HB 2877 HD 1

EDT-CPN

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

KURT KAWAFUCHI
DIRECTOR OF TAXATION

STANLEY SHIRAKI
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

SENATE COMMITTEES ON ECONOMIC DEVELOPMENT & TECHNOLOGY AND COMMERCE & CONSUMER PROTECTION
TESTIMONY REGARDING HB 2877 HD 1
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 16, 2010
TIME: 10AM
ROOM: 016

This bill temporarily suspends the general excise tax exemption for certain transactions and imposes tax at the rate of one percent from July 1, 2010 until June 30, 2015. This measure also suspends the exemption for certain importations from the use tax, and also makes conforming suspensions to the public service company tax.

The Department of Taxation (Department) **is concerned about the suspension of numerous exemptions** and imposition of tax at the one percent rate.

I. EVALUATING HAWAII'S NUMEROUS SPECIAL GENERAL EXCISE TAX AND USE TAX EXEMPTIONS IS IMPORTANT

The Department believes it is necessary to ensure that the numbers general excise tax, use tax, and other exemptions are effective in promoting the various social and economic goals they were originally designed to promote. However, the Department expresses concern regarding repeal as contemplated by this legislation.

As a general consideration, general excise tax exemption repeals contemplated by this legislation should be handled cautiously. This is a particularly serious responsibility, since these tax provisions will completely disappear without a sound basis for legislative intervention. The Department points out that all of these exemptions were important at some point and served some purpose.

II. REVENUE ESTIMATE

As amended, the bill would raise general fund revenues as follows:

- $108.1 million in FY2011;
- $111.3 million in FY2012;
- $114.7 million in FY2013;
- $118.1 million in FY2104; and
- $121.7 million in FY2015.

Linda Lingle
GOVERNOR

KAREN SEDDON
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO

Statement of
Karen Seddon
Hawaii Housing Finance and Development Corporation
Before the

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
March 16, 2010, 10:00 a.m.
Room 229, State Capitol

In consideration of
H.B. 2877, H.D. 1
RELATING TO TAXATION.

The HHFDC ***opposes*** H.B. 2877, H.D.1, to the extent that it suspend General Excise Tax (GET) exemptions for housing projects certified or approved pursuant to sections 201H-36, 237-29, and 238-3(j), Hawaii Revised Statutes, on or after July 1, 2010 through June 30, 2015. The relevant provisions are located on page 7, lines 1 through 11, and page 11, lines 11 to 13 of the H.D. 1. We defer to the Department of Taxation with respect to the remainder of this bill.

The Legislature's intent for the GET exemption was to assure the economic feasibility in the development and operation of housing projects that encourage and enable the production of as many lower cost housing units as possible to increase the inventory of affordable housing statewide. The GET exemption for such certified or approved housing projects has done just that, and should not be suspended.

Thank you for the opportunity to testify.

HAWAII COUNCIL OF MAYORS

Testimony of

Hawaii Council of Mayors
Bernard Carvalho, Jr., Mayor of Kauai County
Mufi Hannemann, Mayor of the City and County of Honolulu
William P. Kenoi, Mayor of Hawaii County
Charmaine Tavares, Mayor of Maui County

Before a Hearing of the
Senate Committee on Economic Development and Technology
Senate Committee on Commerce and consumer Protection

March 16, 2010

House Bill 2877, HD 1, Relating to Taxation

The Hawaii Council of Mayors (HCOM) supports the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including HB 2877, HD 1.

Like the State, the four counties are suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We all have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure, along with real property tax rates. And, we will be proposing furloughs for employees next fiscal year.

Mayor Billy Kenoi
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

Mayor Mufi Hannemann
City and County of Honolulu
530 South King Street
Honolulu, Hawaii 96813

Mayor Bernard Carvalho, Jr.
County of Kauai
4444 Rice Street, Suite 235
Lihue, Hawaii 96766

Mayor Charmaine Tavares
County of Maui
200 South High Street, 9th Floor
Wailuku, Hawaii 96793

We empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As we counties have done, we recognize the Legislature's need to consider everything on the table in balancing the budget. And, we would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

Given these considerations, HCOM believes it important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including HB 2877, HD1.

Mahalo.

Aloha,

Bernard P. Carvalho, Jr.
Mayor of Kauai

Mufi Hannemann
Mayor of Honolulu

William P. Kenoi
Mayor of Hawaii

Charmaine Tavares
Mayor of Maui

DENNIS "FRESH" ONISHI
Council Member
District 4

PHONE: (808) 961-8396
FAX: (808) 961-8912
EMAIL: *donishi@co.hawaii.hi.us*

HAWAIʻI COUNTY COUNCIL

Mailing Address: 25 Aupuni Street, Hilo, Hawaiʻi 96720

March 10, 2010

TESTIMONY OF DENNIS "FRESH" ONISHI
HAWAIʻI COUNTY COUNCIL MEMBER
ON

HB. NO. 2877, HD1, RELATING TO TAXATION
Senate Committee on Economic Development and Technology
Senate Committee on Commerce and Consumer Protection
March 16, 2010 10:00 a.m.
Conference Room 229

Dear Chair Fukunaga, Chair Baker and Members of the Senate Committee on Economic Development and Technology and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for the opportunity to provide testimony on the above Bill.

HB No. 2877, HD1 Suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise, use, and public service company tax and requires the payment of the tax at a one per cent rate from July 1, 2010 and sunsets on June 30, 2015.

The State as well as the Counties face a severe budget crisis. Hard decisions must be made and measures taken to alleviate this. We have all cut spending, eliminated positions and cut programs. Fees, fares and real property tax rates are being reviewed, and employees will be furloughed. HD No. 2877, HD1 is temporary measures, and the state needs revenue to support operations.

Consequently, I believe it is important the Legislature be given the opportunity to consider all options, including the aforementioned Bill.

Once again, thank you for the opportunity to submit testimony on this matter.

J YOSHIMOTO
Chair & Presiding Officer
Council District 3

Phone: (808) 961-8272
Fax: (808) 961-8912
Email: jyoshimoto@co.hawaii.hi.us

HAWAIʻI COUNTY COUNCIL

County of Hawaiʻi
Hawaiʻi County Building
25 Aupuni Street, Suite 1402
Hilo, Hawaiʻi 96720

March 11, 2010

The Honorable Carol Fukunaga, Chair and Members
Senate Committee on Economic Development and Technology
The Honorable Rosalyn H. Baker, Chair and Members
Senate Committee on Commerce and Consumer Protection
Twenty-Fifth Legislature
State Capitol
Honolulu, Hawaii 96813

RE: HB 2877, HD1 Relating to Taxation

Dear Chairs Fukunaga and Baker and Committee Members:

Thank you for the opportunity to testify in support of the Legislature's efforts to review and consider all avenues for revenue stabilization and enhancement, including HB 2877, HD1. I am testifying in my capacity as an individual Hawaiʻi County Council Member; the current County Council, as a body, has not taken any position on this matter.

Like the State, our County is suffering the consequences of a stalled economy. The lowered tourism numbers, along with the collapse of the financial and housing markets not only have resulted in higher unemployment, but have affected real property sales and values, the underpinning for our county revenue stream. The resultant budget shortfalls have been excruciatingly painful to deal with. We have applied widespread restrictions on spending, eliminated funding for positions, and executed specific programmatic cuts. We have reviewed our fees and fares structure and are raising our real property tax rates. In addition, we will be furloughing our employees.

I empathize with the State's financial plight and fully comprehend the magnitude of the State's financial challenges. As I have done, I recognize the Legislature's need to consider everything on the table in balancing the budget. I would hope the State Administration can appreciate why it is important for the Legislature not to summarily dismiss all options.

J YOSHIMOTO
Chair & Presiding Officer
Council District 3

Phone: (808) 961-8272
Fax: (808) 961-8912
Email: jyoshimoto@co.hawaii.hi.us

HAWAIʻI COUNTY COUNCIL

County of Hawaiʻi
Hawaiʻi County Building
25 Aupuni Street, Suite 1402
Hilo, Hawaiʻi 96720

Given these considerations, I believe it is important for the Legislature to continue to review and consider all legislative options to stabilize and enhance revenues and balance the State budget, including HB 2877, HD1.

Sincerely,

J Yoshimoto, Council Chair
Hawaiʻi County Council
JY/so

March 11, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Edgar Gum

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Gregg Grigaitis and I am the Project Director of Marriott's Ko Olina Beach Club Resort.
We oppose HB 2877, HD1.

If the intent is to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) we oppose HB 2877, HD1. We also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

In an already extremely difficult economic climate the above will raise costs significantly for our hotel owners and timeshare homeowner associations. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is harmful to Hawaii's visitor industry.

We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this measure.

Marriott VACATION CLUB

KO OLINA BEACH CLUB
OAHU, HAWAII

March 11, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Edgar Gum

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Edgar Gum and I am the General Manager of Marriott's Ko Olina Beach Club Resort. We oppose HB 2877, HD1.

If the intent is to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) we oppose HB 2877, HD1. We also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

In an already extremely difficult economic climate the above will raise costs significantly for our hotel owners and timeshare homeowner associations. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is harmful to Hawaii's visitor industry.

We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this measure.

ALOHA SOCIETY OF ASSOCIATION EXECUTIVES
ASAE-Hawaii
P.O. Box 282
Honolulu, Hawaii 96809-0282

March 16, 2010

Testimony To: Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair

Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair

Presented By: Tim Lyons
Legislative Chairman

Subject: H.B. 2877, HD 2 – RELATING TO TAXATION

Chair Fukunaga, Chair Baker and Members of the Joint Committees:

I am Tim Lyons, Legislative Chairman of the Aloha Society of Association Executives and we oppose this bill.

We understand that the state is short of money and is in a dire situation however, we do not believe that the way to make it up is by taxing the activities of non-profit organizations, particularly as it relates to the value or gross income received for conferences, trade shows or display spaces.

The Internal Revenue Code recognizes that in some cases, non-profit organizations might go outside of their mission and in those cases it has established UBIT or Unrelated Business Income Tax which is intended to tax non-profit organizations when they are performing activities NOT in accordance with their "true non-profit status" and we can certainly understand those situations. This bill however, says "we don't care if you are doing what you are supposed to be doing for a tax exemption; we still want to tax those proceeds".

Non-dues income for associations typically derived from trade show or conference income are a necessary part of an association's income and revenue stream. It is at these conventions and conferences that non-profit groups actually fulfill their very purpose which is to provide education for its members and the furtherance of that profession. We believe it disingenuous to tax organizations for fulfilling the very purpose for which a tax exemption has been provided. All this does is complicate the production of that convention or trade show and the organization will have to pass that cost along. Trying to sell exhibit space now to mainland companies is an extremely difficult sell given the fact that most of them have to ship or transport products or information to Hawaii in order to display. Exhibitors from many associations oftentimes tell us that our exhibit rental space rates are high in comparison to other states.

Based on the above, we do not believe that this is a proper source of income for the State and it is based on that, that we oppose this bill.

We have attached a listing of our membership to this testimony who would agree with us that this is an improper measure.

Thank you.

