

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Acting Chairperson
Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
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TESTIMONY OF THE DEPARTMENT OF AGRICULTURE
BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

FEBRUARY 8, 2019
11:00 A.M.
CONFERENCE ROOM 312

HOUSE BILL NO. 261
RELATING TO AGRICULTURE

Chairperson Creagan and Members of the Committee:

Thank you for the opportunity to testify on House Bill 261 that amends the Important Agricultural Land Qualified Agricultural Cost Tax Credit (Section 235-110.93) by extending to 2029, the Department of Agriculture's responsibility to certify IAL qualified agricultural cost tax credits and adding a new qualified agricultural cost item. The Department of Agriculture supports the continuation of the IAL tax credit beyond the 2021 tax year and offers comments on the new qualified agricultural cost item.

The continuation of the IAL tax credit beyond the 2021 tax year (page 5, line 20) is important as the counties have yet to complete the mapping of their potential IAL pursuant to Section 205-47. We strongly believe that all of the IAL incentives enacted in 2008, of which the tax credit is one component, should be available to all qualified landowners/farmers affected by the county identification process.

The proposed additional qualified agricultural cost item limited to the grubbing of former sugarcane and pineapple plantation land that has been out of agricultural use for more than 5 years may exclude this cost to county-identified IAL properties unless the landowners can prove their lands were former plantation fields. We estimate that approximately one-third (about 46,900 acres) of the 134,330 acres of agricultural land



designated as IAL are former sugarcane and/or pineapple plantation land. We are unable to determine how many acres of the former sugarcane and pineapple plantation lands that are designated as IAL have been out of agricultural use for more than five years. Further, it is unclear what would constitute reasonable soil restoration activities. Clarity in the definition as to what is allowed as a qualified agricultural cost will help to ensure we are consistent in the manner we review and assess each application and cost item for the tax credit.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR

JOSH GREEN M.D.
LIEUTENANT GOVERNOR



LINDA CHU TAKAYAMA
DIRECTOR

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

**STATE OF HAWAII
DEPARTMENT OF TAXATION**

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HONOLULU, HAWAII 96813

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

Date: Friday, February 8, 2019
Time: 11:00 A.M.
Place: Conference Room 312, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: H.B. 261, Relating to Agriculture

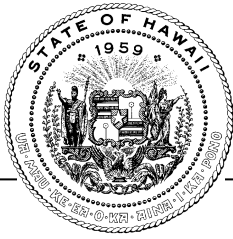
The Department of Taxation (Department) appreciates the intent of H.B. 261 and offers the following comments for the Committee's consideration.

H.B. 261 amends the important agricultural lands qualified agricultural cost tax credit by adding language to the definition of "qualified agricultural costs" in Hawaii Revised Statutes (HRS) section 235-110.93(k) to include costs related to restoring certain former sugar and pineapple plantation lands for agricultural purposes. The bill also extends the date on which the Department of Agriculture (DOA) shall cease certifying these credits from December 31, 2021, to December 31, 2029. The bill takes effect upon approval and applies to taxable years beginning after December 31, 2019.

The Department notes that as currently written, the new category of "qualified agricultural costs" would not need to be expended on or for land designated as "important agricultural land" under Chapter 205 of the HRS. The Department suggests further clarifying which land is eligible for the credit under this new category of "qualified agricultural costs."

The Department is able to administer the bill as written and defers to the DOA on the substance of measure and its ability to continue certification of the tax credit through 2029. The Department requests that the certification requirement for this credit be maintained, as it does not have the knowledge and expertise necessary to certify this credit.

Thank you for the opportunity to provide comments.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

DIRECTOR
OFFICE OF PLANNING

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Statement of
RODNEY FUNAKOSHI
Planning Program Administrator, Office of Planning
before the
HOUSE COMMITTEE ON AGRICULTURE
Friday, February 8, 2019
11:00 AM
State Capitol, Conference Room 312

in consideration of
HB 261
RELATING TO AGRICULTURE.

Chair Creagan, Vice Chair DeCoite, and Members of the House Committee on Agriculture.

