

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

DEXTER KISHIDA
Deputy to the Chairperson

State of Hawai'i
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND FOOD SYSTEMS

**FEBRUARY 14, 2024
9:15 AM
CONFERENCE ROOM 325**

**HOUSE BILL NO. 2705
RELATING TO AGRICULTURAL LEASES**

Chair Gates, Vice Chair Kahaloa, and Members of the Committee:

Thank you for the opportunity to testify on House Bill 2705.

This bill changes certain state leasing statutes to maximize the benefit of the Hawaii Department of Agriculture (HDOA) and use of Non-Agricultural Parks lands to help the State achieve its economic and food production goals. The Department respectfully opposes this bill due to the unintended adverse impacts of the proposed changes.

As the primary overseer of State agricultural land leases, the Department has major concerns regarding several of the proposed amendments. In its attempt to address the need to increase the availability of affordable agricultural land for new or beginning farmers, reclaim lands that are not sufficiently productive, and to recapture any windfalls from transfers, this bill creates new mandates that are not supportive or appropriate for the vast majority of the Department lessees.

One of the Department's primary missions is to promote the growth of diversified agriculture. Our priority is to provide the best odds for a successful farming operation.



This measure's requirement for the transfers and extensions of leases to first be subject to a public notice to solicit interested applicants to a conditional sealed bid will have unintended negative consequences for a lessee whose farming operations are successful and fully productive. These limitations will disincentivize the continued investment in time, money, and effort to maintain farming operations properly on a lease that may be terminated. In addition, this requirement would require costly publication of public notices and lease rent appraisal reports for each transfer and extension request.

The proposed reduction of the maximum term of a lease to fifty years poses serious challenges and disincentives for lessees. During the years of public discussions leading to the adoption of Act 90 (2003), which established HRS Chapter 166E, HRS, one of the most popular requests from farmers was to maximize the term of the lease. This allows and encourages a lessee to continue to maintain and invest in improvements to the land and their farms by securing long-term loans and facilitates succession planning as may be appropriate. In response to the outcry of the farming community, the Legislature, decided to replicate the framework of the Public Lands law in Chapter 171, HRS and set the maximum term of the lease at sixty-five years. The same rationale applies to lease extensions. Often, for the reasons previously listed or other reasons, legitimate requests are made for extensions longer than fifteen years if available. These requests are always vetted by the BOA for credibility, feasibility, and appropriateness prior to approval.

While the Department agrees that speculation in affordable state land that results in a windfall for lessees must not occur, caution is advisable when a farmer is transferring his land asset, namely leased state lands, as part of a larger sale of his farming business. The value of the leasehold asset is usually significantly less than the total sales value of the transaction but is often mistakenly treated as synonymous. Setting limitations on a farmer's ability to profit from lease transfers may ultimately discourage existing legitimate farmers from maximizing their business potential, particularly in the years toward the expiration of the lease term. Like any other business, a successful farm has far more financial value than the depreciated value of

its physical assets. The true value of any business is the value of what's being produced, contracts to buy the goods or services, and its operational efficiency and expertise. This difference represents the "sweat equity" that is put into the business. The successful sale of a farming business recognizes and rewards the farmer for the hard work, time, and effort put into making it profitable. The BOA reviews and considers all these factors when considering approval of lease extension and transfer requests and has voted to not approve assignments if in their opinion, the assignment seemed to be excessive.

Building an established and successful farm takes years of planning, investments, sacrifice, and hard work. The proposed changes, as written, will adversely impact farming business operations by placing limitations that would restrict growth and overall success and disincentivize the continued investment in time, money, and effort needed to maintain farming operations properly on leases nearing their expiration. The Department respectfully opposes this measure.

Thank you for the opportunity to testify.



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February 14, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

TESTIMONY ON HB 2705
RELATING TO AGRICULTURAL LEASES

Conference Room 325 & Videoconference
9:15 AM

Aloha Chair Gates, Vice-Chair Kahaloa, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawai'i Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawai'i's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawai'i Farm Bureau opposes HB 2705, which modifies requirements and restrictions related to the Department of Agriculture's dispositions of non-agricultural park lands to maximize the benefit to the State of agricultural lands and to help the State achieve its economic and food production goals.

The Hawai'i Farm Bureau has worked for years for State agricultural land lease terms that are appropriate and beneficial to successful farming and ranching.

If passed, the bill will disincentivize those few in our community who have the skill, the resources, and the drive to take on the difficult work, investment, and risk to create a sustainable agricultural business on land that they don't own, and due to the myriad State restrictions and prohibitions, can't fully control. The purpose of these land leases is to do what the State cannot do on its own; to encourage and support farmers and ranchers to make beneficial use of State lands for food and other agricultural production, to steward the land and other natural resources, including control of destructive invasive species, and to manage and work "open" space.

HFB does not see the need for HB 2705. The Department already has the legal authority to terminate leases that do not comply with the terms of the lease. However, we would encourage this body to appropriately fund the Department so that it has the resources to ensure that lessees are complying with their lease terms, including the required agricultural plan of utilization that was approved by the Department at the commencement of the lease. We respectfully suggest that rather than create new and unwarranted restrictions on leases, this body should update and modify current untenable statutory

requirements, such as holding lessees responsible for environmental conditions that occurred before their tenure.

As the bill states, the legislature has found that state agricultural lands are a key resource that can be used to meet the State's goals for economic diversification and food self-sufficiency. This bill will severely set back efforts to meet that goal.

