NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

FREDERICK D. PABLO
DIRECTOR OF TAXATION

RANDOLF L. M. BALDEMOR
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1530
FAX NO: (808) 587-1584

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING HB 799, HD1
RELATING TO TAXATION

TESTIFIER:	**FREDERICK D. PABLO, DIRECTOR OF TAXATION (OR DESIGNEE)**
COMMITTEE:	**EDT**
DATE:	**MARCH 23, 2011**
TIME:	**1:15PM**
POSITION:	**SUPPORT**

This measure temporarily suspends the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax, and requires the payment of the tax at graduating rates ranging over time from 2% to 4%.

The Department of Taxation (Department) supports the examination of exemptions to see if they are still needed. However, the Department suggests that the exemptions be suspended temporarily for two years to address the current revenue shortfall. Using the data gathered as a result of this bill, the Department and the Legislature could better analyze which general excise tax exemptions are no longer necessary and could be eliminated permanently at the end of the two-year suspension period. Any permanent structured changes should be delayed until a more informed analysis is conducted.

In addition, the Department suggests imposing the tax at 4% rather than phasing in the tax at different rates for ease of administration. By phasing in the 4% rate, the Department will be required to revise the forms and update the computer system every year instead of just once.

Estimated revenue gains: $56.9 million in FY2012; $162.8 million in FY2013; $234.8 million in FY2014 and $276.4 in FY2015. These gains are highly tentative and likely to be reduced substantially by behavioral responses.

HB 799 H.D. 1 (March 16, 2011)			FY2006	FY2011	FY2012	FY2013	FY2014	FY2015
Line No.	**HRS Section**	**Description of Exemption or Special Provision**	**GET at 4%**	**GET at 4%**	**GET at 2%**	**GET at 3%**	**GET at 4%**	**GET at 4%**
21	209E-09	Entrprise Zone sales (GET exemption for certain sales of eligible companies operating in Enterprise zones.) 1/	5,000	5,400	1,391	3,581	5,163	6,078
22	209E-11	Enterprise Zone construction (GET exemption for gross receipts from construction of eligible facilities within an Enterprise zone.) 1/	3,000,000	3,240,000	834,300	2,148,323	3,097,881	3,646,649
1	237-13(3)(B)	Subcontractors' deduction (A primary contractor can deduct amounts paid to subcontractors from gross receipts to calculate the amount subject to GET. This deduction is in lieu of treating the sales of the subcontracotrs as wholesale sales.)	119,800,000	129,384,000	33,316,380	85,789,679	123,708,716	145,622,832
2	237-13(3)(C)	Federal cost-plus contractors' exemption for materials, plant and equipment (Federal cost-plus contractors can deduct the amount received under federal contracts for reimbursements of cost of materials, plant and equipment that the contractor purchased from a (GET) licensed taxpayer.)	4,629,484	4,999,843	1,287,460	3,315,208	4,780,531	5,627,367
3	237-13(6)(D)	Home service providers acting as service carriers (Mobile telecommunications services offered by one company to another for calls that originate or end outside of the State.)	2,000,000	2,160,000	556,200	1,432,215	2,065,254	2,431,099
4	237-16.5	The sublease deduction essentially allows the wholesale rate of GET to apply when a taxpayer leases property from another taxpayer and sublets the property.	46,473,468	50,191,345	12,924,271	33,279,999	47,989,759	56,490,801
5	237-16.8	GET exemption for certain convention, conference and trade show fees paid to non-profit organizations.	2,441,795	2,637,139	679,063	1,748,588	2,521,463	2,968,123
6	237-24(14)	GET exemption for amounts received by a producer of sugarcane from the manufacturer.	322,000	347,760	89,548	230,587	332,506	391,407
7	237-24.3(1)	GET exemption for amounts received for loading, transaportation, and unloading agricultural commodities shipped for a producer on one island	2,252,734	2,432,952	626,485	1,613,199	2,326,234	2,738,309
8	237-24.3(2)	GET exemption for gross receipts from sales of liquor, cigarettes, tobacco products, and food to common carriers engaged in interstate or foreign	6,737,851	7,276,879	1,873,796	4,825,026	6,957,687	8,190,192
9-11	237-24.3(4)	GET exemptin for amounts received from loading or unloading ships, tugboat services (including piloting services and towing services), certain transport of pilots or other government officials to ships, use of mooring services and running mooring lines.	2,443,303	2,638,767	679,483	1,749,668	2,523,021	2,969,956
12	237-24.3(10)	GET exemption for amounts received by a labor organization for real property leases to a labor organization.	7,155	7,728	1,990	5,124	7,389	8,698
13	237-24.3(12)	GET exemption for gross receipts from rental or leasing of aircraft or aircraft engines used for interstate transport	23,301,730	25,165,869	6,480,211	16,686,544	24,061,996	28,324,407
14	237-24.5	GET exemption for certain amounts received by an exchange, including transaction fees, membership dues, service fees, and listing fees.	0	0	0	0	0	0

15	237-24.7(10)	GET exemption for amounts received as grants under section 206M-15 (high technology loans and grants from the State or federal government).	5,609	6,058	1,560	4,017	5,792	6,818
16	237-24.9	GET exemption for amounts received for aircraft service and maintenance or for construction of an aircraft maintenance facility .	7,210,000	7,786,800	2,005,101	5,163,135	7,445,241	8,764,112
17	237-27	GET exemption for sales by a petroleum refiner to another refiner. (The exemption is in lieu of wholesale GET treatment of the refiner's sales.)	237,110	256,079	65,940	169,796	244,846	288,219
18	237-27.5	GET exemption for construction of, or income from the operation of, an air pollution control facility.	399,169	431,102	111,009	285,848	412,192	485,209
19	237-28.1	GET exemption for gross receipts from shipbuilding and ship repair business.	2,184,000	2,358,720	607,370	1,563,979	2,255,257	2,654,760
20	237-29.8	GET exemption for gross receipts from operating a call center by a telecommunications business.	50,518	54,560	14,049	36,177	52,167	61,408
Sec 3, 1-3	238-1	Exemption from Use Tax for leasing and renting of aircraft used in interstate air transportation; for use of oceangoing vessels for transportation within the State as a public utility; use of a vessel constructed under section 189-25, HRS, prior to July 1, 1969.	5,676,892	6,131,043	1,578,744	4,065,265	5,862,112	6,900,543
Sec 3, 4-6	238-3(g),(h),(k)	Exemption from Use Tax for use or sale of liquor, cigarettes or tabacco products imported for resale to a common carrier. Use of property, services or contracting subject to HRS sections 237-26 (the scientific contracts GET exemption) or 237-29 (the GET exemption for certified housing projects); or for the use of a pollution control facility.	1,196,316	1,292,021	332,695	856,691	1,235,348	1,454,181
	Total GET, All Provisions		**$227,369,135**	**$245,558,666**	**$63,231,356**	**$162,820,743**	**$234,787,511**	**$276,378,442**
	Adjustment for prior contract exception (reduce receipts by 10% for first year)				**$56,908,221**			

NEIL ABERCROMBIE
Governor

MIKE MCCARTNEY
President and
Chief Executive Officer

Hawaiʻi Tourism Authority

Hawaiʻi Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawaiʻi 96815
Website: www.hawaiitourismauthority.org

Telephone: (808) 973-2255
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Testimony of
Mike McCartney
President and Chief Executive Officer
Hawaiʻi Tourism Authority
on
H.B. 799, Proposed H.D.1
Relating to Taxation

Senate Committee on Economic Development and Technology
Wednesday, March 23, 2011
1:15 p.m.
Conference Room 016

The Hawaiʻi Tourism Authority (HTA) opposes paragraph (5) in SECTION 2 of the proposed H.B. 799, H.D. 1, which proposes to amend chapter 237, Hawaiʻi Revised Statutes, by proposing to temporarily suspend certain general excise tax exemptions and levy an excise tax of four per cent on the previously exempt gross income.

