

HB 611

LINDA LINGLE
Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
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SANDRA LEE KUNIMOTO
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**TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS
MONDAY, APRIL 6, 2009
9:30 A.M.
CONFERENCE ROOM 211**

**HOUSE BILL NO. 611, HD1, SD1
RELATING TO TAXATION**

Chairperson Kim and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 611, HD1, SD1, which amends the capital goods excise tax credit so that it applies only to property placed in service in taxable years beginning before January 1, 2010, suspends the credit for calendar years 2010 and 2011, and adds a new part for property placed in service in taxable years beginning after December 31, 2011. Requires the Department of Taxation, with the assistance of the department of business, economic development, and tourism, to evaluate certain tax credits and tax exemptions and report to the legislature. Requires the Department of Taxation to give recommendations and for the legislature to implement those recommendations prior to the mandate for those tax credits and tax exemptions to sunset. The Department of Agriculture is providing comments on Section 7 only in support of the amendments to this section.

We believe that when livestock are transported between islands, that the amounts received should be treated for tax purposes like all other agricultural products and therefore believe that the amendments proposed are fair and appropriate. We defer to the Department of Taxation as to any potential economic impact.

The Chamber of Commerce of Hawaii

**1132 Bishop Street, Suite 402
Honolulu Hawaii, 96813**

Testimony to the Senate Committee on Ways and Means

Monday, April 6, 2009

9:30 AM

Conference Room 211

RE: HOUSE BILL NO. 611, HOUSE DRAFT 1, SENATE DRAFT 1, RELATING TO TAXATION

Chair Kim, Vice Chair Tsutsui, and members of the committee.

My name is Charles Ota and I am the Vice President for Military Affairs at The Chamber of Commerce of Hawaii (The Chamber). I am here to state The Chamber's strong opposition to House Bill No.611, House Draft 1, Senate Draft 1, Relating to Taxation.

The Chamber's Military Affairs Council (MAC) has served as the liaison for the state in matters relating to the U.S. military and provided oversight for the State's multi-billion dollar defense industry since 1985.

The measure proposes to amend the capital goods excise tax credit and require the Department of Taxation, with the assistance of the department of business, economic development, and tourism, to evaluate certain tax credits and tax exemptions and report to the legislature. It further requires the department of taxation to give recommendations and for the legislature to implement those recommendations prior to the mandate for those tax credits and exemptions to sunset.

The MAC concurs with the action taken by the Senate Committee on Economic Development and "Technology to delete section 237-28.1, HRS, as stated in SCR No. 1070. Hawaii's shipbuilding and ship repair industry provides essential services to the US Pacific Fleet at Pearl Harbor, and has a vital place in the economy of our island-state that is so dependent on maritime transportation.

A repeal of this general excise tax exemption would have significantly increased costs for local shipbuilding and shipyard businesses and render them incapable of competing with shipyards that are unaffected by this tax. This would result in the loss of millions of dollars in revenues, and possibly lead to the demise of this vital industry.

The general excise tax exemption is essential to placing Hawaii-based shipyards on a level competitive field. It is the prime reason why the US Navy is able to award ship repair contracts to our local private shipyards. It should be noted that despite this attempt to level the playing field, the US Coast Guard in Hawaii already contracts with shipyards outside Hawaii, and the Matson Navigation Company sends its ships to faraway Hong Kong for repairs. This reflects the global nature of the ship repair business.

The Ship Repair Association of Hawaii has advised that the Navy is working towards instituting a centralized Multi-Ship Multi-Option contracting procedure to reduce costs. Repealing the GET exemption would result in substantial increases in local contract bids and likely force the Navy to contract these planned ship overhauls to outside shipyards, taking away hundreds of thousands of work

hours from Hawaii's tax-paying, highly skilled work force. This anticipated loss of millions of dollars in revenues to out-of-state shipyards and suppliers could contribute towards the de-diversification of Hawaii's economy.

