

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

February 18, 2015
3:00 p.m.

MEASURE: H.B. No. 1372
TITLE: Relating to Public Utilities

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

DESCRIPTION:

This measure proposes to exempt “any person who provides water solely to bona fide agricultural activities” from the definition of “public utility” in Chapter 269, Hawaii Revised Statutes.

POSITION:

The Commission has no objection to this measure.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



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Chairperson, Board of Agriculture

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

**BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND
COMMERCE**

February 18, 2015
3:00 P.M.
CONFERENCE ROOM 325

**HOUSE BILL NO. 1372
RELATING TO PUBLIC UTILITIES**

Chairperson McKelvey and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1372. The purpose of this bill is to exclude from the definition of public utility, any person who provides water solely to bona fide agricultural activities. Bona fide agricultural activities are those activities for which:

1. A majority of the cleared land is in regular production
2. A Schedule F was filed on a federal income tax return, and
3. Agricultural activities are the primary purpose for the holding of land, or
4. Traditional native Hawaiian cultural practices.

The Department of Agriculture supports the intent of this measure and offers the following amendment.

We offer the following alternative language that may help to clarify the definition of acceptable agricultural activities. (Deletions are struck out, additions are double underscored)



" (O) Any person who provides water solely to bona fide agricultural activities. For purposes of this subparagraph, "bona fide qualifying agricultural activities" means activities for which:

(i) A majority of the cleared land is in regular production the area of each lot of record is currently engaged in agricultural activities and uses described in Section 205-4.5(a) (1), (2), and (3);

(ii) A schedule F was filed on a federal income tax return by a taxpayer who is engaged in agricultural activities and uses described in (i); and

(iii) Agricultural activities are the primary purpose for the holding of land as evidenced by possession of a valid county agriculture tax dedication status or a valid agricultural conservation easement.

Bona fide Qualifying agricultural activities include traditional native Hawaiian cultural agricultural practices. "

Thank you for the opportunity to comment on this measure.

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

TESTIMONY ON HOUSE BILL NO. 1372 RELATING TO PUBLIC UTILITIES

Submitted by Robbie Alm
President, Collaborative Leaders Network

Chair McKelvey and Members of the House Committee on Consumer
Protection and Commerce

This bill is intended to exempt from regulation by the Public Utilities Commission (PUC), the provision of water in specific cases of agricultural activity. If, for example, a landowner uses its water systems solely to provide water to farmers on its lands, they should not be regulated as a public utility. The PUC has to date taken that view but there is a concern that a future PUC might take a different view and choose to regulate this activity. And because of that concern, water is simply part of the lease rent or some form of maintenance charge. It is not, as it could be, the subject of incentives to encourage efficient use of the resource.

If this activity is exempted, it is expected that many landowners will find ways to increase the efficiency of water use by, for example, charging in a way as to encourage the use of water at times other than the time most commonly used, and most wasteful; the middle of the day.

In discussing this with the former chair of the PUC, there was a strong request that this exemption only apply to farming interests. The definition of “bona fide agricultural activity” was intended to separate out true farming from the so-called “gentlemen farmers.” There is another bill before the Legislature that also uses the words “bona fide”

with regard to agricultural activities and to avoid any conflicts it is suggested that the words in this bill be changed to “qualifying agricultural activities.” There were also suggestions made at the previous hearing by the Department of Agriculture as to how to define that term that make it stronger. And finally there was language suggested to make certain that this only applies to farmers only.

Taking all these suggestion into account the amended section (O) would then read as follows:

Any person whose water delivery system’s sole purpose is to provide water to qualifying agricultural activities. For the purpose of this subparagraph, “qualifying agricultural activities” mean activities for which:

- (i) A majority of the area of each lot of record is currently engaged in agricultural activities and uses described in Section 205-4.5 (a) (1), (2) and (3);
- (ii) A schedule F is filed on a federal income tax return by a taxpayer who is engaged in the agricultural activities a d uses described in (i); and
- (iii) Agricultural activities are the primary purpose for the holding of land as evidenced by possession of a valid county agriculture tax dedication status or a valid agricultural conservation easement.

Qualifying agricultural activities include traditional native Hawaiian cultural practices.

Finding as many ways as possible to support the activities of farmers is critical as we all work to significantly increase the amount of food grown locally. This bill is a piece of that work and I urge your favorable adoption of it with the suggestions set forth above.

Thank you for the opportunity to testify on this bill.

