

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
KA 'OIHANA MAHI'AI
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TESTIMONY OF SHARON HURD
CHAIRPERSON, BOARD OF AGRICULTURE

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE AND FOOD SYSTEMS AND
WATER AND LAND**

MARCH 20, 2024
9:30 AM
CONFERENCE ROOM 325

SENATE BILL NO. 2560, SD2
RELATING TO INVASIVE SPECIES

Chairs Gates and Ichiyama, Vice Chairs Kahaloa and Poepoe, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 2560, SD2, 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.



House of Representatives
Committee on Agriculture and Food Systems
Committee on Water and Land
Wednesday, March 20, 2024
9:30 AM Conference Room 325
State Capitol

Testimony in Support of SB2560 SD2

Aloha Chairs Gates and Ichiyama, Vice Chairs Kahaloa and Poepoe, and Members of the Committees,

The Coordinating Group on Alien Pest Species (CGAPS) is **in support of SB2560 SD2**, *Relating to Invasive Species*, which authorizes the Hawaii Department of Agriculture (HDOA) to: (1) enter property it leases to survey for, identify, investigate, control, or eradicate an invasive pest on the leased property; (2) require a person leasing State lands to maintain control of invasive pests on the leased property; and (3) terminate a lease if the lessee refuses HDOA entry or violates laws, rules, or orders relating to invasive pests on the leased property.

SB2560 SD2 is a common sense approach that will allow HDOA to access State-owned property that it leases to address invasive pests on that property. As it will only apply to leases that are made, renewed, or extended after SB2560 is enacted into law, it will not impact existing lessees, who can decide if they want to renew or extend, in light of these requirements.

We note that the text of SB2560 SD2 only **authorizes** HDOA to utilize the authorities set out in the bill (“the department **may...**” pg. 2, line 8). It does not require HDOA to do anything differently or take any action at all. SB2560 SD2 provides tools for HDOA to utilize when, in the administration of State-owned leased land, it is appropriate, in HDOA’s discretion, to do so. We also note that while current HDOA leases may include similar language, having these authorities set out in statute clarifies HDOA’s ability to utilize them and will provide notice to people that the authorities are available to HDOA, with respect to leased lands.

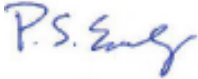
We hope SB2560 SD2 will assist HDOA in working cooperatively with lessees to begin programs to control invasive pests on State-owned, leased land. We also hope that the Committees will move the bill forward.

Mahalo for the opportunity to support SB2560 SD2 and for consideration of our testimony.

Aloha,

A handwritten signature in blue ink, appearing to read "Christy Martin".

Christy Martin
CGAPS Program Manager

A handwritten signature in blue ink, appearing to read "Stephanie Easley".

Stephanie Easley
CGAPS Legal Fellow



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March 20, 2024

HEARING BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE & FOOD SYSTEMS
HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON SB 2560, SD2
RELATING TO INVASIVE SPECIES

Conference Room 325 & Videoconference
9:30 AM

Aloha Chairs Gates and Ichiyama, Vice-Chairs Kahaloa and Poepoe, 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 provides comments on SB 2560, SD2, 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 must 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 your continued support of Hawai'i's agricultural community.



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON AGRICULTURE & FOOD SYSTEMS

Rep. Cedric Asuega Gates, Chair

Rep. Kirstin Kahaloa, Vice Chair

COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair

Rep. Mahina Poepoe, Vice Chair

SB2560 SD2

RELATING TO INVASIVE SPECIES

Wednesday, March 20, 2024, 9:30 AM
Conference Room 325 & Videoconference

Chairs Gates and Ichiyama, Vice Chairs Kahaloa and Poepoe, and Members of the Committees,

The Hawaii Cattlemen's Council **offers comments on SB2560 SD2** 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 with 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

Officers

Kaipo Kekona
State President

Anabella Bruce
Vice-President

Maureen Datta
Secretary

Reba Lopez
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Kohala, Hawai'i

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East Hawai'i

Puna, Hawai'i

Andrea Drayer
Ka'u, Hawai'i

Kona, Hawai'i

Fawn Helekahi-Burns
Hana, Maui

Mason Scharer
Haleakala, Maui

Kaiea Medeiros
Mauna Kahalawai,
Maui

Kaipo Kekona
Lahaina, Maui

Rufina Kaauwai
Molokai

Negus Manna
Lāna'i

India Clark
North Shore, O'ahu

Christian Zuckerman
Wai'anae, O'ahu

Ted Radovich
Waimanalo, O'ahu

Vincent Kimura
Honolulu, O'ahu

Natalie Urminska
Kauai



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Mar 19, 2024, 10:34 am

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Aloha Chair Gates, Ichiyama, Vice Chair Kahaloe, Poepoe, and Members of the House, House Agriculture & Food Systems, Water & Land Committee,

The Hawaii Farmers Union is a 501(c)(5) agricultural advocacy nonprofit representing a network of over 2,500 family farmers and their supporters across the Hawaiian Islands. **HFUU supports and seeks to ammend SB2560.**

Hawaii Farmers Union appreciates the intent of SB2560 to address the critical issue of invasive species in our agricultural communities. However, we are concerned that the bill as written could impose unreasonable burdens on our farmers by requiring lessees to maintain control of any invasive pests on the leased premises solely at the lessee's expense. Especially as the State remains unburdened with similar management requirement when providing parcels for lease.

