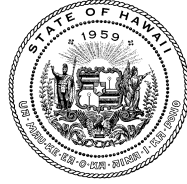


DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Jill N. Tokuda, Chair
and Members of the Senate Committee on Ways and Means

Date: Thursday, March 30, 2017
Time: 1:40 P.M.
Place: Conference Room 211, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1584, H.D. 2, S.D. 1, Relating to Important Agricultural Lands

The Department of Taxation (Department) appreciates the intent of H.B. 1584, H.D. 2, S.D. 1, and provides the following comments for your consideration.

Section 4 of H.B. 1584, H.D. 2, S.D. 1, amends the important agricultural lands qualified agricultural cost tax credit (IAL credit) codified at section 235-110.93, Hawaii Revised Statutes (HRS). S.D. 1 limits the amount of credit available to each taxpayer at of \$1,000,000 for all years in which the credit is claimed. The following is a summary of key components of this measure:

- The credit is claimed as follows:
 - In the first year the credit is claimed, taxpayer can claim the lesser of 25% of qualified agricultural costs incurred after July 1, 2008 or \$625,000.
 - In the second year the credit is claimed, taxpayer can claim the lesser of 15% of qualified agricultural costs incurred after July 1, 2008 or \$250,000.
 - In the third year the credit is claimed and in each subsequent year, taxpayer can claim the lesser of 10% of the qualified agricultural costs incurred after July 1, 2008 or \$125,000.
- For taxable years beginning after December 31, 2017, taxpayer must claim the IAL credit in the taxable year in which taxpayer incurred the qualified costs.
- The date by which the Department of Agriculture must cease certifying credits from 4 years to 14 years after the first year in which the credit is claimed.
- Prior versions of this measure included an addition to the definition of “qualified agricultural costs” that would have included costs incurred for clearing of land or soil restoration of former sugar and pineapple plantation lands that have been out of use for more than three years.
- S.D. 1 has a defective effective date of July 1, 2050.

First, the Department notes that under current law, the IAL credit may only be claimed for three years. The first year, the credit amount is the lesser of twenty-five percent of the qualified agricultural costs incurred or \$625,000; the lesser of fifteen percent of the costs or \$250,000 in the second year; and the lesser of ten percent of the costs or \$125,000 in the third year. This means that the maximum IAL credit available to a taxpayer is \$1 million over three tax years. S.D. 1 changes this to allow taxpayers to claim the IAL credit at the 10% rate until the \$1 million per-taxpayer cap is met.

Second, the Department notes that the stated purpose of tax credits is generally to incentivize the conservation and protection of important agricultural lands. Because of the unrestricted nature of the IAL credit, the amendments proposed by this measure would also apply to costs that were already paid or incurred after July 1, 2008. This retroactive application may result in an unintentional windfall for some taxpayers and would not be incentivizing taxpayer behavior as the costs have already been incurred. For example, if a taxpayer is already claiming the IAL credit, and the third year of claiming the credit occurs after December 31, 2017, that taxpayer will now have the ability to continue claiming the credit until the \$1 million per-taxpayer cap is reached, despite the fact that the taxpayer already incurred the costs based on the existence of the current, less generous tax credit.

Third, the Department notes that the additional language to subsection (a) in Section 4 of this measure, requiring the credit to be claimed in the taxable year in which the costs were incurred, would prevent taxpayers who have incurred costs in prior taxable years with the expectation of being able to claim the IAL credit. In prior testimony on this measure, the Department suggested deletion of the provision allowing taxpayers to claim the credit in any taxable year after the one in which the costs were incurred. To avoid any ambiguity as to the application of this amendment, the Department suggests that the amendment be applied to costs incurred in taxable years beginning after December 31, 2017.

Fourth, the Department defers to the Department of Agriculture regarding its ability to enforce the \$1 million per-taxpayer cap, as well as its ability to continue certifying credits for the additional prescribed period.

