

SB 752

Testimony

NEIL ABERCROMBIE
Governor



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Chairperson, Board of Agriculture

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TESTIMONY OF RUSSELL S. KOKUBUN
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE SENATE COMMITTEE ON AGRICULTURE
TUESDAY, FEBRUARY 12, 2013
2:55 P.M.
Room 229

SENATE BILL NO. 752
RELATING TO THE AGRIBUSINESS DEVELOPMENT CORPORATION

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 752. The Department of Agriculture supports the intent of this measure and offers comments. The purpose of this measure is to establish the agricultural land acquisition special fund for the purchase of agricultural land by the Agribusiness Development Corporation. Part of the funding for the special fund would be from the environmental response, energy and food security tax.

The Department is in full support of the protection of agricultural lands and the promotion of farm ownership and agricultural diversity. The Department would like to point out that past precedent has been for monies for large land acquisition to come from issuing general obligation bonds and not from special funds.

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





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AGRIBUSINESS DEVELOPMENT CORPORATION
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TESTIMONY OF JAMES J. NAKATANI
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE SENATE COMMITTEE
ON AGRICULTURE

Tuesday, February 12, 2013
2:55 p.m.
Conference Room 229

SENATE BILL NO. 752
RELATING TO AGRIBUSINESS DEVELOPMENT CORPORATION

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 752. The purpose of this bill is to establish the agricultural land acquisition special fund for the purchase of agricultural land by the agribusiness development corporation (ADC). The bill also allocates an unspecified portion of the environmental response, energy, and food security tax to be deposited into the special fund. ADC supports the intent of this bill.

ADC mission is to acquire, and manage in partnership with farmers, ranchers, and aquaculture groups, selected high-value lands, water systems, and infrastructure for commercial agricultural use and to direct research into areas that will lead to the development of new crops, markets, and lower production costs.

One of the biggest challenges facing today's farmers is accessing arable land. With the recent acquisition of 1,723-acres of Galbraith land in Wahiawa, ADC has

been overwhelmed by interested farmers and ranchers seeking land for agricultural operations. Monies from this fund will go towards the purchase of real property for the protection of agricultural lands, land banking, promotion of farm ownership, and agricultural diversity which would essentially increase the corporation's available agricultural land under its control that the corporation may license to qualified farmers, businesses, and agencies.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
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Subject: *Submitted testimony for SB752 on Feb 12, 2013 14:55PM*
Date: Saturday, February 09, 2013 7:57:14 AM

SB752

Submitted on: 2/9/2013

Testimony for AGL on Feb 12, 2013 14:55PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Alan Gottlieb	Hawaii Cattlemen's Council	Support	No

Comments:

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SUBJECT: FUEL, Agricultural land acquisition special fund

BILL NUMBER: SB 752; HB 1018 (Identical)

INTRODUCED BY: SB by Dela Cruz and 4 Democrats; HB by Har, Aquino, Fale, Hashem, Ichiyama, Ito, Oshiro, Say, Takayama, Tsuji, Ward and 1 Republican

BRIEF SUMMARY: Amends HRS section 243-3.5 to provide that ___ cents on each barrel of imported oil collected through the environmental response tax shall be deposited into the agricultural land acquisition special fund.

Adds a new section to HRS section 163D to establish an agricultural land acquisition special fund which shall be used to acquire real property for the protection of agricultural land, public land banking, promotion of farm ownership, and agricultural diversification.

EFFECTIVE DATE: July 1, 2013

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The intent of the original nickel per barrel was to build up an emergency fund so that the state would have the financial resources to address an oil spill that threatened to damage the Islands' shorelines. Over the years, the activities for which the funds could be used expanded such that the fund was prevented from ever reaching the \$7 million cap that had been imposed by the original legislation.

The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into the environmental response revolving fund; 15 cents to be deposited into the energy security special fund, 10 cents to be deposited into the energy systems development special fund; 15 cents to be deposited into the agricultural development and food security special fund; and the residual of 60 cents to be deposited into the general fund between 7/1/10 and 6/30/15. This measure proposes to tap a portion of the barrel tax to be deposited into the agricultural land acquisition special fund, resulting in less residual cents deposited into the general fund.

Not only would this proposal expand the use of the environmental response tax, but it also creates another program that will be funded automatically by this earmark. It should be noted that since this earmarking of revenue is automatic and will not be subject to legislative scrutiny, it is questionable whether the amount of funds deposited into the agricultural land acquisition special fund will be sufficient for the stated purposes. If there is insufficient revenue from the proposed earmark, there is no doubt that the amount earmarked will be increased to generate additional monies. If the legislature deems this particular program to be a priority, then a direct appropriation of general funds would be preferable to the earmarking proposed in this measure.

It should be remembered that the environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline.

The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection and natural resource protection programs, such as energy conservation and alternative energy development, to address concerns related to air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

It should be noted that the enactment of the barrel tax for the environmental response revolving fund is the classic effort of getting one's foot in the door as it was initially enacted with a palatable and acceptable tax rate of 5 cents and subsequently increasing the tax rate once it was enacted which is what it has morphed into as evidenced by the \$1.05 tax rate. Because the tax is imposed at the front end of the product chain, the final consumer does not know that the higher cost of the product is due to the tax. Thus, there is little, if any, accountability between the lawmakers who enacted the tax and the vast majority of the public that ends up paying the tax albeit indirectly. Proponents ought to be ashamed that they are promoting a less than transparent tax increase in the burden on families all in the name of environmental protection and food security.

It should be remembered that the State Auditor has singled out the environmental response revolving fund as not meeting the criteria established and recommended that it be repealed. The Auditor criticized the use of such funds as they hide various sums of money from policymakers as they are not available for any other use and tend to be tacitly acknowledged in the budget process. More importantly, it should be recognized that it is not only the users of petroleum products who benefit from a cleaner environment, but it is the public who benefits. If this point can be accepted, then the public, as a whole, should be asked to pay for the clean up and preservation of the environment.

Funds deposited into a special fund are not subject to close scrutiny as an assumption is made that such funds are self-sustaining. It should be remembered that earmarking of funds for a specific program represents poor public finance policy as it is difficult to determine the adequacy of the revenue source for the purposes of the program. To the extent that earmarking carves out revenues before policymakers can evaluate the appropriateness of the amount earmarked and spent, it removes the accountability for those funds. There is no reason why such programs should not compete for general funds like all other programs which benefit the community as a whole.

Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

For those lawmakers who promoted the dollar increase for energy self-sufficiency and food security, taxpayers should recognize that they deliberately misled the public and should be held accountable for their lack of integrity as the dollar increase went largely for shoring up the state general fund.