For example, the potential implications of the bill on long-standing invasive species like Koa Haole (*Leucaena leucocephala*) raise concerns about the feasibility of full eradication. Forcing farmers to remove all instances of such invasive species from their entire farm could prove to be impractical and even detrimental to the overall health of the agricultural land.

By better supporting lessees in their role in controlling and eradicating invasive species, we can ensure that Hawaii's agricultural lands remain healthy and productive for generations to come.

Mahalo for the opportunity to testify.

Kaipo Kekona, President HFUU/HFUF

SB-2560-SD-2

Submitted on: 3/18/2024 9:05:30 AM

Testimony for AGR on 3/20/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Murakami Akatsuka	Individual	Support	Written Testimony Only

Comments:

I strongly support SB 2560, SD 2 passage this legislative session. It is a proactive bill to prevent the spread of invasive pests to our environment, which is happening already and hand in hand with climate change issues.

Thank you for the opportunity to provide written testimony in strong support SB 2560, SD 2.

SB-2560-SD-2

Submitted on: 3/18/2024 9:59:24 AM

Testimony for AGR on 3/20/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nancy Redfeather	Individual	Support	Written Testimony Only

Comments:

Essential piece of legislation that supports all communities, farmers, and the ecosystem. Full support for HDOA and their Administration and policies is part of the invasive species solution in Hawai'i'. Mahalo for recognizing this truth.

SB-2560-SD-2

Submitted on: 3/18/2024 2:13:21 PM

Testimony for AGR on 3/20/2024 9:30:00 AM

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

Comments:

Aloha,

Yes - 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 pest

SB-2560-SD-2

Submitted on: 3/18/2024 10:04:46 PM

Testimony for AGR on 3/20/2024 9:30:00 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 SD2 as it is currently written.

We are very concerned about invasive species and other agricultural and environmental pest and work constantly to control and keep them in check.

The concerns we have with SB2560 SD2 are:

- 1) Entry for inspection should be made with prior notification of the lessee.

- 2) The control of pests on the leases should be done cooperatively by the lessor and lessee. As currently written this proposed Bill implies that the lessee is to maintain control/eradicate pests at the lessees sole expense? Many pests have been long established in Hawaii including on State leaseholds and are ongoing battles to control and eradicate. Many State leases are leased out by HDOA and DLNR with known significant invasive species/pest issues. It is unlikely that the lessee or even the prior lessees were the cause of the establishment of an invasive species/pest in Hawaii. And, given that the HDOA and DLNR are the agencies with the responsibilities to prevent entry, control and eradicate invasive species/pests, the entire financial responsibility to control these pests 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/pests. Lessees typically seek and enter into cost share agreements with USDA-NRCS to address and control invasive species on their leases. HDOA and DLNR should share in these responsibilities for a successful outcome and should be working cooperatively with their lessees to obtain financing to control and eradicate invasive species and other pests. Also, in many cases pastoral leases abut forest reserves that are inundated with invasive species and serve as reservoirs for seeds of invasive species/pests and agents of infectious diseases like ROD that continuously impact the leases despite efforts to control invasive species and infectious disease outbreaks on the leaseholds by lessees. Financial support for DLNR and HDOA should also be sought and provided to these agencies to assist them with controlling and eradicating invasive species and pests in the forest reserves and other adjacent lands otherwise efforts on the abutting leases by lessees are futile.

- 3) Termination of a lease for failure to comply with the conditions of a lease agreement is understandable and agreed upon when a lessee accepts a lease agreement. That being said those

conditions need to be reasonable and we do not believe that the conditions proposed by SB2560 SD2 as written are. We believe that there is strong justification that the effort to control pests on all State leases should be a cooperative effort.

Thank you for the opportunity to testify.

LATE

SB-2560-SD-2

Submitted on: 3/19/2024 9:21:08 AM

Testimony for AGR on 3/20/2024 9:30:00 AM

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

Comments:

I support SB2560 SD2 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-2

Submitted on: 3/19/2024 3:47:53 PM

Testimony for AGR on 3/20/2024 9:30:00 AM

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Date & Time
Mar 19, 2024, 5:06 pm

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Submitted By	Organization	Testifier Position	Testify
Jessica	Individual	Support	In Person

Comments:

Aloha Kākou,

My name is Jess Sobocinski and I am a first grade teacher at Honoka‘a Elementary on Hawai‘i Island. Teaching my students about our native species, as well as the other culturally-significant agricultural plants, is a major part of my social studies and science curriculum, and one of the ways that I align with the Nā Hopena A‘o Framework. My students love learning about these flora and fauna that make Hawai‘i special, and it breaks my heart to have to tell them that many of these akua are endangered due to competition or predation from invasive species. I am here on my Spring Break, to express that **I support SB2560** as a step to help mitigate and prevent the introduction and spread of these pests, who are devastating the plants and animals that we rely on for food and a strengthened sense of Hawai‘i.

Mahalo for your consideration,

Jess