

**SB 2846**

**SD-2**

**HD-1**

**RELATING TO  
IRRIGATION**

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# A BILL FOR AN ACT

RELATING TO IRRIGATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

- 1           SECTION 1. (a) The following positions are established  
2 within the agricultural resource management division of the  
3 department of agriculture:
- 4           (1) One full-time equivalent (1.0 FTE) irrigation district  
5 manager position (SR21);
- 6           (2) Three full-time equivalent (3.0 FTE) irrigation system  
7 worker II positions (BC07); and
- 8           (3) One full-time equivalent (1.0 FTE) office assistant  
9 III position (SR08).
- 10          (b) The portions of the east Kauai irrigation system  
11 operated and maintained by the east Kauai water users'  
12 cooperative as of July 1, 2018, may be placed under the  
13 operational authority of the department of agriculture until  
14 such time that:
- 15          (1) The department of agriculture's adoption of rules  
16 pursuant to chapter 91, Hawaii Revised Statutes, for



1 the operation and maintenance of the system is  
2 completed; or

3 (2) A determination is made that the system can be  
4 appropriately operated and maintained pursuant to  
5 chapters 167 and 168, Hawaii Revised Statutes.  
6 Until the system is transferred to the appropriate program, the  
7 operational authority shall not be governed by chapter 167 or  
8 168, Hawaii Revised Statutes, for acreage assessment or water  
9 delivery fees. The department of agriculture may contract with  
10 the east Kauai water users' cooperative to authorize the  
11 cooperative to bill and collect any fees from the users of the  
12 irrigation system and to enter into any and all contracts  
13 necessary to operate and maintain the system, including  
14 operation and maintenance contracts while positions are filled.  
15 All fees collected by the east Kauai water users' cooperative  
16 shall be deposited into the general fund of the State by the  
17 department of agriculture.

18 (c) The three-year water licensing deadline may be  
19 extended for up to two years; provided that the applicant  
20 demonstrates significant progress in the permit application  
21 process.



1 SECTION 2. All appropriations, records, equipment,  
 2 machines, files, supplies, contracts, books, papers, documents,  
 3 maps, and other personal property heretofore made, used,  
 4 acquired, or held by the east Kauai water users' cooperative  
 5 relating to the functions transferred to the department of  
 6 agriculture shall be listed in a full accounting to the  
 7 department of agriculture with the functions to which they  
 8 relate.

9 SECTION 3. The director of finance is authorized to issue  
 10 general obligation bonds in the sum of \$ or so much  
 11 thereof as may be necessary and the same sum or so much thereof  
 12 as may be necessary is appropriated for fiscal year 2018-2019  
 13 for the purpose of assisting the department of agriculture's  
 14 agricultural resource management division with plans, designs,  
 15 land acquisition, and equipment to increase state irrigation  
 16 system capacity statewide, including:

- 17 (1) \$ for planning;
- 18 (2) \$ for design;
- 19 (3) \$ for land acquisition; and
- 20 (4) \$ for equipment.



1           The sum appropriated shall be expended by the department of  
2 agriculture for the purposes of this Act.

3           SECTION 4. The appropriation made for the capital  
4 improvement project authorized by section 3 of this Act shall  
5 not lapse at the end of the fiscal biennium for which the  
6 appropriation is made; provided that all moneys from the  
7 appropriation unencumbered as of June 30, 2020, shall lapse as  
8 of that date.

9           SECTION 5. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$           or so much  
11 thereof as may be necessary for fiscal year 2018-2019 for the  
12 operations and maintenance of the east Kauai irrigation system,  
13 including the following agricultural resource management  
14 division staff salaries and expenses:

15           (1) One full-time equivalent (1.0 FTE) irrigation district  
16 manager position (SR21) established pursuant to this  
17 Act;

18           (2) Three full-time equivalent (3.0 FTE) irrigation system  
19 worker II positions (BC07) established pursuant to  
20 this Act;



- 1 (3) One full-time equivalent (1.0 FTE) office assistant
- 2 III position (SR08) established pursuant to this Act;
- 3 (4) Fifty per cent of the funding for the engineering
- 4 program manager position (EM07-PN: 40998); and
- 5 (5) Fifty per cent of the funding for the agricultural
- 6 lands program manager position (EM05-PN: 122475).