Finally, the Department notes that it is able to administer this measure for taxable years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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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 WAYS & MEANS

**MARCH 30, 2017
1:40 P.M.
CONFERENCE ROOM 211**

**HOUSE BILL NO. 1584 HD2 SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

Chairperson Tokuda and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1584 HD2 SD1 that makes an appropriation for FY2017-18 and the same amount for 2018-19 to the Department of Business and Economic Development, and Tourism (DBEDT) to be disbursed equally to the counties as grants-in-aid upon the counties submittal of their respective recommendations for potential Important Agricultural Lands (IAL) to the Land Use Commission, pursuant to Section 205-47. If a county fails to submit its maps of potential IAL to the Land Use Commission by June 30, 2019, then DBEDT shall disburse the funds to the Land Use Commission which shall identify maps of IAL for that county by June 30, 2021, pursuant to new Section 205-49(d) which will authorize the Land Use Commission to identify potential IAL and after Office of Planning and Department of Agriculture review, proceed to designate IAL. This measure also clarifies in Section 235-110.93 that the availability of the IAL Qualified Agricultural Cost Tax Credit is extended for 10 years, and the cumulative cap of the Tax Credit for a taxpayer is \$1 million.

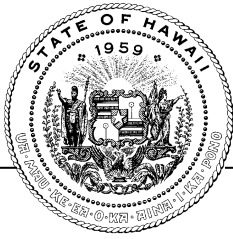
The Department of Agriculture supports the intent of this measure and offer comments. We defer to the counties as to which of the legislative initiatives that they



feel will best cause the identification of potential IAL and subsequent designation. We defer to the Department of Taxation as to the effect of the amendment on the manner that the tax credit is calculated and the amount of tax credit received by a taxpayer in comparison to what the taxpayer would receive under the existing method.

Additionally, the Department asks for general fund resources to help administer this program.

Thank you for the opportunity to submit our testimony.



OFFICE OF PLANNING STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
SENATE COMMITTEE ON WAYS AND MEANS
Thursday, March 30, 2017
1:40 PM
State Capitol, Conference Room 211

in consideration of
HB 1584, HD2, SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS.

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Senate Committee on Ways and Means.

The Office of Planning (OP) supports HB 1584, HD2, SD1, provided that the appropriation does not displace Administration priorities in the Executive Budget.

HB 1584, HD2, SD1 amends Hawaii Revised Statutes (HRS) §§ 205-48 and 49 to require the counties to submit maps identifying lands to be designated as important agricultural lands (IAL) to the State Land Use Commission by June 30, 2019, charges the LUC with mapping and designating IAL if a county fails to submit IAL maps, and appropriates funds for this purpose. HB 1584, HD 2 SD 1 also makes amendments to the IAL tax credit provisions in HRS § 235-110.93 to: increase the amount of tax credit allowable per claim in one year; and extend the Department of Agriculture's (DOA) authority to certify the IAL tax credit for another ten years.

OP believes the bill offers appropriate incentives for the counties to complete their IAL mapping process. It is our understanding that the County of Kauai has completed their mapping studies, but does not anticipate petitioning for the designation of additional IAL lands beyond what has already been designated under the voluntary petition process. The City and County of Honolulu is nearing the completion of its identification and mapping process, and maps of proposed IAL are currently undergoing public review and comment. We support the HB 1584, HD2, SD1 amendment which clarifies that counties are eligible for grants-in-aid expenses incurred in identifying and mapping IALs prior to the effective date of the measure that have not been previously reimbursed by the State.

OP notes that disbursement of funds upon completion of the mapping process and submittal of adopted maps to the LUC may not resolve funding issues faced by those counties that have yet to start their IAL mapping process.

We support the IAL tax credits as a means to facilitate the long-term viability of farming and agriculture, and offer the following comments on the provisions in the bill related to the IAL qualified agricultural cost tax credit.

1. In regards to extension of the tax credit, OP prefers that HRS § 235-110.93(1) be deleted in its entirety to remove the sunset provision for the IAL qualified agricultural cost tax credit. This would ensure that this incentive for agricultural use of IAL would be available to future farmers for an indefinite period of time, as was intended when its enabling legislation was introduced.
2. OP defers to DOA and the Department of Taxation on the proposed increase in the amount that may be claimed by one entity in each year. We note that since the total amount of tax credit available each tax year is capped at \$7.5 million, this could have the effect of limiting the number of entities that could claim the tax credit in any one year.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lieutenant Governor

LUIS P. SALAVERIA
Director

MARY ALICE EVANS
Deputy Director



LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer

Bert K. Saruwatari
Planner

SCOTT A.K. DERRICKSON AICP
Planner

RILEY K. HAKODA
Chief Clerk/Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodenker
Executive Officer
Land Use Commission
Before the
Senate Committee on Ways and Means
Thursday March 30, 2017
1:40 PM
State Capitol, Conference Room 211

