

Email: communications@ulupono.com

HOUSE COMMITTEE ON WATER & LAND Tuesday, February 9, 2021 — 9:15 a.m.

Ulupono Initiative <u>offers comments</u> on HB 1014, Relating to Authorizing the DLNR to Lease Pasture Lands on Terms that Promote Collaborative Beneficial Use for Forestry, Wildlife, Recreational, and Food Production Purposes.

Dear Chair Tarnas and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food; renewable energy and clean transportation; and better management of freshwater and waste.

Ulupono <u>offers comments</u> on HB 1014, which authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes the DLNR is responsible for promoting.

Ulupono supports the local livestock industry and its efforts to provide fresh, healthy products for Hawai'i's consumers. With the DOA's affordable, long-term lease structure in place, local ranchers will be able to make the necessary investments into their respective operations, improving economic viability and increasing local food production for the State.

While we support the DLNR's mission to preserve natural resources and maintain watershed protection, Ulupono believes that all active agricultural pasture leases should be transferred to the DOA as per the intent of Act 90, SLH 2003. The DOA's mission and expertise to manage agricultural activities, including pastureland production, through a favorable lease structure, promotes local food production. As such, it may not be necessary to pass this measure because a more feasible path forward exists in HB 469, which seeks to uphold the 2003 law that will enable the transfer of active agricultural production pasture leases to the more appropriate DOA. Hawai'i's ranchers are responsible stewards of the land who utilize conservation practices to maintain the integrity of all leased pasture lands.

Thank you for this opportunity to testify.

Respectfully,

Micah Munekata Director of Government Affairs

Investing in a Sustainable Hawai'i

<u>HB-1014</u>

Submitted on: 2/7/2021 9:01:49 PM Testimony for WAL on 2/9/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Miles	Individual	Support	No

Comments:

Aloha,

I support HB 1014, which will promote collaborative beneficial use of pasture lands for forestry, wildlife, recreation, or food production purposes. This bill will help support DLNR in fulfilling their mandate to steward the natural resources of the Hawaiian Islands.

Sincerely,

Wendy Miles, PhD

DAVID Y. IGE GOVERNOR OF HAWAII





STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621 HONOLULU, HAWAII 96809

Testimony of SUZANNE D. CASE Chairperson

Before the House Committees on WATER & LAND and HOUSING

Tuesday, February 9, 2021 9:15 AM State Capitol, Via Videoconference, Conference Room 430

In consideration of HOUSE BILL 1014 RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES

House Bill 1014 proposes to authorize the Board of Land and Natural Resources (Board) to amend and extend existing pasture leases for public purposes and to issue new pasture leases by negotiation in furtherance of public purposes the Department of Land and Natural Resources (Department) is responsible for promoting. **The Department strongly supports this Administration measure.**

Act 90, Session Laws of Hawaii 2003, codified into law as Chapter 166E, Hawaii Revised Statutes (HRS), provides for transfer of agricultural lands to Hawaii Department of Agriculture (DOA). The Department has transferred approximately 18,491 acres to DOA over the years. However, pasture lands are not classified the same as agricultural lands under the Department's public lands statute and are a critical part of the Department's forest protection and restoration, traditional gathering, and hunting and trails and other recreation responsibilities. The attached maps show the proximity of large tracts of pasture lands to forest reserves on Hawaii Island, and provide details on native ecosystems, potential for restoration and occurrence of endangered species. The Department is retaining these lands and is willing to support extending and amending the pasture leases with the Department under collaborative management terms compatible with both grazing and public trust natural and cultural resource protection and enhancement.

The Hawaii State Constitution, Article XI, Section 1, requires that "(f)or the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources,

SUZANNE D. CASE CHAIRPERSON BOARD OF LAND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT

> ROBERT K. MASUDA FIRST DEPUTY

M. KALEO MANUEL DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONVEYANCES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND RESOURCES ENFORCEMENT ENGINEERING FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State." The Department strongly believes this measure is a reasonable compromise that successfully fulfills the State's constitutional obligations.

