

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII**  
**DEPARTMENT OF BUDGET AND FINANCE**  
P.O. BOX 150  
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE  
BUDGET, PROGRAM PLANNING AND  
MANAGEMENT DIVISION  
FINANCIAL ADMINISTRATION DIVISION  
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

**WRITTEN ONLY**  
TESTIMONY BY CRAIG K. HIRAI  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
ON  
SENATE BILL NO. 2284, S.D. 2, H.D. 1

**March 21, 2022**  
**2:00 p.m.**  
**Room 329 and Videoconference**

RELATING TO AQUACULTURE

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2284, S.D. 2, H.D. 1, moves the existing aquaculture program within the Department of Agriculture (DOA) to a new part under Chapter 141, HRS, and adds five new sections to this part, which adds new definitions for the program; establishes provisions relating to the DOA's governing of the business of aquaculture; grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition; authorizes the DOA to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be deemed necessary to protect indigenous species; and requires the DOA to prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the State, provided that there are funds appropriated to the DOA for this purpose and matching funds are provided by the aquaculture industry. This bill also requires the DOA to acquire land for the purposes of aquacultural production and appropriates an unspecified amount of general

funds in FY 23 for the DOA to establish 4.00 positions and for operating costs to effectuate this part.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of**  
**SUZANNE D. CASE**  
**Chairperson**

**Before the House Committee on**  
**CONSUMER PROTECTION & COMMERCE**

**Monday, March 21, 2022**  
**2:00 PM**

**State Capitol, Conference Room 329, Via Videoconference**

**In consideration of**  
**SENATE BILL 2284, SENATE DRAFT 2, HOUSE DRAFT 1**  
**RELATING TO AQUACULTURE**

Senate Bill 2284, Senate Draft 2, House Draft 1 proposes to establish provisions relating to the Department of Agriculture's (HDOA) governing of the business of aquaculture; grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition; authorizes HDOA to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species; requires HDOA to prepare programmatic environmental impact reports and acquire land for aquacultural purposes; and makes appropriations. **The Department of Land and Natural Resources (DLNR) appreciates the intent of this bill and provides the following comments and suggested amendments.**

While there are currently no laws that expressly prohibit the culture of non-native species in state ocean waters, for the past 30 years DLNR and HDOA have maintained a de facto ban through the existing joint review and approval process. This process has prevented the proposed cultivation of non-native groupers and tilapia in ocean cages. It is unclear how this bill would affect HDOA's process for reviewing and approving aquaculture projects, including consultation with DLNR to prevent or minimize risk of non-native species introductions.

DLNR suggests that the committee reinsert the language of Senate Bill 2284 (p.5, line 16 through p.7, line 2) that establishes prohibitions relating to the spawning, incubating, or cultivation of transgenic fish species or any exotic species of finfish and makes exemptions for certain research activities. DLNR also suggests reinserting an amended definition of "exotic species" to mean "a fish that is not indigenous to Hawaii waters and did not exist as a viable population in a wild condition in the State as of January 1, 2022." This would address the

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

concern that the bill may incentivize the intentional release of exotic species once they are established in the wild.

Thank you for the opportunity to comment on this measure.

**SB-2284-HD-1**

Submitted on: 3/20/2022 11:15:35 AM

Testimony for CPC on 3/21/2022 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Brian Neilson	DLNR	Comments	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

**DAVID Y. IGE**  
Governor

**JOSH GREEN**  
Lt. Governor



**PHYLLIS SHIMABUKURO-GEISER**  
Chairperson, Board of Agriculture

**MORRIS M. ATTA**  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE**

**MARCH 21, 2022  
2:00 P.M.  
CONFERENCE ROOM 329 & VIA VIDEOCONFERENCE**

**SENATE BILL NO. 2284 SD2 HD1  
RELATING TO AQUACULTURE**

Chairperson Johanson and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2284 SD2 HD1. The measure establishes provisions relating to the Department of Agriculture's ("Department") governing of the business of aquaculture. This measure: grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by broodstock acquisition; authorizes the Department to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species; requires the Department to prepare programmatic environmental impact reports and acquire land for aquacultural purposes; and makes an appropriation. The Department supports the intent of this measure and respectfully provides the following comments.

The measure promotes the State's economic development by enabling the Department to have regulatory authority for aquaculture and provides a pro-development framework that minimizes negative effects on the environment through monitoring and reporting using a science-based approach. The Department notes the following and respectfully offers recommendations to improve implementation of this measure:

- The Department has three divisions or programs which are active in providing aquaculture support. They are:

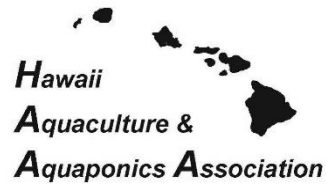


- Agriculture Resource Management Division which acquires land and administers property management activities;
  - Aquaculture Development Program which coordinates research, technology transfer, outreach, and marketing activities; and
  - Plant Quarantine Branch which administers importation and movement permits for aquatic non-domestic animal, plants, and microorganisms, including algae.
- Ocean-based aquaculture operations are administered by the Department of Land and Natural Resources. The harvesting, processing, and sales of aquaculture food products are administered by the Department of Health. The Department suggests that regulatory oversight for those activities remain with their currently associated departments.
  - Pursuant to Chapter 150A, Hawaii Revised Statutes, the Department already regulates importation, possession and transfer of plant, non-domestic animal, and microorganism species, which include micro and macro algae, used for aquaculture. The Board of Agriculture review process for permit issuance requires multiple technical reviews to ensure that proposed uses and locations of aquacultured species pose minimal risk of escape, including possible negative effects to native species and the environment that can be associated with the introductions. Depending on the species and use, the review process is able to create specific requirements to minimize risks for import and transport. The Department suggests that the proposed requirements for indigenous species protection be removed since the existing review process already addresses this matter. Moreover, to provide additional support to stakeholders, further outreach can be provided to better inform them of the process and to work with them to ensure safe use and importation.
  - The Department recommends use of the following language to amend the proposed definition of "Aquaculture" to clarify that algae is included: “. . . and harvesting of aquatic plants, animals, and microorganisms, including algae, in marine, brackish, and fresh water. The term "aquaculture" does not include species of ornamental marine or freshwater plants, animals, and microorganisms, including algae, not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, hobby, or other similar purposes.”
  - The requirement to initiate rulemaking should be deleted since the Department’s existing programs are already performing the tasks prescribed by the measure pursuant to previously established rules.

- The Department can coordinate programmatic environmental impact assessments for inland areas; however, the Department may not be appropriate or suitable for coordinating or conducting environmental assessments for coastal and ocean areas since they are under the jurisdiction of the Department of Land and Natural Resources. It is unlikely that matching funds of any kind would be available from the aquaculture industry for programmatic environmental assessments. The Department respectfully recommends that this requirement be deleted.
- The Department appreciates the addition of four staff positions and an appropriation for operating costs to implement the provisions of this measure. The Department estimates that approximately \$400,000 in operating funds annually would be needed for research, outreach, and marketing.

Thank you for the opportunity to testify on this measure.





**LATE**

March 20, 2022

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Aaron Ling Johanson, Chair and Rep. Lisa Kitagawa, Vice Chair  
Monday, March 21, 2022 TIME: 2:00p.m., Conference Room 329

Re: SB 2284 SD2 HD1 Relating to Aquaculture

Dear Chair Johanson, Vice Chair Kitagawa, and Committee Members,

The Hawai'i Aquaculture & Aquaponics Association (HAAA), with statewide membership, **supports the intent of SB 2284 SD2 HD1** to establish favorable provisions relating to the Hawai'i Department of Agriculture's (HDOA) support of the business of aquaculture. Starting in the 1970's, the State established a highly regarded aquaculture development program which helped to establish an industry that now ranks as one of the leading sectors of Hawai'i's diversified agriculture. Unfortunately, support for the program has been sharply reduced in recent years even as the importance of the aquaculture industry has grown worldwide and in Hawai'i. **We therefore strongly support the provision of SB 2284 SD2 HD1 that would fund four full-time positions, helping to re-establish the ability of HDOA to perform research, promotion, and other functions to help expand the industry.** We also support the provision that would encourage HDOA to acquire land for the purposes of aquaculture development, and hope that dedicated funding can be provided for this purpose.

Previous testimony by HDOA supported the intent of SB 2284 SD2, and offered several comments. These comments included:

- The bill's definition of aquaculture should include aquatic plants. We note also that the exclusion of ornamental aquaculture may conflict with existing statutes and that jurisdiction over aquaculture for stock enhancement is not clear.
- HDOA has the authority to regulate importation, possession, and transfer of aquaculture species under existing statute.
- The Department of Land and Natural Resources currently has responsibility for ocean leasing, and the Department of Health currently regulates the harvesting, processing, and sale of aquaculture products used for food. HDOA feels that these responsibilities should remain with those agencies.
- Matching funds from the aquaculture industry for programmatic environmental assessments are unlikely to be available. In this regard, we note that "aquaculture industry" is not defined; are the proposed environmental assessments intended to assist specific companies, with matching funds from those companies; or are the assessments intended to support the industry as a whole, with funding from an industry organization?
- Operating funds will be needed to support the work of the four positions that the bill would establish.

HAAA agrees with HDOA's comments. We respectfully request that your Committee take these comments into account when amendments to SB 2284 SD2 HD1 are considered. We also feel that the section of SB 2284 SD2 HD1 regarding property rights to progeny of wild-caught broodstock should be amended to clarify that the cultured progeny are the property of the person who cultured them, but not that the person acquires exclusive rights to culture the species to which the broodstock and progeny belong. The HAAA would be happy to work with the Committee on clarifying amendments.

Thank you for the opportunity to comment on this legislation in support of Hawai'i's growing aquaculture industry.

Ronald P. Weidenbach, HAAA President  
on behalf of the HAAA Executive Committee



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

**LATE**

March 21, 2022

HEARING BEFORE THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

**TESTIMONY ON SB 2284, SD2, HD1**  
RELATING TO AQUACULTURE

Conference Room 329 & Videoconference  
2:00 PM

Aloha Chair Johanson, Vice-Chair Kitagawa, and Members of the Committees:

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 **supports the intent of SB 2284, SD2, HD1** to enable the Hawai'i Department of Agriculture (HDOA) to better support Hawai'i's aquaculture industry. This important bill would revitalize the HDOA aquaculture program, fund four full-time positions, and grant an appropriation for research, outreach, marketing, and the other support functions proposed in the bill. A well-funded and expanded program will help grow the industry so it can provide more economic opportunities and supply high-quality food for our communities.

We agree with the supportive testimonies of the HDOA and the Hawai'i Aquaculture & Aquaponics Association and echo their suggestions regarding specific changes that can easily be made to clarify and streamline the bill.

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawai'i's agricultural community.