In consideration of
HB 1584 HD2 SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS

Chair Tokuda; Vice Chair Dela Cruz; and members of the Committee on Ways and Means:

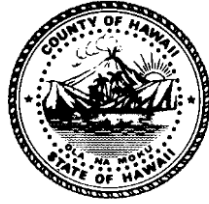
The Land Use Commission (LUC) supports HB 1584 HD2 SD1 that would provide funds for grants-in-aid to the counties for the identification and mapping of important agricultural lands (IAL) and submittal of recommendations and maps to the LUC by June 30, 2019. Further, that if the counties are unable to submit recommendations by that date, the LUC is directed to proceed to identify and designate IAL with recommendations from the State Department of Agriculture and State Office of Planning by June 30, 2021.

The IAL identification and mapping process for the counties as set out in Section 205-47, Hawai'i Revised Statutes (HRS) requires significant public involvement to include coordination with a broad range of stakeholders, public meetings, and citizen advisory groups. Adequate funding to complete this process would greatly assist the counties. Should the counties be unable to complete the process, the LUC with the assistance of other State agencies is capable of handling the designations in an expedited manner, unencumbered by the political and legal complications the counties are subjected to.

The current Senate Draft 1 also incorporates amendments to agricultural tax credits which support agricultural operations on IAL. The LUC defers to the State Office of Planning, The Department of Agriculture, and the Department of Taxation on whether they believe the amendments would be beneficial in their current form.

Thank you for the opportunity to testify on this matter.

Harry Kim
Mayor



Michael Yee
Director

Daryn Arai
Deputy Director

West Hawai'i Office
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County of Hawai'i
PLANNING DEPARTMENT

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Testimony of
MICHAEL YEE
Planning Director, County of Hawai'i Planning Department

before the
COMMITTEE ON WAYS AND MEANS

Thursday, March 30, 2017, 1:40 PM
State Capitol, Conference Room 211

in consideration of
HB 1584, HD 2, SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS

HB 1584, HD 2 requires the counties to make recommendations for important agricultural lands (IAL) by 6/30/2019 or forfeit that right to the Land Use Commission (LUC). Extends the period to claim important agricultural land qualified agricultural cost tax credits by 10 years and limits cumulative tax credit to \$1,000,000 per tax payer. Appropriates unspecified funds for identification and mapping of important agricultural lands.

The County of Hawai'i acknowledges the intent of this bill, but **OPPOSES** it in its current form and respectfully requests amendments.

The County of Kauai is the only county who has completed their IAL study, which took about five years to designate approximately 21,000 acres in IAL out of 140,000 acres of Agriculture land. Kauai spent approximately \$1 million to complete their study.

The County of Hawai'i has more than 1.2 million acres designated as state land use (SLU) agriculture, which eclipses the number acres studied by Kauai. Based on Kauai's experience the County of Hawai'i Planning Department cannot complete the IAL study by June 30, 2019. Furthermore, the State would have their own hurdles in completing an IAL study.

In consideration of the above, we respectfully request that the committees **AMEND** the bill to extend the deadline to provide at least 5 years and \$1,000,000 for County of Hawai'i to complete an IAL study.

Mahalo.



Email: communications@ulupono.com

SENATE COMMITTEE ON WAYS & MEANS
Thursday, March 30, 2017 — 1:40 p.m. — Room 211

Ulupono Initiative Supports HB 1584 HD 2 SD 1, Relating to Important Agricultural Lands

Dear Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committees:

My name is Kyle Datta and I am General Partner of Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono supports HB 1584 HD 2 SD 1, which helps to speed up designation of important agricultural lands, because it aligns with our goal of creating more locally produced food.

The Important Agricultural Lands designation is one of the policies that helps to keep agricultural land in agriculture, especially as development grows. This bill will help designate key lands for agriculture. Once designated, agricultural operations on important agricultural lands are eligible for favorable benefits and regulations. Greater clarity on Important Agricultural Lands will help provide expanded opportunities for farmers and ranchers to obtain access to high quality land at affordable rates by protecting such land from development. The cost and availability of high quality land is a critical requirement for the success of local agriculture.