The Office of Planning (OP) offers **comments** on HB 261 which would amend Hawaii Revised Statutes (HRS) § 235-110.93 to: (1) extend the availability of the Important Agricultural Lands (IAL) tax credit for qualified agricultural costs until December 31, 2029, and (2) amend “qualified agricultural costs” to include the cost for clearing and removal of trees and debris and soil restoration of former plantation lands.

OP strongly supports the renewal and extension of the qualified agricultural cost tax credit to ensure continued availability of the tax credit to help farmers manage the cost of investments in their farming operations. The Agricultural Working Group convened in 2003, which crafted the foundations for the passage of the IAL legislation and subsequent IAL incentives package—believed that successful farming is the most cost-effective way to protect farmland. The incentives package, including this tax credit, was a long-term commitment to providing tools to promote agricultural viability and successful farming in Hawaii for the future.

Thank you for this opportunity to testify.



DAVID Y. IGE
Governor

JOSH GREEN
Lieutenant Governor

MIKE MCCARTNEY
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

RASMI AGRAHARI
Planner

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodener
Executive Officer
Land Use Commission
Before the
House Committee on Agriculture

Friday February 8, 2019
11:00 AM
State Capitol, Conference Room 312

In consideration of
HB 261
RELATING TO AGRICULTURE

Chair Creagan; Vice Chair DeCoite; and members of the House Committee on Agriculture:

The Land Use Commission supports HB 261 that would extend the agricultural cost tax credits incentive for important agricultural lands (IAL). We defer to the State Department of Agriculture on any expansion in “qualified agricultural costs.”

Thank you for the opportunity to testify on this matter.



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February 8, 2019

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE

TESTIMONY ON HB 261
RELATING TO AGRICULTURE

Room 312
11:00 AM

Aloha Chair Creagan, Vice Chair DeCoite, and Members of the Committee:

I am Brian Miyamoto, Executive Director 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.

HFB is in strong support of HB 261, which adds activities in the definition of qualified business expenses and extends through the 2029 taxable year the time in which the Department of Agriculture may certify important agricultural lands qualified agricultural cost tax credits.

Hawaii is the first state in the country to have an Agricultural Land Preservation measure focused on agricultural viability. During the weeks of deliberation that created Hawaii's Important Agricultural Lands initiative, a review was conducted of ag land preservation measures across the nation. Initiatives that were passed many years ago were especially taken under close scrutiny to determine whether their intents were realized. What became obvious was payments for development rights, preserved land from agriculture but did not necessarily keep the land in agriculture -- it succeeded in keeping them in open space. Too often, the recipient of the benefit used it to pay off debt, passed the land to a successor who now had no benefits and reduced collateral to go to the bank for loans as the land was devalued.

Taking these lessons to heart, the move was made to create incentives to reward investments in infrastructure – improvements to the irrigation system and other basic infrastructure, construction of value added facilities, or construction of irrigation water storage facilities were among the qualified agriculture expenditures that were deemed needed for viable operations. The structure of the incentive as a tax credit for only a percentage of costs forces serious investments vs. those that do it just to get a tax credit.

Also, being that it is a tax credit requires that the applicant is paying taxes so most likely a viable business endeavor.

Reports have been submitted by the Department of Agriculture reporting the amount of tax credits awarded by year. The highest-level activity was in 2015, reported to the Legislature in 2016.

The breakdown of costs applicants applied for in 2014 are listed as follows:

A \$98,915.58
B \$605,814.04
C \$2,452,699.27
D \$51,486.60
E \$742,979.67
F \$2,500,223.39
G 0

A. Roads or utilities, primarily for agricultural purposes, where most of the lands serviced by the roads or utilities, excluding lands classified as conservation lands, are important agricultural lands;

B. Agricultural processing facilities in the State, primarily for agricultural purposes, where the majority of the crops or livestock processed, harvested, treated, washed, handled, or packaged are from agricultural businesses;

C. Water wells, reservoirs, dams, water storage facilities, water pipelines, ditches, or irrigation systems in the State, primarily for agricultural purposes, providing water for lands, the majority of which, excluding lands classified as conservation lands, are important agricultural lands; and

D. Agricultural housing in the State, exclusively for agricultural purposes; provided that: housing units are occupied solely by farmers or employees for agricultural businesses and their immediate family members; the housing units are owned by the agricultural business; the housing units are in the general vicinity, as determined by the department of agriculture, of agricultural lands owned or leased by the agricultural business; and the housing units conform to any other conditions that may be required by the department of agriculture;

E. Feasibility studies, regulatory processing, and legal and accounting services related to the items under paragraph (1);

F. Equipment, primarily for agricultural purposes, used to cultivate, grow, harvest, or process agricultural products by an agricultural business; and

G. Regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands.

As you can see by the breakdown of use, the majority of funds were associated with improvements/modification of irrigation systems or equipment associated with agricultural production. Both of these investments are critical for agricultural viability.

