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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEES
on
ENERGY & ENVIRONMENTAL PROTECTION
and
WATER, LAND, AND OCEAN RESOURCES
Tuesday, March 17, 2009
9:00 a.m.
State Capitol, Conference Room 325

Bill No. 1173
Support **Y N**
Date 3/16/09
Time 1141
Cat AF AS AX B C
Type 1 2 WI

in consideration of
SB1173 SD2
RELATING TO ENERGY EFFICIENCY.

Chair Morita, Chair Ito, Vice Chair Coffman, Vice Chair Har, and members of the committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB1173 SD2, which embodies many of the proposals initiated in an Administrative bill. We support the proposals for energy efficiency portfolio standards, public buildings and benchmarking, energy efficiency consumer information in the sale or lease of real property, tax credits for net-zero energy buildings, renewable energy technologies income tax credits, and requirements for the Public Benefits Fee Administrator.

Regarding Part II, Section 2, Energy Efficiency Portfolio Standard, of SB1173 SD2, we strongly recommend that the following be included:

1. Revise page 4, line 15, to read: "gigawatt-hours of electricity saved in 2030."

2. Revise page 4, to add a new subsection to read: “Beginning in 2015 electrical energy savings brought about by the use of renewable displacement or off-set technologies, including solar water heating and sea-water air-conditioning district cooling systems, shall count toward this standard.”

We recommend the inclusion of renewable substitution technologies starting in 2015 since SB1258 SD1, relating to renewable portfolio standards, which we support, allows for inclusion of renewable substitution technologies until 2014. Therefore, in 2015 there will be a transition of renewable displacement technologies moving from the Renewable Portfolio Standards to the Efficiency Portfolio Standards.

3. Add a new subsection to read: “An electricity utility company and its electric utility affiliates may aggregate their efficiency portfolios in order to achieve the efficiency portfolio standard.” As with Renewable Portfolio Standards, we recommend that utilities be allowed to aggregate their efficiency portfolios.

Regarding Part II, page 6, lines 13 and 14, relating to Public Buildings; benchmarking, since benchmarking will be a responsibility of the Energy Resources Coordinator, we recommend deleting the phrase: “as determined by the public benefits fee administrator”.

Regarding Part III, page 26, item (i), line 13, since item (i) refers to section 196-6.5, we recommend deleting the phrase: “authorized by a building permit issued on or after January 1, 2010.”

Finally, we also strongly support and recommend that the Public Benefits Fee Administrator (PBFA) administer the variances for the mandatory solar installations. The

PBFA is charged with developing, managing, evaluating, and establishing program criteria for energy efficiency programs. Energy efficiency programs for the island of Kauai are not administered by the PBFA and this is recognized and addressed in our proposed amendment below in item (c). Therefore, we strongly recommend that the following be inserted:

Section 196-6.5, Hawaii Revised Statutes, is amended to read as follows:

"[+] §196-6.5[+] **Solar water heater system required for new single-family residential construction.** (a) On or after January 1, 2010, [~~no building permit shall be issued for~~] a new single-family dwelling [~~that does not~~] shall include a solar water heater system that meets the standards established pursuant to section 269-44, unless the [~~energy resources coordinator~~] public benefits fee administrator approves a variance. A variance shall only be approved if an architect or engineer licensed under chapter 464 attests that:

- (1) Installation is impracticable due to poor solar resource;
- (2) Installation is cost-prohibitive based upon a life cycle cost-benefit analysis that incorporates the average residential utility bill and the cost of the new solar water heater system with a life cycle that does not exceed fifteen years;
- (3) A substitute renewable energy technology system, as defined in section 235-12.5, is used as the primary energy source for heating water; or

- (4) A demand water heater device approved by Underwriters Laboratories, Inc., is installed; provided that at least one other gas appliance is installed in the dwelling. For the purposes of this paragraph, "demand water heater" means a gas-tankless instantaneous water heater that provides hot water only as it is needed.
- (b) A request for a variance shall be submitted to the ~~[energy resources coordinator]~~ public benefits fee administrator on an application prescribed by the ~~[energy resources coordinator]~~ public benefits fee administrator and shall include, but not be limited to, a description of the location of the property and justification for the approval of a variance using the criteria established in subsection (a). A variance shall be deemed approved if not denied within thirty working days after receipt of the variance application.
- (c) For any utility which has received public utility commission approval to collect a demand side management surcharge from ratepayers, and which is not served by the public benefits fee administrator, the utility shall administer the variance and any standards established for solar water heating systems.

Thank you for the opportunity to provide this testimony.

