

LATE

SB-2519

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Submitted By	Organization	Testifier Position	Present at Hearing
Micah Munekata	Testifying on behalf of Hawaii Department of Agriculture	Support	No

Comments:

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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LATE

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IN REPLY REFER TO:
WAS 18-29

February 13, 2018

The Honorable Donovan M. Dela Cruz, Chair
and Members of the Committee on Ways and Means
State Senate
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Dela Cruz and Members:

Subject: Senate Bill 2519, Relating to the Processing of Waste

The City and County of Honolulu's (City) Department of Environmental Services (ENV) opposes SB 2519, as written. ENV supports diminishing the need for landfill disposal and that is a core portion of our solid waste management plans which include H-power and ongoing efforts to reuse ash and residue from H-power to eliminate the need for a daily use landfill.

The authority proposed to be given by this measure to the Agriculture Development Corporation (ADC) interferes with the City's "flow control" of municipal solid waste by proposing to authorize the ADC to enter into contracts with private businesses to remove select municipal solid waste, glass, and food and green waste from the waste stream for use in other business sectors, including agriculture, construction, and energy production. The City's authority to direct the disposal of municipal solid waste to specified locations is based on HRS Sec. 340A-3, which authorizes counties to require that solid waste be disposed of at designated facilities in order to meet the minimum operating requirements of a resource recovery facility (H-POWER) and ROH Sec. 9-2.3, which provides that the City, in issuing refuse collection licenses, can condition licenses on disposal at designated disposal facilities.

As stated above, this bill would authorize the ADC to enter into contracts with private businesses to remove certain wastes from the waste stream, which infringes on the City's waste flow control in contravention of HRS Sec 340A-3 and ROH Sec. 9-2.3. HB 2095, HD1, does not specify whether the ADC or the counties' authority over flow control would have priority were such a change made. Thus, the ADC's authority appears to be in direct conflict with the counties' authority to direct the disposal of solid waste at designated facilities.

In addition, the authority proposed by this bill to “enter into contracts with private businesses to remove select municipal solid waste, glass, and food and green waste from the waste stream for use in other business sectors, including agriculture, construction, and energy production” may exceed the scope of the ADC, as set forth in HRS Ch. 163D. The legislative purpose and powers of the ADC appear to be limited to the area of agriculture and agricultural enterprise. The legislative purpose of the HRS Ch. 163D is stated as follows:

The purpose of this chapter is to create a vehicle and process to make optimal use of agricultural assets for the economic, environmental, and social benefit of the people of Hawaii. This chapter establishes a public corporation to administer an aggressive and dynamic agribusiness development program. The corporation shall coordinate and administer programs to assist agricultural enterprises to facilitate the transition of agricultural infrastructure from plantation operations into other agricultural enterprises, to carry on the marketing analysis to direct agricultural industry evolution, and to provide the leadership for the development, financing, improvement, or enhancement of agricultural enterprises.

The legislature clearly stated that the purpose of the ADC is to assist and develop agricultural enterprises. As used in HRS Ch. 163D, “agriculture” means:

The production for marketing and exporting of plant and animal life on land and within ponds and other bodies of water for food, fiber, and raw materials for value-added products, and any agricultural enterprise or enterprises organized for the production of agricultural materials or value-added products based on detailed marketing analysis and strategies to exploit profitable potentials in local, national, and international markets, including general farming, cane growing, fruit growing, flower growing, aquaculture, growing of timber and forest products, apiary, grazing, dairying, and the production of any form of livestock or poultry, and their appurtenant services and facilities.

The use of municipal solid waste, glass, and food and green waste to produce building materials and energy does not appear to fall within the definition of “agriculture” in HRS §163D-2. Finally, the ADC’s powers are set forth in HRS Sec. 163D-4 and do not appear to include the authority to engage in programs or enterprises that handle municipal solid waste for use in other business sectors.

It should be noted that in accordance with HRS Sec. 340A-3, the City does not have authority to require the disposal of **agricultural solid waste** at facilities or in areas

Testimony for SB2519
February 13, 2018
Page 3

designated by the City. "Agricultural solid waste" means the solid waste that results from the rearing of animals and the harvesting of crops. (See HRS §340A-1.) Therefore, the ADC may have authority to enter into contracts with private businesses to remove agricultural solid waste from the waste stream, but there is nothing in this bill to indicate that the legislature intends to limit the ADC's authority to this single waste stream. We recommend that SB 2519, be modified to limit the authority to this single waste stream and the ability of the City and County of Honolulu to control disposition of non-agricultural solid waste be maintained.

Thank you for your consideration.

Sincerely,



Lori M.K. Kahikina, P.E.
Director