SB 575

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SENATE COMMITTEE ON ENERGY & ENVIRONMENT
TESTIMONY REGARDING SB 575
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 10, 2009
TIME: 3:45PM
ROOM: 225

This measure amends the renewable energy technologies income tax credit to allow the transfer of a credit generated from the installation of a photovoltaic energy system for single-family residential property. No other systems generate a transferable credit. This measure also appears to partially lift the prohibition against residential home developers claiming this credit so that they may be transferors or transferees of the credit.

The Department of Taxation **strongly opposes** this measure.

The Department is strongly opposed to any provision that allows Hawaii tax credits to be sold, assigned, or transferred. Allowing taxpayers to market or sell their tax credits is fundamentally poor tax policy. Selling tax credits can be subject to abuse and suspect motivation by parties involved.

The Department's fundamental and primary concerns regarding credit transfers are the following:

- The transferability rewards a separate taxpayer unrelated to the taxpayer that generated the credit, which is fundamentally poor tax policy for encouraging behavior and directly rewarding that behavior;

- Transferability will create great hardships for those that claim the credit when another taxpayer's activity generates the credit when the latter taxpayer is audited. For example, if taxpayer A's activity generates the credit and transfers the credit to taxpayer B, and subsequently taxpayer A's activities are audited; the Department will be forced to track down B, advise them that the credit is being rejected, and taxpayer B will now have a deficiency with the Department due to A's actions. This will cause contract and warranty disputes between taxpayers.

- The Department is not setup to regulate credit transfers. Will the Department be required to establish a "Bureau of Credit Conveyances" in order to track transfers? If this is the case, resources will have to be dedicated to this.

- And, abuse relating tax credit transfer prices will be problematic. The State will be out a $1 when taxpayers will be transferring this $1 for pennies.

It may be suggested that Act 221 credits are "sellable." This is an inaccurate statement. Act 221 credits are not sellable. What are considered sellable are partnership interests in a qualified high technology business that generates a credit. A person buys an interest in a business and not a tax credit. A suggestion that credits are sellable is incorrect and transactions characterized as sales of credits only are potentially subject to audit by the Department.

SUPPORT FOR ALTERNATIVE ENERGY—The Department strongly supports the encouragement and implementation of alternative energy systems in Hawaii in order to lessen the State's dependence on alternative energy. As fossil fuel and petroleum prices become more volatile, Hawaii's ability to generate its own energy from home will make the State more secure and less reliant on others.

PREFERENCE FOR ADMINISTRATION'S TAX PACKAGE—The Department prefers the comprehensive energy-related tax package contained in SB 871, which clarifies the renewable energy systems tax credits, making them refundable in some circumstances, as well as tax incentives for net-zero energy efficient buildings. The Administration's measure has been factored into the biennium budget and the financial plan.

OPPOSITION TO UNBUDGETED REVENUE LOSS— The Department cannot support the tax provision in this measure because it is not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, this measure would add to the budget shortfall.

REVENUE LOSS—This legislation will result in a revenue loss of about $390,000 per year starting in calendar year 2009 due to an estimated 30% increase in the installation of systems qualifying for the transferrable credit. Also, additional cost would be incurred by the state in order to establish a means of tracking and verifying credits that are transferrable.

Room # 225 3:45 PM February 10, 2009

Senate Committee on Energy and Environment

SB575 RELATING TO TAXATION

Chair Gabbard, Vice-Chair English and Committee Members:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects for the SunPower Systems Corporation. Thank you in advance for accepting these comments on **SB575.**

SunPower Systems Corporation ("SunPower") has been a member of the Hawaii Energy Policy Forum since it convened in 2003. SunPower is in the business of designing, manufacturing, and delivering the highest efficiency solar electric technology worldwide. One of our latest projects was the 1.2 megawatt La Ola solar farm on Lanai with Castle & Cooke Hawaii.

SunPower makes the following comments regarding this measure:
As currently written, the Renewable Energy Technologies Income Tax Credit (RETITC) has very limited appeal due to a series of provisions that undermine its ability to serve as a financial incentive to potential investors. SB575 addresses these limitations and in doing so substantially expands the investor base for renewable energy. One of the key beneficiaries of this change will be the State of Hawaii, which is currently unable to benefit from renewable energy systems because investors are not able to monetize the RETITC.

SB575 addresses limitations of the current RETITC by making it transferable. SunPower supports transferability of the RETITC. Our experience in the solar market indicates that the ability to sell the credit on to investors will substantially accelerate the penetration of renewable energy in Hawaii, with all of the attendant benefits in terms of energy security and price stability for Hawaii's homeowners and business owners.

Mahalo for the opportunity to submit testimony.