This bill proposes to provide incentives for the Department and ranchers to work together on mutually beneficial terms to promote public priorities by providing the Department with statutory powers similar to those exercised by DOA in the management of its leases. The bill proposes to authorize the Department to issue new pasture leases by direct negotiation with terms up to 65 years that include use restrictions on high resource value portions of the lease premises and allow the Department to factor use restrictions as well as the value of any land conservation and stewardship services lessees are required to perform under their leases into the determination of an appropriate rent to charge. The bill also proposes to give the Department the authority to amend existing leases to place use restrictions on high resource value portions of the lease premises and allow the Department to factor use restrictions and land conservation and stewardship services performent to factor use restrictions and land conservation and stewardship services premises and allow the Department to factor use restrictions and land conservation and stewardship services performed by lessees into determining an appropriate rent.

It is of the utmost imperative that the pasture lands at issue remain under the management of the Department. There are significant resource values on these lands that require active management by the Department to ensure their continued sustainability. Pursuant to Chapter 166E, HRS, under DOA management, these lands would be used solely for pasture purposes without regard to native forest restoration. DOA lacks the staffing and expertise to incorporate resource management activities into their land management practices. Furthermore, use of these lands exclusively for pasture purposes would result in a significant detrimental impact to our environment. Without DLNR management, these lands could be grazed without restriction, clear-cut and plowed, and public access could be blocked, threatening public trust natural and cultural values.

According to the United States Geological Survey (USGS), the impact of deforestation in Hawaii is severe. Hawaii's native wet and mesic forests store an average of 124 metric tons of carbon per acre. There are around 800,000 acres of native wet and mesic forest in Hawaii. Hawaii's invasive wet and mesic grasslands store an average of 70 metric tons of carbon per acre. There are around 300,000 acres of invasive wet and mesic grasslands in Hawaii. When Hawaii's native forests are converted to grasslands, they lose about half of their stored carbon - a loss of 54 metric tons of carbon per acre. Reforesting grasslands is the largest carbon sequestration opportunity for Hawaii to reach the goal of carbon neutrality by 2045 (Act 15, SLH 2018). The Department is inventorying lands that are not used for pasture, and planning combination grazing and reforestation projects. The Department also offers voluntary incentive programs for ranchers to reforest lands and is developing standards for carbon credit projects that could further diversify revenues for ranchers.

Thank you for the opportunity to comment on this measure.





Parcels with Potential for Restoration Native Ecosystems Before Human Contact



20

30

Miles

40

Kilometers

10

20

25 5

5 10

15



02/06/20

Parcels with Potential for Restoration Remaining Native Ecosystems



20

30

Miles

40

Kilometers

25 5

5 10

10

20

15









EXPECTED BENEFITS

SUMMARY

DESCRIPTION





2020 LEGISLATIVE PROPOSALS

SB2812/HB2577 would transfer pasture leases to DOA because DOA appears to have greater flexibility under Chapter 166E, HRS to amend, extend, and issue new leases by negotiation. However, those goals could be achieved instead through SB2914/HB2358 to give DLNR similar statutory flexibility for negotiating pasture leases.



PASTURE LAND CONSERVATION VALUES



DLNR PARTNERSHIPS WITH RANCHERS

CLIMATE CHANGE AND CARBON NEUTRALITY



CONTACT PERSON



Hawaii Cattlemen's Council, Inc.

COMMITTEE ON WATER AND LAND Rep. David Tarnas, Chair Rep. Patrick Branco, Vice Chair

<u>HB1014</u>

DATE:Tuesday, February 9, 2021TIME:9:15 a.m.PLACE:VIA VIDEOCONFERENCE

Chair Tarnas, Vice Chair Branco, and Members of the Committee on Water and Land,

The Hawaii Cattlemen's Council provides comments on HB1014.

It is apparent, more so now than ever, that Hawaii needs to diversity its economy and support agriculture, an essential business. Ranchers need agriculture-appropriate lease terms and management to make prudent business decisions. Act 90 was passed in 2003 for the purpose of ensuring the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the department of agriculture. The need to transfer lands is not "perceived," but a real need in order to support agriculture. Agriculture has always been a vital part of Hawaii's well-being, and our current situation unfolding due to COVID-19 highlights that importance even more.

