



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 9, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

Re: House Bill No. 2293 HD1 SD2 CD2

On July 8, 2008, House Bill No. 2293, entitled "A Bill for an Act Relating to Agriculture" became law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to authorize the Agribusiness Development Corporation to purchase agricultural lands owned by the Galbraith Estate and located in Wahiawa. If a purchase agreement is not reached after an unspecified amount of time, the Department of Land and Natural Resources is directed to exercise its power of eminent domain to acquire the property.

It should be noted that the Agribusiness Development Corporation has statutory authority to purchase and lease lands under §163D-4, Hawaii Revised Statute. Use of the former Galbraith Estate lands is already limited to agricultural-related activities, as permissible within the State's Agricultural District.

This bill raises a number of concerns. It sets forth a series of complex options for the possible purchase of the land, including the issuance of revenue bonds, direct appropriations, lump sum payments, installment purchase agreements, or the purchase of U. S. Treasury zero-coupon bonds to finance an installment purchase. It should be noted that the 2009 supplemental budget includes authority to issue \$13 million in general obligation bonds for the acquisition of the Galbraith properties. This amount is likely to be considerably less than what would be needed to purchase the 2,100 acres of Galbraith Estate land in Central Oahu.

Based on the revenue generating capacity of agricultural leases, it is also unlikely that leases on the former Galbraith properties could generate enough of a revenue stream to pay back the revenue bonds. It is also unlikely that the Agribusiness Development Corporation could generate sufficient revenues to meet installment payments on this type of purchase, thus possibly placing the State in a potential default position.

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Part III of the bill stipulates that the Legislature may authorize the Agribusiness Development Corporation to purchase agricultural lands if the bill which enacts the purchase contains: 1) a statement of the value of the interest in land as a resource to the State, 2) a description of the specific parcel of land or agricultural easement proposed to be acquired, 3) the name of the owner of the property, and 4) the estimated costs of acquiring the interest in the land. However, House Bill No. 2293 neither specifies the value of the properties, nor includes the estimated cost of the purchase. Therefore, because the information contained in this bill does not meet the prescribed requisites, this bill technically will not authorize the Agribusiness Development Corporation to purchase the Galbraith Estate parcels identified in part V of the bill.

Additionally, it should be noted that a portion of the said properties lie below Lake Wilson and are part of the Wahiawa Reservoir system. This reservoir has been officially classified as a "high hazard" reservoir due to the sizable population and property values in the adjoining region. The Department of Agriculture estimates an auxiliary spillway would need to be constructed to improve the safety of the current reservoir and they estimate the cost of this type of undertaking in the \$6-8 million range.

Given the fiscal and legal issues this measure presents, I allowed House Bill No. 2293 to become law as Act 234, effective July 8, 2008, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lingle", written in a cursive style.

LINDA LINGLE