7 The sum appropriated shall be expended by the department of  
8 agriculture for the purposes of this Act.

9 SECTION 6. (a) The attorney general shall:

- 10 (1) Review the revocable permit issued by the department
- 11 of land and natural resources to the East Kauai Water
- 12 Users' Cooperative for operation and maintenance of
- 13 portions of the east Kauai irrigation system; and
- 14 (2) Determine whether this Act creates any legal conflicts
- 15 with the revocable permit under paragraph (1).

16 (b) The attorney general shall submit a report of its  
17 findings and recommendations, including any proposed  
18 legislation, to the legislature no later than twenty days prior  
19 to the convening of the regular session of 2019.

20 SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

East Kauai Irrigation System; Transfer of Operational Authority;  
DOA; AG; DLNR; Appropriation

**Description:**

Permits the transfer of operational authority over the portions of the east Kauai irrigation system operated and maintained by the East Kauai Water Users' Cooperative as of 7/1/2018, to the Department of Agriculture upon adoption of rules. Establishes positions within the agricultural resource management division. Authorizes GO bonds. Makes an appropriation. Requires the Attorney General to review the permit issued by the Department of Land and Natural Resources to the East Kauai Water Users' Cooperative for legal conflicts and submit a report of its findings to the Legislature. (SB2846 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



**SB 2846**

**SD-2**

**HD-1**

**TESTIMONY**





**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 2846, S.D. 2, H.D. 1, RELATING TO IRRIGATION.

**BEFORE THE:**

HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT.

**DATE:** Thursday, March 22, 2018                      **TIME:** 9:15 a.m.

**LOCATION:** State Capitol, Room 309

**TESTIFIER(S):** Russell A. Suzuki, Acting Attorney General, or  
Jennifer D. Waihee-Polk, Deputy Attorney General

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Chair Johanson and Members of the Committee:

The Department of the Attorney General (the "Department") offers the following comments on this measure.

The purpose of this bill is to transfer temporary operational authority over a portion of the East Kauai Irrigation System to the Department of Agriculture.

Section 6 of the measure requires the Attorney General to review the revocable permit by the Department of Land and Natural Resources to the East Kauai Water Users' Cooperative for legal conflicts and submit a report of the Attorney General's findings to the Legislature.

The inclusion of this provision in this measure is unnecessary, as the Department provides legal services to the Legislature upon request. We are available to advise on the permit matter at any time. We recommend that section 6 on page 5, lines 9 through 19, be deleted.

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
Governor

DOUGLAS S. CHIN  
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 LABOR & PUBLIC EMPLOYMENT**

**MARCH 22, 2018  
9:15 A.M.  
CONFERENCE ROOM 309**

**SENATE BILL NO. 2846 SD2 HD1  
RELATING TO IRRIGATION**

Chairperson Johanson and Members of the Committee:

Thank for the opportunity to testify on Senate Bill No. 2846 SD2 HD1 relating to irrigation. This bill transfers operation authority over the portions of the east Kauai irrigation system to the Department of Agriculture, establishes positions, and makes an appropriation. The Department supports this measure provided it does not impact the Department's priorities listed in the Executive Budget and respectfully requests the following appropriation amounts within the measure:

1. SECTION 3, line 10: \$2,000,000;
2. SECTION 3, lines 17-20: \$1,997,000 for planning, and \$1,000 for design, \$1,000 for land acquisition, and \$1,000 for equipment.
3. SECTION 5, line 10: \$500,000.

Thank you for the opportunity to testify on this measure.



**SB-2846-HD-1**

Submitted on: 3/21/2018 8:57:16 AM

Testimony for LAB on 3/22/2018 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Aaron Ling Johanson, Chair; the Honorable Daniel Holt, Vice-Chair, and Members of the Committee on Labor & Public Employment:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2846 SD2 HD1**, relating to the East Kauai Irrigation System; Transfer of Operational Authority; DOA; AG; DLNR; and an appropriation.

The OCC Legislative Priorities Committee is in favor of **SB2846 SD2 HD1** and support its passage.