Bill No. 1173

Support **Y N**

Date 3/16/09

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**Testimony Before the House Committees
On
Energy & Environmental Protection
And
Water, Land, & Ocean Resources**

March 17, 2009 (9:00 AM)

S.B. 1173 SD2 RELATING TO ENERGY EFFICIENCY

**By: Keith Block
Energy Services Department
Hawaiian Electric Company, Inc.**

Chairs Morita and Ito, and Members of the Committees:

My name is Keith Block, and I represent Hawaiian Electric Company (HECO) and its subsidiary utilities, Hawaii Electric Light Company (HELCO) and Maui Electric Company (MECO). I appreciate the opportunity to present testimony on S.B. 1173 SD2.

Energy Efficiency Portfolio Standard

HECO supports the development of an energy efficiency portfolio standard. It reflects the commitment of the state to energy efficiency and creates a yardstick against which we can measure our progress as a community towards energy independence.

However, HECO also supports giving the Public Utilities Commission ("Commission") the authority to establish the energy efficiency portfolio standard. It is the right agency to administer this standard because it has been involved in the utilities' integrated resource planning and demand-side management programs for over 13 years.

We therefore request an amendment to the bill. HECO suggests that the level of the standard be set by the Commission after it has had an opportunity to review recommendations from the Public Benefits Fund ("PBF") Administrator, who will be administering the energy efficiency programs later this year. Other industry participants, including the electric utilities, should also be asked to provide input to quantifying this standard. HECO suggests that the language in HB 1464 HD3, section 12, is appropriate.

Cost Effective Resources

HECO supports establishing aggressive, cost effective, energy efficiency plans. However, HECO is concerned with the definition of energy efficiency "cost-effectiveness" included in this bill (page 14, lines 8-14), which is different from the definition used by the utilities and the Commission since 1996. The language for "cost effectiveness" used in this bill considers only the perspective of the person or business installing the measure. However, ratepayers are funding the energy efficiency programs, and their costs and benefits should also be considered.

For example, it is conceivable that an energy efficiency measure meets the proposed cost-effectiveness requirement only because other ratepayers are paying nearly the full incremental cost of the measure through rebates. This would not be fair to the ratepayers who do not benefit from the energy savings in their bills. HECO therefore requests that the definition of "cost effectiveness" proposed in this measure be deleted and allow the Commission to define cost effectiveness.

On-bill Financing of Energy Efficiency

HECO supports the intent of this bill to provide on-bill financing options to encourage consumer acquisition of more efficient major electrical appliances, solar water heaters, and photovoltaic systems. The bill proposes that this program be administered by the PBF Administrator.

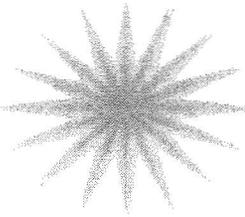
Currently, the utilities are responsible for administering an on-bill financing pilot program for residential solar water heaters. HECO has proposed to expand this program, which the utilities will retain after the transition to the PBF Administrator. Furthermore, the Commission will be executing the PBF Administrator contract shortly. The PBF Administrator will be required to develop and propose a PV rebate program to the Commission in 2009. The PBF Administrator will also be required to review and develop new programs, which could include energy efficient appliance incentives programs.

Therefore, HECO recommends the committee allow the Commission to work with the PBF Administrator to develop these types of programs, which may include financing options.

Solar Water Heating Tax Credit for Homes Built After December 31, 2009

Finally, HECO supports the language in Section 5, page 26, lines 9-14, that clarifies the ineligibility of single family homes permitted on or after January 1, 2010 for renewable energy technology tax credits.

In summary, HECO supports SB 1173 SD2, but has several recommendations that would enhance the proposed language. Thank you for this opportunity to testify on this measure.



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Testimony on

S.B. NO. 1173, S.D. 2 – RELATING TO ENERGY EFFICIENCY

Before the

House Committee on Energy & Environmental Protection and
House Committee on Water, Land, & Ocean Resources
Tuesday, March 17, 2009, 9:00 a.m., Conference Room 325

By

David Rezachek, Consultant
Honolulu Seawater Air Conditioning LLC

Good morning Chair Morita, Chair Ito, Vice Chair Coffman, Vice Chair Har, and members of the Committees. My name is David Rezachek and I am testifying on behalf of Honolulu Seawater Air Conditioning, LLC (HSWAC).

HSWAC strongly supports the intent of S.B. 1173, S.D. 2, which, among other things, directs the public utilities commission to establish energy efficiency portfolio standards.

In general, HSWAC supports most sections of this bill; however, **HSWAC cannot support Section 1 of this bill as it is currently written.**

Bill No. 1173

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HSWAC, and other testifiers, have previously supported the establishment of an energy efficiency portfolio standard for various energy efficiency technologies that are now incorrectly included in the State's renewable portfolio standard.

At the same time, HSWAC, and others, have provided considerable evidence as to why renewable energy electricity displacement technologies should continue to be included in the renewable energy portfolio standard.

Renewable energy electricity displacement technologies include solar water heating, seawater air conditioning district cooling systems, and solar air-conditioning.

While these technologies do not generate electricity, they do provide electricity savings through displacement of the electricity used to perform the same tasks. They definitely use renewable energy resources, but they are not energy efficiency technologies.

HSWAC maintains that displacement of electricity use by thermal applications of renewable energy technologies, is just as important and beneficial as electricity generation from renewable resources. And, as a result, renewable energy electricity displacement technologies should continue to be part of the renewable energy portfolio standard.

Including such electricity displacement technologies will help the utilities to more easily reach RPS mandates and will increase the number of candidate renewable energy technologies. This is particularly important for a high population, high electricity use location with limited land area, such as Oahu.

However, if this bill passes, and the PUC is directed to establish an energy efficiency portfolio standard, then HSWAC respectfully requests that:

(1) renewable energy electricity displacement technologies should continue to be part of the renewable energy portfolio standard, or

(2) no further efforts be made to remove renewable energy electricity displacement technologies from the renewable portfolio standard unless, and until, a separate energy efficiency portfolio standard has been developed which includes these technologies.

Furthermore, HSWAC would respectfully request that renewable energy electricity displacement technologies continue to be included in any definition of renewable energy for the purpose of being eligible to meet federal mandates and goals for renewable energy use and to allow these technologies to be eligible for any incentives provided to other renewable energy technologies (e.g., preference for priority processing of permits, renewable energy facility siting and permitting assistance, etc.)

Thank you for this opportunity to testify.

TAXBILLSERVICE

Bill No. 1173

Support Y N

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813

Date 3/16/09
Tel: 536-4587

SUBJECT: INCOME, Net zero energy building tax credit; energy tax credits

Time 1059

BILL NUMBER: SB 1173, SD-2

Ca' AF AS AX B C

INTRODUCED BY: Senate Committee on Ways and Means

Type 1 2 WI

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow a taxpayer to claim a net zero energy building tax credit that shall be deductible from the taxpayer's income tax liability for the first taxable year in which the building meets the definition of net zero energy building. The tax credit shall be equal to:

Area of building (square feet)	Tax credit per square foot
1,000 or less	\$9
1,001 to 3,999	6
4,000 or larger	3

The tax credit shall not exceed \$50,000.

Defines "net zero energy building" as any building that produces more energy from renewable energy technology systems than it consumes from all sources on a monthly basis during any nine months of the tax year.

Credits in excess of a taxpayer's income tax liability shall be applied to subsequent tax liability. Claims for the credit, including any amended claims, must be filed on or before the end of the 12th month following the close of the taxable year. Allows the director of taxation to adopt necessary rules and forms pursuant to HRS chapter 91 to carry out this section. Taxpayers claiming tax credits for renewable energy systems under this section shall not be eligible for the state energy tax credits under HRS 235-12.5. Delineates recapture provisions in the event a building ceases to be a net zero energy building.

The credit shall be applicable to tax years beginning after December 31, 2009 and shall not apply to tax years beginning after December 31, 2019.

Amends HRS section 235-12.5 to reorganize and regroup the renewable energy tax credits. Deletes the term "photovoltaic" and separates the solar energy systems into two types - one that uses the sun to heat water and the other that includes photovoltaic systems.

In the case of solar energy systems, a taxpayer may elect to reduce the eligible credit by 30% and if this reduced tax credit exceeds the amount of income tax, then any excess credit shall be refunded; provided that tax credits properly claimed by a taxpayer with no income tax liability shall be paid to the taxpayer provided such amount is over \$1.

For any renewable energy technology system, an individual taxpayer may elect to have any excess of the credit over payments due refunded to the taxpayer, if: (1) all of the taxpayer's income is exempt from taxation under section 235-7(a)(2) or (3); or (2) the taxpayer's adjusted gross income is \$20,000 or less (or \$40,000 or less if filing a tax return as married filing jointly.)

A taxpayer shall not be allowed to claim a credit under this section for a solar water heater system required by HRS section 196-6.5 that is installed and placed in service on any newly constructed residence authorized by a building permit issued on or after January 1, 2010. This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after January 1, 2010.

Makes other nontax amendments relating to energy efficiency.

EFFECTIVE DATE: January 1, 2010

STAFF COMMENTS: The proposed measure would allow a taxpayer to claim a net zero energy building tax credit depending on the square footage of the building up to a maximum of \$50,000. In order to claim the tax credit, the building must produce more electricity from renewable energy technology than it consumes from all sources during nine months of the year.

This measure proposes an incentive in the form of an income tax credit to encourage taxpayers to make buildings energy self-sufficient and efficient to the point that the buildings can generate their own energy. It would grant tax credits without a taxpayer's need for tax relief.

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars albeit out the back door. If, in fact, these dollars were subject to the appropriations process, would taxpayers be as kind about the expenditure of these funds when schools go wanting for books and repairs, or for the lack of space prisoners are sent off to the mainland for incarceration or there isn't enough money for substance abuse treatment?

The energy cost savings on an energy efficient building should be enough of an incentive without the need for a monetary handout by the state. Given the current state budget situation, it is questionable whether the state can afford to payout the credit proposed in this measure.

The proposed measure also: (1) makes the solar energy tax credit refundable if the taxpayer reduces the amount of credit they are eligible to claim by 30%; or (2) makes any renewable energy tax credit refundable if the taxpayer only has tax exempt income, or the taxpayer's AGI is under \$20,000 (\$40,000 for joint returns). While this measure will allow residential taxpayers with no tax liability or those with low incomes to purchase such a system to help offset the up front cost, it underscores the fact that such renewable energy systems are still not affordable to everyone.

If it is the intent of the legislature to encourage a greater use of renewable energy systems by all taxpayers, as an alternative, consideration should be given to a program of low-interest loans available to

all income levels.

The combination of a low-interest loan which can be repaid with energy savings would have a much more broad-base application than a credit which amounts to nothing more than a “free monetary handout” or subsidy by state government for those taxpayers who more than likely can afford to make the conversion.

To reiterate, if lawmakers truly want to provide a financial incentive for taxpayers to make the switch to using these alternative energy devices while taking advantage of the credit, then a program of no-interest, or low-interest loans would be far more effective. The state could provide the capital to acquire these devices, and the taxpayer could receive a discount of 30% provided by the federal tax credit. The amount of the state loan could then be amortized by the energy savings realized by the taxpayer.

Finally, it appears that there are some taxpayers for whom there is no state tax liability and therefore a nonrefundable tax credit, such as the renewable energy tax credit, provides no incentive. Again, this is one of the inherent flaws of using tax credits to entice certain behaviors. To change the credit now for some people and not for others from a nonrefundable to a refundable credit sets poor tax policy as it lacks consistency.

Digested 3/16/09



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March 16, 2009

The Honorable Hermina M. Morita, Chair
House Committee on Energy & Environmental Protection
The Honorable Ken Ito, Chair
House Committee on Water, Land, & Ocean Resources
State Capitol, Room 325
Honolulu, Hawaii 96813

RE: S.B. 1173, S.D.2 Relating to Energy Efficiency

HEARING DATE: Tuesday, March 17, 2009 at 9:00 a.m.

Aloha Chair Morita, Chair Ito and Members of the Joint Committees:

I am Mihoko Ito, an attorney with Goodwill Anderson Quinn & Stifel, here to testify on behalf of the Hawai'i Association of REALTORS® (HAR) and its 9,600 members. HAR **opposes** S.B. 1173, S.D. 2, **Section 2, page 7, lines 17-22**, which requires the seller or lessor of property to disclose energy-efficiency information prior to selling or leasing the property.

S.B. 1173, S.D. 2 requires that, prior to the sale or lease of all real property, a homeowner or manager must pass "energy consumption information" to the purchaser or lessee of the property. First, the term "energy consumption information" is not defined, and is ambiguous as to the specific required that would be passes on to purchasers or leasees. Second, the bill presumes that the seller or lessor of the property would possess this type of information, or would be required to get it, but does not provide where and how such information would be available or obtainable.

Overall, HAR believes that this bill proposes requirements on sellers and lessors that would create serious consequences for the real estate and mortgage industries, including the possibility of delays, point-of-sale mandates, and other requirements.

For these foregoing reasons, HAR respectfully requests that this portion of Section 2 (page 7, lines 17-22) be stricken from the bill.

However, if the Committees are inclined to pass this measure, we would ask that an effective date of November 1, 2009 be inserted, so that HAR may review and revise its Purchase Contract, Rental Agreement, Commercial Real Property Purchase and Sale Agreement, and other forms accordingly.

Mahalo for the opportunity to testify.

Bill No. 1173

Support Y N

Date 3/16/09

Time 1332

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