There appears to be a priority to keep lands in agriculture as seen by numerous measures to purchase lands by the State. The IAL program encourages the VOLUNTARY designation of the lands in exchange for the incentives a cost-effective way to preserve ag operations – not just lands, for future generations.

Recent changes on Maui will require clearing of large expanses of IAL lands for the planting of crops. This measure will facilitate such activity allowing further investments for installing plantings on the land.

We therefore respectfully request your strong support of this measure as an investment to agriculture's future in the State of Hawaii.

Thank you for this opportunity to testify on this important matter.

HB-261

Submitted on: 2/7/2019 8:11:02 AM

Testimony for AGR on 2/8/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Warren Watanabe	Maui County Farm Bureau	Support	No

Comments:

Maui County Farm Bureau strongly supports HB261 adding activities in the definition of qualified business expenses and extending the sunset of the measure.

Recent changes on Maui will require clearing of large expanses of IAL lands for planting of crops. This measure will facilitate such activity allowing further investments for installing plantings on the land.

Agricultural lands without viable operations is merely open space Your support of this measure is appreciated.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Extend Important Agricultural Land Credit

BILL NUMBER: HB 261; SB 760 (Identical)

INTRODUCED BY: HB by DECOITE, CABANILLA ARAKAWA, CREAGAN, ELI, GATES, HOLT, ICHIYAMA, B. KOBAYASHI, MORIKAWA, ONISHI, PERRUSO, TODD, WILDBERGER; SB by GABBARD, Kim, Nishihara, Shimabukuro, Taniguchi

EXECUTIVE SUMMARY: Slightly expands the qualified agricultural cost credit by allowing some debris removal and soil restoration costs to be creditable, and extends the important agricultural land tax credit by eight years. Given the sparse utilization of the credit to date, the need for the extension is questionable.

SYNOPSIS: Amends HRS section 235-110.93 to provide that the department of agriculture shall cease certifying credits for taxable years beginning after December 31, 2029. It previously required cessation of certification after the fourth taxable year following the taxable year during which the credits are first claimed, namely December 31, 2017.

Adds a new paragraph (5) to the definition of “qualified agricultural costs” in HRS section 235-110.93(k) by adding, as creditable, costs for the clearing of, removal of trees and debris from, and soil restoration to correct any nutrient deficiency that is present on, former sugar and pineapple plantation lands that have been out of agricultural use for more than five years and are to be used primarily for agricultural purposes.

EFFECTIVE DATE: Taxable years beginning after December 31, 2019.

STAFF COMMENTS: The legislature by Act 233, SLH 2008, enacted the important agricultural land qualified agricultural cost tax credit.

In the department of agriculture’s 2018 report on the credit (<https://hdoa.hawaii.gov/wp-content/uploads/2019/01/DOA-IAL-Tax-Credit-Report-2018.pdf>), representing activity for the 2017 tax year, the department reported that it certified \$1,125,000 in credits for three applicants. As of December 2018, nine private land owners have applied for and received designation of their lands as IAL from the Land Use Commission. The total area designated as IAL as of December 2017 was 133,000 acres. The department in its report noted that the sunset date recently had been extended to 2021, which “should provide enough time for the counties to complete their county identification process described in Section 205-47, HRS, and allow landowners/farmers whose lands are identified as IAL through the county process to claim IAL tax credits.”

The department also stated that none of the counties have submitted their approved plans and maps identifying potential important agricultural lands (IAL) to the Land Use Commission for IAL designation as required under Section 205-47, HRS.

Re: HB 261
Page 2

Given that the amount of credits certified was negligible, the applicant base was extremely small, and the counties have not cooperated in the past decade, one must ask whether the objectives of the original legislation are being met, and whether there is any prospect of return on our investment of public dollars.