We understand the efforts of this bill to provide the same lease terms as the DOA does, but is it necessary to make these changes when the DOA already currently has the ability and expertise to manage agricultural lands? Ranchers are supportive of conservation efforts and contribute to the work that DLNR does to meet its mission, but the expertise of managing agriculture lies with the Department of Agriculture. Even with the changes that this bill would provide, would the DLNR be able to apply agricultural use values to rent appraisals? This seems to conflict with DLNR's obligation to base rent on highest and best use and we are concerned that this bill will not address the need for agricultural rent to be based on agricultural production, and we would like to clarify that.

The Hawaii Cattlemen's Council urges that Act 90, 2003 be implemented to its full extent. We would consider this bill if it indeed gave ranchers the same terms they would receive under management of the Department of Agriculture and if protections were in place to give ranchers the confidence to plan into the future. In the case that management of parcels are disputed, we ask that the committee consider a third-party committee to consist of representative from the DLNR, DOA, Hawaii Cattlemen's Council, UH CTAHR, Hawaii Farm Bureau Federation, and Hawaii Association of Conservation Districts. This committee should gather information from lessees of the disputed lands and determine the appropriate managing department for the parcel.

We respectfully ask the committee to consider the following additions, which would make the bill more supportive of agriculture:

1. Insert language that protects the lessee from having their land taken out of active agriculture for another purpose without a plan, funding, or notice as follows:



Hawaii Cattlemen's Council, Inc.

department of land and natural resources seeks to alter or convert the existing use to its reserved uses or priorities, preference to the department of land and natural resources use shall be given; provided that as of the anticipated commencement of the proposed use:

(1) The department of land and natural resources has completed a plan of utilization or project plan for its intended use that is approved by the board of land and natural resources;

(2) The department of land and natural resources has secured sufficient funding to successfully implement the plan;

(3) The department of land and natural resources shall be solely responsible for all costs for identification, mapping, designation, and subdivision of the land or any portions thereof that is required for implementation of its plan; and

(4) The department of land and natural resources has given prior written notice to the department and the occupant no later than one year prior to alteration or conversion. The occupant shall be responsible for costs of relocating its operations ordinarily associated with reconfiguring existing operations to accommodate the loss of areas removed for the department of land and natural resources use.

(5) The department of land and natural resources shall return the land to agricultural practices if the project plan is not completed within the timeframe specified in the approved plan.

(6) The Rancher shall be justly compensated by rent credit for interruptions of business operations as a result of non-ranching activities on the leased premises including but not limited to (a). managing public access (b). allowances for public hunting. These rent credits shall be determined at the time of the appraisal and may be amended as needed

(7) The State shall indemnify any Lease required by the Department to provide certain other activities and provide the Lease with proof of indemnity to a degree acceptable with the level of exposure.

(8) The Department may not encumber the property nor any part of its management to another entity without concurrence of the Leasee.

Ranchers are proponents for stewarding the land well and will continue to implement conservation practices when leases are transferred to HDOA—the health of the land allows ranchers to continue their production. With long-term leases based on agricultural production, ranchers will be even better situated to invest in long-term conservation practices. They will continue to fight invasive species, provide watershed management, and carbon sequestration, and provide all of the other ecosystem services they have always provided, all at no cost to the State or the general public.

We <u>respectfully ask that the committee consider the suggested amendments to HB1014</u>. We appreciate the opportunity to testify on this critical matter for our industry.

Nicole Galase Hawaii Cattlemen's Council Managing Director KAPAPALA RANCH P. O. Box 537 Pahala, HI 96777 Kapapala.ranch@aol.com lanipetrie@aol.com

COMMITTEE ON WATER AND LAND Rep. David Tarnas, Chair Rep. Patrick Branco, Vice Chair

HB1014

Requires the department of land natural resources and department of agriculture to meet and identify the non-agricultural park lands that should be rezoned as those in the conservation district. Requires that agricultural lands under the jurisdiction of the department of land and natural resources be transferred to the department of agriculture not later than 12/31/2023. Requires the department of land and natural resources and the department of agriculture to meet every five years to discuss transferring remaining lands. Requires the department of agriculture to inquire about any easements needed by the department of land and natural resources before offering a lease.

