

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

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**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON
ECONOMIC DEVELOPMENT & TECHNOLOGY
AND
COMMERCE & CONSUMER PROTECTION
WEDNESDAY, MARCH 18, 2009
1:15 P.M.
CONFERENCE ROOM 016**

**HOUSE BILL NO. 988, H.D. 2
RELATING TO PROCUREMENT**

Chairpersons Fukunaga and Baker and Members of the Committees:

Thank you for the opportunity to comment on House Bill No. 988, H.D. 2. The purpose of this bill is to further the State's efforts toward self-sufficiency by amending the Hawaii Procurement Code to make it more likely that agricultural products procured by government agencies will be products grown within the State. The Hawaii Department of Agriculture (HDOA) supports raising the preference for Hawaii products to 15% which will help Hawaii producers.

HDOA has been facilitating meetings with public institutions and farmers/ranchers to understand the procedures for purchasing and discuss ways to increase the use of locally produced foods. We appreciate the willingness of all the parties to working together and feel that these efforts are showing positive results.



HAWAII FARM BUREAU FEDERATION

2343 ROSE STREET
HONOLULU, HI 96819

Senate Committee on Economic Development and Technology

Senate Committee on Commerce and Consumer Protection

Hearing Date & Time: Wednesday, March 18, 2009 @ 1:15 pm

Senate Conference Room 016

HB 988, HD2 Relating to Procurement, Hawaii Products Preference

Chairs Fukunaga and Baker; Members of the Committees,

The Hawaii Farm Bureau Federation is the largest general agriculture organization in the State of Hawaii with over 1600 members Statewide and we **“Strongly Support HB 988, HD2.”**

The Hawaii Farm Bureau believes HB 988 HD2 is a potential economic stimulus package for Hawaii’s agriculture industry. This legislation opens the procurement process to Hawaii’s agricultural producers by removing exemptions created by the Hawaii Administrative Rules (“HAR”). In addition, the bill provides Hawaii’s producers a preference in the purchases by the State. This bill will use the State’s buying power to create market opportunities for Hawaii’s farmers.

We recognize that many legislators have diligently worked to provide statutory provisions to urge the state agencies to purchase local agricultural products. Unfortunately, provisions in the HAR have prevented Hawaii’s agricultural producers from utilizing the benefits of the statutory preferences for government purchases of Hawaii agricultural products. In addition, Hawaii agricultural producers have been denied other protections provided within HRS 103D of the procurement code due to the exemptions as identified in HAR §3-120-4(b). Under the current HAR, “agricultural products” (fresh meats, produce, plants and animals) are exempt from the procurement code. Therefore, there are no set guidelines or standards to purchase agricultural products.

In past, the Hawaii Farm Bureau Federation favored the exemptions from the procurement process, fearing that Hawaii farmers would not receive a fair price under the procurement code. Now we understand that the procurement code will level the playing field for Hawaii’s farmers, permitting the local growers to compete for the government contracts. This bill provides a preference of ten to fifteen percent for Hawaii product items – meaning for contract competition purposes the bid price for Hawaii products would be decreased by the preference amount, but the Hawaii farmer would receive full value for the agricultural product.

HB 988, HD2 will also permit our agricultural producers to take advantage of the small business preference and geographic set-asides established by Act 50 in 2005. Again, because agricultural products are currently exempt from the procurement code, agricultural producers cannot utilize the small business preference, as the goods must be purchased using procurement procedures for this preference to apply. The small business preference rule permits an agency to identify certain contracts for competition among small businesses or require a large business to subcontract with small businesses to provide the products. This creates additional market opportunities for Hawaii’s farmers, which is not currently available, because agricultural products are exempt from the procurement code.

Currently, Hawaii's agricultural products are exempt from the procurement code; any preference provided by statute provides no benefit to agricultural producers, unless the administrative rules are also changed. If the agricultural products are removed from the exemption list then the standard procurement rules apply. In addition, government agencies can then use all methods of the source selection to purchase agricultural products.

HB 988, HD2 also provides for self-certification procedures to streamline administration of the preference benefits. Under this provision, the farmer or rancher certifies under penalty of sanctions that the offered Hawaii product meets the requirements for the preference.

We strongly support this bill, as we believe it will benefit our farmers and ranchers by providing more market opportunities to sell Hawaii agricultural products to government agencies with the additional protections of the procurement code.

Thank you for the opportunity to provide testimony in this matter. By adopting HB 988, HD2, the benefits and protections of the procurement code will finally be available to agricultural producers.