Section 237-16.8 exempts from the general excise tax amounts received by organizations from convention, conference, or tradeshow registration fees, fees for convention, conference, or tradeshow exhibit or display spaces, and fees for advertising and promotion at the convention, conference, or trade show in brochures. These fees are an important factor of the event organizer's operating revenues in putting on the event, and the GET adds an additional cost for the event.

Legislation enacted as section 237-16.8 was proposed in 2003 after the 7,500-member American Academy of Neurology (AAN) met at the Hawaii Convention Center. Expo booth sales for AAN totaled $1.5 million. AAN asked the Department of Taxation if they had to pay the general excise tax on the booth sales. The Department advised AAN that, under section 237-13, the tax should be paid, which amounted to $60,000.

The AAN said that this additional cost would have affected their decision to hold their convention in Hawaii because it added $60,000 in costs that they had not anticipated. This hurts the efforts to market Hawaii as a conference and convention destination by adding to the cost of putting on a conference, convention, or trade show in Hawaii. Often, such fees are used as part of the operating costs for putting on the conference, convention, or trade show. The AAN generated $25.3 million in visitor spending and produced $2.1 million in tax revenues.

The proposed H.B. 799, H.D. 1, will impose a tax of four per cent on the amounts received for these fees, which may affect the decision of organizations proposing an event in Hawaii, putting Hawaii at a competitive disadvantage, when other venues are heavily discounting prices to attract events.

We urge you to amend H.B. 799, H.D.1 by deleting in paragraph (5) of the new section to chapter 237, Hawaiʻi Revised Statues, deleting subsection (b) of the new section, and deleting paragraph (1) including in the definition of “previously exempt gross income or gross proceeds of sale,” “…the value received by a nonprofit organization from conventions, conferences, trade show exhibits, and display spaces…” .

Thank you for the opportunity to comment on H.B. 799, H.D.1.

Information on H.B. 799, H.D. 1

Anticipated Impact of Paragraph (5) of Proposed Section 237-A, which Temporarily Suspends the Exemption from the General Excise Tax of:

> "The value of gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces."

Organizations, such as the American Dental Association and the American Academy of Neurology, which have booked conventions at the Hawaii Convention Center, derive much of their operating revenue from the fees received from registration, sponsors, and exhibitors. Any reduction in the revenue from these fees will cause financial stress for those organizations.

The GET can be added on to the fees for sponsors and exhibitors, but that will significantly impact the sale of display spaces, because Hawaii is already a more costly destination for exhibitors, because of the higher costs of shipping displays, which often include large equipment and machinery.

Example Using the American Dental Association

Booths	1,000
Cost/Booth	$2,500.00
Total Revenues	$2,500,000.00
GET (if required to pay)	***$104,250.00***
Delegates	24,000
Room Nights	221,040
Visitor Spending	$85,260,154.00
Tax Revenue Generated	***$10,992,321.00***

A poll by SMG, using the SMG family of facilities, revealed only one minor location that imposed a similar tax, which immediately lost a major event when it was imposed. The poll of industry partners indicates that imposing this additional cost would severely damage Hawaii's brand as a place to do convention business.

Worst Case Scenario for 2009 and 2010, where all events selling displays would have been lost:

Total number of events that sold displays	26
Total number of delegates for all events	118,355
Total room nights	1,023,204
Total visitor spending	$420,456,894.00
Tax Revenue Generated	$54,208,174.00

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU
1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
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PETER B. CARLISLE
MAYOR

TIMOTHY E. STEINBERGER, P.E.
DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 11-49

March 21, 2011

The Honorable Carol Fukunaga, Chair
and Members of the Committee on
Economic Development and Technology
State Senate
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Fukunaga and Members:

Subject: House Bill 799, HD1, Relating to Taxation

The City and County of Honolulu's Department of Environmental Services (ENV) opposes that portion of Bill 799, HD1, relating to taxation that would remove or potentially limit the tax exemption for air pollution control facilities.

Specifically Section 2 and 3 of HB 799, HD1, would repeal the current tax exemptions for Air Pollution Control Facilities through the inclusion of proposed new Sections 237-A and 238-A to Chapter 237 of the Hawaii Revised Statutes.

Although Section 2 of HB 799, HD1, in the proposed Section 237-A (18), would exclude facilities that already have a valid certificate of exemption, this change would seriously impact any future mandated project at H-Power to update the Air Pollution Control Facility for the plant. This would result in major contractual and cost impacts to H-Power and its on-going upgrade which were not considered in existing contracts between Covanta and the City and County of Honolulu (City). H-Power provides a critical service to the community as it is the primary waste disposal option for the City and will increase that function with the completion of an additional boiler in 2012. H-Power's incineration of waste not only reduces the amount of waste going to the landfill but provides the added benefit to the community of recycling municipal solid waste to produce energy for Hawaiian Electric Company.

Because almost the entire H-Power facility has been characterized as an Air Pollution Control Facility, adding Section 238-A (a)(6) to eliminate the exemption for Air Pollution Control Facilities as it relates to the "use" tax would seriously impact the overall costs to efficiently operate this major waste-to-energy facility. This change, again, was not considered in the existing operating and construction contracts for H-Power.

We urge you to refrain from removing the tax credit for an Air Pollution Control Facility that provides a critical waste disposal service to our community, diverts waste from the landfill, and converts waste to energy, all of which have a positive impact on our island environment.

Sincerely,

Timothy E. Steinberger, P.E.
Director

AIA Hawai'i State Council
A Council of The American Institute of Architects

The Honorable Carol Fukunaga, Chair
Members of the Committee on Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Hearing Date: 3/23/11 at 1:15 PM
RE: HB799 SD1

OPPOSE as written, House Bill 799 HD1 Relating to Taxation;
Section 2: Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, we are writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Amy Blagriff

Amy Blagriff, Honorary AIA Honolulu, Executive Vice President
On behalf of the AIA Hawaii State Council

For updates on AIA Hawaii Legislative Issues/Positions, go to
http://www.aiahonolulu.org/displaycommon.cfm?an=1&subarticlenbr=438

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Website: www.aiahonolulu.org

H & S INTERNATIONAL

ARCHITECTURE ENGINEERING PLANNING INTERIORS

March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2 Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our business in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to meet budgetary shortfalls by cutting spending, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Bing Hu, AIA
Principal

74-5565 LUHIA ST. STE. CG
KAILUA-KONA HI 96740
PHONE: 808.331.8170 FAX: 808.331.8270
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AIRLINES COMMITTEE OF HAWAII

Honolulu International Airport
300 Rodgers Blvd., #62
Honolulu, Hawaii 96819-1832
Phone (808) 838-0011
Fax (808) 838-0231

March 23, 2011

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

RE: **HB 799 HD1 – Relating to Taxation - Oppose**
EDT Committee – March 23, 2011, Conference Room 016, 1:15PM

Aloha Chair Fukunaga, Vice Chair Wakai and members of the committee:

The Airlines Committee of Hawaii* (ACH), which is made up of 21 signatory air carriers that underwrite the State Airport System strongly oppose HB 799 HD1, Relating to Taxation, which suspends General Excise Tax exemptions for five years and levies annual graduated increase on GET up to 4%.