**SB2846 SD2 HD1** is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it permits the transfer of operational authority over the portions of the east Kauai irrigation system operated and maintained by the East Kauai Water Users' Cooperative as of 7/1/2018, to the Department of Agriculture upon adoption of rules; establishes positions within the agricultural resource management division; authorizes GO bonds; makes an appropriation; and requires the Attorney General to review the permit issued by the Department of Land and Natural Resources to the East Kauai Water Users' Cooperative for legal conflicts and submit a report of its findings to the Legislature.

The DPH Platform states that "[t]o ensure wise use and equitable distribution of our precious water, we must stress water conservation and alternative patterns of water treatment and consumption such as the use of recycled water for irrigation, water storage reservoirs, and the use of catchment systems by the public. (Platform of the DPH, P. 6, Lines 93-95 (2016)).

Agriculture in our state must be preserved and its future strengthened. Sufficient prime agricultural lands must be maintained for the health, economic well-being and sustenance of the people. We believe in an integrated approach to agricultural innovation and sustainability. (Platform of the DPH, P. 2, Lines 76-78 ((2016)).  
This approach

includes, but is not limited to, the adoption of the native Hawaiian concept of ahupua‘a, an integrated approach to land management. This could also include development of economic, land and ocean use policies that foster sustainable crops both for local consumption and for export, policies to foster agriculture-related infrastructure at shipping points, and increased inspection to protect against invasive species and to encourage reduced holding times. (Platform of the DPH, P. 2, Lines 82-86 (2016)).

As an island state, securing affordable food for all is a priority. We support healthy, sustainable, and diversified local food production, and “Buy Local” strategies to assure greater food security and food safety. (Platform of the DPH, P. 2, Lines 97-99 (2016)).

We support land use planning and infrastructure development to support sustainable diversified agriculture, including low cost interisland transportation of agricultural products. We likewise support publicly funded research and development for agricultural diversification and value-added products. (Platform of the DPH, P. 2, Lines 104-107 (2016)).

Given that **SB2846 SD2 HD1** permits the transfer of operational authority over the portions of the east Kauai irrigation system operated and maintained by the East Kauai Water Users’ Cooperative as of 7/1/2018, to the Department of Agriculture upon adoption of rules; establishes positions within the agricultural resource management division; authorizes GO bonds; makes an appropriation; and requires the Attorney General to review the permit issued by the Department of Land and Natural Resources to the East Kauai Water Users’ Cooperative for legal conflicts and submit a report of its findings to the Legislature, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

yours,

s/ Melodie

Aduja

Iodie Aduja, Chair, OCC Legislative Priorities

Committee

Text/Tel.: (808) 258-8889

Sincerely

/

Me

Email: legislativepriorities@gmail.com,



**Kalepa Koalition**

5868 Kini Place  
Kapaa, Hawaii 96746  
Phone/Fax: 808-639-0152

March 20, 2018

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Rep. Aaron Ling Johanson, Chair  
Rep. Daniel Holt, Vice Chair

**Testimony on SB 2846, SD2, HD1 Relating to Irrigation  
March 22, Conference Room 309, 9:15 am**

**RE:** Chairperson Johanson and Members of the Committee

My name is Les Milnes and I **support SB2846 SD2 HD1**. I am the president of the Kalepa Koalition, an Hawaii agricultural cooperative of the farmers and ranchers who hold long-term licenses on 6,500 acres of State land behind Kalepa Ridge on Kauai and under the administration of ADC.

The East Kauai Water Users Cooperative System can presently service more than 1,000 acres of the Kalepa lands. In just the last few years, ADC has converted nearly 300 acres of irrigable land from ranching to farming, and has more prospective farmers under consideration.

We believe the Department of Agriculture is the logical agency to manage this State-owned system.

I respectfully request that this bill be passed.

A handwritten signature in black ink, appearing to read "Les Milnes".

