



HAWAII FARM BUREAU FEDERATION

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House Committee on Economic Revitalization, Business, & Military Affairs

House Committee on Agriculture

Hearing Date & Time: Thursday, March 19, 2009 @ 10:00 AM

Conference Room 312

SB 506, SD 1 Relating to Procurement

Chairs McKelvey and Tsujii; 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. We oppose the language of SB 506 SD1, and **respectfully request** the Committees to **amend this measure to reflect the language of HB 988, HD2**. Your Committees carefully drafted HB 988, HD2, which we strongly support. The language of SB 506 SD1 fails to take down the barriers, which has prevented Hawaii agricultural producers access to the State procurement process.

Hawaii Farm Bureau Federation strongly supported the original version of SB 506. Unfortunately, SB 506, SD 1 does not contain very important provisions regarding changes to the Hawaii Administrative Rules ("HAR") that were included in the original version of SB 506. Without the modifications to the HAR, Hawaii's agricultural producers will continue to have an obstacle that prevents them from utilizing the benefits of the statutory preferences for government purchases of Hawaii agricultural products. In addition, without changes to the HAR, Hawaii agricultural producers will continue to be denied other protections provided within HRS 103D of the procurement code due to the exemptions as identified in HAR §3-120-4(b).

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.

If SB 506 SD 1 is amended to reflect the language of HB 988 HD2, the Hawaii Farm Bureau believes it is a potential economic stimulus package for Hawaii's agriculture industry. If amended, this legislation would open the procurement process to Hawaii's agricultural

producers by removing exemptions created by the Hawaii Administrative Rules (“HAR”). In addition, the bill would provide Hawaii’s producers a preference in the purchases by the State. If properly amended, this bill will use the State’s buying power to create market opportunities for Hawaii’s farmers.

In the 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. But again, modifications to the HAR must be included in the bill to permit Hawaii farmers to benefit from these preferences.

SB 506, SD 1 contains language similar to HB 988, HD2 regarding the small business preference and geographic set-asides established by Act 50 in 2005. Again, unless modifications to the HAR are included in the bill, our agricultural producers will not be able to take advantage of these programs because agricultural products will continue to be exempt from the procurement code, 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

SB 506 SD1, like HB 988, HD2 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.

Again, we respectfully request SB 506 SD 1 be amended to reflect the language contained in HB 988 HD 2, which we strongly support. If this bill is amended, 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 amending SB 506 SD1, the benefits and protections of the procurement code will finally be available to agricultural producers.

Respectfully submitted,
Dean Okimoto, President
Hawaii Farm Bureau