Aloha Society of Association Executives – Hawaii Chapter
Membership List

American Red Cross – Hawaii Chapter
Better Business Bureau of Hawaii
Building Industry Association of Hawaii
General Contractors Association of Hawaii
Hawaii Association of Independent Schools
Hawaii Association of Realtors
Hawaii Bankers Association
Hawaii Credit Union League
Hawaii Food Industry Association
Hawaii Hotel & Lodging Association
Hawaii Insurers Council
Hawaii Medical Association
Hawaii Museums Association
Hawaii Optometric Association, Inc.
Hawaii Orthopedic Association
Hawaii Pacific Tennis Foundation
Hawaii Society of Certified Public Accountants
Hawaii Transportation Association
Hawaii Visitors & Convention Bureau
Hawaii Wall & Ceiling Industry Association
Honolulu Board of Realtors
Honolulu County Medical Society
Kaua'i Visitors Bureau
Legislative Information Services of Hawaii
NAMI Hawaii
National Association of Insurance & Financial Advisors Hawaii
NFIB
Organizations Management, LLC
Pacific and Asian Affairs Council
Pacific Telecommunications Council
Painting & Decorating Contractors Association
Plumbing & Mechanical Contractors Association
PROcom Hawaii
Retail Merchants of Hawaii
Sand Island Business Association
Sheet Metal Contractors Association
SMEI Honolulu
The Legislative Center, Inc.
Waikiki Improvement Association

Marriott
Marriott International, Inc.
North Asia, Hawaii & South Pacific
2255 Kuhio Avenue, Suite 1020
Honolulu, Hawaii 96815

Chris Tatum
Vice President
North Asia, Hawaii & South Pacific
808/792-8887
808/792-8885 Fax

March 11, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Chris Tatum, Area Vice President North Asia, Hawaii & South Pacific

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Chris Tatum and I am the Area Vice President for 31 Marriott hotels in the North Asia, Hawaii & South Pacific.

We oppose HB 2877, HD1.

If the intent is to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) we oppose HB 2877, HD1. We also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

In an already extremely difficult economic climate the above will raise costs significantly for our hotel owners and timeshare homeowner associations. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is harmful to Hawaii's visitor industry.

We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this measure.

Warm Regards,

Chris Tatum
Area Vice President
North Asia, Hawaii & South Pacific

From: Yannarell, Steve [Steve.Yannarell@vacationclub.com]
Sent: Thursday, March 11, 2010 1:40 PM
To: EDTTestimony
Subject: HB2877

Marriott VACATION CLUB.
WAIOHAI BEACH CLUB
KAUAI, HAWAII

March 11, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Steve Yannarell

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Steve Yannarell and I am the General Manager of Marriott's Waiohai Beach Club Resort on the island of Kauai. We oppose HB 2877, HD1.

If the intent is to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) we oppose HB 2877, HD1. We also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

In an already extremely difficult economic climate the above will raise costs significantly for our hotel owners and timeshare homeowner associations. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is harmful to Hawaii's visitor industry.
We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this measure.

Steve Yannarell
General Manager
Marriott's Waiohai Beach Club

2249 Poipu Road
Koloa, Kauai, Hawaii 96756
Office: 808-742-4401
steve.yannarell@vacationclub.com

KAUAI LAGOONS

March 11, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Brad Snyder
Marriott International
Area General Manager/Kauai

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Brad Snyder and I am Marriott International's Area General Manager for Kauai.
I am opposed to HB 2877, HD1.

These transactions are currently exempt from the GET. If the intent is to suspend the exemption and impose a 1% tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owners, nonprofit homeowners, or nonprofit community associations as described under section 237-24.3(3), I oppose HB 2877, HD1. I also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

At a time when we are in an already extremely difficult economic climate, the above will raise costs significantly for our hotel owners and timeshare homeowner associations. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is harmful to Hawaii's visitor industry and imposing this kind of tax doesn't always provide solutions to our problems as a community.

We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this very important issue.

3351 Ho'olaule'a Way, Suite 201 | Kalapaki, Lihu'e, Hawai'i 96766 | www.KauaiLagoons.com | P: 866.494.2924 | F: 808.241.2010

HAWAI'I HOTEL & LODGING ASSOCIATION
2270 Kalakaua Ave., Suite 1506
Honolulu, HI 96815
Phone: (808) 923-0407
Fax: (808) 924-3843
E-Mail: hhla@hawaiihotels.org
Website: www.hawaiihotels.org

32nd Anniversary
Are You Walking???
May 15, 2010
(Always the 3rd Saturday in May)
www.charitywalkhawaii.org

TESTIMONY OF MURRAY TOWILL
PRESIDENT
HAWAI`I HOTEL & LODGING ASSOCIATION

March 16, 2010

RE: HB 2877 HD1 Relating to Taxation

Good morning Chairpersons Fukunaga and Baker and members of the Senate Committees on Economic Development & Technology, and Commerce & Consumer Protection. I am Murray Towill, President of the Hawai`i Hotel & Lodging Association.

The Hawai`i Hotel & Lodging Association is a statewide association of hotels, condominiums, timeshare companies, management firms, suppliers, and other related firms and individuals. Our membership includes over 150 hotels representing over 48,000 rooms. Our hotel members range from the 2,680 rooms of the Hilton Hawaiian Village to the 4 rooms of the Bougainvillea Bed & Breakfast on the Big Island.

The Hawai`i Hotel & Lodging Association opposes the provisions of HB 2877 HD1 Relating to Taxation that would remove the exemption currently provided under HRS 237-24.7(1). This exemption covers the amount received by a hotel operator or sub operator from the owner of a hotel or timeshare association for employees' wages and benefits. We also oppose removing the exemption covered under HRS 237-24.3(3). This exemption has the same general purpose relating to condominiums.

Given the difficult times the visitor industry in general and the lodging industry in particular is experiencing, now is not the time to be increasing the cost of doing business. As an example in the last 2 years, total hotel revenue in Hawaii dropped by over $1 Billion. A tax increase of this sort may generate some funds in the short run, however the unintended consequence of these proposals is likely to be a restructuring of businesses. The net effect of this sort of a tax would likely see employees being retained by owners as opposed to operators. Removal of employees from the large management companies systems to small systems run by each owner will most likely result in fewer benefits and less stability for employees especially as properties change hands.

This sort of transition of employees from operators to owners would eliminate the added tax revenue seemingly anticipated by these provisions of HB 2877 HD1.

In summary, we oppose removing these exemptions from the General Excise Tax ("GET") law and urge they be deleted from the bill.

Again, mahalo for this opportunity to testify.

fukunaga3 - Doris

From: Sen. Carol Fukunaga
Sent: Thursday, March 11, 2010 10:06 PM
To: fukunaga3 - Doris
Subject: FW: HB 2877 HD1 Relating to Taxation

For testimony,
carolf

From: Peter Sit- Reg 789 [mailto:Peter.Sit@bluegreencorp.com]
Sent: Thursday, March 11, 2010 2:09 PM
To: Sen. Carol Fukunaga; Sen. Roz Baker; Sen. Sam Slom; Sen. Clayton Hee; Sen. David Ige
Cc: 'Murray Towill'
Subject: HB 2877 HD1 Relating to Taxation

Aloha,
We are against the bill HB 2877.

A key feature of the bill would impose a 1% General Excise Tax ("GET") on funds passed from a hotel owner or condo hotel owners association to an operator to pay employee wages and benefits.
This additional tax is not a good idea since it would increase the cost of doing business, encourage businesses to restructure in a way that would result in limited additional revenue to the State and could negatively impact an employees benefits and security.

Mahalo.
Peter Sit
General Manager
Pono Kai Resort,
Kapaa, HI.

WAILEA BEACH
RESORT & SPA
Marriott

March 12, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Bill Countryman

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1 Relating to Taxation**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Bill Countryman and I am the General Manager of the Wailea Beach Marriott Resort & Spa. We employ 416 associates who depend on our financial stability now more than ever. We oppose HB 2877, HD1.

If the intent is to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) we oppose HB 2877, HD1. We also oppose this measure if the same is applied to hotel operators or suboperators and disbursed for employee compensation and benefits under section 237-24.7(1).

In an already extremely difficult economic climate the above will raise costs significantly for our hotel owners. There may be unintended consequences which forces businesses to restructure whereby employees are retained by owners as opposed to the management company. We believe HB2877, HD1 is extremely harmful to Hawaii's visitor industry.

We would instead support SB 2643, SD1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the exemption applies to the amount of tax exempted.

Thank you for allowing me to offer testimony on this very important measure.

Wailea Beach Marriott Resort & Spa
3700 Wailea Alanui ~ Wailea, Maui, Hawaii 96753-8332
Telephone (808) 879-1922 Facsimile (808) 874-7888
waileamarriott.com

Dan Youmans
President –Washington/Hawaii
External Affairs

AT&T Services, Inc.
P.O. Box 97061
RTC1
Redmond, WA 98073-9761

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F: 425-580-8652
daniel.youmans@att.com
www.att.com

March 16, 2010

The Honorable Senator Carol Fukunaga
Chair, Economic Development and Technology Committee

The Honorable Senator Rosalyn Baker
Chair, Senate Commerce and Consumer Protection Committee

RE: AT&T Opposition to House Bill 2877 HD1
Hearing 10 a.m., March 16

Dear Sen. Fukunaga, Sen. Baker, and Members of the Committees:

AT&T urges your opposition to House Bill 2877 HD1, specifically the provision in this legislation that would remove the tax exemption and create a new tax on roaming charges between wireless carriers. See SECTION 2 (3).

<u>This provision will increase the cost of cell phone service to consumers in Hawaii.</u> With the Hawaii economy struggling, we believe now is not the time to increase the cost of critical services for Hawaii citizens, especially technology that is so important to both businesses and families in the state.

Since the focus of this tax is on roaming charges, this tax will also make it more expensive for visitors to Hawaii to use their cell phone service. Again, now is not the time to increase the cost of tourism, which is so important to the Hawaii economy.

Current Hawaii law wisely included this tax exemption because the charges that one cell phone company makes to another cell phone company to deliver calls outside a company's service area – commonly known as roaming charges – are part of the business arrangements between these two companies. If a tax is added to this transaction, that cost will be passed on to consumers in the form of higher rates. Since cell phone customers already pay general excise taxes on their service – and the cost of service is going to go up as a result of this legislation – these taxes will be even higher. So the tax increase in House Bill 2877 HD1 is really a double hit on consumers.

AT&T understands the challenges facing the Hawaii Legislature to resolve the state's budget problems. However, we don't feel targeting new taxes on certain products and service – such as cell phone service – is the right approach. Cell phones and other wireless devices now provide a critical communications tool to both the citizens of Hawaii and visitors to the Islands. We urge you to oppose policies that would increase the cost of these services.

Please contact me if you have any questions. Again, we urge your opposition to House Bill 2877 HD1.

Respectfully Submitted,

Dan Youmans, AT&T

ALTRES
Hawai'i's Employment Expert

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March 12, 2010

Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Senator Rosalyn H. Baker, Chair
Committee on Commerce and Consumer Protection
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Subject: HB2877, HD 1, Relating to Taxation
Tuesday, March 16, 2010, 10:00 a.m., CR 229

Dear Senator Fukunaga and Senator Baker:

My name is Barron Guss, President and second-generation owner of ALTRES, Inc., a 40-year old Hawaii company. I want to express my sincere appreciation and understanding of the challenges you and your fellow lawmakers face as you work to not only reduce the deficit but also chart a course for the future of Hawaii.

With this in mind I understand that HB2877, HD1 was envisioned to increase revenue but, unfortunately, its enactment would have the opposite effect and cripple certain segments of the economy, including the PEO industry.