Specifically, we oppose the suspension of exemptions covered under the following provisions in Section 2:

(13) Amounts received as rent for aircraft or aircraft engines used for interstate air transportation; and

(16) Amounts received from the servicing and maintenance of aircrafts or construction of aircraft service and maintenance facilities.

Firstly, while the rental or leasing of aircraft or aircraft engines may not apply to all airline carriers since many are based elsewhere, the suspension of exemptions in this bill will have an inordinately adverse affect on Hawaii-based carriers. Additionally, there are federal issues involved here that could prohibit or limit the state's ability to tax the leasing of aircraft or aircraft engines used for interstate commerce.

Secondly, there are public benefits for providing incentives for the servicing and maintenance of aircrafts or construction of aircraft service and maintenance facilities. In 1997, Continental Airlines began looking for a base between Guam, Saipan and Honolulu to build a $25 million aircraft maintenance facility. Then Governor Cayetano's administration backed Continental's plans because it would create about 110 high-paying aviation mechanics jobs and some 400 jobs in the construction of the facility. Continental chose Hawaii because of the tax incentives it received to build this facility which has a 30-year lease at Honolulu International Airport. Hawaiian Airlines also has an aircraft maintenance facility which provides approximately 300 jobs.

Airlines can easily choose to base their aircraft maintenance in another state. Taxing aircraft maintenance, materials, parts and tools will only drive these jobs away from Hawaii and to states where there is no tax.

Finally, we urge you to consider the number of highly-skilled and high-paying jobs that we may loose if we eliminate these credits. These workers live in Hawaii and help to further stimulate the economy by paying into the General Excise Tax, State Income Tax, county property taxes and so forth.

For these reasons, we respectfully urge your committee to reject Section 2 (13) and (16) of this bill. As always, we are grateful for the opportunity to provide input on this matter.

Sincerely,

Lori Peters ACH Co-chair	Blaine Miyasato ACH Co-chair

**ACH members are Air Canada, Air New Zealand, Air Pacific, Alaska Airlines, All Nippon Airways, American Airlines, China Airlines, Continental Airlines, Continental Micronesia, Delta Air Lines, Federal Express, go! Mokulele, Hawaiian Airlines, Japan Airlines, Korean Air, Philippine Airlines, Qantas Airways, United Airlines, United Parcel Service, US Airways, and Westjet.*

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2

Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Bradford C. Meyers, AIA, CSI
95-280 Kaaona Place
Mililani, HI 96789

Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair
Committee on Economic Development & Technology

HEARING Wednesday, March 23, 2011
1:15 pm
Conference Room 016
State Capitol, Honolulu, Hawaii 96813

RE: HB799, HD1, Relating to Taxation

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

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 opposes HB799, HD1, which suspends temporarily the exemption for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at a graduated rate, and is effective from July 1, 2011 through June 30, 2015.

Specific to RMH is **Section 2, (5),** which addresses the value or gross income received by non-profit organizations from certain conventions, conferences, trade shows or display spaces.

In fiscal year 2009, retail revenues in the state of Hawaii declined by $1.9 billion dollars from the previous year. General Excise Tax reports from the Department of Taxation through September indicate an increase of about $600 million; however, the recovery is still tenuous. 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 as deeply as possible without jeopardizing the level of service to the retail industry as required by our not-for-profit mission and objectives. Our conferences afford opportunities fulfill our directives and generate much needed revenue.

From a broad economic perspective, HB799, HD1, if enacted, will increase expenses, not only for the targeted businesses, but at every level in the marketplace, and will have far reaching negative consequences for Hawaii's still very fragile economy. Planned expansion will be cancelled; more jobs will be lost.

According to "Hawaii Labor Market Dynamics," a report from DLIR dated July 2010, page 10: "The largest over-the-year job loss was in the trade, transportation and utilities industry." Next were construction, hospitality and business services. Total jobs lost – 24, 050. Interestingly enough, over the same period, job gains were reported in health service and government. Further job losses in the private sector are not acceptable.

We urge you to hold HB799, HD1. Thank you for your consideration and for the opportunity to testify on this measure.

Carol Pregill, President

RETAIL MERCHANTS OF HAWAII
1240 Ala Moana Boulevard, Suite 215
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PRINCIPALS
Carol S. Sakata, FAIA
Richard W. Balcom, AIA
Glenn K. Miura, AIA

ASSOCIATES
Debbie A. Merritt
Amado R. Aguinaldo
Davin K. Kimoto

Senator Carol Fukunaga, Chair

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2** Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

Aloha, Chair Fukunaga and Members of the Committee:

I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our firm, as well as on our industry.

In particular, large portions of our design fees (often 40% to 60%) are paid to professional engineers and other design consultants retained by us on our clients' behalf. This is typical of how our industry is structured—more so in Hawaii than in other areas where firms tend to be larger and provide a wider array of services in-house. Rather than hiring consultants individually, most clients rely on us to contract and manage the design team. Not being able to deduct consultant fees from our gross general excise tax liability would be an extreme hardship and cause increased costs to our clients—especially at a time when they are highly cost-conscious. We are recently seeing clients wanting to retain mainland consultants for our local projects because they feel fees here are too high.

A further negative impact would be taxation of fees generated on "off-shore" work. For many years a significant portion of our business has come from projects outside of Hawaii. This has been a stabilizing force, helping to level out the ups and downs of the local economic cycle and keeping our staff employed when design and construction here is in a trough. Since Hawaii is an isolated and relatively small market, many Hawaii design firms augment their local business with mainland and international work. Having to pay general excise tax on fees generated off-shore puts us at a distinct disadvantage when competing for commissions against architects from other jurisdictions where such taxes are not imposed on professional services.

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www.cdsintl.com

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

CDS INTERNATIONAL

Carol S. Sakata, FAIA, LEED AP
Executive Vice President

From: fukunaga3 - Devin
To: EDTTestimony
Subject: HB799 FW: *****SPAM***** Contact your Senator on the the General Excise Tax
Date: Tuesday, March 22, 2011 11:18:40 AM

Chad M. Okinaka
1347 Kapiolani Blvd Ste 401
Suite 208
Honolulu, HI 96814-4512

3/22/2011

Dear Senator Fukunaga:

Subject: OPPOSE as written, House Bill 799-SD1 Relating to Taxation; Section 2: Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, we are writing to OPPOSE HB 799-SD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799-SD1 to remove the exemption currently afforded to ³contractors² as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

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Sincerely,

Chad M. Okinaka

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

Testimony to the Senate Committee on Economic Development and Technology
Wednesday, March 23, 2011 at 1:15 p.m.
Conference Room 016, State Capitol

RE: HOUSE BILL NO. 799 HD1 RELATING TO TAXATION

Chair Fukunaga, Vice Chair Wakai, 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 our opposition to Section 2(a)(19) of House Bill 799, HD 1, Relating To Taxation.

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 their families, and has provided oversight for the state's multi-billion dollar defense industry since 1985.

