

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
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OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2284, S.D. 2, H.D. 1

April 4, 2022
1:30 p.m.
Room 308 and Videoconference

RELATING TO AQUACULTURE

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2284, S.D. 2, H.D. 1, moves the existing aquaculture program within the Department of Agriculture (DOA) to a new part under Chapter 141, HRS, and adds five new sections to this part, which adds new definitions for the program; establishes provisions relating to the DOA's governing of the business of aquaculture; grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition; authorizes the DOA to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be deemed necessary to protect indigenous species; and requires the DOA to prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the State, provided that there are funds appropriated to the DOA for this purpose and matching funds are provided by the aquaculture industry. This bill also requires the DOA to acquire land for the purposes of aquacultural production and appropriates an unspecified amount of general

funds in FY 23 for the DOA to establish 4.00 positions and for operating costs to effectuate this part.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

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
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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE

MONDAY, APRIL 4, 2022
1:30 P.M.

CONFERENCE ROOM 308 & VIA VIDEOCONFERENCE

SENATE BILL NO. 2284 SD2 HD1
RELATING TO AQUACULTURE

Chairpersons Luke and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 2284 SD2 HD1. The measure establishes provisions relating to the Department of Agriculture's ("Department") governing of the business of aquaculture. This measure: grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by broodstock acquisition; authorizes the Department to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species; requires the Department to prepare programmatic environmental impact reports and acquire land for aquacultural purposes; and makes an appropriation. The Department supports the intent of this measure and respectfully provides the following comments.

The measure promotes the State's economic development by enabling the Department to have regulatory authority for aquaculture and provides a pro-development framework that minimizes negative effects on the environment through monitoring and reporting using a science-based approach. The Department notes the following and respectfully offers recommendations to improve implementation of this measure:



- The Department has three divisions or programs which are active in providing aquaculture support. They are:
 - Agriculture Resource Management Division which acquires land and administers property management activities;
 - Aquaculture Development Program which coordinates research, technology transfer, outreach, and marketing activities; and
 - Plant Quarantine Branch which administers importation and movement permits for aquatic non-domestic animal, plants, and microorganisms, including algae.
- Ocean-based aquaculture operations are administered by the Department of Land and Natural Resources. The harvesting, processing, and sales of aquaculture food products are administered by the Department of Health. The Department suggests that regulatory oversight for those activities remain with their currently associated departments.
- Pursuant to Chapter 150A, Hawaii Revised Statutes, the Department already regulates importation, possession and transfer of plant, non-domestic animal, and microorganism species, which include micro and macro algae, used for aquaculture. The Board of Agriculture review process for permit issuance requires multiple technical reviews to ensure that proposed uses and locations of aquacultured species pose minimal risk of escape, including possible negative effects to native species and the environment that can be associated with the introductions. Depending on the species and use, the review process is able to create specific requirements to minimize risks for import and transport. The Department suggests that the proposed requirements for indigenous species protection be removed since the existing review process already addresses this matter. Moreover, to provide additional support to stakeholders, further outreach can be provided to better inform them of the process and to work with them to ensure safe use and importation. To ensure clarity, the Department recommends inserting the following in proposed section HRS141-E: “(e) Nothing in this part shall be construed to amend or alter the requirements for importation and possession of species used for aquaculture relevant to chapter 150A.”
- The Department recommends use of the following language to amend the proposed definition of "Aquaculture" to clarify that algae is included and to clarify the exempted purposes: “. . . and harvesting of aquatic plants, animals, and microorganisms, including algae, in marine, brackish, and fresh water that are utilized for human consumption or bait purposes. The term "aquaculture" does not include species of ornamental marine or

freshwater plants, animals, and microorganisms, including algae, that are maintained in closed systems for personal, pet industry, hobby, or other similar purposes.”

- The Department is concerned that section 141-F could incentivize the illegal importation and/or release of exotic or invasive aquatic organisms into the environment as they could then be considered “wild” and if obtained via “brood stock acquisition” and then cultured, could prevent or inhibit agencies from enforcement, or control and eradication activities. To provide clarity, the Department suggests amending 141-F to: “The cultured progeny of wild indigenous, or lawfully introduced, aquatic plants and animals, lawfully obtained by brood stock acquisition, are . . .”
- The requirement to initiate rulemaking should be deleted since the Department’s existing programs are already performing the tasks prescribed by the measure pursuant to previously established rules.
- The Department can coordinate programmatic environmental impact assessments for inland areas; however, the Department may not be appropriate or suitable for coordinating or conducting environmental assessments for coastal and ocean areas since they are under the jurisdiction of the Department of Land and Natural Resources. It is unlikely that matching funds of any kind would be available from the aquaculture industry for programmatic environmental assessments. The Department respectfully recommends that this requirement be deleted.
- The Department appreciates the addition of four staff positions to implement the provisions of this measure, however, additional operating funds are needed to accomplish the intent and purpose of this measure as well. The Department estimates that approximately \$400,000 in operating funds would be needed for research, outreach, and marketing.

