



STATE OF HAWAII
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To: The Honorable Donovan M. Dela Cruz, Chair
and Members of the Senate Committee on Ways & Means

Date: Friday, February 15, 2019
Time: 10:15 A.M.
Place: Conference Room 211, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 760, S.D. 1, Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of S.B. 760, S.D. 1, and offers the following comments for the Committee's consideration.

S.B. 760, S.D. 1, 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 that are to be used solely for agricultural uses and activities. 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 the Senate Committee on Agriculture and Environment amended the previous version of this measure so that the new category of qualified agricultural costs applies only to lands "used solely for agricultural uses and activities." The previous version's broader language only limited the category to lands "used primary for agricultural purposes." While the Department appreciates the effort to strengthen and clarify limits to the tax credit, the Department notes that as currently written, the new category of "qualified agricultural costs" would still not need to be expended on or for land designated as "important agricultural land" under Chapter 205 of the HRS. If this is not the intent of the Legislature, the Department suggests further clarifying which land is eligible for the credit under this new category of qualified agricultural costs.

Finally, the Department is able to administer the bill as written and defers to the DOA on the substance of the 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.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Acting Chairperson
Board of Agriculture

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF THE DEPARTMENT OF AGRICULTURE
BEFORE THE SENATE COMMITTEE ON WAYS & MEANS

FEBRUARY 15, 2019
10:15 A.M.
CONFERENCE ROOM 211

SENATE BILL NO. 760, SD1
RELATING TO AGRICULTURE

Chairperson Dela Cruz and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 760 SD1 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 lands that have 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.

The Department proposes a clarifying amendment that points out that once the soil of the former sugar and pineapple plantation lands are restored, they are to be used solely for agricultural uses and activities.

Page 5, lines 12-17 (additions are double-underscored, deletions are bracketed and struck through)

" (5) 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. Soils that are restored subject to this paragraph are to be used solely for agricultural uses and activities. "

Thank you for the opportunity to comment on this measure.



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February 15, 2019

HEARING BEFORE THE
SENATE COMMITTEE ON WAYS AND MEANS

TESTIMONY ON SB 760, SD1
RELATING TO AGRICULTURE

Room 211
10:15 AM

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, 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 SB 760, SD1, which clarifies the definition of "qualified agricultural costs" and extends the period during which the HDOA may certify important agricultural lands qualified agricultural cost tax credits to 2029.

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 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, 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 VOLUNTARY designation of the lands in exchange for the incentives a cost-effective way to preserve ag operations – not just lands, for future generations.

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.

Testimony of
Jon Okudara
on
S.B. No. 760, S.D.1
Relating to Agriculture
Committee on Ways and Means
Friday, February 15, 2019, 10:15 a.m.
Conference Room 211

I would like to testify in support of S.B. No. 760, S.D.1, 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.

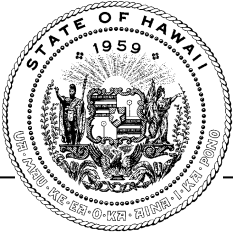
The “qualified agricultural costs” listed in section 235-110.93, includes:

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.

S.B. No. 760, S.D.1, 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 S.B. No. 760, S.D.1, and recommend its passage.



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Statement of
RODNEY FUNAKOSHI
Planning Program Administrator, Office of Planning
before the
SENATE COMMITTEE ON WAYS AND MEANS
Friday, February 15, 2019
10:15 AM
State Capitol, Conference Room 211

in consideration of
SB 760, SD 1
RELATING TO AGRICULTURE

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Senate Committee on Ways and Means.

The Office of Planning (OP) offers the following comments on SB 760, SD 1 in support of the tax credit extension. SB 760, SD 1 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 always intended to be a long-term commitment to providing permanent tools and services that would promote and grow Hawaii’s agricultural industry.

OP appreciates the amendment to the proposed new qualified agricultural cost in SD 1, which clarifies the intent for use of the tax credit to offset the cost of restoring land for subsequent bona fide agricultural use and production.

Thank you for the opportunity to testify on this measure.

LATE

SB-760-SD-1

Submitted on: 2/14/2019 1:56:00 PM

Testimony for WAM on 2/15/2019 10:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dale Sandlin	Testifying for Hawaii Cattlemens Council	Support	No

Comments:

LATE

**Testimony of
Melvin Matsuda
on
S.B. No. 760
Relating to Agriculture**

I would like to testify in support of S.B. No. 760 which includes in the definition of “qualified agricultural cost,” the cost that is 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.

My name is Melvin Matsuda, vice president of Kahuku Farmers Incorporated. I am a farmer and contractor here on the North Shore of Oahu. Our company specializes in land cultivation, and land clearing and restoration. The trees and brush continually grow larger every year and the process of land clearing and trash remediation get more difficult and expensive to deal with as each year passes. These are costs that a farmer faces before being able to start planting a crop. If the goal is to increase agricultural production and put crops on former plantation lands, the incentive provided in this bill is a good start.

S.B. No. 760, also extends the deadline for the certifying of tax credits to December 31, 2019. The county process for the land designation of important agricultural lands is unlikely to be completed by the current deadline of December 31, 2021.

For these reasons, I strongly support S. B. No. 760, and recommend its passage.