

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



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

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 HOUSE COMMITTEE ON FINANCE**

**FEBRUARY 24, 2017  
12:30 P.M.  
CONFERENCE ROOM 308**

**HOUSE BILL NO. 1474 HD1  
RELATING TO AGRICULTURE**

Chairperson Luke and Members of the Committee:

Thank for the opportunity to testify on House Bill No. 1474 HD1, relating to industrial hemp. This bill establishes an industrial hemp special fund and provides that agricultural land utilized to grow industrial hemp shall qualify for the minimum dedication period and be assessed at the lowest percentage of fair market value. The department strongly supports this bill as it pertains to the establishment of an industrial hemp special fund and the minimum dedication period and assessment at the lowest percentage of fair market value for agricultural land utilized to grow industrial hemp. The department has been in discussion with representatives of the legislature and the Attorney General's office in moving the Industrial Hemp Pilot Program forward.

The department is respectfully requesting funding for the addition of one program coordinator and one inspector position within the department to administer the operations of the industrial hemp program.

Thank you for the opportunity to testify on this measure.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** REAL PROPERTY, Mandated Property Tax Classification of Lands Growing Industrial Hemp

**BILL NUMBER:** HB 1474, HD-1

**INTRODUCED BY:** House Committee on Agriculture

**EXECUTIVE SUMMARY:** Requires that land used for cultivation of industrial hemp qualify for the minimum dedication period and least expensive classification for country real property tax purposes.

With the Hawaii Constitution having been amended to give all real property taxing power to the counties, the validity of this requirement is questionable.

**BRIEF SUMMARY:** Amends HRS chapter 141 to establish a new special fund called the industrial hemp special fund.

Amends HRS section 141-33 to provide that an industrial hemp licensee cultivated in accordance with the existing pilot program shall qualify as an agricultural product, use, and activity, and that any agricultural land used for cultivation of industrial hemp in accordance with the industrial hemp pilot program established pursuant to this part shall qualify for the minimum dedication period and the agricultural land shall be assessed at the lowest percentage of fair market value or other calculation provided for by ordinance for the effective period of the license.

**EFFECTIVE DATE:** July 31, 2150.

**STAFF COMMENTS:** Article VIII, section 3 of the Hawaii Constitution, adopted in the 1978 Constitutional Convention, provides that the taxation of real property in the State has been transferred to the several counties.

The bill requires the counties to give industrial hemp agricultural classification for real property tax purposes. The validity of this requirement is questionable considering *State of Hawaii v. City & County of Honolulu*, 99 Haw. 508, 57 P.3d 433 (2002), where our supreme court held that the State had no power to pass a law requiring the counties to exempt from real property tax lands that the State leased from others. The court reasoned:

The County's power to tax real property does not derive from the constitutional grant of home rule powers under article VIII, section 2 of the Hawai'i Constitution and is not similarly limited. Rather, the people of Hawai'i, through their constitution, have conferred upon the counties the exclusive power to tax real property. ... Under the terms of this constitution and with regard to the power to tax real property, it is the counties-and not the State-that have been declared supreme. To the extent that the counties, in exercising their exclusive power to tax real property, do not run afoul of the federal or state constitutions, they may act as they see fit. And, although each county's power to

tax real property extends only to property located within its boundaries, the power itself is one granted by the people of the entire state, not the constituents of any one county.

(Footnote omitted.) Based on this reasoning, the State is not likely to have the power to mandate land classifications or other property tax treatment.

Digested 2/6/2017

DAVID Y. IGE  
GOVERNOR



WESLEY K. MACHIDA  
DIRECTOR

LAUREL A. JOHNSTON  
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**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

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

**WRITTEN ONLY**  
TESTIMONY BY WESLEY K. MACHIDA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 1474, H.D. 1

**February 24, 2017**  
**12:30 p.m.**  
**Room 308**

**LATE**

RELATING TO AGRICULTURE

House Bill No. 1474, H.D. 1, establishes the Industrial Hemp Special Fund (IHSF) to carry out the purposes of the Industrial Hemp Pilot Program (IHPP) by the Department of Agriculture (DOA) established through Act 228, SLH 2016. The IHSF would be funded through money appropriated through the Legislature, fees collected by the DOA for the purposes of the IHPP, and any interest or return earned from moneys in the special fund. This bill also requires each county to recognize the cultivation of hemp for the purposes of the pilot program as an agricultural product, use, and activity; specifies that any agricultural land used for cultivation of industrial hemp for the purposes of the pilot program shall qualify for the minimum dedication period and be assessed at the lowest percentage of fair market value; and limit the cultivation of industrial hemp to licensed owners, lessees, or occupiers of lands within the State agricultural land district.

While the Department of Budget and Finance does not take any position on the policies of the IHPP, as a matter of general policy, the Department of Budget and Finance does not support the creation of any special fund which does not meet the

requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 1474, H.D. 1, it is difficult to determine if the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.