As Hawai'i's local food issues become more complex and challenging, organizations need additional resources and support to address and overcome them. We appreciate this committee's efforts to look at policies that support local food production.

We believe that by collaborating, we can help produce more local food and support an economically robust homegrown agriculture industry, which strengthens our community with fresh, healthy food. Thank you for this opportunity to testify.

Respectfully,

Investing in a Sustainable Hawai'i



Kyle Datta
General Partner



Chamber of Commerce HAWAII

The Voice of Business

**Testimony to the Senate Committee on Ways and Means
Thursday, March 30, 2017 at 1:40 P.M.
Conference Room 211, State Capitol**

**RE: HOUSE BILL 1584 HD2 SD1 RELATING TO
IMPORTANT AGRICULTURAL LANDS**

Chairs Tokuda, Vice Chairs Dela Cruz, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **supports** HB 1584 HD2 SD1, which requires the counties to make recommendations for important agricultural lands by 6/30/2019 or forfeit that right to the Land Use Commission; extends the period to claim important agricultural land qualified agricultural cost tax credits by 10 years and limits cumulative tax credit to \$1,000,000 per tax payer; appropriates unspecified funds for identification and mapping of important agricultural lands.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

After almost three decades of discussion, negotiation, and debate, the IAL Law and process was finally enacted in July 2008. We support this bill as it will continue the process of the IAL law.

The IAL Law presently authorizes the identification and designation of IAL in one of two ways. In either case, the LUC determines whether the petitioned lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law. To date, the voluntary petition process has resulted in the designation by the LUC of over 110,000 acres of agricultural lands as IAL from voluntary petitions by Alexander & Baldwin, Parker Ranch, Castle & Cooke, Mahaulepu Farm, Grove Farm, and Kamehameha Schools.

We support suggested amendments to ensure that the new provisions relating to the LUC mapping and designation of IAL are consistent with the present statutory criteria, provisions, and process for the designation of IAL via the County mapping process.

Thank you for the opportunity to testify.

**HB 1584 SD1
RELATING TO IMPORTANT AGRICULTURAL LANDS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 30, 2017

Chair Tokuda and Members of the Senate Committee on Ways & Means:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 1584 SD1, “A BILL FOR AN ACT RELATING TO IMPORTANT AGRICULTURAL LANDS.” We support the general intent of this bill.

After over twenty five years of debate, negotiation, and compromise, the IAL Law and process was finally enacted in July 2008. After years of pursuing a land-use approach to this constitutional mandate, the IAL Law that was successfully passed (Act 183 (2005) and Act 233 (2008)) was premised on the principle that the best way to preserve agricultural lands is to preserve agricultural businesses and agricultural viability. As such, the IAL Law not only provides the standards, criteria, and processes to identify and designate important agricultural lands to fulfill the intent and purpose of Article XI, Section 3 of the Hawaii State Constitution, it also provides for a package of incentives designated to support and encourage sustained, viable agricultural activity on IAL.

The IAL Law presently authorizes the identification and designation of IAL in one of two ways --- by voluntary petition to the State Land Use Commission by the landowner or farmer; or subsequently by the Counties filing a petition to designate lands

as IAL pursuant to a County identification and mapping process. In either case, the LUC determines whether the petitioned lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law. To date, the voluntary petition process has resulted in the designation by the LUC of over 110,000 acres of agricultural lands as IAL from voluntary petitions by Alexander & Baldwin, Parker Ranch, Castle & Cooke, Mahaulepu Farm, Grove Farm, and Kamehameha Schools.

This bill provides grants in aid to the Counties for the identification and mapping of IAL. With the voluntary petition process already providing a significant amount of IAL throughout Hawaii, this appropriation will assist the Counties in fulfilling the second method of IAL designation, which will be initiated by the County identification and mapping of IAL. When completed, these County maps will be forwarded to the LUC which will enable them to designate qualified lands as IAL. Should a County not submit IAL recommendations and mapping to the LUC by June 30, 2019, this bill authorizes the LUC to identify, map, and designate IAL in that particular County. We believe that these provisions should collectively result in the designation of additional qualified agricultural lands as IAL.

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 28, 2017 2:14 PM
To: WAM Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1584 on Mar 30, 2017 13:40PM*

HB1584

Submitted on: 3/28/2017

Testimony for WAM on Mar 30, 2017 13:40PM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	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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