

SB 996

Testimony



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON AGRICULTURE
AND
SENATE COMMITTEE ON WATER AND LAND**
Thursday, January 31, 2013
2:45 PM
State Capitol, Conference Room 229

in consideration of
SB 996
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chairs Nishihara and Solomon, Vice Chairs Kouchi and Shimabukuro, and Members of the Senate Committees on Agriculture and Water and Land.

The Office of Planning (OP) supports SB 996, an Administration bill, which would amend Hawai'i Revised Statutes (HRS) Chapter 205, Part III, to set out permissible uses and density standards for lands within the State Agricultural District that are designated as important agricultural lands (IAL) by the State Land Use Commission (LUC).

With the exception of farmer and farm employee housing, there are no defined use standards for IAL-designated lands in HRS Chapter 205. Act 183, Session Laws of Hawai'i 2005, was passed and enacted to fulfill the mandate in Article XI, Section 3 of the State Constitution, to protect important agricultural lands to the State of Hawai'i. Although the intent of Act 183 was to provide a higher level of protection for valued agricultural lands to ensure their availability for agricultural use both now and into the future, it did not include legislation

for use or density standards to regulate lands designated as IAL. Existing provisions in HRS Chapter 205 for the Agricultural District allows for a range of non-agricultural uses and do not offer the land use protections needed for lands that have been designated as IAL.

Since 2007, the LUC has designated over 89,000 acres of land as IAL statewide. The County of Kaua'i and the City and County of Honolulu are currently in the process of identifying and preparing recommendations for lands to be designated as IAL for their respective counties. SB 996 would provide the needed use and density standards by which to manage agricultural use of these lands. In doing so, this measure will strengthen State agricultural land use policy and promote agricultural use of IAL lands in support of the State's food self-sufficiency and food security objectives in the Administration's New Day Plan and its "Increased Food Security and Food Self-Sufficiency Strategy," published in October 2012.

We urge you to pass this measure and to amend the clause, "paragraph (1)," in lines 22 on pages 3 and 4, to read, "paragraphs (1)-(3)". These amendments would ensure that accessory agricultural buildings and improvements for game and fish propagation and the raising of livestock would also be permissible uses on IAL lands.

Thank you for the opportunity to testify on this measure.

From: mailinglist@capitol.hawaii.gov
To: [AGL Testimony](#)
Cc: nimo1767@gmail.com
Subject: Submitted testimony for SB996 on Jan 31, 2013 14:45PM
Date: Tuesday, January 29, 2013 10:58:01 PM

SB996

Submitted on: 1/29/2013

Testimony for AGL/WTL on Jan 31, 2013 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Petricci	Puna Pono Alliance	Oppose	No

Comments: January 31, 2:45pm Re: Opposition to SB996 Aloha Senator Kim and committee members Puna Pono Alliance stands in opposition to SB 996. Puna Pono Alliance supports I Aloha Moloka'i's position in opposing SB996. Robert Petricci President Puna Pono Alliance

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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SB 996

RELATING TO IMPORTANT AGRICULTURAL LANDS

**JOEL K. MATSUNAGA
CHIEF OPERATING OFFICER & EXECUTIVE VP
HAWAII BIOENERGY, LLC**

January 31, 2013

Chairs Nishihara and Solomon and Members of the Committees on Agriculture and on Water and Land:

I am Joel Matsunaga, submitting testimony on behalf of Hawaii BioEnergy, LLC, in support of SB 996, "Relating to Important Agricultural Lands."

SUMMARY

Hawaii BioEnergy, LLC ("HBE") supports SB 996, which seeks to protect designated important agricultural lands (IALs) by more clearly defining the permissible uses and activities that can occur on these lands. Limiting the permissible uses of IALs to those directly connected with agricultural production will help to ensure that the state's fertile soils are protected and that these resources, critical to Hawaii's food and energy security, are preserved and reserved for these purposes.

HAWAII BENEFITS FROM LOCAL, ADVANCED BIOFUELS PRODUCTION

Hawaii BioEnergy is a local company dedicated to strengthening the state's energy future through sustainable biofuel production from locally grown feedstocks. Among its partners are three of the larger landowners in Hawaii. HBE and its partners would like to use significant portions of our land and, when able and appropriate, to enroll IALs to address Hawaii's existing and growing energy needs.

Understanding the urgency of these needs and anticipating growing demand, HBE has dedicated the last several years to feedstock trials, extensive technology evaluation and detail financial modeling of various production pathways in an effort to ensure HBE's ultimate production is as productive, efficient and sustainable as possible. HBE's own research, development and demonstration (RD&D) efforts have been accelerated by funding from the US government's Defense Advanced Research Projects Agency (DARPA), Office of Naval Research, as well as a Congressional Appropriation administered through the Air Force Research Laboratory.