Professional Employer Organizations act as the human resources and administrative arm of over 2,000 of Hawaii's small businesses. In this capacity, a PEO prepares payroll, provides workers' compensation, health insurance and enhanced lifestyle benefits to the employees of the clients they serve, which now number over 20,000.

The PEO industry worked tirelessly with the Legislature, Tax Department, and labor organizations for a period of more than 12 years to provide clarification and relief of the G.E.T. on monies that if paid without the administration of a PEO would not be taxed. It is important to note that with the current exemption, the PEO's service fees are taxed at 4.712%. The current exemption simply allows the pass through amounts, such as payroll and benefits, to be exempt from the G.E.T. as they would be if paid directly from the employer to the employee.

As you are aware, the already struggling employers of Hawaii are facing upwards of a $1,500 to $2,000 per person increase in unemployment insurance costs in the coming year. The imposition of a 1% tax on wages, benefits and insurance simply because they choose to employ the services of a PEO would have a devastating effect.

To illustrate this point, the average wage in the State is approximately $33,000, and associated tax and benefits cost an additional $8,000. The proposed 1% tax would mean an increased cost of more than $410 per employee. This is an increase that my clients simply will not tolerate and will cause them to cancel their services and find alternative methods to avoid the taxation of HB2877, HD1.

Others will go rogue, leading to an increase in non-compliance regarding taxation and labor laws. Those who fall off the grid will pay their people cash to avoid not only this tax but the increased cost of unemployment insurance and the rising cost of medical benefits.

With this outcome I, and others in this industry, would need to make adjustments. For ALTRES, we would have to lay off our 134 long-time staff who would then join the roster of the unemployed in Hawaii.

In summary, I would like to express my extreme opposition to HB2877, HD1, which would, in effect, decrease tax revenue and employee benefits, create a loss of jobs, and put me out of business.

Sincerely,

Barron L. Guss
President and CEO

BLG:lo

Maui Hotel & Lodging
ASSOCIATION

Testimony of
Carol Reimann
Executive Director
Maui Hotel & Lodging Association
on
HB2877 HD1
Relating to the Taxation

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Tuesday, 03-16-10 10:00AM
Conference room 229

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes approximately 120 property and allied business members – all of whom have an interest in the visitor industry. Collectively, the MHLA membership employs over 10,000 Maui County residents.

MHLA opposes HB2877 HD1 that will suspend the exemptions for certain gross income or proceeds from the general excise, use and public service company tax; and will require a payment of a tax at a 1% rate.

The proposed bill will impose a 1% General Excise Tax ("GET") on funds passed from a hotel owner or condo hotel owners association to an operator to pay employee wages and benefits. These transactions are currently exempt from the GET. The result is that this bill will be very costly for hotel operators who are not the hotel owner.

This bill will significantly increase the cost of doing business for many of our accommodation properties who are already struggling to remain viable during these tough economic times. It is also likely to force businesses to restructure so employees are retained by the owners as opposed to the operators. In some cases, this would have a negative impact on employees. To impose such a tax burden will be detrimental to the health of the visitor industry.

MHLA urges you to oppose HB2877 HD1.

Thank you for the opportunity to testify.

1727-B Wili Pa Loop • Wailuku, HI 96793 • 808/244-8625 • 808/244-3094 fax • info@mauihla.org

Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

Testimony By: Alicia Maluafiti
HB 2877 HD1, Relating to Taxation
The Senate Committees on Economic Development and Technology
and Commerce and Consumer Protection
Tuesday, March 16, 2010
Room 229, 10:00 a.m.

Position: Oppose – With Amendments

Aloha Chairs Fukunaga and Baker, and members of the Committee:

My name is Alicia Maluafiti, Executive Director of the Hawaii Crop Improvement Association. HCIA is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

The seed industry appreciates – and has testified in support of - most legislative solutions to generate revenue and specifically address the loss of the agricultural inspectors and other staff at the Hawaii Department of Agriculture. Our dialogue with the HDOA these past few months as well as our role at the state legislature demonstrates our sincere commitment to seek out solutions that are fair and balanced. We do this in recognition of the growth of the seed industry in Hawaii, our responsibility to support the regulatory authority of the HDOA, and our collective ability to absorb some of the financial burden on behalf of the agricultural industry - as best we can.

However, as a member of the agricultural community and on behalf of our fellow farmers struggling during these tough economic times, **we respectfully request that the state legislature honor and retain the GET exemptions for the loading and unloading of agricultural commodities as authorized in HRS 237-24.3(1).**

The industry has already voluntarily agreed to bear the burden of many fee increases proposed this legislative session. The additional loss of exemptions, coupled with the proposed 1% tax increase, will easily put farmers out of business further jeopardizing our state's food security. We understand that the budget shortfall has placed an enormous amount of responsibility on your shoulders. But we ask only for a balanced approach to dealing with this crisis, and right now – we believe the agricultural industry is bearing more than their fair share.

Mahalo for the opportunity to comment.

91-1012 Kahi'uka Street
'Ewa Beach, HI 96706
Tel: (808) 224-3648
director@hciaonline.com
www.hciaonline.com

Hawaii Transportation Association
Driving Hawaii's Economy

March 16, 2010

TESTIMONY BEFORE THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY, AND ON COMMERCE AND CONSUMER PROTECTION ON HOUSE BILL 2877 HD1 RELATING TO TAXATION

Thank you Chair Fukunaga, and Chair Baker, and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association (HTA) opposes this bill, and we can speak directly to Section 237(a)(5).

HTA is a voluntary membership organization and as our members financial situations go, so goes our support. Over the past three years our transportation members have seen revenue reductions of 20 - 40%, depending upon the segment of the industry. HTA operates on very thin margins, that is just the way it is for trade organizations. Unfortunately, in each of the past three years we have ended up in dangerous deficit positions.

Three years ago we had five staff members, today we are down to two - including myself, and we are still struggling from month to month to minimize losses. For us, even a one percent cost increase of our activities becomes monumental.

Our staff reductions have also precluded HTA from participating in as many committees and community events as we have, and would like to. This is unfortunate as many interests seeking our input or assistance have virtually no ground transportation expertise. These interests include issues on the environment, community traffic problems, government sponsored projects like the Memorial Day project and importation of illegal fireworks, etc.

We are feeling the tough times like you are. The difference is we do not have the ability to easily increase revenues. This means increasing prices and we have learned we cannot do that without a corresponding loss of membership and support. This is counterproductive to our goals of increasing our industry reach to further our mission.

We work for the entire industry though less than 10% are members. We work with government agencies to make their jobs easier and more impactful. We work with communities and charities to improve conditions for the greater good.

We ask you to defer this bill and allow us the ability to continue these functions as much as we can. Thank you

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 13, 2010 2:38 PM
To: EDTTestimony
Cc: gottlieb@hawaii.rr.com
Subject: Testimony for HB2877 on 3/16/2010 10:00:00 AM

Testimony for EDT/CPN 3/16/2010 10:00:00 AM HB2877

Conference room: 229
Testifier position: oppose
Testifier will be present: No
Submitted by: Alan Gottlieb
Organization: Hawaii Cattlemen's Council
Address:
Phone: 808-306-7769
E-mail: gottlieb@hawaii.rr.com
Submitted on: 3/13/2010

Comments:
Hawaii Agriculture is already struggling to survive. We know you understand agriculture's importance to Hawaii's sustainabiluty and Bio-Security. While we understand the State's budget shortfalls, we humbley request that you delete the following from the bill:

• Section 2 (10) – Amounts received from the loading, transportation, and unloading of agricultural commodities shipped interisland as described under section 237-24.3(1);

March 16, 2009

<u>COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY</u>
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

<u>COMMITTEE ON COMMERCE AND CONSUMER PROTECTION</u>
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

<u>HB 2877, HD 1,</u>
<u>RELATING TO TAXATION</u>

DATE: Tuesday, March 16, 2010
TIME: 10:00 a.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

Good Morning Chairs Fukunaga and Baker and members of these committees:

I am Rev Bob Nakata and I am a member of the FACE Homeless and Affordable Housing Committee of FACE and the past President of FACE, Oahu. FACE is an interfaith organization with membership including 28 churches, temples, unions and civic organizations and has been active in Hawaii for 15 years. It represents over 38,000 people who reflect the cultural and socio-economic diversity of our State. FACE exists to allow its members to live out our common faith-based values by engaging in actions that challenge the systems that perpetuate poverty and injustice. FACE and I **<u>individually DO NOT SUPPORT</u>** the portion of this bill that addresses the GET exemption for qualified low income rental housing projects.

The GET exemption is provided to qualified low income rental housing is a critical necessity for the economic feasibility of new developments and especially for the existing developments. Our State has a critical shortfall of affordable rental housing. The GET exemption helps to encourage the production and preservation of as many affordable rental units as possible.

Any repeal of suspension of the GET exemption is going to make the development and preservation of affordable rental housing, which is already in dire straights, much more difficult in these times when the financial environment has limited capital available for these necessary projects.

Please remove this portion of the bill. Thank you for your support for the vulnerable of our State of Hawaii.

CTIA
The Wireless Association®

Expanding the Wireless Frontier

March 15, 2010

The Honorable Senator Carol Fukunaga
Chair, Economic Development and Technology Committee

The Honorable Senator Rosalyn Baker
Chair, Senate Commerce and Consumer Protection Committee

RE: Opposition to House Bill 2877 HD1

Dear Sen. Fukunaga, Sen. Baker, and Members of the Committees:

CTIA – The Wireless Association®[1] respectfully submits testimony in opposition to HB 2877 HD1. Specifically, CTIA opposes the current provision within 237 (a)(3) which states "Gross receipts of home service providers acting as service carriers providing mobile telecommunications services to other home service providers as described under section 2376-13 (6) (d)."

The legislation before your committees will have an adverse financial impact on Hawaii residents and businesses as well as the visitors to your state by creating a new tax on roaming charges. New taxes on wireless services increases the cost for your constituents and thereby discourages the use of those services, including broadband services, which state and federal legislators are determined to universally deploy.

In order to prevent the double taxation of wireless consumer's, the U.S. Congress passed the Mobile Telecommunications Sourcing Act (P.L. 106-252), which ensures that wireless calls are taxed according to the callers place-of-primary use (PPU). The measure before the Economic Development and Technology Committee and the Commerce and Consumer Protection Committee would ignore the federal sourcing act and unfairly impose a new tax on calls made by residents of Hawaii but also out-of-state wireless customers roaming within Hawaii.

CTIA appreciates the revenue needs for the state during these difficult economic times but Hawaii consumers already contribute significantly to the state through a public service communications tax, a general excise tax, a public utility communications fee and a wireless 911 tax.

As we work to ensure that all Americans have access to state-of-the-art communications capabilities, we should work on tax policies that promote, rather than impair, our ability to deliver that access.

Sincerely,

K. Dane Snowden
Vice President
External & State Affairs

[1] CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

Hawai`i Alliance of Nonprofit Organizations

March 12, 2010

Chair Carol Fukunaga, Committee on Economic Development and Technology
Chair Rosalyn Baker, Committee on Commerce and Consumer Protection
Hawaii State Senate
State Capitol, Room 229
Honolulu, HI 96813

RE: HB 2877, HD 1 Relating to Taxation

Dear Chair Fukunaga, Chair Baker and members of the Senate EDT and CPN Committees:

The Hawai`i Alliance of Nonprofit Organizations is a statewide, sector-wide professional association for nonprofits. HANO member nonprofits provide essential services to every community in the state. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawaiʻi.