Thank you for this opportunity to provide comments on this measure.

HB-2705

Submitted on: 2/12/2024 5:02:18 PM

Testimony for AGR on 2/14/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

RELATING TO AGRICULTURAL LEASES.

Modifies requirements and restrictions related to the Department of Agriculture's dispositions of non-agricultural park lands to maximize the benefit to the State of agricultural lands and to help the State achieve its economic and food production goals.

Jayna Lua
Jaynaxlua@gmail.com
February 12, 2024

Subject: Testimony in Support of HB2705

Aloha Chair Cedric Asuega Gates, Vice Chair Kristin Kahaloa, and members of the Agriculture & Food Systems committee,

My name is Jayna Lua and I am a 18-year-old native Hawaiian girl born and raised in Pearl City. When I was growing up, I did not know much about my culture as a Native Hawaiian which brought immense shame. How could I live in the land of my kūpuna and know nothing about them? Did I deserve my heritage? Where there something wrong with where I came from? Those are the types of questions I asked myself due to my cultural disconnect and I was convinced I always stay this way. Even in seventh grade when I began attending Kamehameha Schools Kapālama, I felt out of place and not deserving of my spot there. This all changed during my freshman year of high school where I was invited to make poi. It was something I had never done before but of course, growing up in Hawaii, poi was so familiar to me. The first time I picked up a pōhaku and began to pound kalo, I felt a sense of peace I had never expected. There was something so comforting and meaningful about the entire experience. The most rewarding part of the experience was trying the poi we made, this was the first time food gave me a sense of pride. I began to realize that I was partaking in an activity my kūpuna did themselves, I felt closer to them, and I felt like I belonged. Ever since then, native Hawaiian food and plants have fueled the most heartwrenching cultural experiences I have had. Looking back, I realize that my experience was a lucky one that most are not fortunate to have due to Hawaii's extreme dependence on imported goods. As a community, we owe it to the native Hawaiian children who have been marginalized and overlooked to be provided the chance to experience their culture.

It is for this reason I am writing to express my strong support for HB2705, which seeks to address critical issues regarding the management and disposition of state agricultural lands in Hawaii. I believe this Act is a vital step towards achieving economic diversification, food self-sufficiency, and equitable access to agricultural resources.

Section 1 of the Act astutely identifies the challenges faced by farmers, particularly new entrants, in accessing affordable land for agricultural purposes. The subsidization of leases and provision of lower-cost agricultural water underscores the State's commitment to supporting farmers. However, the current system has its shortcomings, as evidenced by the prevalence of long-term leases that remain unproductive or are utilized for non-agricultural purposes.

Sections 2, 3, and 4 of the Act introduce crucial amendments to the Hawaii Revised Statutes, empowering the Department to cancel, renegotiate, or extend encumbered leases in a manner that prioritizes the State's interests. The inclusion of public notice requirements and a conditional sealed bid process ensures transparency and fairness in lease transfers, thereby mitigating the risk of speculative practices and ensuring that leases are awarded to the most qualified applicants.

Moreover, the Act emphasizes the importance of agricultural activities on public lands, setting forth criteria to ensure that lessees actively engage in agricultural or aquacultural pursuits. By promoting sustainable land use practices and compliance with environmental regulations, the Act safeguards the integrity of our natural resources while fostering a thriving agricultural sector.

In conclusion, HB2705 represents a critical legislative initiative that aligns with the State's broader goals of economic diversification and food security. By enacting these provisions, Hawaii can unlock the full potential of its agricultural lands, empower native Hawaiians, and pave the way for a more resilient and sustainable future.

Thank you for considering my testimony in support of this important legislation. I urge you to vote in favor of HB2705 and advance its passage for the benefit of our community and future generations.

Sincerely,

Jayna Lua

LATE

HB-2705

Submitted on: 2/13/2024 2:23:02 PM

Testimony for AGR on 2/14/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
J Ashman	Individual	Oppose	Written Testimony Only

Comments:

There is no reason to add more hurdles and more restrictions to the State's agricultural land leases. They are already difficult and prevent more land from being managed productively.

If there are a few bad actor lessees who are not complying with their lease terms, this can be remedied with action by DOA under its existing statutory authority....but only if DOA is provided with the resources it needs to do its job.

Thank you for considering this testimony.

RECEIVED
Date & Time
Feb 14, 2024, 10:54 am

LATE

HB-2705

Submitted on: 2/14/2024 9:55:28 AM

Testimony for AGR on 2/14/2024 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Nicholas Reppun	Individual	Comments	Written Testimony Only

Comments:

Aloha,

As a farmer in windward oahu on state ag land this bill is of great concern to me. I am the heir to my fathers ag lease and this bill concerns me due to the language around the bid process during transfer to heirs. For small family farms, inter generational transfer is essential for continuity in regards to both business and ecology of the farm. If forced to enter into a competitive sealed bid process it opens up opportunities for loss of land to family businesses. While I understand the sentiment expressed in the bill (to keep agricultural land in productive) the specific language in the bill seems to negatively affect smaller farms that may appear outwardly "less successful or less profitable". However, small family farms are essential for meeting the states agricultural goals and climate resilience goals. I feel that the solutions to the problem expressed in this bill are better off focusing on better training and support for farmers and also better enforcing of lease terms rather than the strategy of gutting and replace tennents. Over all take away is that this bill needs to be thought out better to ensure that it doesn't not negatively affect those are successfully farming.