The defense industry is the second major source of revenues to the state, second only to tourism. Its annual expenditures of more than $6.8 billion dollars helps to generate more than $10.1 billion into Hawaii's economy, and account for creating more than 92,000 jobs that bring home some $6.4 billion dollars in household income annually.

The measure suspends temporarily the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at a graduated rate. Effective July 1, 2011, and sunsets on June 30, 2015.

Our concerns are specifically with Section 2(a) (19) of the proposed measure, which provides for the suspension of the tax exemptions for shipbuilding and ship repair. The repeal would directly affect military government contracts that provide hundreds of jobs and millions of dollars worth of subcontracts for small local businesses.

A suspension of the GET exemption and payment of the tax at a graduated rate in Section 2(a)(19), would result in placing Hawaii's ship repair businesses at a disabling disadvantage in competing for government and private ship repair contracts. Hawaii based ship repair businesses already face higher operating costs, and none of the competing ship repair businesses on the West Coast and Guam, nor those in China and other Far East locations, are required to add-on GE taxes on bid proposals.

It is safe to state that the exemption for ship repairs is a critical factor in sustaining the ship repair/building industry for our island state.

The committee should note that this GET exemption was a primary factor in enabling BAE Systems' ship repair division to successfully compete for a 10-year, $1.3 billion military contract for a surface ship modernization program at Pearl Harbor.

We respectfully request that the committee take a deeper look at the potential impacts the proposal would have on the ship repair and state, which provide hundreds jobs and contract opportunities for our small businesses, and generate millions of dollars in revenues for the state.

For these reasons, we respectfully recommend that the proposed measure be amended to delete the suspension of the tax exemption for ship building and repair.

Thank you for the opportunity to testify.

TROPICAL ROOFING AND RAINGUTTERS INC.

March 23, 2011

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

Presented By: Charlie Beeck CB
President

Subject: H.B. 799, HD 1 – RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

I am Charlie Beeck, President of Tropical Roofing and Raingutters, Inc. and we oppose this bill.

I understand the need for income by the State, but I do not think that this is the way to get it! The construction industry faces a huge problem. Paying an additional 4% (or 4½%) on your gross income will give contractors the incentive for "cash only jobs" or "side jobs" and not report their income at all. Contractors can give you a whole list of jobs where they did not make 4% on the job while the state government makes 8% on a subcontractors portion. The State will be making more money on the job than the subcontractor himself which, we believe, then gives them every reason in the world to go out and get "cash only jobs".

Please reconsider and REJECT H.B. 799, HD 1.

Thank you.

5 Sand Island Access Rd. • Unit 141 • Honolulu, Hawaii 96819
Ph. (808) 847-0030 • Fax (808) 842-1563 • Lic. #C-21044

Moriyama Construction Inc. Lic.# C-22664 Honolulu, Hawaii
PO Box 893037
Mililani, HI 96789
843-1954 Fax 843-1697
mciroof@aol.com
Lic. # C-22664

FAX TRANSMITTAL FORM

TO: Senator Carol Fukunaga FROM: Colin Moriyama

ATTN: DATE SENT: 3/22/11

PHONE: NUMBER OF PAGES: 1

FAX: 586-6899

Message: ____for your review ____Reply ASAP ____Please comment

Aloha Senator Carol Fukunaga,

RE: HB 799

We kindly ask that you help in killing the bill HB 799.
As a Subcontractor we are still struggling in this poor economic time for several years now, but are slowly coming back. With this bill we will be just be going backwards. I am sure that I also speak for many Subcontractor's.
Mahalo for your kokua,

Colin Moriyama

Thank you,

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2**
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

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We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Many of our current problems are related to building, we need to design and build better buildings, raising the taxes as proposed will make building more expensive and will increase our problems instead of reducing them.

Sincerely,

Darren,

Darren Hand AIA, LEED AP
PQ Architects
500 Ala Moana Blvd 7 Waterfront Plaza Suite 400
Honolulu, HI 96813

PACIFIC GUARDIAN LIFE

DOUGLAS M. GOTO
Executive Vice President

March 23, 2011

The Honorable Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
State Senate
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, Hawaii 96813

Via e mail: edttestimony@capitol.hawaii.gov

Re: HB 799, HD 1, Relating to Taxation

Dear Chair Fukunaga and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 799, HD 1, Relating to Taxation.

My name is Douglas M. Goto. I am the Executive Vice President of Pacific Guardian Life Insurance Company, Ltd. ("PGL"). PGL is a Hawaii corporation having its headquarters in Honolulu, Hawaii.

PGL provides life insurance, disability, annuities and temporary disability insurance benefits to the people of Hawaii, 20 other western states, the Territory of Guam, and the Commonwealth of the Northern Mariana Islands.

PGL has approximately 120 employees in the state of Hawaii and employs an additional 20 employees in branch offices, primarily in the state of California. All of our staff members are "white collar" employees with many holding professional and managerial positions. Approximately 38% of PGL's life insurance premium writings are to persons residing outside the state of Hawaii. Accordingly, PGL is and seeks to continue to contribute to the Hawaii economy by generating revenue from customers outside of Hawaii.

Section 2 of HB 799, HD 1, would amend Chapter 237, relating to the State's General Excise Tax, to include a new section which would "require information reporting on all exclusions or exemptions of amounts, persons, or transactions" subject to that Chapter. Excluded are certain stated exemptions, and "any other amounts, persons, or transactions as determined by the director to be in the best interest of tax administration and made by official pronouncement."

While the purpose for the Department's collection of information is not stated in the bill, the presumed purpose is to enable the Legislature to determine whether the current exclusions and exemptions from the State's General Excise Tax should be continued, amended or repealed.

PACIFIC GUARDIAN TOWER • 1440 KAPIOLANI BOULEVARD • HONOLULU, HAWAII 96814 • TEL (808) 942-1310 • FAX (808) 942-1290 • dgoto@pacificguardian.com

The collection and study of information to confirm whether all tax exclusions and exemptions provided under current law should be continued (other than the 7 exemptions stated in the bill) is an unnecessary and wasteful expenditure of the State's scarce resources. This exercise should not encompass those exclusions and exemptions that are known to be achieving their intended objectives and are consistent with public policy.

Currently, life insurance companies are exempt from Hawaii's general excise tax pursuant to Section 237-29.7, HRS. They are exempt because life insurers are already subject to the State's 2.75% premium tax. If this exemption is repealed, PGL would be subjected to the State's 4% general excise tax in addition to the State's premium tax of 2.75% which is one of the highest life insurance premium tax rates in the nation (the national average is 1.9%). As a result, the insurer would be paying a double tax: a 2.75% premium tax on the insurer's gross premiums and an additional 4% general excise tax at the combined rate of 6.75% on essentially the same revenues received in this State. Imposing a double tax only on insurers, who already pay the highest amount of tax than any other business in the State, is inconsistent with good public policy.

Moreover, increasing the tax will result in PGL's having to increase the cost of its premiums on some of its policies. Increasing the premium tax may also subject life insurance companies domiciled in this state, such as PGL, to additional "retaliatory taxes" imposed by other states in which PGL does business.

For example, as PGL does business in the state of California, as its domestic life insurers such as Pacific Life also does business in Hawaii, if HB 799, HD 1, is enacted, PGL will pay an additional tax equal to the difference between Hawaii's effective tax rate of 6.75% (2.75% premium tax + 4% general excise tax) and the tax rate imposed by California.