It should be noted that the exemption has allowed the Navy to position a private shipyard at one of the dry docks in Pearl Harbor to handle emergent and scheduled repairs for its fleet of surface ships. This extremely favorable benefit would be lost if the tax exemption is repealed.

For these reasons, we recommend that HB 611, HD1, SD1 be passed.

Thank you for this opportunity to testify.

Testimony of
Frank P. Richardson
Vice President and Regional Counsel

Before:
Senate Committee on Ways and Means
The Honorable Donna Mercado Kim, Chair
The Honorable Shan S. Tsutsui, Vice Chair

April 6 2009
9:30 AM
Conference Room 211

HB 611 HD1 SD1 RELATING TO TAXATION

Chair Kim, and committee members, thank you for this opportunity to provide testimony on HB 611 HD1 SD1 which would require a review of tax credits and exemptions and automatically repeal certain tax credits and exemptions.

Kaiser Permanente Hawaii opposes this bill.

The cost of delivering health care in Hawaii and across the nation continues to mount. To the extent this measure would repeal excise tax exemptions applicable to Kaiser, this measure will only add to that cost. The burden of an excise tax such as this one would be passed on to health plan purchasers and consumers, driving up the overall cost of healthcare to those purchasers and to the state.

Additionally, as a 501(c)(3) federally tax exempt, charitable organization, Kaiser provides approximately \$19 million in free care, subsidized care, grants, health education, and programs for safety net organizations within the State of Hawaii. Removing the exemption from the excise tax provided by section 237-23 and 237-24.3 HRS would be an unfortunate precedent setting erosion of Kaiser's tax exempt status, inconsistent with its public benefit social mission.

In short, repeal of Kaiser's general excise and use tax exemptions would be bad for the business community, bad for the public, and bad for the cost of healthcare in the State of Hawaii.

Thank you for your consideration.

GOODSILL ANDERSON QUINN & STIFEL

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MEMORANDUM

TO: Senator Donna Mercado Kim
Chair, Committee on Ways and Means

FROM: Gary M. Slovin

DATE: April 5, 2009

RE: H.B. 611, H.D. 1, S.D. 1 – Relating to Taxation
Hearing: Monday, April 6, 2009 at 9:30 a.m.

Dear Chair Kim and Members of the Committee on Ways and Means:

I am Gary Slovin, testifying on behalf of Covanta Energy Group, the operator of the HPOWER waste-to-energy facility at Campbell Industry Park.

Covanta respectfully opposes H.B. 611, H.D. 1, S.D. 1, to the extent that Section 8 at page 56, lines 9-14 may result in the repeal of the tax exemption for a) air pollution control facilities and b) solid waste processing, disposal, and electric generating facilities. These tax exemptions apply to the operations of the HPower waste-to-energy plant in Campbell Industrial Park. Much of the tax that would be imposed through the repeal of these sections would be borne by taxpayers of the City and County of Honolulu. Accordingly, the repeal of the exemptions would not increase the funds available to reduce the deficits being faced by both State and County governments. For these reasons, we oppose the automatic repeal of the exemptions that would occur, should the Department of Taxation fail to properly submit its evaluation of these tax exemptions.

Thank you very much for the opportunity to submit comments.



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April 5, 2009

The Honorable Donna Mercado Kim, Chair
Senate Committee on Ways and Means
State Capitol, Room 211
Honolulu, Hawaii 96813

RE: H.B. 611, H.D. 1, S.D.1, Relating to Taxation

HEARING DATE: Monday, April 6, 2009 at 9:30 a.m.

Aloha Chair Kim and Members of the Committee:

I am Craig Hirai, a member of the Subcommittee on Taxation and Finance of the Government Affairs Committee of the Hawai'i Association of REALTORS® ("HAR"), here to testify on behalf of the HAR and its 9,600 members in Hawai'i. HAR has the following **comments** with respect to Subsection (d) of Section 8 of **H.B. 611, H.D. 1, S.D.1, Relating to Taxation**, which repeals the Low Income Housing Tax Credit under HRS §235-110.8, the General Excise Tax ("GET") Exemption for Certified or Approved Housing Projects under HRS §237-29, and the Low Income Housing Tax Credit under HRS §241-4.7 after December 31, 2013.