Leslie P. Milnes, President  
Kalepa Koalition



**East Kauai  
Water Users' Cooperative**

4334 Rice Street, Suite 202  
Lihue, Kauai Hawaii 96766  
Phone: 808-246-6962  
Fax: 808-245-3277

March 20, 2018

TO: COMMITTEE ON LABOR & PUBLIC EMPLOYMENT  
Rep. Aaron Ling Johanson, Chair  
Rep. Daniel Holt, Vice Chair

RE: **Testimony on SB 2846, SD2, HD1 Relating to Irrigation  
March 22, Conference Room 309, 9:15 am**

Chairperson Johanson and Members of the Committee

My name is Jerry Ornellas and **I strongly support SB 2846 SD2 HD1**. I am the president of the East Kauai Water Users' Cooperative which has managed the State-owned reservoir and ditch system in the Kapaa/Kalepa area for the past 17 years under a year-to-year revocable permit from the Department of Land and Natural Resources. On September 20, 2016, the Cooperative was informed by DLNR, as a consequence of the East Maui irrigation case, that we would have to seek a long-term water lease. We were given three years to complete the application process which includes an Environmental Impact Statement that is beyond our monetary resources to pay for, as well as other complex requirements. Even if we had the resources to pay to meet the requirements, we could only bid on the system at public auction with no guarantee that we would ultimately be awarded a lease for the system.

Once the three years expires, DLNR will no longer renew the system's revocable permit, the Coop will cease operation, the irrigation system, including the recently renovated Wailua and Upper Kapahi Reservoirs, will revert to DLNR control and most likely be abandoned. In 2001, ITC Water Management, hired by the State to evaluate the East Kauai system, estimated the cost to build it in 2001 to be in excess of \$200 million. We are talking about the potential loss of a substantial and irreplaceable State asset.

We are therefore in favor of SB 2846 SD2 HD1 allowing the East Kauai system be taken over by the Department of Agriculture. This is in keeping with the mandate of Article XI, Section 3, of the State Constitution: "The state shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands."

It is also in keeping with Act 90 of the Session Laws of Hawaii, 2003, passed in response to the decline of the plantations and directing certain public lands classified for agricultural use and their related facilities, of which our water system is one, be transferred from DLNR to the Department of Agriculture.

In 2003, the Department of Agriculture released its comprehensive Agricultural Water Use and Development Plan which analyzed the development and present status of State's plantation-developed irrigation systems and concluded that the

East Kauai System was among five State systems “important and viable to Hawaii’s growing diversified agricultural industry.”

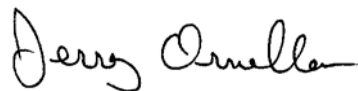
Our system includes two reservoirs and 22 miles of ditch which has historically serviced thousands of acres of State and private lands. In particular, it services more than 1,000 acres of the State Kalepa lands located between Kapaa and Lihue, and a similar amount of private former cane lands mauka of Kapaa town. When first taken out of sugar cane in 2001, the Kalepa lands had gone into pasture, but in the last few years, through the good action of the Agribusiness Development Corporation, nearly 300 acres to date has been leased to farmers who are actively developing their crops, including ginger, bananas, noni and sweet potatoes. This is only possible because the Coop can provide these farms with water.

Aside from the State lands and private Kapaa parcel, the Coop system can service thousands of acres of so-called “marginal lands”—those not taken by the cane companies and now privately owned. These are located throughout Kapaa and are or could be productive agricultural lands, such as my own farm.

The Department of Agriculture is the natural State agency to manage this public water system, as is the pattern in most other states in the country. It is also the only long-term, permanent way to manage the system for the benefit of our citizens.

I respectfully ask that you pass this bill.

**East Kauai Water Users’ Cooperative**

A handwritten signature in black ink that reads "Jerry Ornellas". The signature is written in a cursive, flowing style.

Jerry Ornellas, President



P.O. Box 253, Kunia, Hawai'i 96759  
Phone: (808) 848-2074; Fax: (808) 848-1921  
e-mail [info@hfbf.org](mailto:info@hfbf.org); [www.hfbf.org](http://www.hfbf.org)

March 22, 2018

HEARING BEFORE THE  
HOUSE COMMITTEE ON LABOR AND PUBLIC EMPLOYMENT

**TESTIMONY ON SB 2846, SD2, HD1**  
RELATING TO IRRIGATION

Room 309  
9:15 AM

Aloha Chair Johanson, Vice Chair Holt, and Members of the Committee:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interests of our diverse agricultural community.