Through these efforts, HBE has thoroughly evaluated a range of feedstocks and advanced conversion technologies capable of maximizing yields and productive efficiency while minimizing the land and resource footprint. Explicitly allowing the production of bioenergy crops and establishment of bioenergy facilities on IALs will help nascent bioenergy projects to achieve scale and drive down production costs while preserving these precious land resources, revitalizing the agricultural industry, and strengthening the state's energy security position.

CONCLUDING REMARKS

HBE is moving forward with advanced, bio-based energy projects from locally grown feedstocks that will help provide a local, renewable source of energy for Hawaii and sustain the states agricultural resources for years to come. HBE has signed a 20-year off-take agreement for high-density fuels with Hawaiian Electric Company and is prepared to move forward with the production of advanced fuels for both the power generation and transportation sectors. Explicitly defining the permissible uses for and activities on IALs will help to ensure that the state's limited land resources remain focused on productive agricultural activities that are vital to the State of Hawaii. Based on the aforementioned, HBE respectfully requests that the Committees support SB 996.

Thank you for the opportunity to testify.



January 31, 2013

TESTIMONY
SENATE COMMITTEE ON AGRICULTURE
SENATE COMMITTEE ON WATER AND LAND

TESTIMONY ON SB 996
RELATING TO AGRICULTURE

Room 229
2:45

Chair Nishihara, Chair Soloman, Vice Chair Kouchi, Vice Chair Shimabukuro, and Members of the Committees:

Maui County Farm Bureau on behalf of our commercial farm and ranch families and organizations working to increase Hawaii's level of self sufficiency, **STRONGLY OPPOSES SB996** redefining permissible and accessory uses on Important Agricultural Lands.

MCFB understands the intent of the authors of this measure. However, at stake, is a larger issue. Voluntary designation by landowners or ultimate designation of private lands by the State and Counties as IAL is a major decision. Unlike purchase of development rights or easements in which landowners are paid monies, these designations occur through a decision and order process before the Land Use Commission. The landowners involved participated in the discussions that developed the standards and criteria to identify IAL and are aware of the intended use of the lands. We believe this proposal is not needed to ensure the intended use of these lands.

The bigger issue associated with this measure is the question this measure puts before landowners. It raises the question whether conditions under which designations occurred can be changed by the Legislature. It creates uncertainty. We do not believe this is conducive to encouraging designation of lands.

MCFB respectfully requests your support in opposing this measure. Thank you for this opportunity to provide our opinion on this matter. If there are questions, please contact Warren Watanabe at 2819718. Thank you.

Aloha,

My name is Brandi Beaudet, I am submitting this testimony in the capacity of Land Manager for Parker Ranch Inc. In regard to SB 996, Parker Ranch is in strong opposition of this Bill for the following reasons:

1. Farmers, Ag Operators, Ranchers (Stakeholders) need more flexibility in these challenged economic times. Restrictions as proposed by SB 996 will definitely have dramatic adverse impacts on these businesses ability to sustain themselves and the industry as a whole. Diversification is critical to the industry and its survivability. Current economic models prove out that businesses and landowners cannot support themselves on agriculture use alone
2. Landowner's who took the initiative to dedicate their lands to IAL, did so in reliance that the current regulations/rules would not be significantly changed. The changes proposed in SB 996 are quite sudden and unexpected.
3. Stakeholders were not made aware of the severity of the changes. Why was there no communication between the State and industry stakeholders.
4. There seems to be a disconnect between the State's encouragement of developing a model for "food self sufficiency" and magnitude of the restrictions within the Bill.
5. S.B. No. 996 is inconsistent with the Hawai'i State Constitution and chapter 205 of the *Hawai'i Revised Statutes* ("HRS").

S.B. No. 996 seeks to eliminate open air recreational facilities and agricultural-based commercial operations in a misguided attempt to promote agricultural production on important agricultural lands ("IAL").

Article XI, Section 3 of the Hawai'i State Constitution provides the following:

"The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands. The legislature shall provide standards and criteria to accomplish the foregoing.

Lands identified by the State as important agricultural lands needed to fulfill the purposes above shall not be reclassified by the State or rezoned by its political subdivisions without meeting the standards and criteria established by the legislature and approved by a two-thirds vote of the body responsible for the reclassification or rezoning action." (Emphasis added).

The Constitution mandates that agricultural self-sufficiency be accomplished through legislation. This mandate is codified in HRS chapter 205.

Chapter 205 implements the Constitution's mandate by making agricultural self-sufficiency, income and viability a priority.

HRS §205-41(3) declares that one of the purposes of the IAL law is "[i]ncreasing agricultural self-sufficiency.

HRS §205-42(a)(3) defines IAL as those lands that "[a]re needed to promote the expansion of agricultural activities and income for the future, even if currently not in production.

HRS §205-42(b)(2)(A) provides that one of the objectives of the IAL law is to provide incentives to promote agricultural viability.

Prohibiting established agricultural uses that generate income for farmers is violative of the Article XI, Section 3 of the Constitution and chapter 205. Open air recreational uses and agriculture-based commercial uses, including day camps, solar farms and riding stables are critical uses that generate needed income to sustain agricultural production. This income is vital for the maintenance of agricultural related infrastructure. HRS §205-43(8) makes clear that it is the State's policy to "[p]romote the maintenance of essential agricultural infrastructure systems, including irrigation systems."

S.B. No. 996 also incorrectly states that "the law does not specify the permissible uses and activities on important agricultural lands." Permissible agricultural uses are provided for at HRS §205-4.5. These uses have been determined to be those uses that are appropriate for lands in the agricultural district.

Furthermore, Article XI, Section 3 is clear in stating that the "State shall conserve and protect agricultural lands". There is no express or implied intent to create a new agricultural district. The intent is to protect what we have for the future. To make IAL more restrictive than what is allowed in the agricultural district defeats the purpose of promoting agriculture and making it self-sufficient.

Respectfully submitted,



Brandi Beaudet, Land Manager
Parker Ranch Inc.



Hawaii Cattlemen's Council, Inc.

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**SENATE COMMITTEE ON AGRICULTURE
SENATE COMMITTEE ON WATER & LAND
JANUARY 31, 2013 2:45 p.m. Room 229**

SB 996 RELATING TO IMPORTANT AGRICULTURAL LANDS
Identifies permissible and accessory uses and activities on important agricultural lands.

Chair Nishihara, Chair Solomon, Vice Chairs 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 **OPPOSES** SB 996.

We believe that IAL is working, with large landowners already dedicating large tracts of lands, and others far into the process of considering voluntary dedication. Furthermore, landowners who have already dedicated lands to IAL did so on reliance of the current restrictions. Why would we change the rules mid-game?

Farmers and Ranchers need more flexibility, not less. We need more incentives and tax credits not more restrictions. We have concerns about the restriction placed by this bill on bona-fide agro-tourism activities and energy projects allowed on agricultural lands.

Thank you for giving me the opportunity to testify on this very important issue.



Via Capitol Website

January 30, 2013

**Senate Committee on Water, Land, and Housing
Hearing Date: Thursday, January 31, 2013
Conference Room 229**

**Testimony in Opposition of SB 996 –
Relating to Important Agricultural Lands**

Honorable Chair Senator Malaina Solomon, Chair and Senator Maile Shimabukuro, Vice Chair and members of the Senate Committee on Water and Land:

My name is Michael H. Tresler, and I am the Senior Vice President of Grove Farm Company, Inc. Grove Farm is headquartered in Lihue, and owns approximately 40,000 acres on Kaua'i, making it one of Kaua'i's largest private landowners. We also currently maintain seven reservoirs throughout our property on Kauai.

Grove Farm appreciates this opportunity to express our **strong opposition** of SB 996, which seeks to identify permissible and accessory uses and activities on important agricultural lands (IAL) identified and designated pursuant to part III of chapter 205, Hawaii Revised Statutes.

Grove Farm's Position. We believe that by restricting the uses of land designated as IAL, the bill will in fact result in the restriction of appropriate uses, which would have a detrimental effect on agricultural operations. Limiting the options of private landowners to utilize agriculture land designated as IAL will only exacerbate our challenges of establishing productive and profitable agriculture on our lands.

A County process already exists on Kauai to determine permissible uses on agricultural land and we feel that should not be overridden at the State level. It is important to remember that neighbor island farming challenges are unique to each respective island and are very different from the challenges faced by farmers on Oahu. We have a very small number of farmers and an even smaller number of people interested in farming on Kauai. It is extremely difficult to find farmers to farm at any scale and it is especially difficult to find commercial scale farmers.