Two decades ago, the Hawaiian life insurance market was served by a number of domestic life insurers, including Grand Pacific Life, Hawaiian Life, and Investors Equity Life, all of which were larger than PGL at the time. Today, PGL is one of the few remaining, and, we daresay, the only major active life insurance carrier with a Hawaii domicile. If PGL were to lose its general excise tax exemption it would serve as a major disincentive to its selecting a Hawaii domicile as opposed to the domicile in another state having a lower tax rate due to the economically punitive effect of the retaliatory taxes described above.

At times, it is extremely difficult to effectively compete with other carriers, principally national and regional players, in the life insurance market in Hawaii and the western states. PGL is proud that is has, thus far, been successful in doing so from our home office in Hawaii. The repeal of PGL's current general excise tax exemption which would result in PGL's payment of a double tax would make its ability to succeed more difficult.

We respectfully submit, therefore, that the collection of information mandated by HB 799, HD 1, as it relates to a life insurance company's general excise tax exemption is an unnecessary and costly expenditure that the State can ill afford to pay and should not pay, particularly at a time when it is facing a potential $1 billion budget deficit.

For the foregoing reasons, PGL strongly opposes HB 799, HD 1, and requests that this Committee remove a life insurance company's general excise tax exemption from the provisions of the bill.

Again, thank you for the opportunity to testify in opposition to HB 799, HD 1.

PACIFIC GUARDIAN LIFE
INSURANCE COMPANY, LIMITED

By: ______________________
Douglas M. Goto
Its Executive Vice President

GOODSILL ANDERSON QUINN & STIFEL
A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINE OGAWA KARAMATSU

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
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ckaramatsu@goodsill.com

TO: Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology
Hawaii State Capitol, Room 216

Via Email: EDTTestimony@Capitol.hawaii.gov

FROM: Gary M. Slovin

DATE: March 20, 2011

RE: H.B. 799, H.D. 1 – Relating to Taxation
Hearing: March 23, 2011 at 1:15 p.m.
Room 016

Dear Chair Fukunaga and Members of the Committee on Economic Development and Technology:

I am Gary Slovin, testifying on behalf of Covanta Energy Corporation, the operator of the HPOWER waste-to-energy facility at Campbell Industry Park. The construction of the third boiler is well underway, providing many good-paying construction jobs.

Covanta respectfully **opposes** pg. 4, lines 16-20as well as pg. 10 lines 7-9 of H.B. 799, H.D. 1. This provision would suspend the general excise and use tax exemptions that apply to the operations of the HPower waste–to-energy plant in Campbell Industrial Park. The ax that would be imposed through the suspension of these sections would be borne by taxpayers of the City and County of Honolulu. Accordingly, the suspension of the exemptions would not increase the funds available to reduce the deficits being faced by both State and County governments.

Therefore, we oppose the suspension of these sections.

Thank you very much for the opportunity to testify on H.B. 799, H.D. 1.

Geoffrey Miasnik, AIA
Architect
364 Oomano Place
Honolulu, Hawaii 96825

March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

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We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Geoff Miasnik

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 22, 2011

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

SUBJECT: H.B. 799, HD1 RELATING TO TAXATION.

AMENDED NOTICE OF HEARING

DATE: Wednesday, March 23, 2011
TIME: 1:15 p.m.
PLACE: Conference Room 016

Dear Chair Fukunaga and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and eighty (580) general contractors, subcontractors, and construction related firms, **strongly opposes** the passage of H.B.799, H.D. l and recommends that this bill be filed.

The provision to suspend the exemption for contractors in incremental steps from January l, 2012 to June 15, 2015, is unfair as it will result in a general contractor paying state general excise taxes on taxes paid by the subcontractor. This exemption was provided to avoid the pyramiding effect of the general excise tax. Eliminating this exemption will have devastating effects on the construction industry and result in higher cost to the public. The GCA believes that at a time when construction activity in the state has decreased and many construction workers are unemployed, we should not be raising taxes that will result in less construction activity.

While we understand that the state is faced with a large budget deficit and must find ways to balance the budget for the coming biennium, however, we do not believe that eliminating the tax exemption currently available to contractors is prudent or wise planning.

The elimination of this exemption for contractors will slow down Hawaii's economic recovery and stifle growth since construction activity is one of the key drivers of economic growth.

We strongly urge that the legislature look for other savings and not eliminate the contractor's tax exemption.

Thank you for the opportunity to comment on this measure.

ARCHITECTURE
RESTORATION
RENOVATION
RESEARCH

Mason Architects

22 March 2011

Senator Carol Fukunaga, Chair, and Members
Senate Committee on Economic Development and Technology
Hawaii State Capitol, Room 216
Honolulu, HI

Subject: HB 799 HD1 – Relating to Taxation

Senator Fukunaga and members of the Committee:

I oppose the portion of this bill relating to pyramiding of taxes for professional services for the following reasons:

- It will raise the cost of all State of Hawaii and Federal projects at a time when they can least afford it. Government entities insist on sole source responsibility for consultant contracts.
- It will not raise as much money as the State may be guessing because, for private sector projects, many Owners will simply work around the pyramiding by directing hiring all consultants themselves.
- It will raise the cost of construction in general, in a State which already has one of the highest construction costs in the nation.

I understand the need to obtain more tax income and support some tax increases, but this is an inefficient way to do so. From a political standpoint it may be attractive because it is a “hidden” tax, but that does not change the fact it is a poor method to address the problems the State has.

Sincerely,

Glenn E Mason

Glenn Mason, AIA
President

119 MERCHANT STREET • SUITE 501 • HONOLULU, HI 96813 • VOICE: 808 536-0556 • FAX: 808 526-0577 • INFO@MASONARCH.COM

HILO DIRECT CONSULTANTS, LLC

Architecture · Construction Administration and Quality Assurance

22 March 2011

THE HONORABLE CAROL FUKUNAGA, CHAIR
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol Honolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2** Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

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We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation.

P. O. Box 5203, Hilo, Hawaii 96720 ● Telephone: 808. 640.1896 ● E-mail: HiloDirect@hawaii.rr.com

We urge opposition as currently written.
Sincerely,

J. Blaise Caldeira, AIA
HILO DIRECT CONSULTANTS, LLC

Copies to: Senator Glenn Wakai, VIce Chair EDT, Email: senwakai@capitol.hawaii.gov Senator Rosalyn Baker, Member EDT, Email: senbaker@capitol.hawaii.gov Senator Malama Solomon, Member EDT, Email: sensolomon@capitol.hawaii.gov Senator Sam Slom, Member EDT, Email: senslom@capitol.hawaii.gov

March 20, 2011

Via Email: EDTTestimony@Capitol.hawaii.gov

Senator Carol Fukunaga
Chair, Committee on Economic Development
and Technology
Hawaii State Capitol, Room 216

Re: H.B. 799, H.D. 1 – Relating to Taxation
Hearing: Wednesday, March 23, 2011 at 1:15 p.m.

Dear Chair Fukunaga and Members of the Committee on Economic Development and Technology:

I am James E. Stevens, Managing Director, State and Local Government Affairs, testifying on behalf of Air Transport Association ("ATA"), the nation's oldest and largest airline trade association. ATA members include all of the major U.S. passenger and cargo airlines,[1] which together carry more than 90% of domestic passenger and cargo traffic. ATA's fundamental purpose is to foster a business and regulatory environment that ensures safe and secure air transportation and enables U.S. airlines to flourish, stimulating economic growth locally, nationally and internationally.