We appreciate the amendment made by the House in HD 1, which removed the ½ % general excise tax on all gross income or gross proceeds of sale for all charitable organizations. We, however, have some concerns about the addition to HD 1 of the 1% tax on gross revenue from conferences, conventions, trade exhibits and displays that charitable groups organize.

In our informal polling of some nonprofits regarding the impact this increased taxation would have on them, we learned that only a few in our sector would be detrimentally impacted, largely those that are professional associations like HANO that put on annual conferences to convene their members. Also impacted are those organizations that hold educational conferences to share information with their constituency. For some, the amount taxed would be minimal, while for others, it might result in several thousands of dollars in upfront costs. Smaller organizations will most certainly not be able to bear this additional cost. Organizations would likely have to recoup this expense by raising their event fees and passing the expense on to their attendees, making the event less attractive to attend.

Taxation on gross receipts presents a scenario where a nonprofit organization may hold a large convening, bring in revenue, but also incur heavy expenses to match, such that there is no net profit on the event. In this case, the nonprofit will still be required to pay the tax on the total revenue, running the organization into further deficit.

We understand the challenge you face to identify revenue sources to balance the budget, and wonder whether this initiative will yield significant revenue. Will it be enough to justify the increased overhead and financial burden for nonprofit organizations and increased policing that will be required of the Department of Taxation?

Thank you for the opportunity to provide comments on HB 2877, HD 1.

Mahalo,
Lisa Maruyama
President and CEO

P.O. Box 240382 • Honolulu, HI 96824-0382
info@hano-hawaii.org • hano-hawaii.org
(808) 529-0466

HICA HAWAII ISLAND CONTRACTORS' ASSOCIATION

494 C KALANIKOA STREET • HILO HAWAII 96720 • TELEPHONE (808) 935-1316

March 15, 2010

Chair Fukunaga, Vice Chair Baker
Senate Committee on Economic Development and Technology
State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: OPPOSITION TO HB2877; H.D. 1 – RELATED TO TAXATION
AMENDMENTS TO SECTION 237 HRS

Chair Fukunaga, Vice Chair Baker and Members of the Committee:

My name is Leslie Isemoto, 1st Vice President of the Hawaii Island Contractors' Association. We strongly oppose HB 2877; H.D. 1 – Related to Taxation, with amendments to Section 237 HRS

Our Association is comprised of General Contractors, Subcontractors and associates related to the construction industry on the Island of Hawaii.

Unlike most of the businesses that are affected by the proposed tax levy, construction contractors have a fixed price to any owner. We are not able to pass on this new tax levy on existing contracts. Many of our contractors have projects in excess of one year in duration and many of them have not started. The proposed tax levy under sections 237-13 (3) (B), and 237-13 (3) (C), will have a significant financial impact on construction contractors.

We also have contractors that utilize private employment services companies which is also subject to the proposed tax levy under section 237-23.5(b).

This Act will also hamper future projects affected in sections 237-24.9, 237-26 (A), 237-27.5 and 237-29 (a)

We understand the State's financial difficulties and understand that we must find additional revenue sources. We respectfully request your consideration to amend sections related to construction contracting, to take effect on any project bid after July 1, 2010. Such an amendment will allow us to make adjustments to our bids and cover the cost of this new levy.

Sincerely,

Leslie Isemoto,
1st Vice President
Hawaii Island Contractors' Association

ISEMOTO
CONTRACTING CO. LTD.
General Contractor
Contractor's License No. ABC1036

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PHONE (808) 329-8051 FAX (808) 329-3261

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March 11, 2010

Chair Fukunaga, Vice Chair Baker
Senate Committee on Economic Development and Technology
State Capital
415 South Beretania Street
Honolulu, HI 96813

RE: OPPOSITION TO HB2877; H.D. 1 – RELATED TO TAXATION AMENDMENTS TO SECTIONS 237 HRS

Chair Fukunaga, Vice Chair Baker and Member for the Committee:

My name is Leslie Isemoto, President of Isemoto Contracting Co., Ltd. We strongly oppose HB 2877; H.D. 1 – Related to Taxation, with amendments to Sections 237 HRS.

We are a local general contractor doing business in Hawaii since 1926. Approximately 35% of our total contracting volume is subcontracted. This bill will require payment of a 1% tax on all work we subcontract effective July 1, 2010. As a construction contractor, our bids or sales, are based on a fixed price and we are no be able to "pass on" this tax to our clients. We have several projects that are in excess of one year in duration and have projects that were bid a year ago and have not started. If this bill is approved in its present language, it will affect the profitability of our company. If we applied the 1% levy on work subcontracted last year, the amount due would be in excess of $296,000.00, which is a significant amount.

We understand the State's financial difficulties and understand that we must find additional revenue sources. We respectfully request your consideration to amend sections related to construction contracting, to take effect on any project bid after July 1, 2010. Such an amendment will allow us to make adjustments to our bids and cover the cost of this new levy.

Sincerely,

Leslie Isemoto,
President

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

March 16, 2010

Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
and
Senator Rosalyn Baker, Chair
Committee on Commerce and Consumer Protection
State Capitol, Room 229
Honolulu, HI 96813

RE: HB2877, HD1, "Relating to Taxation"

Dear Chair Fukunaga and Chair Baker and Members of the Joint Committee:

I am Karen Nakamura, Executive Vice President and Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii opposes HB2877, HD1, "Relating to Taxation".

In doing so, we strongly express the fact that the exclusions for sub-contractor gross billings reduces the monumental pyramiding of the general excise tax in our industry. Currently there are over 168 specialty licenses for contractors. Contractors and Sub-contractors are forced to use subs and sub's subs, because of the current law regarding jurisdictional work. This compounding effect will escalate job costs that have not been estimated because of the far reaching effects of the current law.

By voting to pass this bill, you send a very strong message to the citizens and businesses of our state; that it is ok to be double, triple and even quadrupled taxed to keep the status quo at any cost. The construction industry has downsized and right sized. We are doing more with much less and are all struggling to survive. We have not yet recovered from the recession of the 90's. The number of licensed contractors today is still 40% below our peak in 1991 and this bill will expand the ever growing underground economy in our industry as licensing becomes a disadvantage.

Thank you for the opportunity to share our views with you.

Karen T. Nakamura

Karen T. Nakamura
EVP/CEO
Building Industry Association of Hawaii

STARWOOD
VACATION OWNERSHIP

9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

March 16, 2010

Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology

Honorable Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection

Re: **<u>HB 2877 HD1, Relating to Taxation - Oppose</u>**
Hawaii State Capitol Conference Room 229, March 16, 2010, 10 AM

Aloha Chair Fukunaga, Chair Baker, and committee members:

I'm Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership. We oppose changes proposed by HB 2877 HD1, Relating to Taxation, to temporarily remove exemptions and levy a 1% tax to following provisions in Section 2 (Pages 3-5):

- <u>(12) Amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) in the form in which it exists on July 1, 2010;</u>

- <u>(19) Amounts received by hotel operators or suboperators and disbursed for employee compensation and benefits as described under section 237-24.7(1) in the form in which it exists on July 1, 2010;</u>

The General Excise Tax is exempted when a transaction is made by the company or property owner to a management company to pay for employee wages and benefits. These exemptions were established to ensure that transactions, such as reimbursements and employee compensation and benefits, are not subject to tax as they are a pass through expense.

It is noteworthy to consider the Senate advanced a similar bill, which we prefer, SB2643, SD1, makes the GET exemption amendments for timeshare operators and condominium sub-managers permanent.

Keeping these exemptions intact is critical to the visitor industry. It is also important to encourage, rather than deter, condominium projects from hiring professional managers to ensure well maintained projects. In addition, removing a tax exemption for the pass through expense of employee compensation and benefit disbursements will only serve to deter operators from hiring additional staff.

<u>For these reasons, we respectfully request you to oppose this bill and keep these exemptions intact.</u>

Sincerely,

Robin Suarez
Vice President & Associate General Counsel for Starwood Vacation Ownership

Sprint
Together with NEXTEL

March 15, 2010

The Honorable Senator Carol Fukunaga
Chair, Economic Development and Technology Committee

The Honorable Senator Rosalyn Baker
Chair, Senate Commerce and Consumer Protection Committee

RE: Opposition to House Bill 2877 HD1

Dear Sen. Fukunaga, Sen. Baker, and Members of the Committees:

Sprint Nextel respectfully submits the following comments in opposition to House Bill 2877 HD 1. Sprint appreciates the challenges currently before the Legislature to address budget shortfalls, however, HB 2877 HD 1, and specifically Section (2)(3), will only serve to penalize consumers and may violate federal law.

Existing state and federal law have provided the necessary foundation for wireless carriers to enter into national roaming agreements that assume wireless phone calls made while roaming will not be subject to piecemeal taxation. HB 2877 HD 1 would undermine these laws by suspending the tax exemption currently provided for roaming charges. This proposed change would create a new tax on roaming services in Hawaii which would directly impact wireless users by increasing the cost of service. Roaming provides a significant benefit to customers and visitors in Hawaii as it enables them to utilize their cell phone in many locations where not all carriers are able to provide service. More and more consumers are choosing to save money by maintaining wireless-only households. HB 2877 HD 1, however, creates disincentives for those consumers who opt to cut the cord by imposing additional taxes on them.

As mentioned above, Section (2)(3) of HB 2877 HD 1 may conflict with the Mobile Telecommunications Sourcing Act (P.L. 106-252) (MTSA). The MTSA provides that all wireless services that are provided by a wireless carrier can only be taxed based on a customer's place of primary use or "billed-to jurisdiction." By taxing roaming charges, Hawaii would be assessing a tax beyond a customer's place of primary use.

Sprint is committed to the expansion of advanced services for its customers in Hawaii as demonstrated by the recent launch of 4G services in Honolulu – one of the initial launch cities for Sprint. With the continued introduction of new technologies in Hawaii, it is critical that Hawaii create an environment that embraces the economic advantages of innovation. HB 2877 HD 1 imposes backward-looking regulations that will serve to stifle innovation and impose unfair taxes on wireless users in Hawaii. For these reasons, Sprint respectfully urges your opposition to HB 2877 HD 1.

Sincerely,

Anne M. Perkins
Manager, State Government Affairs

925 L Street, Sacramento, CA 95814
(916) 443-1764, anne.perkins@sprint.com

Ship Repair Association of Hawaii

P.O. BOX 29001, Honolulu HI 96820

12 March 2010

The Honorable Senator Carol Fukunaga, Chairwoman
Committee Economic Development and Technology

The Honorable Senator Rosalyn Baker, Chairwoman
Committee on Commerce and Consumer Protection

Hawaii State Capitol, Committee Clerk Room 216
415 South Beretania Street
Honolulu, HI 96813

Dear Chairwoman Fukunaga and Chairwoman Baker:

On behalf of the Ship Repair Association of Hawaii (SRAH) I am submitting this written testimony in response to House Bill 2877, HD 1. The Ship Repair Association of Hawaii is fundamentally opposed to the inclusion in the General Excise Tax (GET) scheme;

.....Gross proceeds received from shipbuilding and ship repairs as described under section 237-28.1;

The ship repair industry in Hawaii has been fighting to maintain its industrial base since the mid 1990s. Because of a number of unique economic factors that exist in Hawaii, our industry is constantly struggling to keep Hawaii home ported vessels in the State for ship modernization and repair requirements. Hawaii is the only Island State in the Union. We have a unique encapsulated economy which is limits our ability to import the material and resources necessary to maintain industry.

