

**NEIL ABERCROMBIE**  
Governor



**RUSSELL S. KOKUBUN**  
Chairperson, Board of Agriculture

**SCOTT E. ENRIGHT**  
Deputy to the Chairperson

State of Hawaii  
**DEPARTMENT OF AGRICULTURE**  
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**TESTIMONY OF RUSSELL S. KOKUBUN  
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON AGRICULTURE/WATER AND LAND  
Monday, February 04, 2013  
8:30 A.M.  
Auditorium**

**HOUSE BILL NO. 482  
RELATING TO AGRICULTURE**

Chairpersons Wooley and Evans and Members of the Committees,

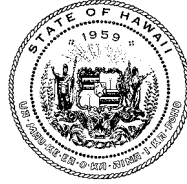
Thank you for the opportunity to testify on House Bill No. 482. This measure repeals the ability of owners and farmers on designated Important Agricultural Lands (IAL) to claim costs incurred for regulatory processing, studies, and legal and other consultant services as provided by the IAL qualified agricultural cost tax credit under Section 235-110.93, Hawaii Revised Statutes.

The Department of Agriculture opposes this measure. To date, no IAL tax credits under Section 235-110.93 have been claimed. We believe the tax credit should remain in its entirety and farmers and landowners of designated IAL be allowed to benefit from it and the other IAL incentive passed in 2008.

Thank you, again, for the opportunity to testify on this measure.

NEIL ABERCROMBIE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF TAXATION**  
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FREDERICK D. PABLO  
DIRECTOR OF TAXATION

JOSHUA WISCH  
DEPUTY DIRECTOR

To: The Honorable Jessica Wooley, Chair  
and Members of the House Committee on Agriculture

The Honorable Cindy Evans, Chair  
And Members of the House Committee on Water and Land

Date: Monday, February 4, 2013

Time: 8:30 a.m.

Place: Auditorium, State Capitol

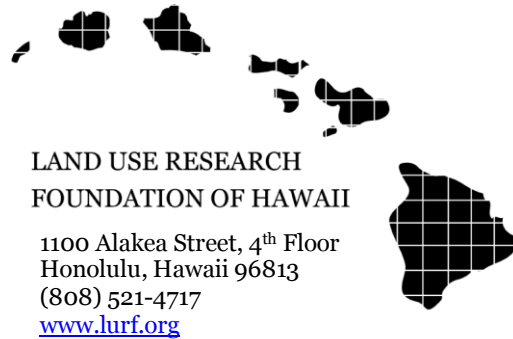
From: Frederick D. Pablo, Director  
Department of Taxation

Re: H.B. 482 Relating to Agriculture

The Department of Taxation (Department) appreciates the intent of H.B. 482, and defers to the Department of Agriculture with respect to the merits of the measure.

H.B. 482 amends the Important Agricultural Lands tax credit by removing regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands. The Department will be able to implement this amendment.

Thank you for the opportunity to provide comments.



LAND USE RESEARCH  
FOUNDATION OF HAWAII

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February 1, 2013

Representative Jessica Wooley, Chair  
Representative Richard H.K. Onishi, Vice Chair  
House Committee on Agriculture

Representative Cindy Evans, Chair  
Representative Nicole Lowen, Vice Chair  
House Committee on Water and Land

**Testimony in Strong Opposition to HB 482 Relating to Agriculture (Tax Credit; Qualified Agricultural Costs).**

**Monday, February 4, 2013, 8:30 a.m., in CR Auditorium**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF appreciates this opportunity to express **strong opposition to HB 482** on behalf of its members and the various agricultural stakeholder groups who defend the goals of viable agricultural operations, and the conservation and protection of agriculture, including important agricultural lands (IAL) in Hawaii. The bill emphasizes the need for collaboration amongst diverse sectors of the community - business, government, and agricultural stakeholders - and the importance for them to work together cooperatively to implement IAL incentives in order to attain results which may prove beneficial and significant to all parties.