As a landowner who voluntarily went through the IAL process, and who is currently offering a second application petitioning to designate additional land as IAL, we find it troubling that the State seems to be changing and altering its course mid-stream. It is disturbing to have the IAL framework change after a number of IAL applications have already been approved. We relied upon the current law in place. SB996 will change the whole complexion of IAL, and had we been aware of the proposed restrictions, we may have chosen a different path. Furthermore, HRS §205-42(b)(2)(A) provides that one of the objectives of the IAL law is to provide incentives to promote agricultural viability.

- continued -

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www.grovesfarm.com

Testimony – Michael H. Tresler
Hearing Date: January 31, 2013
SB 996
Page Two

Prohibiting established agricultural uses that generate income for farmers is violative of the Article XI, Section 3 of the Constitution and chapter 205. Open air recreational uses and agriculture-based commercial uses, including day camps, solar farms and riding stables are critical uses that generate needed income to sustain agricultural production. This income is vital for the maintenance of agricultural related infrastructure. HRS §205-43(8) makes clear that it is the State's policy to "[p]romote the maintenance of essential agricultural infrastructure systems, including irrigation systems."

S.B. No. 996 also incorrectly states that "the law does not specify the permissible uses and activities on important agricultural lands." Permissible agricultural uses are provided for at HRS §205-4.5. These uses have been determined to be those uses that are appropriate for lands in the agricultural district.

Furthermore, Article XI, Section 3 is clear in stating that the "State shall conserve and protect agricultural lands". There is no express or implied intent to create a new agricultural district. The intent is to protect what we have for the future. To make IAL more restrictive than what is allowed in the agricultural district defeats the purpose of promoting agriculture and making it self-sufficient.

One would also argue that the current recommended changes to the IAL law require approval of 2/3's of the legislature.

Chapter 205 is clear that the IAL law is intended to protect agricultural lands for the future, even if the land is not currently in production. We must be cognizant that SB 996, in its current form, ignores the fact that agricultural lands being used for recreational purposes can later be converted to agricultural production, similar to fallow lands.

While it may seem that a variety of uses and activities such as open-air recreational facilities, agricultural-based commercial operations, and special-use permitted activities are not complementary to agricultural use, this is not the case.

As is likely the case with other large landowners across the State, Grove Farm subsidizes nearly all of its agricultural lessees through other activities. It is a model that we are working to change and we have found that recreational activities have helped to support and even enhance agricultural activities on our lands by maintaining and improving critical infrastructure, such as water conveyance systems and roads. This is important as it preserves infrastructure networks until the land is needed for production. Such recreational activities also help generate income that help keep agricultural rates affordable for small farmers who otherwise would not be able to afford to farm.

Activities provide great benefit across IAL lands by serving as a critical component of property infrastructure and also provide great outreach opportunities by educating participants and communicating the value of strong agricultural uses. It also supports our largest and most important industry; Tourism.

Thank you for the opportunity to express our strong opposition on this matter.

From: mailinglist@capitol.hawaii.gov
To: [AGL Testimony](#)
Cc: OccupyHiloMedia@yahoo.com
Subject: Submitted testimony for SB996 on Jan 31, 2013 14:45PM
Date: Tuesday, January 29, 2013 11:17:38 PM

SB996

Submitted on: 1/29/2013

Testimony for AGL/WTL on Jan 31, 2013 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kerri Marks	Individual	Oppose	No

Comments: We have a very limited amount of arable land here in the islands, and important agricultural lands should be used to grow food, not energy. Biofuel crops should not replace food crops anywhere in Hawaii. Also, wind farms are not farms. They are power plants. They have no place on Ag land. Reserve important ag lands for food crops. Kerri Marks

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From: mailinglist@capitol.hawaii.gov
To: [AGL Testimony](#)
Cc: macey001@hawaii.rr.com
Subject: Submitted testimony for SB996 on Jan 31, 2013 14:45PM
Date: Wednesday, January 30, 2013 11:49:34 AM

SB996

Submitted on: 1/30/2013

Testimony for AGL/WTL on Jan 31, 2013 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
James Macey	Individual	Oppose	Yes

Comments: This bill is horrible and must be defeated in entirety. Who dreamed up this nonsense? Valuable AG lands must be kept for AG use only as our food security is already in danger.

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From: mailinglist@capitol.hawaii.gov
To: AGL Testimony
Cc: apohi21@gmail.com
Subject: *Submitted testimony for SB996 on Jan 31, 2013 14:45PM*
Date: Wednesday, January 30, 2013 12:25:27 PM

SB996

Submitted on: 1/30/2013

Testimony for AGL/WTL on Jan 31, 2013 14:45PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Bill Brown	Individual	Oppose	No

Comments:

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