

EXECUTIVE CHAMBERS

HONOLULU

July 15, 2009

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 975

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 975, entitled "A Bill for an Act Relating to Agricultural Water Systems."

The purpose of this bill is to allow the Agricultural Development Corporation to accept agricultural water systems as a gift without gubernatorial oversight and without going through the standard prescribed county subdivision requirements.

The Agricultural Development Corporation already has the authority to acquire agricultural water systems pursuant to the requirements of Chapter 163D, Hawaii Revised Statutes. However, this bill raises serious liability and home rule issues that go beyond the current authority of the Corporation.

This proposed legislation allows the owner of a water system to transfer that system to the State after they have completed a metes and bounds survey, but without executing the process of a formal subdivision as required by the counties. Failure to follow subdivision ordinances will mean the parcel being transferred, as well as the balance of the parcel not transferred, will not be formally recognized by the county. The absence of records will hinder the ability of the counties to issue building and related permits, as well as ensure that the parcel has adequate access for fire protection and police purposes, is not prone to environmental hazards, and does not


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contain other features that can affect the surrounding community and adjoining property owners. For these reasons, the counties objected to this legislation.

The bill is silent as to the liabilities the State will be incurring upon acceptance of a gifted agricultural waterway. Many of these systems were built at the beginning of the previous century and require major repairs and renovations to their spillways, drains, flooding outlets, and ditch beds. To shift these responsibilities to the State, without accompanying resources, imposes upon the State significant costs, as well as exposes the State to liabilities should operational hazards occur with these ditches. A study of the Lake Wilson water system found, for example, that operational conditions of the dam and spillway could impose costs of \$6-8 million on State residents.

The Administration recognizes the role that water pays in the success and sustainability of agricultural operations in Hawaii. We also recognize the important role the Agricultural Development Corporation plays in operating a limited number of agricultural water systems. However, to require the State to accept additional systems without adequate protections and by circumventing the counties and the land management procedures they have in place is not prudent public policy and does not work to the benefit of the parties involved.

For the foregoing reasons, I am returning House Bill No. 975 without my approval.

Respectfully,

LINDA LINGLE
Governor of Hawaii