Because of our encapsulated economy and the subsequent cost of having to ship all material needed from the Mainland, the Hawaii ship repair industry is, and has been, at a significant cost competitive disadvantage for years. Compounding and frustrating the matter is the balance between fluctuating workflows and the training and retaining of a skilled workforce necessary to meet the required trade skills to perform.

It is worthy to note that the U.S. Navy is pressing, because of intense necessity, to reduce ship repair costs for work conducted on U.S. Navy ships, including those home ported in Pearl Harbor. To that end, the Navy instituted the Multi-Ship Multi-Option (MSMO) contracting concept to consolidate commercially contracted Pearl Harbor surface ship repairs under central (prime contractor) management, with a principal goal of improving the cost effectiveness of ship maintenance.

As a near term example of the undermining effect imposing GET would have on our industry in Hawaii: SRAH and MSMO contractors are working to maintain the Navy's commitment to conduct two significant Navy Aegis (TICONDEROGA Class) Cruiser modernizations and upgrades here in Pearl Harbor, beginning in early 2011. If the Navy is required to pay GET for these projects, the added costs to the Navy would constitute a measurable element on the side of the ledger in favor of relocation of these maintenance availabilities – and other significant ship repair availabilities planned to take place - to the West Coast of the U.S.

With respect to commercial operators, we frequently see the effects of this cost analysis on large repair projects where commercial operators are not as impacted by the politics of their decisions. As is stands now, we have seen these operators take their vessels to the mainland. Imposing a GET will only further exacerbate this problem.

If the State applies the additional cost burden of the standard GET to ship repair performed in Hawaii, the local industry would have to shoulder the added costs, eroding even further the industry's ability to secure and keep vessel repair work in Hawaii. The shipbuilding and repair industry is competing more and more within a global market. In the current economic recession, that competition is exacerbated. Hawaii's ship repair companies' costs must continue to be held as low as possible, in order to compete with off-island repair entities – a crucial challenge to our island economy in a fragile economic period.

As outlined above, without the added GET to the cost of ship repair services, the Hawaii Ship repair industry is currently significantly at a cost disadvantage to yards on the Mainland and abroad. Consequently, our Industry will experience a further decline which would cause a further erosion of what little industrial capabilities exist in the State; not only depriving the state of any tax revenue from lost repair projects, but also the loss of tax base from impacted businesses' and employees'.

As president of SRAH, I ask you to include a provision to fully restore our crucial exemption and require an annual review of the shipbuilding and ship repair exemption.

Respectfully yours,

Iain S. Wood, President
Ship Repair Association of Hawaii

Member Firms

AMSEC LLC Airgas Gaspro American Industrial Insulation Anawati & Associates Arise Waco Scaffolding
BAE Hawaii Shipyards C&S Services Dresser-Rand Hawaii Marine Cleaning HSI – Electric Boat HSI Mechanical, Inc.
Kratos Defense & Security Solutions Marisco, Ltd. Pacific Shipyards International
Pheonix International Potter Electric, Inc. Propulsion Controls Engineering Hawaii, LLC Q.E.D. Systems, Inc
ThussenKrupp Safway, Inc. UTS Maritime Services

HONUA LANDSCAPING, INC.

74 Ainalako Road, Hilo, HI 96720
Ph: 808 959 5425 – Fax 808 959 7850

March 15, 2010

Chair Fukunaga, Vice Chair Baker
Senate Committee on Economic Development and Technology
State Capital
415 South Beretania Street
Honolulu, HI 96813

Re: OPPOSITION TO HB2877; H.D. 1 – RELATED TO TAXATION AMENDMENTS TO SECTION 237 HRS

Chair Fukunaga, Vice Chair Baker and Members of the Committee:

My name is Earl Yempuku, President of Honua Landscaping, Inc. We strongly oppose HB 2877; H.D. 1 – Related to Taxation, with amendments to Section 237 HRS

Unlike most of the businesses that are affected by the proposed tax levy, construction contractors have a fixed price to any owner. We are not able to pass on this new tax levy on existing contracts. The proposed tax levy under sections 237-13 (3) (B), will have a significant financial impact on construction contractors.

We understand the State's financial difficulties and understand that we must find additional revenue sources. We respectfully request your consideration to amend sections related to construction contracting, to take effect on any project bid after July 1, 2010. Such an amendment will allow us to make adjustments to our bids and cover the cost of this new levy.

Sincerely,

Earl Yempuku
President
Honua Landscaping, Inc.

TESTIMONY OF KEONI WAGNER ON BEHALF OF HAWAIIAN AIRLINES IN OPPOSITION TO H.B. NO. 2877, HD 1, RELATING TO TAXATION

March 15, 2010

To: Chairpersons Carol Fukunaga and Rosalyn Baker and Members of the Senate Committee on Economic Development and Technology and the Senate Committee on Commerce and Consumer Protection:

My name is Keoni Wagner and I am the Vice President for Public Affairs for Hawaiian Airlines presenting this testimony on behalf of Hawaiian Airlines in opposition to H.B. No. 2287, HD 1.

Hawaiian Airlines understands the necessity of finding ways to balance the state budget and the difficulty in doing so with the severe economic situation facing the state. At the same time, we believe provisions of this bill will undermine the state's economic recovery and we must oppose it because of adverse impacts on our company going forward.

Hawaiian Airlines is the only carrier serving Hawaii from the mainland that is entirely focused on our home state and the only carrier whose economic well being is tied directly to that of Hawaii. The company is reinvesting profits in expansion and is actively pursuing a growth strategy that is aimed at adding service and new routes to bring more visitors to Hawaii. We are increasing service to Hawaii from California this summer and, if we are successful in the current Haneda route case, will begin new daily service to Honolulu from Tokyo in late October. This growth will increase tourism and tax revenues to the state.

The company has committed to acquiring over $4 billion in new long range aircraft to fulfill its vision to become an even larger contributor to Hawaii tourism. We take possession of the first of those aircraft next month.

We have added more than 350 people during the past 12 months and plan to hire more in the next few months.

The current exemptions that exist in the law are helping to promote this growth at Hawaiian.

Hawaiian had a good year in 2009, due in large part to lower fuel costs. However, negative trends in the three largest factors in our business suggest a far more challenging year in 2010. Fuel prices have already doubled last year's levels. Labor costs are rising significantly with new union contracts now in effect. In addition, our aircraft maintenance costs are rising and we face substantial initial costs with the introduction of new Airbus aircraft arriving shortly.

Consumer demand for travel to Hawaii as a destination is still well below its peak in 2007. At the same time, the industry is expected to add more than 500,000 seats into the transpacific market this year. With the recovery in consumer demand projected to be slow, we expect revenues to remain weak as all of the airlines price aggressively to try to fill the added seats. This is good news for the destination, but it puts additional strain on the airlines as they struggle to meet increasing costs.

Hawaiian already pays the state more than $44 million annually in taxes and landing fees and its employees also contribute about $8 million in state taxes. Loss of the current tax exemptions would cost Hawaiian more than $5 million in 2010 and this amount would multiply in successive years as we bring additional new aircraft into Hawaii.

Increasing the tax burden on Hawaiian at this time will have a dampening effect on its growth plans and thereby undermine efforts to add jobs and increase tourism revenues for the state. For this reason, we respectfully oppose this measure.

Thank you for the opportunity to comment on this measure.

ALEXANDER & BALDWIN, INC.

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Honolulu, Hawaii 96813
P.O. Box 3440
Honolulu, HI 96801-3440
www.alexanderbaldwin.com
Tel (808) 525-6611
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HB 2877 HD1
RELATING TO TAXATION

PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.

MARCH 16, 2010

Chair Fukunaga, Chair Baker, and Members of the Senate Committees on Economic Development & Technology and Commerce & Consumer Protection:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 2877 HD1, "A BILL FOR AN ACT RELATING TO TAXATION." We respectfully oppose this bill.

This bill suspends, until June 30, 2015, various general excise, use, and public service company tax exemptions and implements a 1% tax on these items and services. While we understand the fiscal constraints that the Legislature must deal with, we are very concerned with the negative impact that this measure will have upon Hawaii's businesses, residents, and economy. Many of the exemptions that are proposed for suspension appear to have been enacted to mitigate multiple taxation of the same revenue and the pyramiding effect of the general excise tax. We anticipate that the suspension of these tax exemptions, along with the pyramiding effects of the newly imposed general excise tax on these items, will increase the costs of goods and services to the Hawaii consumer. In addition, the increased costs that businesses are unable to pass on to the consumer due to contracts or market circumstances may likely lessen financial margins for the business that may render the business to be less financially viable. We are also concerned that this bill may negatively impact Hawaii's efforts towards economic recovery.

For maritime operations, this bill will suspend tax exemptions for numerous services that are essential for the transportation of goods and materials to Hawaii which include the loading and unloading of cargo (i.e. stevedoring services), tugboat services, and the towing of ships, barges, or other vessels. With approximately 98% of Hawaii's imported goods passing through our harbors including consumer goods, motor vehicles, construction materials, and fuel, we anticipate that taxing these essential maritime services will result in an increase in the cost of goods and services to Hawaii's residents and businesses. Of particular concern is the suspension of the exemption for the loading and unloading of cargo (i.e. stevedoring services) in Section 2, Subsection (a) (13). Should this exemption be suspended and the general excise tax imposed on stevedoring activities, it is anticipated that the cost of virtually everything that is brought into or transported out of the State would be directly increased, resulting in a concurrent increase in the overall cost of living in Hawaii and in our export products becoming less price competitive in the world market place. In addition, with the imposition of the general excise tax on stevedoring services at the initial point of entry of shipments to Hawaii, we anticipate that the inherent pyramiding effect of the general excise tax will further increase the cost of imported goods prior to purchase/use by Hawaii's residents and businesses.

The suspension of the exemption for gross proceeds received from tangible personal property shipped out of State (Section 2,S ubsection (a) (33)) is also of significant concern. This exemption, which covers gross proceeds from the manufacturing, production, or sale of products shipped to a point outside of the State where the items are subsequently resold or otherwise consumed, presently supports and assists Hawaii businesses who export products to other destinations. For HC&S, Hawaii's last sugar plantation, the suspension of this exemption would directly impact the sale of our Hawaii grown and manufactured sugar to the C&H sugar processing facility in the mainland United States. This imposition of the general excise tax on our Hawaii grown sugar will negatively impact the overall financial viability of HC&S and our ability to financially compete with other sugar producers in the market place. We anticipate that other Hawaii products exported for sale may also be similarly impacted.

This bill also suspends the deduction from the gross income received by contractors for amounts paid to subcontractors (Section 2, Subsection (a) (1)). We anticipate that this will result in the double taxation of the same revenue and increase the cost of building and infrastructure construction in the State. This additional tax will likely be passed on to prospective purchasers of the real property, which may further exacerbate the housing market here in Hawaii.

This bill also suspends the exemption on amounts received, charged or attributable to interest and certain services between related entities (Section 2, Subsection (a) (6)). Related entities may include corporations, partnerships and limited liability companies that are related to the entity with which the inter-company service or interest charges are incurred. We understand that centralized legal, accounting, and information technology services are often provided by a parent company to its subsidiary entities, resulting in the efficient and cost effective distribution of these services. We believe that inter-company charges between related entities for which one entity is wholly owned by the other should be disregarded as though the related entities were divisions of one entity. In that inter-company transactions between related entities have no external economic effect, we believe that amounts received or charged between these entities should not be subject to the general excise tax.

Based on the aforementioned we respectfully request that this bill be held in your Committee. Thank you for the opportunity to testify.

Hawaii Harbors Users Group

Gary North
Executive Director

Mar Labrador
Horizon-Lines, LLC
Board Chairman

Vic Angoco
Matson Navigation Company, Inc.
Board Vice Chair

Douglas Won
Sause Bros., Inc.
Board Vice Chair

Glenn Hong
Young Brothers, Ltd./Hawaiian Tug and Barge
Secretary/Treasurer

Grant Karamatsu
NCL America, Inc.

Richard Maxwell
Aloha Cargo Transport, Division of Northland Services, Inc.

Robert T. Guard
McCabe, Hamilton & Renny Co., Ltd.

Jeff Brennan
Hawaii Stevedores, Inc.

Lance Tanaka
Tesoro Hawaii Corporation

Stephanie Ackerman
The Gas Company

Eric Yoshizawa
Ameron Hawaii

Nate Lopez
Hawaiian Cement

Scott Vuillemot
American Marine

Steve Kelly
Kapolei Property Development

Captain Steve Baker
Hawaii Pilots
Associate Member

HB 2877 HD1
RELATING TO TAXATION

MAR LABRADOR
CHAIR
HAWAII HARBORS USERS GROUP

MARCH 16, 2010

Chair Fukunaga, Chair Baker, and Members of the Senate Committees on Economic Development & Technology and Commerce & Consumer Protection:

I am Mar Labrador, testifying on behalf of the Hawaii Harbors Users Group (HHUG), on HB 2877 HD1, "A BILL FOR AN ACT RELATING TO TAXATION."

The Hawaii Harbor Users Group (HHUG) is a non-profit maritime transportation industry group comprised of the following key harbor users: Matson Navigation Company, Horizon Lines, LLC, Young Brothers/Hawaii Tug & Barge, Norwegian Cruse Line, Sause Brothers Inc., Aloha Cargo Transport (ACT), Hawaii Stevedores, McCabe Hamilton & Renny Stevedores, Hawaii Superferry, Tesoro Hawaii Corporation, The Gas Company, Ameron Hawaii, Hawaiian Cement, American Marine, Kapolei Property Development, and the Hawaii Pilots Association.

While HHUG recognizes the need for the State of Hawaii to obtain additional income, the removal of the exemptions in the maritime area will markedly impact the cost of goods in the state because of the multiple levels of services that are required in the transportation process. This bill proposes to remove the exemptions that currently exist in §237-24.3(4) for amounts received or accrued from the loading or unloading of cargo; tugboat services including pilotage fees performed within the State; the towage of ships, barges, or vessels in and out of state harbors, or from one pier to another; the transportation of pilots or governmental officials to ships, barges, or vessels offshore; rigging gear; checking freight and similar services; standby charges; and use of moorings and running mooring lines. Moreover because of the complicated array of providers of maritime goods and services, the impact of the removal of these exemptions would be compounded. For example there could be three or more levels in which GET taxes are commonly assessed on the same services. This would occur in the situation in which exempt services are initially provided by independent companies to a stevedore, the stevedore company then provides and charges the carrier for the entire stevedoring services, and finally the carrier charges its customers for the total carriage, including the stevedoring services. Without the exemptions GET would be assessed at each level and the cost of the initial services would effectively be charged GET three times and the stevedoring, pilotage or other now exempt services would be charged GET twice.

The bill similarly proposes to remove the exemptions that currently exist in §237-24.3(1) for amounts received from the loading, transportation and unloading of agricultural commodities shipped for a producer or produce dealer on one island of this State to a person, firm organization on another island of this State. As with HRS §237-24.3(4), the impact of the removal of these exemptions may be compounded by multiple instances of taxation and, in addition, this new tax burden would be disproportionally borne by groups, i.e., neighbor island farmers and residents, that may already face the most difficult climbs out of the present recession.

The bill also proposes to remove the exemption §237-28.1 that applies to the gross proceeds arising from shipbuilding and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade. The removal of this exemption would increase the cost of obtaining these services in Hawaii, which could result in a decrease in the demand for such work to be performed in Hawaii.

Since carriers cannot be expected to bear the cost of these additional taxes, tariffs would increase and as a result the cost of all goods purchased by consumers would increase to cover this expense. If this bill proceeds, HHUG urges that the bill be amended to preserve the current exemptions in the maritime area for stevedoring services; tugboat and towage services; pilot transportation, standby charges, loading, transportation and unloading of agricultural commodities, lines services and related services; and shipbuilding and ship repair services. Thank you for this opportunity to testify.

Hawaii Credit Union League
Your Partner For Success
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Fax: (808) 945.0019
Web site: www.hcul.org
Email: info@hcul.org
AMERICA'S CREDIT UNIONS

Testimony to the Senate Committee on Economic Development and Tourism and
Senate Committee on Commerce and Consumer Protection
Tuesday, March 16, 2010, at 10:00 a.m.

Testimony in opposition to HB 2877 HD1, Relating to Taxation

To: The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn Baker, Vice-Chair
Members of the Committee on Economic Development and Tourism

The Honorable Rosalyn Baker, Chair
The Honorable David Ige, Vice-Chair
Members of the Committee on Commerce and Consumer Protection

My name is Stefanie Sakamoto and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 90 Hawaii credit unions, representing approximately 810,000 credit union members across the state. We oppose HB 2877 HD1, Relating to Taxation.

This bill would temporarily suspend the general tax exemption on gross proceeds received from the sale of tangible personal property to the United States and state-chartered credit unions, levying the tax at the rate of 1%.

Aside from being instrumentalities of the federal government, recognized by being included in the same statutory section providing a general excise tax exemption for purchases of tangible personal property by the federal government, we seek to retain this exemption for the purchase of tangible personal property by credit unions for several reasons:

- Credit unions are not-for-profit, member-owned financial cooperatives with the sole purpose of serving member needs, particularly members of modest means.
- The cost of any tax paid by a credit union is a cost paid by that credit union's member-owners.
- Unlike for-profit financial institutions that are able to access capital from external sources (issuing common or preferred stock for instance), a credit union can add to (strengthen) its capital only by retention of net income.
- As a consequence of only deriving capital from it members, any impairment on a credit union's net income will reduce the ability of a credit union to grow capital needed for safe and sound operations, especially in this troubled economy.

This bill would also suspend the general tax exemption on the value or gross income from conferences held by nonprofit groups, levying the tax at the rate of 1%. As a trade association, one of the only sources of income for the Hawaii Credit Union League comes from educational sessions and conferences that are offered to our member credit unions. The philosophy of credit unions has always been to first serve those of modest means. The loss of the credit union trade association tax exemption on income derived from educational offerings could potentially result in a significant reduction in resources to serve credit unions and their members. The ability of credit unions to offer low-cost services to members could in turn be affected.

Thank you for the opportunity to testify.

HSBA
Hawaii State Bar Association

March 15, 2010

Senate Committee on Economic Development and Technology
The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn H. Baker, Vice Chair

Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice Chair

Via Facsimile: 586-~~6201~~6657

RE: H.B. 2877 Relating to Taxation
HEARING: Tuesday, March 16, 2010, 10:00 a.m.

Chairs Fukunaga and Baker and Senate Members of the Committees:

The Hawaii State Bar Association (the HSBA) submits this testimony in opposition to the provisions in H.B. 2877 which would repeal the GET exemption for nonprofit organizations in certain areas and apply a tax at a one per cent rate.

The HSBA expresses its concern and opposition to the proposed measures of H.B. 2877 which would result in a tax on revenues from educational conferences and regulatory programs provided for members and others by these nonprofit organizations, most of which have already suffered diminished revenues from the Legislature and from public donations. The likely result of this proposal would be further cuts in programs and services by these entities whose programs and services are critical at this time. If nonprofit organizations are unable to provide required regulatory and educational programs, members will be forced to seek these programs at a much greater cost from commercial providers driving up expense, or they will do without, risking censure and resulting in harm to the public.

Thus, while recognizing the desire of the Legislature to increase revenues, the HSBA opposes H.B.2877 as it is an unjustifiable incursion into the exempt tax status of these nonprofit organizations, taxing the very educational and charitable functions for which they were formed. The bill would also result in further diminished social and legal services provided to the needy in our community.

Thank you for your attention.

Lyn Flanigan

Lyn Flanigan
Executive Director

1100 Alakea Street, Suite 1000 • Honolulu, HI 96813 • Phone: (808) 537-1868 • Fax: (808) 521-7936 • Http://HSBA.org

Senator Carol Fukunaga, Chair
Senator Rosalyn Baker, Vice Chair
Committee on Economic Development and Technology

Senator Rosalyn Baker, Chair
Senator David Ige, Co-Chair
Committee on Commerce and Consumer Affairs

HEARING Tuesday, March 18, 2010
10:00 am
Conference Room 229
State Capitol, Honolulu, Hawaii 96813

RE: HB2877, HD1, Relating to Taxation

Chairs Fukunaga and Baker, Vice Chairs Baker and Ige, Members of the Committees:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to the support of the retail industry and business in general in Hawaii.

RMH's strong opposition is specific to Section 2, (5), which suspends the exemption on the value or gross income received by nonprofit organizations from certain conventions, conferences, tradeshows or display spaces as described under section 237-18.6, and levies a tax at a one percent rate.

In fiscal year 2009, retail revenues in the state of Hawaii declined by $2 billion dollars from the previous year. General Excise Tax reports from the Department of Taxation indicate another one billion dollar decline during the first four months of the current fiscal year.

Because the financial support for RMH, not unlike that of other not-for-profit organizations, is inextricably interwoven with the performance of the retail industry, we have experienced significant losses in revenue. Like all businesses, we've reduced expenses, including staff compensation, as deeply as possible, while continuing to maintain the level of service to the retail industry as required by our not-for-profit mission and objectives.

Our annual conference affords an opportunity to inform and educate our industry in a timely manner on issues topical and relevant to the operations of their businesses. Our exhibit show provides a venue for our supporting non-retail members to network with and to provide valuable resources to the retail industry.

Taxing our revenue from these sources imposes yet another burden on the organization. It is regrettable that RMH, founded in 1901, might not survive another year.

We respectfully urge your consideration of our concerns. Thank you for your consideration and for the opportunity to testify on this measure.

Carol Pregill

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
Honolulu, HI 96814
ph: 808-592-4200 / fax: 808-592-4202

EDT?CPN
3.16.10
10:00 am

March 16, 2010

Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development & Technology

Honorable Rosalyn Baker, Chair
Senate Committee on Commerce & Consumer Protection

Re: **House Bill 2877 HD 1**
Relating to Taxation

Dear Chair Fukunaga, Chair Baker and Members of the Committees,

My name is Daniel Chun, Government Affairs Chair of the American Institute of Architects (AIA). Some provisions of HB 2877 HD1 will specifically adversely affect our members, the great majority of whom are small businesses

a(1) Amounts deducted from the gross income received by contractors as described under Section 237-13(3)(B).