ATA **strongly opposes** Sections 2 and 3 of H.B. 799, H.D. 1 insofar as they suspend the following general excise and use tax exemptions:

- Amounts received as rent for aircraft or aircraft engines used for interstate air transportation as described under section 237-24.3(12); and

[1] ATA's Airline Members include the following: ABX Air, Inc., AirTran Airways, Alaska Airlines Inc., American Airlines, Inc., ASTAR Air Cargo Inc., Atlas Air, Inc., Continental Airlines, Inc., Delta Air Lines, Inc., Evergreen International Airlines, Inc., Federal Express Corporation, Hawaiian Airlines, JetBlue Airways Corp., Southwest Airlines Co., United Airlines, Inc., UPS Airlines, US Airways, Inc.

- Amounts received from the servicing and maintenance of aircraft or construction of aircraft service and maintenance facilities as described under section 237-24.9.

The aviation industry is vital to Hawaii, and any cost increases can significantly impact airlines decisions on service to its customers as well as the overall economy.

With respect to the GET exemption for maintenance facilities, airlines have a choice as to where they establish maintenance facilities. They elect to locate their maintenance facilities or use outside providers in states where there is favorable tax treatment. Currently, two major carriers have maintenance facilities located in Hawaii – Continental Airlines and Hawaiian Airlines. Increasing the costs on these existing maintenance facilities by removing the GET exemption and imposing a tax on the facilities would increase costs. Ultimately, this could cause a relocation of the facilities to other states where tax treatment is more favorable. This would result in the potential loss of several hundred jobs and a significant amount of tax revenue to the state.

Regarding aircraft leases, airlines do not pay excise or use taxes on aircraft or aircraft leases in any other state. This provision would have a significant impact on carriers that hold aircraft leases in Hawaii, particularly the local carriers. There may also be questions as to whether taxing aircraft used in interstate transportation would raise constitutionality concerns based upon the Commerce Clause of the U.S. Constitution.

The above exemptions serve an important purpose for the industry, and allow a vital part of the airline industry to remain in Hawaii. Eliminating these exemptions would have a very significant financial impact on the industry as a whole, and in particular on local carriers, including Hawaiian Airlines. While ATA understands that the State is faced with very difficult budget decisions, ATA believes that this proposal could have serious economic consequences both for the airline industry and the State.

We therefore oppose the suspension of these sections, and respectfully request that they be removed from the bill. Thank you very much for the opportunity to submit testimony.

jn

jeffrey nishi & associates/architects

March 22, 2011

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

Subject: HB 799 HD1 – Relating to Taxation

Senator Fukunaga and members of the Committee,

I **OPPOSE** the portions of this bill related to taxes for professional services for the following reason:

1. It will raise the cost of all projects at a time when it can lease be afforded.
2. It is a form of double taxation requiring a tax to be paid on fess that have already been taxed by the same law.
3. It will not raise revenue for the state because it can be circumvented contractually and may cause projects to be awarded out of state.
4. It will raise the cost of construction in general thus adding to the slow movement of business.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Mahalo,

Jeffrey Nishi

Jeffrey Nishi AIA
Principle

928 nuuanu avenue, suite 201 honolulu, hawaii 96817
ph 808 528 2656 / fx 808 528 2659 / e-mail jeff@jn-architects.com

MAR 22 2011

Char Hamilton Campbell & Yoshida
ATTORNEYS AT LAW | A LAW CORPORATION

CHC&Y

MEMORANDUM

OREN T. CHIKAMOTO
E-MAIL: OTC@CHARHAMILTON.COM

TO: HAND DELIVER
Clerk, Committee on Economic Development and Technology
State Senate
Hawaii State Capitol, Room 216
Honolulu, Hawaii 96813

FROM: Oren T. Chikamoto

DATE: March 22, 2011

RE: HB 799, HD 1, Relating to Taxation

Bill Number: HB 799, HD 1, Relating to Taxation

Committee: Committee on Economic Development and Technology

Date & Time of Hearing: March 23, 2011, 1:15 pm, Conference Room 016

Testifier's Name: Joseph J. Anotti, President, American Fraternal Alliance, on behalf of Thrivent Financial for Lutherans, Woodmen of the World, The independent Order of Foresters, and Knights of Columbus

THRIVENT FINANCIAL FOR LUTHERANS, WOODMEN OF THE WORLD, THE INDEPENDENT ORDER OF FORESTERS AND KNIGHTS OF COLUMBUS

TESTIMONY IN OPPOSITION TO HB 799, HD 1, RELATING TO TAXATION

March 23, 2011

Hand Deliver
Honorable Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
State Senate
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: HB 799, HD 1,
Relating to Taxation

Dear Chair Fukunaga and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 799, HD 1, Relating to Taxation.

Section 2 of HB 799, HD 1, would amend Chapter 237, relating to the State's General Excise Tax, to include a new section which would "require information reporting on all exclusions or exemptions of amounts, persons, or transactions" subject to that Chapter.

While the purpose for the Department's collection of information is not stated in the bill, the presumed purpose is to enable the Legislature to determine whether the current exclusions and exemptions from the State's General Excise Tax should be continued, amended or repealed.

The proposed collection of information to confirm whether each and every exclusion and exemption provided under current law should be continued (other than the 7 exemptions stated in the bill) is an unnecessary and wasteful expenditure of State funds. This exercise should not encompass those exclusions and exemptions that are known to be achieving their intended objectives and are consistent with public policy.

Currently, all revenues received by a fraternal benefit society are exempt from the State's general excise tax. If this exemption were repealed it would greatly reduce a society's ability to provide the kinds and level of services and programs to their members and the members of their communities in which they live.

No State in the union taxes fraternal benefit societies. Fraternal benefit societies have been recognized as tax-exempt non-profit entities by the federal government and all 50 states for more than a century. Fraternals have a long tradition of supporting communities through financial contributions and volunteer service. In 2009 alone, Fraternal Alliance members volunteered nearly 91 million hours (valued at $1.9 billion) to community service projects and made $400 million in direct financial contributions to support charitable, patriotic, educational, and religious activities.

The undersigned, American Fraternal Alliance, represents 71 fraternal benefit societies across the United States.

Four Fraternal Alliance members – Thrivent Financial for Lutherans, Woodmen of the World, The Independent Order of Foresters, and Knights of Columbus – have active volunteer networks in Hawaii. Combined, these societies have over 9,000 members in the state. In 2009, members of Hawaii's fraternal benefit societies contributed more than 85,000 hours of volunteer service valued at over $1.7 million and made direct financial contributions of over $400,000 to schools, charities, and community service organizations in this State. and lend their financial and volunteer support to a variety of causes and organizations.

Taxing fraternals would be inconsistent with good public policy. Repealing the fraternal General Excise Tax exemption would greatly impede their ability to provide the volunteer service and direct financial aid they contribute to fill gaps in the social safety net and help people in Hawaii enhance their lives and their communities.

On behalf of Thrivent Financial for Lutherans, Woodmen of the World, The Independent Order of Foresters, and Knights of Columbus. we urge you to consider the value these fraternal volunteers and funds provide to Hawaii's communities. Submitted for your consideration is representative testimony from the leaders of the Knights of Columbus and Thrivent Financial for Lutherans which they submitted to House Finance Committee in opposition to HB 1270, a bill very similar to HB 799, HD 1. Their testimony attests to the work their societies have and will continue to do in Hawaii.