In strong support of the use of agricultural lands for purposes allowed under state and county laws and ordinances, LURF has partnered with the Hawaii Farm Bureau Federation (HFBF) and other agricultural stakeholders to pass the IAL legislation, which provides for the voluntary and government designation of IAL, loans for qualified agricultural expenses and other incentives to support productive and sustainable farming operations on agricultural lands. LURF and HFBF have also supported legislation to provide irrigation water and other incentives to agricultural lands and farmers.

**HB 482.** This bill proposes to repeal the ability to claim expenditures for regulatory processing, studies, and legal and other consultant services under the IAL qualified agricultural cost tax credit.

**LURF's Position.** This bill is clearly contrary to the underlying intent and objectives of the IAL laws (Hawaii Revised Statutes [HRS], Sections 205-41 to 52), which were enacted to fulfill the mandate in Article XI, Section 3, of the Hawaii State Constitution, "to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands." The IAL laws established a new paradigm which avoids requirements and mandates, and instead focuses on promoting agricultural viability by providing incentives for farmers and landowners to designate lands as IAL, and to build necessary infrastructure.

This proposed measure is an attempt to repeal the ability of agricultural stakeholders to claim expenditures under the IAL qualified tax credit for regulatory processing, studies, and legal and other consultant services which are critical to the stakeholders' efforts to obtain sufficient water for agricultural activities and to retain the right to farm on lands identified as IAL. Without any explanation or justification, the drafters of this bill disregard the very purpose and essence of the IAL laws and attempt to fatally weaken the existing IAL program by eliminating incentives to preserve and maintain IAL.

As noted in HRS Section 205-41, the intent of Act 183 (2005) was to develop agricultural incentive programs to **promote** (not inhibit, thwart, or terminate), agricultural viability, sustained growth of the agricultural industry, and the long-term use and protection of IAL for agricultural use in Hawaii concurrently with the process of identifying IAL as required under the Act. Such incentives and programs are identified in HRS 205-41, and expressly include tax credits and/or exemptions that promote investment in agricultural businesses or value-added agricultural development, specifically escalating tax credits based on the tax revenues generated by increased investment or agricultural activities conducted on IAL.

LURF believes, however, that the apparent intent of HB 482 is to suppress agriculture and agriculture-related businesses, and that the proposed bill is contrary to the purpose and intent of the IAL laws. Passage of the long-awaited IAL legislation would be meaningless without implementation of incentives which require the cooperation and support of the business and economic community. The establishment of tax incentives for those engaged, or desirous of engaging, in agricultural activities are critically needed to support viable agricultural activity in this State. It is therefore hoped and anticipated that efforts will be made and all appropriate legislative measures be taken to fully effectuate, rather than undermine the intent and objectives of the IAL laws.

Thank you for the opportunity to present testimony regarding this matter, in strong opposition to this bill.



February 4, 2013

**TESTIMONY  
COMMITTEE ON AGRICULTURE  
COMMITTEE ON WATER AND LAND**

**TESTIMONY ON HB 482  
RELATING TO AGRICULTURE  
Auditorium  
8:30 AM**

Chair Wooley, Chair Evans, Vice Chair Onishi, Vice Chair Lowen and Members of the Committees:

Maui County Farm Bureau on behalf of our commercial farm and ranch families and organizations STRONGLY OPPOSES HB 482 Removing relating to the removal landowners and farmer's expenditures associated with defending their rights to farm and water as a tax credit on IAL.

A major commitment is made when landowners and farmers/ranchers designate their lands as IAL. They are committing to keep their lands in agriculture for future generations. They cannot suddenly decide to rezone and go to the County and LUC for approval ..all those rights are GONE. Therefore, it is reasonable that these landowners and farmers will protect what it takes to have a viable operation ..that is all they can do with the land. Having an incentive to assist in this area is reasonable. Otherwise the state is sending the WRONG message. "We want you to keep lands in agriculture but will not support you. We want you to provide for Hawaii's people but do it on your own." We don't think that is the intent of the tax credit. There are some who have introduced this measure for other intentions and Hawaii's sustainability and self sufficiency is not one of them.

Maui County Farm Bureau respectfully requests your opposition of this measure to encourage the success of IAL. If there are questions, please contact Warren Watanabe at 2819718. Thank you.

