

SB 760



STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Agriculture & Environment

Date: Wednesday, January 30, 2019
Time: 1:15 P.M.
Place: Conference Room 224, State Capitol

From: Linda Chu Takayama, Director
Department of Taxation

Re: S.B. 760, Relating to Agriculture

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

S.B. 760 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.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



DENISE ALBANO
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF DENISE ALBANO
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

**JANUARY 30, 2019
1:15 P.M.
CONFERENCE ROOM 224**

**SENATE BILL NO. 760
RELATING TO AGRICULTURE**

Chairperson Gabbard and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 760 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.

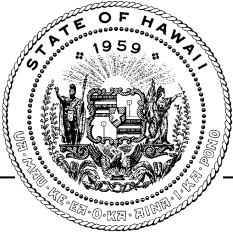
The continuation of the IAL tax credit beyond the 2021 tax year (page 5, line 20) is important as the counties have yet to complete the mapping of their potential IAL pursuant to Section 205-47. We strongly believe that all of the IAL incentives enacted in 2008, of which the tax credit is one component, 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.



OFFICE OF PLANNING STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
PLANNING PROGRAM ADMINISTRATOR II
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Statement of
RODNEY FUNAKOSHI
Planning Program Administrator I, Office of Planning
before the
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Wednesday, January 30, 2019
1:15 PM
State Capitol, Conference Room 224

in consideration of
SB 760
RELATING TO AGRICULTURE.

Chair Gabbard, Vice Chair Ruderman, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning (OP) offers the following comments on SB 760 in support of the tax credit extension. SB 760 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 permanent tools and services that would promote and grow Hawaii’s agricultural industry.

OP has no comment on the proposed new qualified agricultural cost, and defers to the Department of Agriculture as to concerns they may have regarding this provision.

Thank you for the opportunity to testify on this measure.

SB-760

Submitted on: 1/29/2019 12:53:43 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



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January 30, 2019

HEARING BEFORE THE
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

TESTIMONY ON SB 760
RELATING TO AGRICULTURE

Room 224
1:15 PM

Aloha Chair Gabbard, Vice Chair Ruderman, 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, which 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.

SB-760

Submitted on: 1/28/2019 11:56:23 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie A Whalen	Testifying for HARC	Support	No

Comments:

I suggest you do not restrict it just to former sugar and pineapple land and only to 5 years not in use. Some IAL lands may have been in other use, pasture or fallow or? All lands will need to be cleared and soil amended no matter their former use or non-use.

Testimony of
Jon Okudara
on
S.B. No. 760
Relating to Agriculture
Committee on Agriculture and Environment
Wednesday, January 30, 2019, 1:15 p.m.
Conference Room 224

I would like to testify in support of S.B. No. 760, 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, 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, and recommend its passage.

From: [Christine Brammer](#)
To: [AEN Testimony](#)
Subject: I Support SB753
Date: Monday, January 28, 2019 12:39:00 PM

Dear Chair Gabbard, Vice Chair Ruderman, & members of the committee:

I strongly support SB 753 - Relating to Aquaculture, which appropriates funds for operational expenses for revitalizing the aquaculture development program within the department of agriculture.

Thank you for the opportunity to testify on this measure.

Sincerely,

SB-760

Submitted on: 1/29/2019 9:52:39 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Support	No

Comments: