

JOSH GREEN, M.D.
Governor

SYLVIA LUKE
Lt. Governor



SHARON HURD
Chairperson, Board of Agriculture

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

BEFORE THE SENATE COMMITTEE ON JUDICIARY

**FEBRUARY 28, 2024
10:00 AM
CONFERENCE ROOM 016**

**SENATE BILL NO. 2560, SD1
RELATING TO INVASIVE SPECIES**

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2560, SD1, which provides that each lease that the Department of Agriculture (Department) enters into, renews, or extends shall authorize the Department to: (1) enter the leased premises at any time to identify, investigate, control, or eradicate invasive species; and (2) terminate the lease if the lessee refuses the Department entry or is found in violation of any applicable law, rule, or order relating to the control or eradication of invasive species. The Department offers comments via suggesting this measure may be unnecessary as we believe these actions are already addressed through the General Lease provisions.

The Department recognizes the threat that invasive species pose and has already begun to address this issue by including an invasive species provision within its standard General Lease provisions. It reads as follows: "Inspection of premises, The Lessee shall permit the Lessor and its representatives, at all reasonable times during the lease term, to enter the demised premises... ". Additionally, it goes on "Invasive species. Lessee shall immediately notify Lessor of any suspected or known presence of invasive species on the Premises and/or adjoining or nearby lots. Lessee



shall allow Lessor access to the Premises to evaluate the situation pursuant to chapters 4-68 and 4-69, HAR. It shall be the Lessee's responsibility to take action to eradicate and/or prevent the spread of invasive species on the premises, which may include administering pesticides or other methods of remediation approved and accepted by the Department of Agriculture. In the event Lessee fails to take appropriate action to eradicate or control a known presence of invasive species on the Premises within a reasonably expedient amount of time (as determined by the nature of the invasive species), Lessor may perform such action to exterminate or control the invasive species and shall not be responsible to Lessee for any loss or damage that may occur by reason thereof, and Lessee agrees to pay Lessor on demand the cost of such remedial action made or caused to be made by Lessor together with interest thereon at the rate of two percent per month or at the maximum rate allowed by Hawaii law, whichever is less." Lastly, lease termination is an existing authority that the Board has to address violations, which unaddressed invasive species is.

Lastly, should the committee decide to move this measure forward, the Department suggests that the term "Invasive Pest" be changed throughout to "Pest" pursuant to the existing definition in HRS 150A-2. The definition of "invasive pest" as used in this bill includes any taxa "that is designated as a restricted or prohibited species pursuant to chapter 150A" would subsequently prevent lessees from maintaining plants restricted by rule, such as orchids, sugarcane, or pineapple, as they would require control or eradication of these plants on the premises; or require control or eradication of species that are widespread, but still prohibited from entry such as geckos, myna birds, or bulbuls

Thank you for the opportunity to testify on this measure.



SIERRA CLUB OF HAWAI‘I

SENATE COMMITTEE ON JUDICIARY

February 28, 2024 10:00 AM Conference Room 016

In **SUPPORT** of **SB2560 SD1**: RELATING TO INVASIVE SPECIES

Aloha Chair Rhoads, Vice Chair Gabbard, and Committee Members,

On behalf of our over 20,000 members and supporters, the Sierra Club of Hawai‘i **SUPPORTS SB2560 SD1**, which will help to mitigate the ongoing and future impacts of invasive pests on our native ecosystems, cultural practices, food security, public health, economy, and the overall quality of life of present and future generations.

Hawai‘i’s history provides us with a host of lessons regarding the wide-ranging and potentially irreversible damage that invasive species can inflict on our islands and ways of life. Invasive plants and wildlife have overtaken entire watersheds, impacting not just native habitat but also reducing aquifer recharge, increasing our vulnerability to floods and wildfires, and smothering our nearshore reefs and waters with runoff. Parasites and other pests have impacted local food production and increased the use of toxic pesticides on farms and in home gardens, risking both public health as well as threatening stream and nearshore species critical to our aquatic ecosystems. Invasive animals have also extirpated native species, continue to threaten others with outright extinction, and continue to undermine public health by acting as vectors for zoonotic diseases. Most recently, the spread of invasive pests such as the little fire ant, coconut rhinoceros beetle, hala scale, and others will require substantial and long-needed policies and investments over the long-term, to prevent additional and even greater impacts to our islands and our future generations.

Accordingly, the Sierra Club strongly supports the inspection and eradication requirements for public land lessees as contemplated in this measure; such authorities and requirements are vital to addressing one of the long-neglected gaps in our invasive pest detection and eradication strategies.

Beyond this measure, the Sierra Club also emphasizes that plant and commodity quarantine requirements will also be critical to include in our regulatory toolbox, as the lack of such legal requirements has already allowed for the knowing sale of infested plants and other commodities up to the present day. This has likely contributed to the establishment of coconut rhinoceros beetle on O‘ahu, and the ongoing spread of little fire ants across the islands. **The provisions of SB3237 SD1 and its companion, HB2758 HD2 (anticipated to cross over) would help to fill this regulatory gap and many others, and the Sierra Club accordingly**



SIERRA CLUB OF HAWAI'I

strongly supports these measures as well.

Much remains uncertain as we continue to reckon with the consequences of Hawai'i's longstanding failure to enact critical biosecurity protections. However, it is certain that much stronger action, including but not limited to the proposals in the aforementioned bills, will be necessary to mitigate or prevent the worst of these and other future impacts to our lives and that of our children and future generations.

Accordingly, the Sierra Club of Hawai'i respectfully urges the Committee to **PASS** SB2560 SD1. Mahalo nui for the opportunity to testify.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

SB2560 SD1
RELATING TO INVASIVE SPECIES

Wednesday, February 28, 2023, 10:00 AM
Conference Room 016 & Videoconference

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

The Hawaii Cattlemen's Council **offers comments on SB2560 SD1** which provides that each lease that the Department of Agriculture enters into, renews, or extends after the effective date of this Act shall authorize the DOA to: (1) Enter the leased premises at any time to survey for, identify, investigate, control, or eradicate invasive pests; (2) Require a lessee to maintain control of any invasive pests on the leased premises, at the lessee's expense; and (3) Terminate the lease if the lessee refuses the DOA entry or is found in violation of any applicable law, rule, or order relating to the control or eradication of invasive pests.

While the intent of this bill is to manage invasive species on Department of Agriculture leases, it unfairly puts the entire responsibility on the lessee. Invasive species are difficult and costly to manage once they are established. In many cases, leased state lands already had invasive species present that the state departments should have been controlling. Instead of putting this burden solely on the leaseholder, the state departments such as DLNR and HDOA should work cooperatively with the leaseholder on a plan to manage the invasive species.

We respectfully suggest the following amendments to ensure that the Department of Agriculture is able to work with the lessee to manage invasive species rather than subjecting the leaseholder to extreme penalties if they are not able to control a pest that they were not responsible for introducing:

On page 1, starting on line 9, insert in bold:

- (1) Enter the leased premises at any time **WITH PRIOR NOTIFICATION** to survey for, identify, investigate, control, or eradicate invasive pests;
- (2) **WORK COOPERATIVELY WITH** Require the lessee to **SEEK FUNDING AND DEVELOP A PLAN TO** maintain control of any invasive pests on the leased premises, ~~at the lessee's expense;~~ and
- (3) Terminate the lease if the lessee refuses the department entry or **REFUSES TO WORK COOPERATIVELY TOWARDS** ~~is found in violation of any applicable law, rule, or order relating to~~ the control or eradication of invasive pests.



Thank you for the opportunity to testify on this matter. The Hawaii Cattlemen's Council (HCC) is the Statewide umbrella organization comprised of the four county-level Cattlemen's Associations. Our member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of over 750 thousand acres of land in Hawaii, or 20% of the State's total land mass. We represent the interests of Hawaii's cattle producers.

Nicole Galase
Hawaii Cattlemen's Council
Managing Director



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February 28, 2024

HEARING BEFORE THE
SENATE COMMITTEE ON JUDICIARY

TESTIMONY ON SB 2560, SD1
RELATING TO INVASIVE SPECIES

Conference Room 016 & Via Videoconference
10:00 AM

Aloha Chair Rhoads, Vice Chair Gabbard, 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 supports the intent of SB 2560, SD1, which provides that each lease that the Department of Agriculture enters into, renews, or extends after the effective date of this Act shall authorize the DOA to: (1) Enter the leased premises at any time to survey for, identify, investigate, control, or eradicate invasive pests; (2) Require a lessee to maintain control of any invasive pests on the leased premises, at the lessee's expense; and (3) Terminate the lease if the lessee refuses the DOA entry or is found in violation of any applicable law, rule, or order relating to the control or eradication of invasive pests.

HFB recognizes the importance of preventing destructive invasive species from entering the State and how difficult it is to manage those that become established in our islands. We appreciate the difficult work of HDOA and its partners in preventing entry and their efforts to eradicate or control these detrimental animals, insects, weeds, diseases, and other pests.

As farmers and ranchers, we understand the need for updated policies and procedures to prevent the spread of these pest species. Our way of life and our livelihood is entirely dependent upon the ecological balance of our environment.

HFB has the following comments.

- HDOA already includes an invasive species provision within its standard General Lease provisions.
- Is it fair to target lessees if invasive pests are ubiquitous in the area, making it nearly impossible to prevent re-infestation, especially if there are no similar control requirements for the surrounding properties?

- Would large ranches, for example, those on hundreds of thousands of acres on Hawai'i Island that have been devastated by the two-lined spittlebug, be subject to the provisions of this bill even though there are currently no reasonable, cost-effective treatments available? Would having these pests on a farm or ranch be considered a violation?

Department funding and staffing have long been insufficient to adequately prevent the entry and establishment of dangerous and damaging invasive species. We need to ensure that HDOA has the resources and personnel to educate the public and producers, assist agricultural businesses with compliance, and conduct inspections and enforcement.

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

SB-2560-SD-1

Submitted on: 2/20/2024 3:35:53 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Sherry Pollack	Individual	Support	Written Testimony Only

Comments:

I support SB2560 SD1 which will help to mitigate the ongoing and future impacts of invasive pests on our native ecosystems.

Please pass this important measure.

Mahalo for the opportunity to testify.

SB-2560-SD-1

Submitted on: 2/20/2024 7:25:22 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Scott Kidd	Individual	Support	Written Testimony Only

Comments:

I support this measure

SB-2560-SD-1

Submitted on: 2/21/2024 9:25:06 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Patrick Chee	Individual	Support	Written Testimony Only

Comments:

I urge you to support SB2560 in order to allow the Hawaii Department of Agriculture (HDOA) to enforce invasive species regulations on lands leased from the HDOA.

At this time, the HDOA has limited ways to enforce or penalize those who violate invasive species regulations. Implementing this bill would be a significant way to prevent invasive species from spreading on or from HDOA's leased lands.

I urge you to support SB2560.

Mahalo,
Patrick Chee

SB-2560-SD-1

Submitted on: 2/26/2024 8:40:29 AM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Jason Moniz	Individual	Oppose	Written Testimony Only

Comments:

My name is Jason Moniz. My wife and I operate a beef cattle ranch on State General Lease S-4475, a pastoral lease for the past 34 years and we OPPOSE SB2560 SD1 as it is currently written.

SB2560 SD1 unfairly places the entire burden on controlling invasive species on a lessee and takes draconian action on a lessee for failure to comply with this Bill should it pass.

This proposed Bill requires a lessee to allow the Hawaii Department of Agriculture (HDOA) to enter the leased premises at anytime. This provision should be amended to reflect as it is currently written in HDOA and DLNR lease agreements to read, “enter the leased premises at anytime with prior notification“.

This proposed Bill requires the lessee to maintain control of any invasive pest at the lessees expense. This language implies that the lessee is solely responsible for control of invasive pest on the leasehold whether they were or are the cause of such a pest’s presence on the lease. Many invasive pests have been established in Hawaii including on State leaseholds for a long time and are ongoing battles to control and eradicate. Many of these leases are leased out by HDOA and DLNR with known significant invasive species issues. It is unlikely that the lessee or prior lessees were the cause of the establishment of an invasive species in Hawaii. Given that the HDOA and DLNR are the agencies with the responsibilities to prevent entry, control and eradicate invasive species, and also have responsibilities for these lands, the entire financial responsibility to control invasive species should not be completely that of the lessee. Current lease agreement language for both agencies requires the lessee to have conservation plans in place, in part, to address and control invasive species. Lessees typically seek and enter into cost share agreements with USDA-NRCS to address and control invasive species on their leases. HDOA and DLNR also have these responsibilities and should be working cooperatively with their lessees to obtain financing to control and eradicate invasive species. Also, in many cases pastoral leases abut forest reserves that are inundated with invasive species and serve as reservoirs for seeds of invasive species and infectious diseases like ROD that continuously

impact the leases despite efforts to control invasive species and infectious disease outbreaks on the leaseholds. Financial support for DLNR and HDOA should be sought and provided to control and eradicate invasive species in the forest reserves and adjacent lands otherwise efforts being made on the abutting leases become futile.

Given what clearly should be a cooperative effort to control invasive species on all State lands I cannot support this Bill as written.

Thank you for the opportunity to testify.

SB-2560-SD-1

Submitted on: 2/26/2024 3:03:44 PM

Testimony for JDC on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Brendan Balthazar	Individual	Oppose	Written Testimony Only

Comments:

Lot of land either leased or about to be leased have invasives on them . To put the burden of eradicating on the farmer or rancher is wrong . It is DLNR and DOA who are responsible for these envasives coming in to hawaii.