

SB3059

Testimony

Clarifies the amount of the important agricultural land qualified agricultural cost tax credit.



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON AGRICULTURE
TUESDAY, FEBRUARY 4, 2014
2:55 P.M.
Room 229
SENATE BILL NO. 3059
RELATING TO TAX CREDITS**

Chairperson Nishihara and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill No. 3059. This bill seeks to clarify the amount of the Important Agricultural Lands (IAL) qualified agricultural cost tax credit. The Department of Agriculture supports the intent of this measure but defers to the Department of Taxation for the appropriate wording.

This tax credit was enacted in 2008 as part of the incentives package designed to sustain and establish viable agricultural businesses on designated IAL lands. To date, over 101,000 acres have been designated IAL throughout the state.

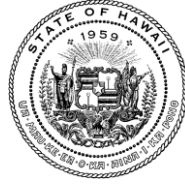
This tax credit encompasses a broad range of costs that are related to agricultural activities on IAL such as the planning, construction, repair and maintenance for roadways, processing facilities, irrigation water infrastructure, and agricultural housing. It also captures costs for agricultural equipment, regulatory processing, feasibility studies, and regulatory processing and legal services related to obtaining or retaining sufficient irrigation.

Thank you for the opportunity to present our testimony.



NEIL ABERCROMBIE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



FREDERICK D. PABLO
DIRECTOR OF TAXATION

JOSHUA WISCH
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

To: The Honorable Clarence K. Nishihara, Chair
and Members of the Senate Committee on Agriculture

Date: Tuesday, February 4, 2014
Time: 2:55 P.M.
Place: Conference Room 229, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 3059 Relating to Tax Credits

The Department of Taxation (Department) provides the following comments regarding S.B. 3059 for your consideration.

S.B. 3059 amends the Important Agricultural Land Qualified Cost Tax Credit in section 235-110.93, Hawaii Revised Statutes (HRS), changing the amount of the credit in all years that the credit may be claimed.

The Department notes that the proposed changes decrease some of the complexity of the Important Agricultural Land Qualified Cost Tax Credit, but will increase the credit amount available to taxpayers for this credit.

Since the credit is increased, but the effective dates of the original act are not changed, the increases will apply retroactively. In other words, if taxpayers have expended money already intending to qualify for the credit under the lesser amount, the retroactive application would also give them the increased credit amount.

Thank you for the opportunity to provide comments.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Important agricultural land tax credit

BILL NUMBER: SB 3059; HB 2464 (Identical)

INTRODUCED BY: SB by Nishihara and 3 Democrats; HB by Yamashita, Ito and Tsuji

BRIEF SUMMARY: Amends HRS section 235-110.93 to provide that the important agricultural land qualified agricultural cost tax credit shall be:

- (1) In the first year in which the credit is claimed, the **lesser** of the following:
 - (A) 25% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$625,000;
- (2) In the second year in which the credit is claimed, the **lesser** of the following:
 - (A) 15% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$250,000; and
- (3) In the third year in which the credit is claimed, the **lesser** of the following:
 - (A) 10% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or
 - (B) \$125,000.

EFFECTIVE DATE: Tax years beginning after July 1, 2008

STAFF COMMENTS: The legislature by Act 233, 2008, enacted the important agricultural land qualified agricultural cost tax credit. As enacted, the amount of the credit is based on “25% of the lesser of the following: (A) the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or (B) \$625,000 for the first year in which the credit is claimed. The proposed measure would provide that the credit is the **lesser** of the following: (A) 25% of the qualified agricultural costs incurred by the taxpayer after July 1, 2008; or (B) \$625,000. Under the proposed measure, if the \$625,000 amount is the lesser, then the taxpayer will receive \$625,000 in the first year of the credit as compared to \$156,250 (\$625,000 times 25%) under the current law. Because the bill is retroactive to the original effective date of the credit from Act 233, SLH 2008, it appears that the bill is being sold as a clarification of the bill’s original intent. However, one would think that if this really were the original intent of the credit, this bill would have been introduced and passed several years ago, not five or six years after the fact. Instead, this bill looks like a pure giveaway of taxpayer money (because it’s based on costs incurred since 2008).

Furthermore, while there is no sunset date of the credit which has been available since 2008, it is questionable whether the credit is still necessary.

Digested 2/3/14



January 31, 2014

Senator Clarence K. Nishihara, Chair
Senator Ronald D. Kouchi, Vice Chair
Senate Committee on Agriculture

Testimony in Support of SB 3059, Relating to Important Agricultural Land Qualified Agricultural Cost Tax Credit (Clarifies the Amount of the Tax Credit).

Tuesday, February 4, 2014, 2:55 p.m., in Conference Room 229

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission 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.

SB 3059. This bill proposes to clarify the amount of the Important Agricultural Land ("IAL") qualified agricultural cost tax credit.

LURF's Position. LURF supports SB 3059 because the clarification proposed by this bill furthers the underlying intent and objectives of the IAL laws (Hawaii Revised Statutes [HRS], Sections 205-41 to 52), which were enacted to fulfill the mandate in Article XI, Section 3, of the Hawaii State Constitution, "to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." The IAL laws established a new paradigm which avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure, including irrigation systems.

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to promote agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of important agricultural lands for agricultural use in Hawaii concurrently with the process of identifying important agricultural lands as required under the Act. Such incentives and programs are identified in HRS 205-41, and include tax credits and/or exemptions that promote investment in agricultural businesses or value-added agricultural development, specifically escalating tax credits based on the tax revenues generated by increased investment or agricultural activities conducted on IAL.

LURF therefore appreciates the effort made by SB 3059 to clarify the amount of the IAL qualified agricultural cost tax credit which supports agriculture and aid agriculture-related businesses. Passage of the long-awaited IAL legislation would be meaningless without proper implementation of these incentives. The effective establishment and continued maintenance of tax incentives for those engaged, or desirous of engaging, in agricultural activities are critically needed to support viable agricultural activity in this State.

Based on the above, LURF **supports SB 3059**, and respectfully urges your favorable consideration of this bill.

Thank you for the opportunity to present testimony in support of this measure.