor:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and Hawaiian Commercial & Sugar Company (a division of A&B) on SB 2856, "PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS." We support this bill.

Alexander & Baldwin and its agricultural company Hawaiian Commercial & Sugar Company (HC&S) have 30 regulated reservoirs on Maui which are in active use by HC&S. 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 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.

In addition to serving as a valuable water resource for Hawaii's agricultural industry, dams and reservoirs also provide several other significant benefits to the general public. Many of these facilities also provide drinking water for residential communities, renewable energy by way of hydropower, and flood control and drainage for public safety.

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 requirements, many with significant cost implications, may be levied upon owners of dams and reservoirs. These additional requirements 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 proposes an amendment to the State Constitution to authorize the issuance of special purpose revenue bonds and to use the proceeds from the bonds to

assist dam and reservoir owners. 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. 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 these special purpose revenue bonds, 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.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 14, 2012 7:45 AM  
**To:** WLH Testimony  
**Cc:** lanipetrie@aol.com  
**Subject:** Testimony for SB2856 on 2/15/2012 10:00:00 AM

Testimony for WLH/JDL 2/15/2012 10:00:00 AM SB2856

Conference room: 016  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Lani C. Petrie  
Organization: Individual  
E-mail: [lanipetrie@aol.com](mailto:lanipetrie@aol.com)  
Submitted on: 2/14/2012

Comments: