

SB 2795

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

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

BEFORE THE SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE

February 17, 2016
2:45 P.M.
CONFERENCE ROOM 224

**SENATE BILL NO. 2795
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

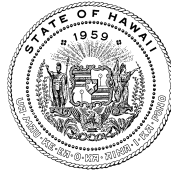
Thank you for the opportunity to testify on Senate Bill No. 2795. The purpose of this bill is to amend the environmental response, energy, and food security tax to allocate a portion of the proceeds presently deposited into the general fund, to a new special fund to be called the Hawaii agricultural development revolving fund. It then allows the funds to be expended by the Agribusiness Development Corporation to acquire agricultural land. The Department recognizes the intent of this bill and offers comments, but otherwise defers to the Agribusiness Development Corporation and the Department of Budget and Finance.

The availability of desirable agricultural land is often triggered by a singular event such as the Dole Food Company lands in the central plain and north shore of Oahu. Keeping these lands available for agricultural production is in consonance with the State's goal of increased food security. The Department is open to considering a role in the acquisition of prime agricultural land provided it does not conflict with the priorities stated in the Administration's supplemental budget request.

Thank you for the opportunity to testify.



DAVID Y. IGE
GOVERNOR



WRITTEN ONLY

WESLEY K. MACHIDA
DIRECTOR

RODERICK K. BECKER
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WATER, LAND, AND AGRICULTURE
ON
SENATE BILL NO. 2795**

February 17, 2016
2:45 p.m.

RELATING TO AGRICULTURE

Senate Bill No. 2795 amends the allocation of environmental response, energy, and food security tax revenues to provide the Agricultural Development Revolving Fund with 10 cents of the taxes collected on each barrel of petroleum product sold; provided that these moneys shall be expended at the sole discretion of the Agribusiness Development Corporation's (ADC) Executive Director to acquire agricultural lands.

The Department of Budget and Finance has concerns regarding the language of the bill. The bill mandates that the barrel tax revenues provided to the Agricultural Development Revolving Fund shall be expended at the sole discretion of ADC's Executive Director; however, the Constitution of the State of Hawaii states that no public money shall be expended except pursuant to appropriations made by law. Given that the Legislature is the only entity authorized to make appropriations, the department is uncertain if the bill conforms to the Constitution.

The department also has concerns that the proposed allocation of environmental response, energy, and food security tax revenues to fund the effort will impact the Administration's general fund financial plan. Residual environmental response, energy, and food security tax revenues not designated to a specific fund are deposited into the general fund and the amended allocation would reduce this amount.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
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**TESTIMONY OF JAMES J. NAKATANI
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION**

BEFORE THE COMMITTEE ON WATER, LAND, AND AGRICULTURE

Wednesday, February 17, 2016
2:45 p.m.

**SENATE BILL NO. 2795
RELATIING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

My name is James Nakatani, Executive Director of the Agribusiness Development Corporation (“ADC”). The ADC supports Senate Bill No. 2795 and would like to offer comments on this measure which amends the environmental response, energy, and food security tax under 243-3.5, Hawaii Revised Statutes (“HRS”) to allocate a portion of the proceeds to the Hawaii agricultural development revolving fund established under 163D-17 HRS for land acquisition.

The ADC is an agency attached to the Hawaii Department of Agriculture (“HDOA”) tasked with transitioning fallow plantation land into cropland to provide economic opportunities for diversified agriculture operations, and providing solutions to certain bottleneck issues facing today’s agriculture industry.

Currently, there are no funds or entity dedicated to conserve and protect agricultural lands pursuant to Article XI, section 3, of the Constitution of the State

of Hawaii. This measure seeks to provide a funding source to the ADC for the sole purpose of acquiring agricultural land to help the State meet its constitutional mandate. While ADC agrees that allocating funds for identifying, acquiring, and managing high valued agricultural lands is paramount to achieving self-sustainability, the ADC believes these funds would be best administered by the HDOA and the Board of Agriculture who have a broader perspective of agriculture.

The ADC suggest this measure be amended by removing all references to ADC and 163D and establishing an agricultural land acquisition fund under Chapter 141, HRS, for the acquisition, administration, maintenance, and management of lands acquired by way of this fund, as it would be more appropriate for HDOA to administer the program and coordinate with others to streamline these efforts. In addition to establishing the fund under Chapter 141, HRS, the ADC also suggest these funds be administered at the sole discretion of the Board of Agriculture to ensure better oversight on how these funds are expended, and that seed money be provided to HDOA to establish the program.

Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Reallocate Environmental Response, Energy, and Food Security Tax to Acquire Agricultural Land

BILL NUMBER: SB 2795

INTRODUCED BY: DELA CRUZ, CHUN OAKLAND, RUDERMAN, Baker, English, Inouye, Kim, Nishihara, Wakai

EXECUTIVE SUMMARY: Adds yet another earmark to the environmental response, energy, and food security tax by directing 10 cents per gallon to the Hawaii agricultural development revolving fund, which then may be spent in the sole discretion of the executive director of the Agribusiness Development Corporation to acquire agricultural lands. The tax has taken on a life of its own and lacks transparency, and the special funds it feeds do not come under close scrutiny by either lawmakers or the public.

BRIEF SUMMARY: Amends HRS section 243-3.5(a) to provide that the environmental response, energy, and food security tax shall be distributed as follows (all earmarks are the same as current except that item (5) is new): (1) 5 cents to the environmental response revolving fund (HRS section 128D-2); (2) 15 cents to the energy security special fund (HRS section 201-12.8); (3) 10 cents to the energy systems development special fund (HRS section 304A-2169.1); (4) 15 cents to the agricultural development and food security special fund (HRS section 201-12.8); and (5) (new) 10 cents to the Hawaii agricultural development revolving fund (HRS section 163D-17). Anything left over after those allocations goes to the general fund. The tax rate remains the same.

Amends HRS section 163D-17 to provide that any moneys deposited into the fund pursuant to section 243-3.5 shall be expended at the sole discretion of the executive director to acquire agricultural lands.

EFFECTIVE DATE: July 1, 2016.

STAFF COMMENTS: 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 collections of the tax were deposited into the environmental response revolving fund until such time the balance in the fund reached \$7 million at which time the imposition of tax was suspended until the balance in the fund declined.

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 a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15.

Act 107, SLH 2014, extended the sunset date of the \$1.05 environmental response, energy, and food security tax from 6/30/15 to 6/30/30. Act 185, SLH 2015, provided that the tax is to be imposed on fossil fuels other than petroleum products as well, based on the BTU equivalent.

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, food security, and natural resource protection programs, energy conservation and alternative energy development, 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.

The basic problem with the barrel tax is that it lacks transparency, and because the funds are earmarked they do not come under close scrutiny by either lawmakers or the public. 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. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrite the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers are able to side step that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. 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.

Digested 2/16/2016

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Cc: dale@hicattle.org
Subject: *Submitted testimony for SB2795 on Feb 17, 2016 14:45PM*
Date: Monday, February 15, 2016 7:12:40 PM

SB2795

Submitted on: 2/15/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Dale Sandlin	Hawaii Cattlemens Council	Support	No

Comments:

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SB2795

Submitted on: 2/16/2016

Testimony for WLA on Feb 17, 2016 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Cabral	Hawaii Farm Bureau	Support	No

Comments:

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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