**HB 482  
RELATING TO AGRICULTURE**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**FEBRUARY 4, 2013**

Chair Wooley, Chair Evans, and Members of the House Committees on  
Agriculture and Water & Land:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and  
Hawaiian Commercial & Sugar Company, one of its agricultural companies, on HB 482,  
“A BILL FOR AN ACT RELATING TO AGRICULTURE.” We respectfully oppose this  
bill.

After over twenty five years of debate, negotiation, and compromise, the IAL Law  
and process was finally enacted in July 2008. After years of pursuing a land-use  
approach to this constitutional mandate, the IAL law that was successfully passed (Act  
183 (2005) and Act 233 (2008)) was premised on the principle that the best way to  
preserve agricultural lands is to preserve agricultural businesses and agricultural  
viability. As such, the IAL Law not only provides the standards, criteria, and processes  
to identify and designate important agricultural lands to fulfill the intent and purpose of  
Article XI, Section 3 of the Hawaii State Constitution, it also provides for a package of  
incentives designated to support and encourage sustained, viable agricultural activity on  
IAL. With the enactment of this comprehensive package of IAL incentives, the long  
awaited IAL identification and designation process was finally started in July 2008.

The IAL Law authorizes the identification and designation of IAL in one of two ways --- by voluntary petition to the State Land Use Commission by the landowner or farmer; or subsequently by the Counties filing a petition to designate lands as IAL pursuant to a County identification and mapping process. The IAL Law further provides incentives to the landowner and/or farmer to conduct agricultural activities on IAL lands. In either case, the LUC determines whether the petitioned lands qualify for IAL designation pursuant to the standards, criteria, objectives, and policies set forth in the IAL Law. To date, the IAL Law has resulted in the designation by the LUC of over 89,000 acres of agricultural lands as IAL from voluntary petitions by Alexander & Baldwin, Parker Ranch, Castle & Cooke, and Mahaulepu (Grove) Farm. We believe that additional acres will be designated through the voluntary landowner and County petition process in the years to come.

The IAL Tax Credits are envisioned to encourage investment in agricultural infrastructure and operations on IAL and to assist farmers in sustaining their agricultural operations. These tax credits, as part of the comprehensive package of IAL incentives, is central to the IAL law—intended to encourage farmers and landowners to consider the voluntary designation of their agricultural lands as IAL, a process that is currently ongoing that has resulted in over 89,000 acres being designated as IAL.

This bill repeals one of the qualified agricultural costs for which IAL Tax Credits may be claimed for regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on IAL. The deletion of any of the present qualified agricultural costs from the IAL Tax Credit will lessen the magnitude of the

comprehensive package of financial incentives that are available to assist farmers on IAL. We believe that the entire package of IAL incentives should remain in tact such that it can help farmers sustain viable agricultural operations on IAL.

One of the compelling factors that resulted in the passage of the IAL Law after many, many years of debate, was a collaborative effort put forth by various entities and individuals to find common ground on this important issue. We ask that the present IAL incentives, which evolved from good faith efforts of many diverse interests and is one of the key components to the long term viability of IAL agricultural operations, be retained as set forth in the present IAL Law.

Based on the aforementioned, we respectfully request that this bill be held in Committee. Thank you for the opportunity to testify.



# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Important agricultural land tax credit

BILL NUMBER: HB 482

INTRODUCED BY: Wooley and Onishi

BRIEF SUMMARY: Amends HRS section 235-110.93(k) by amending the definition of “qualified agricultural costs” to delete (4) regulatory processing, studies, and legal and other consultant services related to obtaining or retaining sufficient water for agricultural activities and retaining the right to farm on land identified as important agricultural lands.

EFFECTIVE DATE: July 1, 2013; applicable to tax years beginning after December 31, 2013.

STAFF COMMENTS: Under existing law, costs of regulatory processing, studies, legal and other consultant services related to obtaining water for agricultural activities and retaining the right to farm on lands identified as important agricultural lands are deemed qualified costs in determining the amount of the credit for the important agricultural land tax credit.

Apparently the author of this proposal does not believe that consultant costs, as well as studies and legal costs, should not be used to determine how much of a subsidy should be provided by taxpayers to enhance the prospects of success for the farming of important agricultural lands.

Digested 2/1/13