

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

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Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
TUESDAY, FEBRUARY 23, 2010
1:30 P.M.
ROOM 308

HOUSE BILL NO. 2689, H.D. 1
RELATING TO AGRICULTURAL WATER SYSTEMS

Chairperson Oshiro and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 2689, H.D. 1. The purpose of this bill is to allow the conveyance of an agricultural water system to the Board of Agriculture without complying with county subdivision rules. The department has concerns with this bill and though we see its potential to benefit the agricultural industry, we do not support this bill as written.

Our primary concern with this bill is that it does not clearly state that the department may refuse the "gift" and that it does require the department to show cause or reason for refusing the gift. Due to the intense scrutiny and high costs associated with reservoirs, private landowners have approached the department to take over their systems so they don't have to spend the millions of dollars necessary to rehabilitate their systems into a safe condition and to maintain them once brought up to the necessary standards. Other landowners may wish to "get rid" of the old systems to remove the liability that these systems present. Some of these systems may have been abandoned for decades and have no agricultural use due to urbanization or other reasons.

Our second concern is that this bill does not require that an irrigation system be transferred contiguous and intact. Due to their length, most irrigation systems traverse many parcels with many landowners. We do not see language that would prohibit a partial gifting of a system to the department. A particular landowner may want to gift the portion of an abandoned irrigation system that crosses their land to the department because it has a reservoir that needs to be either formally abandoned or rebuilt. If the rest of the landowners, up and downstream, do not gift their portions of the system, the department would own a strip of land in the middle of nowhere with no purpose that it would now have to pay millions of dollars to decommission.

Third, there should be some discussion of keeping the land served by a system gifted to the state in agriculture for the long term. If the state spends millions rehabilitating an irrigation system, what is the obligation or commitment of the landowners to assure their lands served stay in agriculture.

Finally, the department is unsure how this land grant would affect future transactions of the parent parcel (and the irrigation system parcel for that matter). As there is now an unsubdivided interest on the land, if the owner of the parent parcel or the state were to sell their interest, they may have problems with title insurance as clear title may be difficult to establish thereby decreasing the potential value of the land.



STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
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TESTIMONY OF ALFREDO LEE
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION
BEFORE THE HOUSE COMMITTEE ON FINANCE

Tuesday, February 23, 2010
1:30 P.M.
Room 308

HOUSE BILL NO. 2689, HD 1
RELATING TO AGRICULTURAL WATER SYSTEMS

Chairperson Oshiro and Members of the Committee:

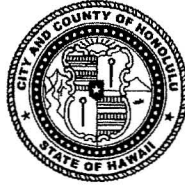
Thank you for the opportunity to testify on House Bill 2689, HD 1. The Agribusiness Development Corporation (ADC) has concerns regarding this bill and defers to the counties regarding subdivision requirements.

The bill as written does not address the potential liabilities and costs to the state by accepting deteriorated water systems. Many of these irrigation systems are old and in need of serious repair in order to maintain proper conveyance of water. In addition, these systems often come with substandard or poorly maintained dams and reservoirs. Dam and reservoir rehabilitation may cost millions of dollars. There also should be a mechanism for the Board of Agriculture to negotiate with the landowner regarding cost and liability in the event of acceptance of gifted systems.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFU HANNEMANN
MAYOR



DAVID K. TANQUE
DIRECTOR
ROBERT M. SUMITOMO
DEPUTY DIRECTOR

February 23, 2010

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
State House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

**Subject: House Bill No. 2689 HD1
Relating to Agricultural Water Systems**

The Department of Planning and Permitting **disagrees** with House Bill No. 2689 HD1, which exempts state acquisition of private agricultural water systems from the requirements of the county subdivision regulations.

As with the original version of the bill, we reiterate that this measure, as written, appears to be flawed since land being divided to create property boundaries for a water system would likely create additional remainder lots that are cause for concern.

Our concern is based on two reasons. First, the purpose of the county subdivision regulations is to ensure that any lots that are subdivided will be provided with adequate access, and the necessary utilities for the intended use or development. Additionally, the proposed lots must be shown to be suitable and not prone to flooding, poor drainage, slides, rockfall, or other conditions likely to be harmful or dangerous to health, safety or welfare of residents or the surrounding community. Without review for compliance with these county subdivision requirements, lands may be subdivided in ways that do not meet the preceding criteria and may become a liability to the state. Also, once subdivided without county approval, the remainder portions of lands retained by the private owner or grantor may be further developed or sold without the facilities necessary to support such development and without mitigating or rectifying conditions likely to be harmful to health, safety or welfare.

Secondly, lots that are subdivided and recorded without county approval will lack an official record with the county and cannot be recognized. The HD1 version of the bill, although providing for notice to the county of the conveyance, would not substitute the official subdivision approval record of the county which will hinder the issuance of future building or other development permits on the remainder lots.

The Honorable Marcus R. Oshiro, Chair
and Members of the Committee on Finance
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Although the justification for this bill is that "the process of obtaining county, state, and land court approval of subdivision and easement maps is relatively time-consuming and often requires more than one year to complete," we note that the HD1 version of the bill does not at all reduce the time (several months) the land court takes to accept for filing and recording all the instruments and maps pertaining to the conveyance.

Accordingly, we respectfully request that House Bill No. 2689 HD1 be filed.

Thank you for the opportunity to testify.

Very truly yours,


for David K. Tanoue, Director
Department of Planning and Permitting

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KAMEHAMEHA SCHOOLS

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

By

Kapu C. Smith, Senior Land Asset Manager
Endowment/ Land Assets Division
Kamehameha Schools

Hearing Date: Tuesday, February 23, 2010
1:30 p.m., Conference Room 308

Dear Chair Oshiro, Vice Chair Lee and Committee Members:

Testimony in Support of House Bill No. 2689 HD 1 Relating to Agricultural Water Systems

I am Kapu C. Smith, Senior Land Asset Manager for Kamehameha Schools' Kawaihoa Plantation in Waialua, Oahu. I am here to testify in support of H.B. 2689 HD 1 which will enable the Department of Agriculture (DOA) to have the ability to accept ownership of agricultural water systems such as Wahiawa Irrigation System (WIS) without the requirement of county subdivision.

Passage of this bill will do the following as it relates to WIS:

- Remove a roadblock to the potential conveyance of WIS - The cost and time of completing subdivision for each parcel over which WIS runs would make the conveyance unlikely (the system consists of over 25 miles of open ditches, tunnels and 14 siphons).
- Recognize the need to preserve the operation of WIS as the primary irrigation source for agricultural lands on the North Shore - In 1906, the Wahiawa Irrigation System was built to provide irrigation water to 12,000 acres of sugarcane and 5,000 acres of pineapple by Waialua Sugar Company with a 50 million gallon per day capacity. It currently supplies an estimated 10 million gallons per day of irrigation water to 6,400 acres of diversified crops and the remaining pineapple crops. Of the 22 farmers who currently use WIS, 18 have no backup irrigation source (rainfall is inadequate) and cannot continue farming without the continued operation of WIS (Source: Wahiawa Irrigation System Impact Study by Hawaii Department of Agriculture dated November 21, 2008).
- Acknowledge the value of WIS to agricultural production on Oahu and statewide - It was estimated by DOA that during 2007, \$37.66 million of agricultural crops were produced and sold from the lands serviced by WIS and provided jobs for 569 full-time and part time workers (Source: Wahiawa Irrigation System Impact Study by Hawaii Department of Agriculture dated November 21, 2008).

As such, we hope that you too will support H.B. 2689 HD 1. Thank you for the opportunity to express our views.

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