Fraternals don't just write checks – our members are engaged in your communities, enrich the fabric of society, and get things done. We look forward to continuing to serve Hawaii communities for years to come.

Sincerely,

Joseph J. Annotti
President & CEO
American Fraternal Alliance
On behalf of Thrivent Financial for Lutherans,
Woodmen of the World, The Independent Order of
Foresters, and Knights of Columbus
1301 W 22nd St Ste 700
Oak Brook, IL 60523

Thrivent Financial for Lutherans

625 Fourth Ave. S., Minneapolis MN 55415-1665

Bradford L. Hewitt
President and
Chief Executive Officer

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Toll-free: 800-847-4836, ext. 34417
Fax: 612-844-4337
brad.hewitt@thrivent.com

February 24, 2011

The Honorable Marcus R. Oshiro, Chair
Committee on Finance
House of Representatives
Hawaii State Capitol, Conference Room 308
415 S. Beretania Street
Honolulu, Hawaii 96813

RE: House Bill 1270 & Taxation of Fraternal Benefit Societies

Dear Chair Oshiro and Members of the Committee:

I am writing to make you aware of the unintended consequences of House Bill 1270, with the hope that you will work to preserve the ability of Thrivent Financial for Lutherans members in Hawaii to continue to protect their financial security and make a positive difference in their communities.

Thrivent's unique not-for-profit mission unites deep concerns for the well being of our members and their communities in ways few organizations can. Thrivent was created more than 100 years ago by Lutherans who banded together to help each other when economic hardships struck. Today, we enable our more than 2,000 Hawaii members to continue to live that commitment to their families and neighbors.

What our members accomplish in the community is important, and so is how they accomplish it. Thrivent members nationwide are organized in local chapters, and through our grassroots chapter in Hawaii, our members are able to identify and meet local needs in ways only those who live there can. As you can see in the attached table, our Hawaii members are making a difference for important causes and helping to address unmet needs. From 2008 through 2010, Thrivent members in Hawaii have reported dedicating more than 44,000 volunteer hours to help raise or contribute more than $300,000 for local not-for-profit organizations and schools.

For generations, every state and the federal government has recognized the important role fraternal benefit societies play in communities by supporting tax exemptions that provide the funding needed to operate our grassroots chapter network and programs. I urge the members of the committee to ensure that Hawaii continues to protect the resources that support our members' efforts in your state. The revenue gained by taxing fraternals would not replace the financial contributions our members make to Hawaii's communities.

Moreover, state programs cannot replace the grassroots chapter structure that enables our members to stand up, take a stake in what is happening around them and commit volunteer time to better their communities.

And finally, financial security in their own lives helps our members help the community. The provisions of House Bill 1270 that would impose new taxes on life insurance and disability income benefits would negatively impact our members much the same way customers of commercial life insurers would be affected. The American Council of Life Insurers and others will argue persuasively on behalf of all life insurance policy holders in Hawaii, and I hope you will conclude that taxing individuals who are doing the right thing to protect their financial security is not good public policy.

Thank you for taking the time to consider my concerns, and for the personal sacrifices you make to take on the enormous challenge of public service during such difficult budgetary times. I respectfully request that you defeat or amend House Bill 1270 to protect fraternal benefit societies, our members and their community service activities in Hawaii.

Sincerely,

Brad Hewitt

Brad L. Hewitt

February 24, 2011

The Honorable Marcus Oshiro
Chair, House Finance Committee
Hawaii State Capitol, Rm. 306
415 South Beretania Street
Honolulu, Hawaii 96813

Re: HB 1270

Dear Chairman Oshiro:

On behalf of the Knights of Columbus, I would like to express our strong opposition to HB 1270, which would eliminate a wide variety of tax exemptions affecting many charitable, educational and other groups in Hawaii. Two of its provisions would adversely impact fraternal benefit societies, including ours, and our members.

One provision of HB 1270 would repeal the tax exemption for fraternal benefit societies, diminishing our ability to support the many charitable activities that lie at the heart of our service to the communities in which we live. The other would impose taxes on the proceeds from life insurance policies as well as annuities and disability policies, a step that is without precedent anywhere in the United States. Obviously, this provision would also affect many outside the fraternal system as well as our own members, but it is particularly troubling to us because providing such protection was a central reason that fraternal societies were formed in the 19th Century. It was a classic instance of civil society stepping in to meet an urgent societal need without relying on government to meet that need. We continue to do so, on a non-profit basis, to this day, benefiting our individual members and society at large. The degree to which society benefits from our activity has been well-documented in a 2010 study by Georgetown University Professor Phillip Swagel, *Economic and Societal Impacts of Fraternal Benefit Societies* (http://www.kofc.org/un/en/news/releases/detail/gtown_whitepaper.html).

Repealing the general excise tax exemption granted to fraternal benefit societies such as the Knights of Columbus would raise very little new revenue and would serve only to reduce the much-needed volunteer and charitable work that benefits the citizens of Hawaii. The value of what we are able to accomplish through our tax exemption far exceeds the small amount of revenue that would be gained.

I would also like to point out that the section in HB 1270 directing the Hawaii Department of Taxation to conduct a study of whether these exemptions might be modified or continued contains no provision under which those who stand to lose their tax exempt status are entitled to present the case for continued exemption. Only the views of "technical experts" and various governmental agencies are to be solicited. Surely those directly affected by the bill should have an opportunity to be heard.

The Knights of Columbus was formed in Connecticut in 1882 to provide mutual aid and assistance to our members and their families, as well as to provide charitable assistance to the sick, disabled and needy. We promote both social and intellectual fellowship among our members and their families and engage in educational, religious and community-based charitable works. The Knights of Columbus has grown from a few members in a single council in Connecticut in 1882 to more than 1.8 million members in over 14,000 councils throughout the United States, Canada, the Philippines, Mexico, Poland, the Dominican Republic, Puerto Rico, Panama, the Bahamas, the Virgin Islands, Cuba, Guatemala, Guam and the Northern Mariana Islands.

The 1,600 members of the Knights of Columbus in Hawaii belong to 23 local councils, and last year they donated 69,000 hours of their time to volunteer service in their communities. They also donated more than $86,000 to charity.

During the year ended December 31, 2009 our total contributions to charity at all levels reached $151,105,867 – exceeding the previous year's total by $1 million dollars. This figure includes $34,627,896 donated by the Knights of Columbus headquarters and $116,477,971 in charitable donations by state and local councils. The survey also shows that the reported number of volunteer hours by members of the Knights of Columbus for charitable causes was 69,251,926. During the past decade, the Knights of Columbus has donated a total of nearly $1.367 billion to charity, and provided nearly 639 million hours of volunteer service in support of charitable causes. Further details concerning the charitable activities of the Knights of Columbus can be found on our website at www.kofc.org. See also the *2010 Annual Report of the Supreme Knight* (http://www.kofc.org/un/en/resources/communications/report_2010.pdf).

We believe that HB 1270 would adversely affect vital elements of civil society while raising very little tax revenue and exacting a high societal cost. We ask that you reject the bill.