> DATE: Tuesday, February 9, 2021 TIME: 9:15 a.m. PLACE: VIA VIDEOCONFERENCE

Chair Tarnas, Vice Chair Branco, and Members of the Committee on Water and Land,

The Hawaii Cattlemen's Council provides comments on HB1014.

It is apparent, more so now than ever, that Hawaii needs to diversity its economy and support agriculture, an essential business. Ranchers need agriculture-appropriate lease terms and management to make prudent business decisions. Act 90 was passed in 2003 for the purpose of ensuring the long-term productive use of public agricultural lands by allowing these lands to be transferred to and managed by the department of agriculture. The need to transfer lands is not "perceived," but a real need in order to support agriculture. Agriculture has always been a vital part of Hawaii's well-being, and our current situation unfolding due to COVID-19 highlights that importance even more.

We respectfully ask the committee to consider the following changes, which would make the bill more supportive of agriculture:

1. Insert language that ensures that the rent appraisal will consider agricultural value as follows: If an independent appraisal is procured to determine rent for a pasture lease, <u>agricultural value should be considered and</u> the chairperson may apply a lower rate of return if warranted after consideration of the public purpose served by the lease, use restrictions thereunder, and any obligation of the lessee to provide conservation or stewardship services.

2. Insert language that protects the lessee from having their land taken out of active agriculture for another purpose without a plan, funding, or notice as follows:

If at any time land transferred pursuant to this section is in productive agricultural use under the department's authority, and the department of land and natural resources seeks to alter or convert the existing use to its reserved uses or priorities, preference to the department of land and natural resources use shall be given; provided that as of the anticipated commencement of the proposed use:

(1) The department of land and natural resources has completed a plan of utilization or project plan for its intended use that is approved by the board of land and natural resources;

(2) The department of land and natural resources has secured sufficient funding to successfully implement the plan;

(3) The department of land and natural resources shall be solely responsible for all costs for identification, mapping, designation, and subdivision of the land or any portions thereof that is required for implementation of its plan; and

(4) The department of land and natural resources has given prior written notice to the department and the occupant no later than one year prior to alteration or conversion. The occupant shall be responsible for costs of relocating its operations ordinarily associated with reconfiguring existing operations to accommodate the loss of areas removed for the department of land and natural resources use.

(5) The department of land and natural resources shall return the land to agricultural practices if the project plan is not completed within the timeframe specified in the approved plan.

(6) The Rancher shall be justly compensated by rent credit for interruptions of business operations as a result of non-ranching activities on the leased premises including but not limited to (a). managing public access (b). allowances for public hunting. These rent credits shall be determined at the time of the appraisal and may be amended on an as need basis

(7) The State shall indemnify any Lessee required by the Department to provide certain other activities and provide the Lessee with proof of indemnity to a degree acceptable with the level of exposure.

(8) The Department may not encumber the property nor any part of its management to another entity without concurrence of the Lessee.

These amendments would make the bill much more amenable to ranchers. Ranchers are proponents for stewarding the land well and will continue to implement conservation practices when leases are transferred to HDOA—the health of the land allows ranchers to continue their production. With long-term leases based on agricultural production, ranchers will be even better situated to invest in long-term conservation practices. They will continue to be cooperators with their local Soil and Water Conservation Districts, and manage their conservation plans under DOA leases. They will continue to fight invasive species, provide watershed management, and carbon sequestration, and provide all of the other eco-system services they have always provided, all at no cost to the State or the general public.

We <u>respectfully ask that the committee consider the suggested amendments to HB1014.</u> We appreciate the opportunity to testify on this critical matter for our industry.

Respectfully submitted,

KAPAPALA RANCH

Lani C. Petrie



P.O. Box 253, Kunia, Hawai'i 96759 Phone: (808) 848-2074; Fax: (808) 848-1921 e-mail info@hfbf.org; www.hfbf.org

February 9, 2021

HEARING BEFORE THE HOUSE COMMITTEE ON WATER & LAND

TESTIMONY ON HB 1014

RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES

> Conference Room 430 9:15 AM

Aloha Chair Tarnas, Vice Chair Branco, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau respectfully offers the following comments on HB 1014, which would provide DLNR the discretion to modify lease terms for the pasture lands it manages.