HAR has historically supported mechanisms to help increase the supply of low and moderate income affordable housing such as the Rental Housing Trust Fund Program which can help integrate the use of mixed-income and mixed-use projects, special purpose revenue bonds, low-interest loans, block grants, low-income housing tax credit programs and deferred loan programs to provide rental housing opportunities.

Rental Housing Trust Fund projects qualify for and benefit from the GET exemption under HRS §237-29, and are often aided by equity financing generated from the Low Income Housing Tax Credit under HRS §235-110.8 and HRS §241-4.7. Repealing these programs will clearly reduce the amount of State funding available for desperately needed Rental Housing Trust Fund projects.

Please note that the last few lines of the first paragraph of Subsection 8(d) of H.B. 611, H.D. 1, S.D.1, provide important "grandfathering" language which states that ". . . the potential repeal of the tax credits in paragraphs (7) and (11) and the tax exemption in paragraph (9) shall not apply to those projects approved before January 1, 2014. . . ."

Paragraph (7) of Section 8(d) of H.B. 611, H.D. 1, S.D.1, references the "low-income housing tax credit" under HRS §235-110.8; Paragraph (11) references the "low-income housing; income tax credit" under HRS §241-4.7; and Paragraph (9) references "general excise tax; exemptions for certified or approved housing projects" under HRS §237-29.

HAR believes that if the above-quoted “grandfathering” language were not included in Subsection 8(d) of H.B. 611, H.D. 1, S.D.1, the repeal of HRS §§ 235-110.8, 237-29 and 241-4.7 would have the following adverse consequences:

1. With respect to existing projects, the repeal of the GET exemption under HRS §237-29 will reduce the gross rents available for operating costs and debt service of hundreds of State and County approved rental housing projects throughout the State by at least 4% (4.5% in the City and County of Honolulu). This will almost certainly adversely affect the projects’ ability to fund their operating and maintenance reserves and may impair their ability to service or possibly breach a covenant and cause a default under their outstanding mortgage debt.
2. With respect to projects approved between the date of enactment of H.B. 611, H.D. 1, S.D.1, and December 31, 2013, the uncertainty of the continued existence of the GET exemption under HRS §237-29 will tend to reduce the amount of mortgage debt lenders will be willing to lend for these projects because their gross rents available for operating costs and debt service may decrease by 4% (or 4.5% in the City and County of Honolulu) on January 1, 2014. A logical consequence of such lender action would be a need for additional equity from sources such as the Rental Housing Trust Fund.

The pricing of construction contracts for projects which are certified or approved under HRS §237-29 will also become more difficult and most likely more expensive as the December 31, 2013 repeal date grows closer because contractors may not be able to complete construction by that date.

3. With respect to existing projects, the repeal of the Low Income Housing Tax Credits under HRS §§ 235-110.8 and 241-4.7 will not allow: (a) current investors the use of the full amount of their credits if their 10-year recovery period under HRS §235-110.8(c) and IRC §42(b) extends beyond December 31, 2013; and (b) the State to recapture the credit under HRS §235-110.8(d)(4) and IRC §42(j) after December 31, 2013.
4. With respect to projects approved between the date of enactment of H.B. 611, H.D. 1, S.D.1, and December 31, 2013, the uncertainty of the continued existence of the Low Income Housing Tax Credits under HRS §§ 235-110.8 and 241-4.7 will undoubtedly reduce the amount investors will be willing to pay for the credits because they cannot be assured of the use of the credit through its entire 10-year recovery period. Again, a logical consequence of such investor action would be a need for additional equity from sources such as the Rental Housing Trust Fund.

HAR looks forward to working with our state lawmakers in building better communities by supporting quality growth, seeking sustainable economies and housing opportunities, embracing the cultural and environmental qualities we cherish, and protecting the rights of property owners.

Thank you for your consideration of our request, and mahalo for the opportunity to testify.