Digested 2/6/2019

HB-261

Submitted on: 2/6/2019 1:43:04 PM

Testimony for AGR on 2/8/2019 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Winslow	Hawaii Farmers Union	Support	No

Comments:



O`ahu County Committee on Legislative Priorities (OCCLP)

COMMITTEE ON AGRICULTURE
Rep. Richard P. Creagan, Chair
Rep. Lynn DeCoite, Vice Chair

DATE: Friday, February 8, 2019

TIME: 11:00 a.m.

PLACE: Conference Room 312 State Capitol

RE: HB 261 Relating to Agriculture

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

The O`ahu County Committee on Legislative Priorities (OCCLP) of the Democratic Party of Hawai`i (DPH) hereby submits its testimony in **SUPPORT of HB 621 relating to Agriculture.**

HB 621 clarifies definition of “qualified agricultural costs” to include costs for the clearing of, removal of trees and debris from, and soil restoration to correct any nutrient deficiency that is present on, former sugar and pineapple plantation lands that have been out of agricultural use for more than five years and are to be used primarily for agricultural purposes. HB 621 extends through the 2029 taxable year the time in which the Department of Agriculture may certify important agricultural lands qualified agricultural cost tax credits and it applies to taxable years beginning after 12/31/2019.

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. DPH believes in an integrated approach to agricultural innovation and sustainability. DPH encourages the responsible development of ocean resources and aquaculture to achieve sustainability in our State of our marine resources an ensure and improve the health of our reef and marine life.

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, polices to foster agriculture-related infrastructure at shipping points, and increased inspection to protect against invasive species and to encourage reduced holding times. We need to ensure food safety, strive towards food security an strive to set the highest standards for food quality and nutrition. *Democratic Party of Hawai`i Platform (2018), p. 9, ln. 5-16.*

DPH supports the designation of Important Agricultural Lands as a step towards preserving high-grade productive lands for current and future needs. *Democratic Party of Hawai`i Platform (2018), p. 9, ln. 40-41.*

For the foregoing reasons, i.e., to support Important Agricultural Lands as a step towards preserving high-grade productive lands for current and future needs, OCCLP supports HB 621 and urges its passage out of the Committee on Agriculture.

Mahalo nui loa
Me ka `oia`i`o

/s/ Melodie Aduja

Melodie Aduja

Chair, O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i

Ph. (808) 258-8889

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Testimony of
Jon Okudara
on
H.B. No. 261
Relating to Agriculture
Committee on Agriculture
Friday, February 8, 2019, 11:00 a.m.
Conference Room 312

I would like to testify in support of H.B. No. 261, which includes in the definition of “qualified agricultural costs,” the costs associated with the preparation of land for the growing of crops, including clearing, removal of trees and debris, and soil restoration, and extends the period the Department of Agriculture may certify the tax credits to December 31, 2029.

Many former plantation lands are now over-grown with brush, albizia and Christmas berry trees, which may cost over \$6,000/acre to clear and prepare for cultivation. In addition, after plantation crops have been harvested, many of the mineral nutrients required by crops are deficient and have to be restored. Soil restoration activities,” include the remediation of the soil, such liming to correct the acidity of the soil and adding micronutrients to adjust deficiencies in manganese, zinc, copper, boron, or other nutrients that are important to plant functions including the chlorophyll synthesis, protein synthesis, water uptake, and nitrogen fixation.

The “qualified agricultural costs” listed in section 235-110.93, includes:

1. Feasibility studies, plans, design, engineering, construction, renovation, repair, maintenance, and equipment for roads or utilities, processing facilities, water and irrigation infrastructure, and agricultural housing;
2. Equipment for agricultural purposes; and
3. Regulatory processing, studies, and legal and consulting services.

The “qualified tax credits” was part of the incentive program directed by the important agricultural lands law to protect and conserve agricultural lands, although it does not provide for the protection of agricultural lands, as directed by Article XI, section 3 of the Hawaii Constitution.

H.B. No. 261, also extends the deadline for the certifying of tax credits to December 31, 2019. The county process for the designation of important agricultural lands is unlikely to be completed by the current deadline of December 31, 2021.

For these reasons, I strongly support H.B. No. 261, and recommend its passage.