

## Testimony

House Committee on Water, Land and Ocean Resources and Committee on Agriculture

**Re: HB 1009 RELATING TO PUBLIC LANDS WHICH ARE IMPORTANT AGRICULTURAL LANDS**

Chair Ito, Chair Tsuji and Members of the Committees:

Hawaii Farm Bureau Federation, on behalf of its' member farmers and ranchers provides comments on HB1009 providing further definition of public lands designated as IAL within State Agricultural Parks.

The intent of the Important Agricultural Lands initiative is to perpetuate the viability of farmers and ranchers to provide for Hawaii's self sufficiency and sustainability. Farmers and ranchers on public lands should be afforded equal access to these incentives. Our understanding has been that ag parks within designated Important Agricultural Lands would be a subset of the IAL "district" and could have requirements and rules that are more restrictive than IAL laws just as County laws can be more restrictive than State laws. The preamble to this measure indicates that this may not be the case.

However, before adding new law, HFBB respectfully requests confirmation of the stated position. Why is there a need for changes in the HRS to provide for stricter requirements within the State Agricultural Parks?

The other condition referenced is the availability of incentives by tenants of the park. Incentives are already provided to them and there appears to be concerns about "double dipping". If such is the case, can the Ag Park rules be changed to require that tenants select which incentives they use when applying for credits? Changing of rules appears to be a more appropriate measure than changing of law.

HFBB respectfully requests clarification of these issues as decisions are made on this measure. Thank you for this opportunity to provide our comments on this measure.

# LATE TESTIMONY



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February 13, 2009

**House Committee on Water, Land and Ocean Resources  
and Committee on Agriculture  
Hearing Date: February 13, 2009, at 9:00 AM in CR 325**

**Testimony in Opposition to HB 1009 Relating to Public Lands Which Are  
Important Agricultural Lands  
(Public IAL different from other IAL)**

Honorable Water, Land and Ocean Chair Ken Ito, and Vice Chair Sharon E. Har, and Committee Members, and Honorable Agricultural Committee Chair Clift Tsuji, Vice Chair Jessica Wooley and Agricultural Committee Members,

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawai'i's significant natural and cultural resources and public health and safety.

While we can understand the intent of HB 1009 and believe that the bill was well-intended, LURF **respectfully opposes HB 1009**, based on the following:

- Prior IAL legislation was based on a consensus of agricultural stakeholders. There were no discussions or consensus with Agricultural stakeholders regarding HB1009. The State Administration and State Department of Agriculture (DOA) should consult with the other agricultural stakeholders who were involved in the Important Agricultural Lands (IAL) law;
- It is not necessary to amend the new IAL Law to allow DOA to maintain more "strictly controlling" uses in their Agricultural Parks and to limit the incentives available for farmers who lease public lands. Instead of changing the IAL law, another category of agricultural lands could be created so that DOA could impose stricter rules and limit farmer incentives on Ag Parks on public lands; and
- LURF would be willing to work with the State Administration, DOA, the Department of Land and Natural Resources (DLNR), the Farm Bureau and the other Agricultural stakeholders regarding the issues raised by this bill.

**Background.** The genesis for IAL was a result of the 1978 Constitutional Convention, in which voters adopted Article XI, Section 3, to the Hawaii State Constitution “to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.” This Article, which was passed when sugar cane and pineapple were major industries in Hawaii, set out the framework for state policies to promote agriculture and the conservation of productive agricultural lands.

**Act 183. (2005) IAL Policies and Procedures - Consensus Legislation.** In 2005, approximately 27 years later, Act 183 was passed by the Legislature—after many, many years of unsuccessful efforts—to finally implement Article XI, Section 3. Act 183 set forth the policies and procedures to identify and designate IAL. In recognition of the realities of today, Act 183 is premised on protecting the viability of agricultural businesses rather than on protecting land uses. Act 183 recognizes that the only real, long-term way to ensure lands remain in agricultural use is to support viable agricultural operations on these lands. Accordingly, the Act provides for the development of incentives to assist agricultural viability on good agricultural lands in Hawaii—incentives that will help farmers farm profitably and help landowners viably make their lands available for farming activities. **(Note that HB 1009 does not appear to be premised on protecting the viability of agricultural operations, but instead, attempts to protect land uses on public agricultural lands by imposing more controlling rules and regulations and limiting the statutory IAL incentives for farmers on those lands.)**

**Act 233 (2008) IAL Incentives - Consensus Legislation.** Since the enactment of Act 183, HFBF and LURF have been working together and with the Department of Agriculture, Office of Planning and Department of Taxation to develop consensus on a comprehensive IAL incentives package that promotes the retention of IAL for viable agricultural use, by offering benefits to both farmers and landowners. The elements of this comprehensive package include a wide range of incentives which address the critical areas for long-term agricultural viability in Hawaii and were developed over time based on many discussions among the agricultural stakeholders. These incentives include, but are not limited to, various tax credits, farm worker housing, loan guarantees, recognition of water needs, expedited processing of agriculture-related permits, and a streamlined land use approval process which is consistent with the current County land use process.

**HB 1009 (2009) Changes to IAL Law – No discussions or input from Agricultural Stakeholders.** Unlike Act 183 and Act 233, we understand that HB 1009 was drafted by the Governor’s Administration, without any meaningful discussions or input from the Agricultural stakeholders, such as the Hawaii Farm Bureau and LURF. HB 1009 describes public land designated as important agricultural lands as “equivalent to but distinct from” IAL. Authorizes the DOA to select, identify and map potential IAL from all public lands transferred from Department of Land and Natural Resources (DLNR) as provided for and in compliance with chapters 166 and 166E, Hawaii Revised Statutes (HRS), using criteria and standards in chapter 205, HRS. Authorizes the Board of Agriculture (BOA) to accept and transmit maps of public lands with potential as IAL for final designation by Land Use Commission (LUC); and authorizes BOA to make final determination of what provisions of chapter 205, including IAL incentives, will apply or be made available for qualified public lands under jurisdiction of chapter 166 and chapter 166E.

The stated purpose of this measure is to “clarify” that public lands that are transferred by executive order from the DLNR to the DOA shall be subject to the same criteria and standards for identifying and designating important agricultural lands, and have access to certain IAL incentives, provided that those incentives do not contradict or otherwise violate the conditions and requirements of chapters 166 and 166E under which chapters the department of agriculture will manage the important public agricultural lands. **In reality, HB 1009 is not a clarification, it creates a major exceptions and changes to the IAL law by limiting the application and incentives under the IAL law, and by changing the compliance dates and procedures relating to DLNR and DOA.**

Based on the above, we respectfully request that your Committees **hold HB 1009**, until there is a consensus among the Agricultural stakeholders - the State Administration, DOA, DLNR, the Farm Bureau, LURF, and the other Agricultural stakeholders regarding the issues raised by this bill.

Thank you for the opportunity to express our **opposition for HB 1009.**