AIA is **OPPOSED** to increasing the cost of design fees that will be passed on to state agencies, Hawaii businesses and the general public.

a(34) The value of or gross income received from contracting or services performed for use outside the state as described under section 237-29.53

AIA is **STRONGLY OPPOSED** to removing this exemption that AIA lobbied to pass. Architects and other design professionals must have the ability to compete for out-of-state design services without the added burden of GET. Exporting design services is a desirable business for Hawaii. In many places where Hawaii architects compete for projects, such as Asia, price is a sensitive issue. The great majority of design fees are spent on labor costs, so Hawaii can recover any continued exemption through income taxes and other labor related taxes. Exported contracting (design) services are very project specific and unpredictable in dollar volume. There is more benefit to be gained to the state in general by maintaining this exemption than by reducing architects' ability to compete in the world market for architectural services.

a(5) The value or gross income from certain conventions, conferences, trade shows, or display spaces as described under section 237-16.8

AIA is **OPPOSED** to reducing the income of our organization that provides many no-cost continuing education programs to our members and allied design professionals. Thank you for the opportunity to testify on HB 2887 HD1.

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
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MEMORANDUM

TO: Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology

Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection

Via Email: EDTTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: March 15, 2010

RE: **H.B. 2877, HD1 – Relating to Taxation**
Hearing: Tuesday, March 16, 2010 at 10:00 a.m.

Dear Chairs Fukunaga and Baker and Members of the Committees:

I am Gary Slovin, testifying on behalf of **Wyndham Worldwide ("Wyndham")**. Wyndham has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its resort at Waikiki Beach Walk.

Wyndham is **opposed** to H.B. 2877, HD1, to the extent that this measure seeks to suspend the exemption and requires the payment of the tax at a one per cent rate from 7/1/2010 to 6/30/2015 on the following amounts:

- Amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3) in the form in which it existed on July 1, 2010 (pages 3-4, subparagraph 12)

- Amounts received by hotel operators or suboperators and disbursed for employee compensation and benefits as described under section 237-24.7(1) in the form in which it existed on July 1, 2010 (pages 4-5, subparagraph 19).

These amounts are presently exempted from GET, as a result of a law first enacted by Act 239, SLH 2007, and extended in Act 196, SLH 2009. The exemption applies to certain pass-through amounts that are transferred from the owner of the properties to the operator of the properties. Included in these sums are amounts paid that reflect what is owed to employees in the way of salary and benefits. The exemption from tax on these amounts would either take away from the amounts available to be paid to employees both in salary and benefits and, in most cases, actually result in the owner paying sums directly to employees and other persons to whom these sums are due rather than having those sums paid by the operator here in Hawaii. It is to everyone's benefit that those sums be paid by the local operator to the local employees and local vendors. The exemption will continue to level the playing field with regard to similarly situated entities for the payment of monies to a hotel operator for employee wages and benefits, and should not be taxed.

We further note that similar measures have been considered by other Committees, and that we would instead support the language contained in S.B. 2643, S.D. 1, which repeals the sunset date for the exemption and clarifies that the aggregate cap on the tax exemption applies to the tax amount rather than gross receipts.

Thank you for the opportunity to submit testimony on this matter.

American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

March 16, 2010

TO: Senate Economic Development and Technology Committee
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

Senate Commerce and Consumer Protection Committee
Senator Rosalyn H. Baker, Chair
Senator David Y. Ige, Vice Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Tuesday, March 16, 2010
Conference Room 229
10:00 a.m.

RE: **HB 2877, HD1, RELATINGTO TAXATION**

Chairs Fukunaga and Baker and Members of the Committees:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units. Timeshare has had consistent occupancy rates, even during the current tough economic times. This has made our industry a vital partner and a diverse component of the visitor industry in Hawaii.

ARDA-Hawaii opposes this bill and believes HB2877, HD1, as drafted, is harmful to Hawaii's visitor industry. HB2877, HD1, proposes to suspend the exemption and impose a one percent tax on amounts received by managers, submanagers, or boards of directors of condominium property regime owner, nonprofit homeowner, or nonprofit community associations as described under section 237-24.3(3). This measure will also affect hotel operators or suboperators and disbursed for employee compensation and benefits as described under section 237-24.7(1).

These amounts are currently exempted from GET, as a result of a law passed in 2007 and extended in 2009. The exemption applies to certain pass-through amounts that are transferred from the owner of the properties to the operator of the properties. Included in these sums are amounts paid that reflect what is owed to employees in the way of salary and benefits. The exemption from tax on these amounts would either take away from the amounts available to be paid to employees both in salary and benefits and, in most cases, actually result in the owner paying sums directly to employees and other persons to whom these sums are due rather than having those sums paid by the operator here in Hawaii. It is to everyone's benefit that those sums be paid by the local operator to the local employees and local vendors. The exemption levels the playing field with regard to similarly situated entities for the payment of monies to a hotel operator for employee wages and benefits and should not be taxed.

Thank you for allowing me to provide testimony on this matter.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org

GCA of Hawaii
GENERAL CONTRACTORS ASSOCIATION OF HAWAII
Quality People. Quality Projects.

March 12, 2010

TO: THE HONORABLE SENATOR CAROL FUKUNAGA, CHAIR AND MEMBERS OF THE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

THE HONORABLE SENATOR ROSALYN H. BAKER, CHAIR AND MEMBERS OF THE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

SUBJECT: H.B. 2877, HD1 RELATING TO TAXATION.

NOTICE OF HEARING

DATE: Tuesday, March 16, 2010
TIME: 10:00 a.m.
PLACE: Conference Room 229

Dear Chairs and Members of the Joint Committees:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, would like to comment on H.B. 2877, HD1 Relating To Taxation.

The GCA understands that the State of Hawaii is faced with a revenue shortfall and needs to increase tax receipts. H.B. 2877, H.D.1 proposes to temporarily suspending a number of GET exemptions currently available as one avenue to raise tax collection. One of the exemptions that this bill proposes to suspend is on contractors.

The GCA is especially concerned about the effective date of the suspension of the exemption on contractors. Construction contracts are awarded on the basis of bids submitted and cannot be changed. This bill would retroactively apply an additional tax on contracts executed based upon the tax statutes in effect at the time of the award of the contract. For multi-year construction contracts, the contractors have no way of passing on the tax increase. The GCA recommends that any suspension of the tax exemption on contractors be applicable only on contracts bid after the effective date of the Act. This would allow the biding contractor to adjust his bid to take into consideration the loss of the tax exemption. Without the amendment the suspension of the exemption will unjustly penalize the contractor who submitted his bid based upon the current tax exemption.

Thank you for the opportunity to provide our views on this issue.

March 16, 2010

The Honorable Carol Fukunaga, Chair, and Members
Senate Committee on Economic Development and Technology
State Capitol, Room 216
Honolulu, HI 96813

The Honorable Rosalyn H. Baker, Chair, and Members
Senate Committee on Commerce and Consumer Protection
State Capitol, Room 210
Honolulu, HI 96813

Dear Chairs Fukunaga and Baker and Members of the Joint Committee:

SUBJECT: H.B. 2877, H.D. 1 RELATING TO TAXATION

My name is Debbie Luning and I am testifying on behalf of Gentry Homes and Gentry Builders in **strong opposition** to H.B. 2877, H.D. 1, Relating to Taxation.

The purpose of this bill is to temporarily suspend the general excise tax exemption for certain persons and firms, and instead require those persons and firms to pay the GET at a rate of one percent from July 1, 2010 to June 30, 2015. We are particularly opposed to the provisions which delete GET exemptions for: (1) amounts deducted from the gross income received by contractors; and (2) gross income received from the planning, design, financing, construction, sale, or lease of affordable housing projects that are not grandfathered in on July 1, 2010. The reasons for our objections are as follows:

- **Amounts deducted from the gross income received by contractors as described under section 237-13(3)(B)**

  Building a residential home involves many different components and levels of expertise, ranging from site work contractors, masons, carpenters, plumbers, roofers, electricians, drywallers, cabinet installers, carpet layers, glaziers, and more -- all working together toward a finished product. Contractors will often hire a subcontractor to help get the job done. That subcontractor pays the State whatever GET is owed.

  The GET exemption currently provided to contractors in Section 237-13(3)(B), HRS, is intended to avoid duplicate taxation. The State already collects the GET from subcontractors, so we believe that it is unfair to impose the same tax at the same rate or at an even greater rate on the contractor.

- **Gross income received from the planning, design, financing, construction, sale, or lease of affordable housing projects that are not grandfathered in on July 1, 2010**

  The affordable housing exemption was intended to encourage the development of affordable housing and has been successful in making affordable housing projects "pencil out." Gentry is currently working in partnership with the Department of Hawaiian Home Lands and is successfully providing affordable homes for DHHL's beneficiaries in East Kapolei. If the GET exemption were to be taken away and a one percent tax imposed, it would add significantly to the cost of constructing the homes and would place an additional tax burden on the homebuyers.

We urge you to please consider deleting the above two provisions from the contents of this bill. Thank you for the opportunity to testify on this measure.

Sincerely,

GENTRY HOMES, LTD.

Debra M. A. Luning
Director of Governmental Affairs and
Community Relations

THE CHAMBER OF COMMERCE OF HAWAII
1132 Bishop Street, Suite 402
Honolulu, HI 96813

Testimony to the Senate Committee on Economic Development and Technology and Committee on Commerce and Consumer Protection
Tuesday, March 16, 2010
10:00 AM
Conference Room 229
RE: HOUSE BILL NO. 2877, HD1, RELATING TO TAXATION

Chair Fukunaga, Chair Baker, 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 **reservations on SECTION 2 (a) (30) and (31) of House Bill 2877, Relating to Taxation,** which provide for a temporary suspension of GET exemptions and a GET levy of one percent from October 1, 2010 through June 30, 2015 for ship building and ship repair and gross income on new affordable housing project exemptions approved after July 1, 2010.

The Chamber's Military Affairs Council (MAC) serves as the liaison for the state in matters relating to the US military and its civilian workforce and families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The measure proposes to temporarily suspend exemptions for certain persons and amounts of gross income or proceeds from the general excise, use, and public service company tax and requires payment of the tax at a one percent rate. Measure is to take effect on July 1, 2010 and sunset on June 30 2015.

We share the concerns of the state on the declines being reported in state tax revenues. The budget deficit is unprecedented and has placed the state in a precarious financial condition where drastic measures have to be taken to balance the budget.

We would like the committee to note that Hawaii's defense industry is fueled by billions of dollars in US defense expenditures, and the prominent presence of the Nation's prime defense contractors such as BAE Systems, Lockheed Martin, Northrop Grumman, Boeing, Raytheon, and many other similar businesses. Among the favorable impacts these prime defense contractors have had on Hawaii's struggling economy is the emergence of a growing research and development sector where growth potential is exponential.

We would also like to add that defense spending is a primary source of revenues for Hawaii's ship repair industry. The GET exemption has enabled the US Navy to award multi-million dollar contracts to Hawaii's ship repair firms for the repair of its fleet of surface ships based at Pearl Harbor. The loss of this exemption could cause the Navy to redirect these contracts to low bids from ship repair businesses outside Hawaii that are not encumbered by a similar tax.

Growth in the defense industry continues at a good pace, stimulating thousands of jobs for the workforce and providing contracts for hundreds of small businesses. It behooves the state to encourage increased defense spending in support of Hawaii's small businesses and workforce.

While we agree that measures must be taken to balance the budget, we ask for the committee to review our concerns on the following two paragraphs under SECTION 2, which proposes to temporarily suspend the exemptions for ship repair and low-income housing and impose a one percent tax rate.