The bill attempts to address the serious long-standing concerns of State pasture lessees under DLNR who provide economic diversity, further the State's goal of doubling food production, provide beneficial environmental stewardship and conservation services, and in general, act in the public interest.

We are in agreement with the concerns expressed in the testimony of the Hawaii Cattlemen's Council and respectfully suggest that the amendments the Council proposes be adopted. Without these amendments, the situation that was supposed to be resolved by Act 90, nearly 18 years ago, will continue, since the current bill allows the department broad discretion in its decision-making regarding pasture leases. Agriculture producers need the stability and security of long-term, appropriate lease terms in order to make investments to continue production and to provide conservation and other public services.

Thank you for taking our concerns into consideration and for your continued support of Hawaii agriculture.

DAVID Y. IGE Governor

JOSH GREEN Lt. Governor



PHYLLIS SHIMABUKURO-GEISER Chairperson, Board of Agriculture

> **MORRIS M. ATTA** Deputy to the Chairperson

State of Hawaii DEPARTMENT OF AGRICULTURE 1428 South King Street Honolulu, Hawaii 96814-2512 Phone: (808) 973-9600 FAX: (808) 973-9613

TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE COMMITTEE ON WATER & LAND AND COMMITTEE OF HOUSING

> TUESDAY, FEBRUARY 9, 2021 9:15 A.M. CONFERENCE ROOM 325

HOUSE BILL NO. 1014 RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES

Chairpersons Tarnas and Nakamura and Members of the Committees:

Thank you for the opportunity to testify on House Bill 1014. This bill authorizes the Board of Land and Natural Resources to amend and extend existing pasture leases and to issue new pasture leases by negotiation in furtherance of public purposes the Department of Land and Natural Resources is responsible for promoting. The Hawaii Department of Agriculture ("Department") offers the following comments.

The Department continues to support the cattle and ranching industry through its programs promoting prudent livestock care and management practices and offering its resources and expertise regarding the livestock industry and veterinary services. The Department believes that optimizing support for the ranching industry requires favorable land management options coupled with appropriate subject matter advice, support, and



services. The Department is committed to continuing to provide the ranching industry with such assistance to offer the best opportunities for the growth in this sector.

Thank you for the opportunity to offer this testimony.



HB-1014 Submitted on: 2/8/2021 9:24:22 AM Testimony for WAL on 2/9/2021 9:15:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
J Ashman	Individual	Comments	No

Comments:

The bill appears to give DLNR continuing discretion regarding the transfer of pasture leases to DOA. Unfortunately, this hasn't worked in the 17+ years since Act 90 was enacted. It makes sense to seriously consider the comments and suggestions provided by the Hawaii Cattlemen's Council in order to pass legislation that will benefit both the public and Hawaii's agricultural producers.

Thank you.





Submitted to the House Committee on Water and Land and House Committee on Housing Hearing: Tuesday, February 9, 2021 9:15am Hawaii State Capitol Room 430, Video Conference HB 1014: RELATING TO AUTHORIZING THE DEPARTMENT OF LAND AND NATURAL RESOURCES TO LEASE PASTURE LANDS ON TERMS THAT PROMOTE COLLABORATIVE BENEFICIAL USE FOR FORESTRY, WILDLIFE, RECREATIONAL, AND FOOD PRODUCTION PURPOSES.

Conservation Council For Hawaii supports HB 1014.

The Department of Land and Natural Resources, given the flexibility outlined in HB 1014 would be able to not only manage leases of agricultural lands more efficiently, they would also ensure that native forest lands, habitats, and ecosystems are protected through best management practices on leased lands. Providing the department with the right tools and resources to provide potential land lessors with 65 year leases, would allow ranchers, farmers, and other agricultural applications to seek the financial support needed to help expand their operations, which would hopefully in turn support Hawaii's food supply. Understanding the lack of processing, holding, and distribution capacity across the state, HB 1014 provides an all encompassing framework for agricultural operations, native forests restoration, and responsible land management.

Thank you for the opportunity to provide testimony in support of HB 1014.