Respectfully submitted,
Dean Okimoto, President
Hawaii Farm Bureau



HAWAII FOOD INDUSTRY ASSOCIATION

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March 18, 2009

To: Senate Committee on Economic Rev., Business & Military Affairs
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Committee on Commerce & Consumer Protection
Senator Rosalyn H. Baker, Chair, Chair
Senator David Y. Ige, Vice Chair

By: Richard C. Botti, President

Re: HB 988 HD2 RELATING TO PROCUREMENT

Chairs & Committee Members:

While we support the intent of HB988, we do ask that the definitions parallel the definition of Hawaii-made products in HRS §486-119 which states 51%. This will help to avoid confusion in our publication of information on what is made in Hawaii.

The Hawaii Food Industry Association produces the Made In Hawaii Festival, and we have a constant challenge of screening products that will be sold at the event.

To address this challenge, we have been working with the Dept. of Agriculture to create a formula which is attached to help vendors verify their products meet the legal test. We ask that you refer to our attachment showing the **Formula to Establish Made In Hawaii** and the three components of product cost.

This is complicated and complex. While we not care about the details, we do care about consistency between laws. We don't want to be using one set of rules while the Hawaii product preference laws use something else. It would be helpful for us all to be on the same page, since we all have the same objective.

MADE IN HAWAII FESTIVAL

MADE IN HAWAII LAW — Defined

10/08

The following definitions of Made In Hawaii are the basis for assuring the credibility of the Made In Hawaii Festival. HFIA produces the Festival to help support locally produced items. Because the law is vague, it is our responsibility to provide some guidelines and ground rules for participation in the Festival. We do this with the intent to be as fair as possible, while maintaining credibility. While placing a price on creativity is not an easy thing, it is important to include this element in our definitions, especially when it comes to the value of products where creativity is a major component. This would especially apply to books and paintings.

[\$486-119] Hawaii-made products. No person shall keep, offer, display or expose for sale, or solicit for the sale of any item, product, souvenir, or any other merchandise which is labeled "made in Hawaii" or which by any other means misrepresents the origin of the item as being from any place within the State, which has not been manufactured, assembled, fabricated, or produced within the State and which has not had at least fifty-one per cent of its wholesale value added by manufacture, assembly, fabrication, or production within the State

[\$486-118] Misbranding. (a) No person shall deliver for introduction, hold for introduction or introduce into the State; or keep, offer, or expose for sale; or sell any consumer commodity which is misrepresented or misbranded in any manner.

(b) The board, pursuant to section 486-7 and chapter 91, shall adopt rules relating to misbranding. The rules may:

- (1) Require any person involved in the manufacture, processing, production, assembly, fabrication, or importation of a specified consumer commodity to keep and make available for inspection or copying by the administrator adequate records to substantiate the source of the consumer commodity, or in the case of blends, the source of such constituents, as may be required by the board;
- (2) Establish fanciful names or terms, and in the case of blends, minimum constituent content by weight, to be used in labeling to differentiate a specific consumer commodity from an imitation or look-alike; and
- (3) Establish requirements to reconcile the respective volumes of specific consumer commodities received versus the total amounts output, either as whole or processed product or as blends.

In addition, the board may adopt other rules as it deems necessary for the correct and informative labeling of consumer commodities.

FORMULA TO ESTABLISH MADE IN HAWAII

The following formula will provide HFIA with documentation necessary to assure you meet the legal requirements with respect to the Festival.

There are three components of product cost:

- 1) Direct Material Cost—raw materials, distinguished by origin, imported or Hawaiian;
- 2) Direct Labor Cost—the costs of workers who add value to a product through their direct involvement in the production process here in Hawaii; and
- 3) Manufacturing Overhead Cost—indirect manufacturing costs incurred in Hawaii, which includes:
 - Indirect labor cost*—wages of employees not directly involved in product, including:
 - Wages for employees performing equipment maintenance and repairs;
 - Wages for production supervisors; and
 - Wages for personnel supporting production such as quality control inspectors.

Indirect Materials cost:

- Utilities consumed by manufacturing equipment;
- Insurance for manufacturing assets;
- Supplies consumed during the production process
- Depreciation on manufacturing assets; and
- Safety equipment for manufacturing equipment operators.

Not considered as a product cost according to Generally Accepted Accounting Practices (GAAP) are:

- Operating expenses— Resources consumed by administrative and selling activities, including compensation of officers, business advertising, and waste disposal; and
- Lease, rent, taxes, or interest on business property, assets, or debts.