- Regarding Section 2 (a) (30): This applies to exemptions for certain ship building and ship repair businesses. Hawaii is an island state that must rely on maritime shipping for its basic survival needs, making the ship repair industry a vital part of our business sector. Global competition from lower cost ship repair facilities from as far away as China has had significant negative impact on Hawaii's ship repair businesses. Taking away this exemption will be an added burden in sustaining what remains of the ship repair industry. Currently, the exemption has enabled our ship repair businesses to compete favorably for defense contracts offered by the US Navy. A repeal of this exemption and applying a one percent tax rate may force the Navy to seek lower bidding contractors on the West Coast as opposed to awarding contracts to local businesses that are fully qualified and capable. **The question here is whether the state should elect to take an action that could result in the Navy having to seek the services of ship repair contractors outside Hawaii.** We recognize the testimony submitted by the Hawaii Ship Repair Association. This bill started with a temporary suspension of exemptions accompanied by a one-half percent tax levy. The levy in this bill has risen to one percent. We are cautious of the temptation to consider any further increases as it would impact critical ship repair opportunities with the Navy.

- Regarding Section 2, (a) (31): This applies to GET exemptions for low-income housing projects approved on or after July 1, 2010. This provision, coupled with section 201H-36, Hawaii Revised Statutes, serves as the catalyst in providing for low income or affordable rental housing in Hawaii. We believe that a repeal of this provision and adding on a one percent GET levy could result in discouraging sound future planning for a large segment of our low-income community. Affordable housing continues to be a quality of life concern not only for Hawaii residents but to a large number of low income military members who qualify as well. This impacts not only the quality of life for an important segment of our community, but with state revenues that are generated by small business contracts and jobs in the building workforce.

We believe that applying a temporary tax rate of one percent would provide additional needed revenues to the state. However, we are not able to testify on the potential impact it would have on the affected businesses and the workforce. Accordingly, we are hopeful that the impacted businesses are sufficiently informed to submit appropriate testimony to assist the committee make its determination.

For these reasons, we respectfully request that the committee take a deeper look at the potential impact the proposals would have on the ship repair and low-income housing businesses and related jobs for the workforce, both of which could generate critical revenues for the state.

Thank you for the opportunity to testify.

March 16, 2010, 10:00 a.m.
Conference Room 229

TESTIMONY TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY and COMMERCE AND CONSUMER PROTECTION

RE: HB 2877 HD1 – Relating to Taxation

Dear Chairs Fukunaga and Baker, Vice Chair Ige, and Members of the Committee:

My name is Robert Witt and I am executive director of the Hawaii Association of Independent Schools (HAIS), which represents 99 private and independent schools in Hawaii and educates over 33,000 elementary and secondary students statewide.

The Association **opposes House Bill 2877 HD1 Section 2 (a)(5), which would repeal the general excise tax exemption on the value and gross income received by nonprofit organizations from certain convention, conferences, trade shows, or display spaces.** Our association, via its affiliate non-profit (the Hawaiian Educational Council) produces significant conference revenue annually by convening an internationally recognized gathering for policy level executives from business, philanthropy, education and social services. Net revenues from the conference provide funding for our leadership development programs with public school principals via the Hawaiian Educational Council, and our technical assistance work with Charter Schools via HAIS.

The imposition of a one percent general excise tax will siphon off financial support to these two 501(c)(3) corporations. It is important to note that our annual leadership conference supports the state's visitor and hospitality industry and that GET and other taxes are paid on domestic and international air travel, hotel room nights and food and beverage sales, and on pre- and post-conference activities.

In addition, HAIS is concerned about the imposition of a tax as stated in Section 2 (a)(6 and 7). Administrative overheads shared by HAIS and the Hawaiian Educational Council could be subject to taxation. It also appears that the bill may affect our member schools that receive grants from supporting foundations. In addition to serving families from all walks of life, our schools employ many thousands of faculty and staff, reduce State tax expenditures by providing a service the State would otherwise have to provide (annual savings = approx. $350 million), and over the past decade have made capital expenditures of more than $750 million for campus construction and renovations. Hawaii's private schools are already contributing to the State's tax base.

In challenging economic times such as these, when the State is required to make steep budget cuts in all areas, the social and economic value of nonprofits is all the more apparent. By serving the general population in ways the State cannot and via the support of private dollars, nonprofits and the programs and services they provide to our communities are more critical than ever.

Mahalo for the opportunity to testify in strong opposition to this measure.

HB 2877 HD1
RELATING TO TAXATION

KEN HIRAKI
VICE PRESIDENT – GOVERNMENT & COMMUNITY AFFAIRS
HAWAIIAN TELCOM

MARCH 16, 2010

Chair Fukunaga, Chair Baker and Members of the Senate Economic Development and Technology and Commerce and Consumer Protection and Commerce Committees:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 2877 HD1, "Relating to Taxation." Hawaiian Telcom is opposed to provisions of this measure.

HB 2877 HD1 establishes the repeal of certain tax credits and exemptions beginning on July 1, 2010 with a sunset on June 30, 2015. While recognizing the need to address the current budget shortfall, repeals of the scope as is being proposed in this measure must be approached very cautiously so both lawmakers and the public are fully informed of the negative financial and social consequences that will likely follow.

Hawaiian Telcom specifically opposes language repealing Section 239-6.5, Hawaii Revised Statutes (page 12, lines 19-21), which provides a tax credit for lifeline telephone service. Responding to the growing problem of "shut-ins", the Legislature in 1986 established the lifeline telephone program to provide discount telephone rates to those who are either physically disabled or seniors with annual household income below $10,000.

For many of those enrolled in the program, the landline telephone serves as the sole "lifeline" (especially in times of emergency or during an electrical power outage), connecting those who are disabled or seniors to their doctors, 911, or loved ones. There are currently over 3,000 lifeline beneficiaries enrolled statewide. If this program were eliminated, many will likely be forced to forego telephone service and may be left without any means of communication in case of emergency.

Based on the aforementioned, we respectfully request that HB 2877 HD1 be held in your committee. If, however, it is the intent of the committee to move this measure, we respectfully ask that the committee delete the specific provision related to Section 239-6.5, Tax Credit for Lifeline Telephone Service.

Thank you for the opportunity to testify on this measure.

HAWAII FOOD INDUSTRY ASSOCIATION (HFIA)

1188 Bishop St., Suite 608, Honolulu, Hawaii 96813
Phone (808)533-1292 - Fax (808)599-2606 - Email: hawaiifoodind@aol.com

Ouch That Hurts!

Tuesday, March 16, 2010 @ 10:00 a.m. in CR 229

To: Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

By: Richard C. Botti, President
Lauren Zirbel, Government Relations

Re: HB 2877 HD1 RELATING TO TAXATION

Chairs & Committee Members:

We understand the situation the State is in. We also understand that as a non-profit organization, we do not charge exhibitors in the Made In Hawaii Festival taxes on their booths. We are preparing to change this based on the language in this bill.

While we do our best to have a sharp pencil in our efforts to help and support new business in what we call our business incubator, we can only ask that we have adequate time to pass on the tax, as we cannot absorb it on our tight budget. The worse case scenario is that we are stuck with the tax and can't pass it on.

We need to have any law made clear that it can be passed on for any payment billed before July 1, 2010, but paid after July 1, 2010. We simply don't want to get into a confrontation where an exhibitor says: "That wasn't what I was billed, so I'm not going to pay it."

For the one event, we estimate that the additional tax will be approximately $3,000.

[§237-16.8] Exemption of certain convention, conference, and trade show fees. In addition to any other applicable exemption provided under this chapter, there shall be exempted from the measure of taxes imposed by this chapter all of the value or gross income derived by a fraternal benefit, religious, charitable, scientific, educational, or other nonprofit organization under section 501(c) of the Internal Revenue Code of 1986, as amended, from fees for convention, conference, or trade show exhibit or display spaces; provided that the gross proceeds of sales by a vendor through the use of exhibit or display space at a conference, convention, or trade show shall be subject to the imposition of the general excise tax under section 237-13. [L 2004, c 214, §1]

GOODSILL ANDERSON QUINN & STIFEL
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MEMORANDUM

TO: Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology

Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection

Via Email: EDTTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin / Mihoko E. Ito

DATE: March 15, 2010

RE: **H.B. 2877, HD1 – Relating to Taxation**
Hearing: Tuesday, March 16, 2010 at 10:00 a.m.

Dear Chairs Fukunaga and Baker and Members of the Committees:

I am Gary Slovin, appearing on behalf of the Distilled Spirits Council of the United States ("DISCUS"). DISCUS is a national trade association representing producers and marketers of distilled spirits sold in the United States.

DISCUS is **opposed** to H.B. 2877, HD1, to the extent that this measure seeks to suspend the exemption and require the payment of the tax at a one per cent rate from 7/1/2010 to 6/30/2015 on the following amounts:

- Amounts received from the sale of intoxicating liquor to persons or common carriers engaged in interstate or foreign commerce as described under section 237-24.3(2) (page 3, subparagraph 11).

- The use or sale of intoxicating liquor imported into the state and sold to any person or common carrier in interstate commerce, whether ocean-going or air, for consumption out-of-state by the person, crew, or passengers on the shipper's vessels or airplanes, as described under section 238-3(g) (page 11, subsection 5).

These amounts, which apply to liquor subject to interstate or foreign commerce passing through Hawaii, are presently exempted from GET. The temporary suspension of this exemption will have a detrimental impact upon Hawaii's liquor and hospitality industries.

Distilled spirits are among the most heavily taxed consumer products in the United States and are already assessed significant taxes and fees in Hawai'i. Under Hawaii law, a very high gallonage tax is already imposed on liquor including distilled spirits, as set forth in HRS Chapter 244D.

For a typical bottle of distilled spirits sold in Hawai'i, 25% of the retail price goes to pay State and local taxes and fees. When factoring in federal taxes and other fees, 51% of the purchase price of each bottle of distilled spirits goes toward such taxes and fees.

Volumes of distilled spirit sales have been down 3% nationwide over the period between 2007-2009. Liquor tax increases drive down retail sales as consumers react to higher prices. This, in turn, negatively impacts many other industries critical to our economy, such as hospitality, tourism, and dining. A liquor tax increase of this magnitude may also impact the economy by the loss of a significant number of jobs. Whether in the form of higher prices or job losses, an excessive liquor tax is counterproductive and will impact low to middle income taxpayers most. The tax increases proposed in this bill would further hurt—not help—Hawai'i's already suffering economy.

In summary, preserving the exemption for liquor subject to interstate or foreign commence will help to mitigate the economic hardships currently being felt by Hawaii's liquor and hospitality industries.

Thank you for the opportunity to submit testimony on this matter.

HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

AFSCME LOCAL 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate

Committee on Economic Development and Technology
Committee on Commerce and Consumer Protection

Testimony by
Hawaii Government Employees Association
March 16, 2010

H.B. 2877, H.D. 1 - RELATING TO TAXAION

The Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, supports H.B. 2877, H.D 1. The purpose of this legislation is to temporarily suspend general excise, use and public service company taxes for the period July 1, 2010 - June 30, 2010. This bill is necessary to address the current fiscal crisis facing the state. Many of these exemptions have existed for years without scrutiny, and some may even be obsolete. It is fair, we think, for those in the private sector to see some targeted, and at times temporary, eliminations of state tax exemptions.

Given the magnitude of the budget deficit, a balanced approach is necessary that includes spending cuts, eliminating various tax exemptions and tax credits and raising revenues is essential.

Thank you for the opportunity to testify in support of H.B. 2877, H.D. 1.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director