**The Hawaii Farm Bureau strongly supports SB 2846, SD2, HD1**, which transfers operational authority over the portions of the east Kauai irrigation system operated and maintained by the east Kauai water users' cooperative to the department of agriculture, establishes positions within the agricultural resource management division, and authorizes GO bonds for plans, designs, land acquisition, and equipment.

Since the demise of plantation operations across the islands, irrigation systems have fallen into disrepair. Ditches that carried water developed major leaks, and in some cases such as in Kau, cracks in tunnels created losses so that there is no longer significant water flow. The Governor, the legislature, and the public all support increased self-sufficiency and sustainability, but without adequate water supply, agriculture in Hawaii cannot remain viable, much less grow.

The East Kauai Irrigation System services more than 12,500 acres of agricultural land on Kauai. The repair and maintenance of this 2 reservoir, 22-mile irrigation system is critical for Kauai's farmers who depend on it for their operations. Water availability is a basic necessity for farmers and ranchers to maintain and expand their production, particularly in times of drought. A reliable water supply is a key factor when Hawaii's farmers and ranchers are considering whether to start new farms or expand existing ones.

For the past 17 years, the East Kauai Water Users' Cooperative has managed the State-owned reservoir and ditch system in the Kapaa/Kalepa area via a year-to-year DLNR revocable permit. This entity has served to keep the system functioning so that it



can supply water to the many Kauai farms that rely on it for irrigation, and future local farms that will also need the water.

However, the Co-op does not have the means to continue to maintain the system and to meet the new requirements mandated by the State, including a costly EIS, to secure a long-term water lease. We support this bill that would allow the system to be managed by the Department of Agriculture, which is the appropriate entity to undertake these responsibilities.

Thank you for the opportunity to provide our opinion on this important matter.

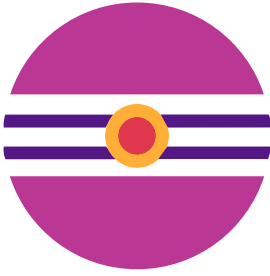
**SB-2846-HD-1**

Submitted on: 3/21/2018 8:37:43 PM

Testimony for LAB on 3/22/2018 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dale Sandlin	Hawaii Cattlemens Council	Support	No

Comments:



## **Saiva Siddhanta Church**

Kauai's Hindu Monastery  
107 Kaholalele Road  
Kapaa, Hawaii 96746-9304•USA  
Phone: (808) 822-3012

March 20, 2018

### COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Rep. Aaron Ling Johanson, Chair  
Rep. Daniel Holt, Vice Chair

### **Testimony on SB 2846, SD2, HD1 Relating to Irrigation March 22, Conference Room 309, 9:15 am**

Chairperson Johanson and Members of the Committee:

We **strongly support SB2846 SD2 HD1**. We are a founder member of the East Kauai Water Users' Cooperative Board of Directors which maintains 22 miles of ditch and several reservoirs in and around Kapaa. It also service more than 1,000 acres of State lands located in Kalepa and potentially could service nearly the entire 6,500 acres of Kalepa.

It is not economically practical for our local Coop to fulfill the requirements for a water license from DLNR for this State-owned system. The logical department to manage it is the Department of Agriculture, who are willing to do so.

This will ensure the long-term preservation of this valuable system—estimated by State consultants to be worth “more than two hundred million dollars”—in service of local farmers and ranchers.

Saiva Siddhanta Church

*Acharya Arumuganathaswami*

Acharya Arumuganathaswami  
Farm Manager

**SB-2846-HD-1**

Submitted on: 3/21/2018 8:45:51 AM

Testimony for LAB on 3/22/2018 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
J Ashman	Individual	Support	No

Comments:

Please support east Kauai farms by passing this bill.....without language that could delay the transfer.

For example, the bill currently includes a provision requiring the Attorney General to review the permit issued by the Department of Land and Natural Resources to the East Kauai Water Users' Cooperative for legal conflicts and submit a report of its findings to the 2019 Legislature. The Attorney General has testified that, "The inclusion of this provision in this measure is unnecessary, as the Department provides legal services for the Legislature upon request. We are available to advise on the permit matter at any time. We recommend that section 8 be deleted."

Thank you.

**SB 2846**

**SD-2**

**HD-1**

**LATE**

**TESTIMONY**