Thank you for the opportunity to testify on this measure.



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April 4, 2022

HEARING BEFORE THE
HOUSE COMMITTEE ON FINANCE

TESTIMONY ON SB 2284, SD2, HD1
RELATING TO AQUACULTURE

Room 308 & Videoconference
1:30 PM

Aloha Chair Luke, Vice-Chair Yamashita, and Members of the Committee:

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

The Hawai'i Farm Bureau **supports the intent of SB 2284, SD2, HD1** to enable the Hawai'i Department of Agriculture (HDOA) to better support Hawai'i's aquaculture industry. This important bill would revitalize the HDOA aquaculture program, fund four full-time positions, and grant an appropriation for research, outreach, marketing, and the other support functions proposed in the bill. A well-funded and expanded program will help grow the industry so it can provide more economic opportunities and supply high-quality food for our communities.

We agree with the supportive testimonies of the HDOA and the Hawai'i Aquaculture & Aquaponics Association and echo their suggestions regarding specific changes that can easily be made to clarify and streamline the bill.

Thank you for the opportunity to provide our comments and thank you for your continued support of Hawai'i's agricultural community.

SB-2284-HD-1

Submitted on: 4/3/2022 2:51:01 PM

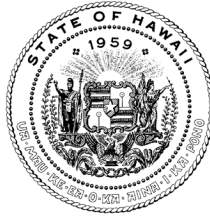
Testimony for FIN on 4/4/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Ronald Weidenbach	Hawaii Aquaculture & Aquaponics Association	Comments	Written Testimony Only

Comments:

The Hawaii Aquaculture and Aquaponics Association (HAAA) representing industry members statewide supports the intent of this measure but also the concerns and recommendations of HDOA which we hope will be addressed with relevant amendments to avoid unintended negative consequences to the industry and State.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
FINANCE**

**Monday, April 4, 2022
1:30 PM**

State Capitol, Conference Room 308, Via Videoconference,

**In consideration of
SENATE BILL 2284, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO AQUACULTURE**

Senate Bill 2284, Senate Draft 2, House Draft 1 proposes to establish provisions relating to the Department of Agriculture's (HDOA) governing of the business of aquaculture; grants exclusive property rights to persons who lawfully obtain the cultured progeny of wild plants and animals by brood stock acquisition; authorizes HDOA to regulate the transportation, purchase, possession, and sale of specific aquaculture products as may be necessary to protect indigenous species; requires HDOA to prepare programmatic environmental impact reports and acquire land for aquacultural purposes; and makes appropriations. **The Department of Land and Natural Resources (DLNR) appreciates the intent of this bill and provides the following comments and suggested amendments.**

While there are currently no laws that expressly prohibit the culture of non-native species in state ocean waters, for the past 30 years DLNR and HDOA have maintained a de facto ban through the existing joint review and approval process. This process has prevented the proposed cultivation of non-native groupers and tilapia in ocean cages. It is unclear how this bill would affect HDOA's process for reviewing and approving aquaculture projects, including consultation with DLNR to prevent or minimize risk of non-native species introductions.

DLNR suggests that the committee reinsert the language of Senate Bill 2284 (p.5, line 16 through p.7, line 2) that establishes prohibitions relating to the spawning, incubating, or cultivation of transgenic fish species or any exotic species of finfish and makes exemptions for certain research activities. DLNR also suggests reinserting an amended definition of "exotic species" to mean "a fish that is not indigenous to Hawaii waters and did not exist as a viable population in a wild condition in the State as of January 1, 2022." This would address the concern that the bill may incentivize the intentional release of exotic species once they are established in the wild.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND 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 COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

SB-2284-HD-1

Submitted on: 4/2/2022 9:16:15 PM

Testimony for FIN on 4/4/2022 1:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Suzanne D. Case	DLNR	Comments	Remotely Via Zoom

Comments:

I am available for questions to DLNR. Please allow me Zoom access.