EXAMPLE FORMULA

| | |
|--|------------|
| Cost—per individual unit | |
| Material Cost—Imported..... | A \$ 10.00 |
| <hr/> | |
| Hawaii Value added | |
| Material Cost—Hawaii (Locally Produced Materials)..... | B \$ 3.00 |
| Direct Labor Cost—Hawaii | C \$ 2.00 |
| Manufacturing Cost—Hawaii | |
| Indirect Material Cost..... | D \$.20 |
| Indirect Labor Cost .. | E \$.12 |
| Creativity Value if applicable..... | F \$ 5.10 |
| Hawaii Value = (B+C+D+E+F) \$3.00 + \$2.00 + \$0.20 + \$0.12 + \$5.10) | G \$ 10.42 |
| Product Cost (Wholesale value) (A+G) (\$10.00 + \$10.42 | H \$ 20.42 |

| |
|--|
| Hawaii Wholesale Value added (H-A ÷ H= I) (\$20.42 - \$10.00 = \$10.42 ÷ \$20.42) = I 51.0284% |
|--|

CREATIVITY VALUE FORMULA

If your items involve creativity, you may be asked to justify this amount if it appears not to be objective. Creativity should be based on an individual product, based on one product run. An example would be a 5,000 book run. Included in the creativity is the time it took to finalize the creation based on the cost of other items created over time. Also, include overhead costs involved, such as office and incidental expense over the time span that it took to create the idea, volume, or product.

While we will accept anything that appears reasonable, we do expect it to be objective. It is our intention to encourage and support Made In Hawaii products, where the creativity is from residents of Hawaii.

If you have problems with the formula, please provide us with the figures, and we will help you finalize the formula.

(F) Creativity value per individual product [book, lithograph, greeting card, etc.] = time required to create, value of idea, overhead required during creation, and the value of other productions that have increased the value of your creations based on demand.

You may establish this based on percentage of the value of each individual item or product, and add this amount to (F) above, so long as the creativity is created in Hawaii as a resident of Hawaii.

| | |
|--|----------|
| (U) Time required to create the product (1,200 hours X hourly fee of \$ 20.00) = ... | \$24,000 |
| <i>(Estimated hours required to create product)</i> | |
| (V) Value of idea based on past demand of past successful creations..... | \$10,000 |
| <i>(Profits from sales of last creation)</i> | |
| (W) Overhead while creating the product that is not otherwise included in formula...\$ | 1,720 |
| <i>(40 weeks @ \$43per week for supplies & utilities)</i> | |
| (X) Total..... | \$35,720 |

(Y) Total production of products printed, manufactured, or produced.....7,000

(Z) = (X) \$35,720 ÷ (Y) 7000 = Z \$5.10 per individual product. This amount is to be placed in line (F) above.

MADE IN HAWAII FESTIVAL FORMULA WORKSHEET

Note: Please submit this information to the Made In Hawaii Festival upon request. This information will remain confidential and not shared with anyone except the State of Hawaii Department of Agriculture upon request if needed for investigatory purposes.

Cost—per individual unit

(A) Material Cost—Imported.....A \$ _____

Hawaii Value added

(B) Material Cost—Hawaii (Locally Produced Materials)B \$ _____

(C) Direct Labor Cost—HawaiiC \$ _____

Manufacturing Cost—Hawaii

(D) Indirect Material Cost..... D \$ _____

(E) Indirect Labor CostE \$ _____

(F) Creativity Value if applicable..... F \$ _____

(G) Hawaii Value = (B+C+D+E+F)G \$ _____

(H) Product Cost (Wholesale value) (A+G).....H \$ _____

(I) Hawaii Wholesale Value added (H - A ÷ H= I) (\$ _____ - \$ _____ = \$ _____ ÷ \$ _____) = _____ %

CREATIVITY VALUE FORMULA

(F) Creativity value per individual product [book, lithograph, greeting card, etc.] = time required to create, value of idea, overhead required during creation, and the value of other productions that have increased the value of your creations based on demand.

You may establish this based on percentage of the value of each individual item or product, and add this amount to (F) above, so long as the creativity is created in Hawaii as a resident of Hawaii.

(U) Time required to create the product (_____ hours X hourly fee of \$ _____) = ..\$ _____
(*Estimated hours required to create product*)

(V) Value of idea based on past demand of past successful creations.....\$ _____
(*Profits from sales of last creation*)

(W) Overhead while creating the product that is not otherwise included in formula...\$ _____

(X) Total.....\$ _____

(Y) Total production of products printed, manufactured, or produced..... _____

(Z) = (X) \$ _____ ÷ (Y) _____ = (Z) \$ _____ per individual product. Place amount of (Z) in box (F) above

Company Name _____

Address _____ City _____ Zip _____

Contact Person _____ Telephone _____

I have reviewed this document and confirm that it is correct to the best of my knowledge.

Signature _____ Date _____ Fax _____

Email _____

Submit to: **Made In Hawaii Festival**
Hawaii Food Industry Assn.
P.O. Box 2810
Honolulu, HI 96803

You may Email to: madeinhawaiiifest@aol.com