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TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON AGRICULTURE

February 5, 2015
8:30 A.M.
CONFERENCE ROOM 312

HOUSE BILL NO. 1372
RELATING TO PUBLIC UTILITIES

Chairperson Tsuji and Members of the Committee:

Thank you for the opportunity to testify on House Bill 1372. The purpose of this bill is to exclude from the definition of public utility, any person who provides water solely to bona fide agricultural activities. Bona fide agricultural activities are those activities for which:

1. A majority of the cleared land is in regular production
2. A Schedule F was filed on a federal income tax return, and
3. Agricultural activities are the primary purpose for the holding of land, or
4. Traditional native Hawaiian cultural practices.

The Department offers the following comments.

We offer the following alternative language that may help to clarify the definition of bona fide agricultural activities. (Deletions are struck out, additions are double underscored)

" (O) Any person who provides water solely to bona fide
agricultural activities. For purposes of this



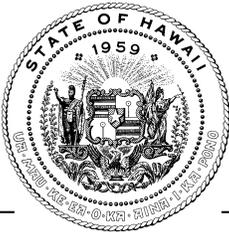
subparagraph, "bona fide agricultural activities"
means activities for which:

- (i) A majority of the cleared land is in regular
production the area of each lot of record is
currently engaged in agricultural activities
and uses described in Section 205-
4.5(a) (1), (2), and (3);
- (ii) A schedule F was filed on a federal income
tax return by a taxpayer who is engaged in
agricultural activities and uses described
in (i); and
- (iii) Agricultural activities are the primary
purpose for the holding of land as evidenced
by possession of a valid county agriculture
tax dedication status or a valid
agricultural conservation easement.

Bona fide agricultural activities include
traditional native Hawaiian ~~cultural~~ agricultural
practices. "

There are questions that the Department would like to raise for the committee to consider including who would monitor private irrigation water systems and what would become of those existing private water systems that are currently regulated by the Public Utilities Commission.

Thank you for the opportunity to comment on this measure.



OFFICE OF PLANNING STATE OF HAWAII

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Statement of
LEO R. ASUNCION
Acting Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON AGRICULTURE
Thursday, February 5, 2015
8:30 a.m.
State Capitol, Conference Room 312

in consideration of
HB 1372
RELATING TO PUBLIC UTILITIES.

Chair Tsuji, Vice Chair Onishi and Members of the House Committee on Agriculture.

The Office of Planning respectfully offers comments on HB 1372 which amends the definition of “public utility” by excluding any person who provides water solely to bona fide agricultural activities. The measure also includes a definition of what constitutes “bona fide agricultural activities.”

For the Committee’s information, HB 904, an Administration bill, also contains a definition of what constitutes a “bona fide farming operation” for the purposes of regulating agricultural tourism statewide within the State Land Use Agricultural District. This is an important definition to clarify in the statutes for its wide ranging implications for allowable uses in the Agricultural District. To avoid conflicting requirements, we request that the term “bona fide” be omitted in HB 1372, since the qualifying agricultural activities are outlined in the

subparagraphs which follow. We suggest the following amendment to the bill at page 9, line 19 to page 10, line 10:

- (O) Any person who provides water solely to ~~bona fide~~ agricultural activities. ~~For purposes of this subparagraph, “bona fide agricultural activities” means activities~~ for which:
- (i) A majority of the cleared land is in regular production;
 - (ii) A schedule F was filed on a federal income tax return; and
 - (iii) Agricultural activities are the primary purpose for the holding of land.
- ~~Bona fide agricultural~~ Agricultural activities include traditional native Hawaiian cultural practices.

We would appreciate your consideration of this amendment and thank you for the opportunity to testify on this measure.

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
AGRICULTURE

February 5, 2015
8:30 a.m.

MEASURE: H.B. No. 1372
TITLE: Relating to Public Utilities

Chair Tsuji, Vice Chair Onishi, and Members of the Committee:

DESCRIPTION:

This measure proposes to exempt “any person who provides water solely to bona fide agricultural activities” from the definition of public utility in Chapter 269, Hawaii Revised Statutes.

POSITION:

The Commission provides the following comments for the Committees consideration.

COMMENTS:

The Commission notes that of the 38 water and wastewater utilities regulated by the Commission, none provide water “solely to bona fide agricultural activities” as described in this measure. Therefore, it is unclear who this exemption is intended to apply to at this time.

Thank you for the opportunity to testify on this measure.