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

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

**MARCH 24, 2017
8:31 A.M.
CONFERENCE ROOM 312**

**HOUSE CONCURRENT RESOLUTION NO. 76/ HOUSE RESOLUTION NO. 42
REQUESTING THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TO
EXAMINE WWOOFING IN HAWAII, REVIEW RELEVANT HAWAII LABOR LAWS,
AND MAKE RECOMMENDATIONS ON HOW TO PROTECT THESE WORKERS**

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Concurrent Resolution No. 76/ House Resolution No. 42, that requests the Department of Labor and Industrial Relations (DLIR) to examine wwoofing in Hawaii, review relevant Hawaii labor laws, and make recommendations on how to protect these workers. The Department of Agriculture supports the intent and defers to DLIR.

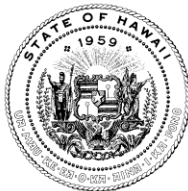
Wwoofing is an exchange program that recruits a younger workforce on organic farms in exchange for experience and living arrangements. This program has grown in Hawaii and to the extent that it continues to do so, labor laws should be met. The Department promotes workforce housing for Hawaii's farmers and ranchers and believes that reviewing this issue may lend itself to a healthier working and living environment for State agriculturalists.

Thank you for the opportunity to comment on this measure.



DAVID Y. IGE
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SHAN S. TSUTSUI
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March 24, 2017

To: The Honorable Richard P. Creagan, Chair,
The Honorable Lynn DeCoite, Vice Chair, and
Members of the House Committee on Agriculture

Date: Friday, March 24, 2017

Time: 8:31 a.m.

Place: Conference Room 312, State Capitol

From: Linda Chu Takayama, Director
Department of Labor and Industrial Relations (DLIR)

**Re: H.C.R 76/H.R. 42 REQUESTING THE DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS TO EXAMINE WWOOFING IN HAWAII, REVIEW RELEVANT
HAWAII LABOR LAWS, AND MAKE RECOMMENDATIONS ON HOW TO PROTECT
THESE WORKERS**

I. OVERVIEW OF PROPOSED LEGISLATION

HCR 76/HR42 requests DLIR to investigate the practice "Willing Workers on Organic Farms," or WWOOFing, in which organic farms allow visitors to work at the farm in exchange for room and board, and determine what recommendations can be done to protect workers from being mistreated and ensure compliance with the Hawaii Revised Statutes (HRS).

DLIR strongly opposes the measure as it is unnecessary and many of these farming operations are likely exempt from minimum wage and overtime requirements in the law.

II. CURRENT LAW

Visitors who come to Hawaii to work on organic farms are considered employees subject to the minimum wage and overtime law if the farmers have 20 or more employees (§387-1 Definitions). If the farm employs less than twenty workers then minimum wage and overtime does not apply to these workers, unless they are subject to the Fair Labor Standards Act (FLSA).

The FLSA is generally applicable to an organization engaging in interstate commerce

or gross sales of \$500,000 or more. The FLSA contains a narrow exemption for agricultural workers from overtime pay, but requires paying the federal minimum wage. In WWOOFing situations, workers often exchange work for housing and meals, which may be calculated as part of an employee's wages pursuant to §387-1.

III. COMMENTS ON THE HOUSE CONCURRENT RESOLUTION

DLIR recollects only one complaint against a WWOOF farm in Hawaii and the World Wide Opportunities on Organic Farms organization paid that claim for a Chinese national. Any complaint would be investigated for compliance with minimum wage and overtime provisions under §387. DLIR notes that effectively many small farms are exempt from State law as described above (fewer than 20 employees) and a special rule under section §387-3(e) allows agricultural employers to pay overtime after 48 hours a week for 20 weeks of the year.

Unless there is evidence a substantial problem, the Department would prefer to monitor the situation since it has only limited resources to undertake a major initiative at this time.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 21, 2017 11:04 AM
To: AGRtestimony
Cc: nredfeather@kohalacenter.org
Subject: Submitted testimony for HCR76 on Mar 24, 2017 08:31AM

HCR76

Submitted on: 3/21/2017

Testimony for AGR on Mar 24, 2017 08:31AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Redfeather	Hawaii Island School Garden Network	Comments Only	No

Comments: I would like to acknowledge that this site is very helpful to our farmers right now, it might be actually cheaper to hire employees. I hope the Task Force from DLIR will look into all aspects, not just negligent farms. Mahalo

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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