Sincerely,

Carl A. Anderson
Supreme Knight

March 17, 2011

The Honorable Carol Fukunaga
Hawaii State Capitol, Room 216
415 South Beretania Street
Honolulu, HI 96813

RE: Opposition to House Bill 799

Dear Senator Fukunaga:

CTIA – The Wireless Association®[1] respectfully opposes HB 799 which is now under consideration in the Senate. Specifically, CTIA opposes the current provision 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 committee will have an adverse financial impact on Hawaii residents, businesses and tourists by creating a new tax on roaming charges. New taxes on wireless services increase the cost to your constituents and thereby discourage 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 consumers, the U.S. Congress passed the Mobile Telecommunications Sourcing Act (P.L. 106-252), which ensures that wireless calls are taxed according to the caller's "place-of-primary use", the customers residential or business street address as defined in the Act. HB 799 would ignore the federal sourcing act mandate and unfairly impose a new tax on calls made by residents of Hawaii and also on calls made by 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 need to be mindful that tax policies should promote, rather than impair, our ability to deliver that access. If you have any questions or

[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.

wish to discuss, please contact James Schuler at JSchuler@CTIA.org or 202-736-3200.

Sincerely,

K. Dane Snowden
Vice President
External &State Affairs

Chris Lee

R O T H   K I M U R A , L L P

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March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2** Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

This Bill will put small businesses like ours at a serious disadvantage as we compete for jobs against larger firms locally and from the mainland. Kill this bill now if you are serious about supporting local small businesses.

Sincerely,

Kari L. Kimura, AIA, LEED-AP
Partner
Roth Kimura, LLP

Copies to:
Senator Glenn Wakai, VIce Chair EDT, Email: senwakai@capitol.hawaii.gov
Senator Rosalyn Baker, Member EDT, Email: senbaker@capitol.hawaii.gov
Senator Malama Solomon, Member EDT, Email: sensolomon@capitol.hawaii.gov
Senator Sam Slom, Member EDT, Email: senslom@capitol.hawaii.gov

COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL PROFESSIONALS

March 22, 2011

EMAILED TESTIMONY TO: EDTTestimony@Capitol.hawaii.gov

Hearing Date: March 23, 1:15pm, Conference Room 016
Senate Committee on Public Safety, Government Operations and Military Affairs

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD1 - Relating to Taxation**

The Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

We OPPOSE HB 799, HD1 that proposes to suspend temporarily the exemption for the amounts deducted from gross income relating to the Construction and Design Professional Industry **(Section 237-13 (3) (B))**. Our Construction Industry is suffering in this down economy. The elimination of the current "Contractor" tax exemption will bring back the pyramiding effect of the State GET. This will adversely affect the Construction Industry and will force project costs higher to cover these duplicative taxes on our services. Many of the local small business professional and construction businesses already pay State GET taxes for their services. The elimination of the current exemption will force the prime consultant to pay additional State GET for the same service again. This added tax will added to the projects and will compound the cost of the overall project.

We urge you to Oppose the Pyramiding effect of HB 799, HD1 - Relating to Taxation

Sincerely,
Coalition of Hawaii Engineering & Architectural Professionals
Lester H. Fukuda, P.E., FACEC
Lester Fukuda

HANO
Hawai`i Alliance of Nonprofit Organizations

March 22, 2011

Chair Carol Fukunaga
Committee on Economic Development and Technology
Hawaii State Senate
State Capitol, Room 016
Honolulu, HI 96813

RE: HB 799, HD 1 Relating to Taxation

Dear Chair Fukunaga and members of the Senate EDT Committee:

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 Hawai'i.

We appreciate the amendment made by the House FIN Committee in HD 1, which removed a previously proposed general excise tax on gross income on all charitable organizations. We however have some concerns about what remains in the HD 1 version which will tax gross income from conferences, conventions, trade exhibits and displays that charitable groups organize, and imposes a tax rate from 2% to 4% over the next four years. We echo the testimony being submitted by the Hawaii State Bar Association that requests clarification on the intent of that language.

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 <u>gross</u> 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 comment.

Lisa Maruyama
President and CEO

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

HSBA
Hawaii State Bar Association

March 21, 2011

Senate Committee on Economic Development and Technology
The Honorable Carol Fukunaga, Chair
The Honorable Brian T. Taniguchi, Vice Chair

RE: H.B.No 799 H.D.1 Relating to Taxation
HEARING: Wednesday, March 23, 2010, 1:15 pm, Conference Room 016

Chair Fukunaga, Vice Chair Taniguchi and Committee Members;

The Hawaii State Bar Association (the HSBA) requests that the proposed language of H.B.799 H.D.1 be modified to track the language of H.R.S. S237-16.8 to avoid inconsistent interpretations and possible confusion.

Specifically, in the second paragraph of Section 1 on line 10 and in subsection (5) on Page 2, H.B.799 H.D.1 should be amended to track exactly the language of H.R.S. 237-16.8, as follows:

> "The value or gross income received by nonprofit organizations from **certain convention, conference or tradeshow exhibits or display spaces** as described under section 237-16.8"

This amendment would clarify that the exemption is repealed on income from "exhibits or display spaces at conventions, conferences or tradeshows," as is clearly provided in H.R.S. 237-16.8.

The HSBA previously expressed its concern and opposition to earlier proposed measures of HB799 and HB799 HD1 which would result in a tax on gross income received by nonprofit organizations, including the legal service providers, and is comfortable with the more limited effect of the current version, which protects the charitable and educational functions for which these nonprofits were formed.

Thank you for your attention.

Louise K. Y. Ing

Lyn Flanigan

Louise K.Y. Ing
President

Lyn Flanigan
Executive Director

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

SUBJECT: GENERAL EXCISE, USE, Suspend exemptions; impose tax

BILL NUMBER: HB 799, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS chapter 237 to suspend the following general excise tax exemptions between January 1, 2012 and June 30, 2015:

237-13(3)(B) - amounts deducted from the gross income received by contractors;
237-13(3)(C) - reimbursements received by federal cost-plus contractors for the costs of purchased materials, plant, and equipment;
237-13(6)(D) - gross receipts of telecommunications home service providers acting as service carriers for other home service providers;
237-16.5 - amounts deducted from the gross income of real property lessees because of receipt from sublessees;
237-16.8 - gross income received by nonprofit organizations from conventions, conferences, trade shows, or display spaces;
237-24(14) - amounts received by sugarcane producers;
237-24.3(1) - amounts received from the loading, transportation, and unloading of agricultural commodities shipped interisland;
237-24.3(2) - amounts received from the sale of intoxicating liquor, cigarettes and tobacco products, and agricultural, meat, or fish products to person or common carriers engaged in interstate commerce;
237-24.3(4)(A) - amounts received or accrued from the loading or unloading of cargo;
237-24.3(4)(B) - amounts received or accrued from tugboat and towage services;
237-24.3(4)(C) - amounts received or accrued from the transportation of pilots or government officials and other maritime related services;
237-24.3(10) - amounts received by labor organizations for real property leases;
237-24.3(12) - amounts received as rent for aircraft or aircraft engines used for interstate air transportation;
237-24.5 - amounts received by stock exchanges and exchange members;
237-24.7(10) - amounts received as high technology development grants;
237-24.9 - amounts received from the servicing and maintenance of aircraft and maintenance facilities;
237-27 - amounts received by petroleum product refiners from other refiners for further refining of petroleum products;
237-27.5 - gross proceeds received from the construction, reconstruction, erection, operation, use, maintenance of furnishing of air pollution facilities that do not have valid certificates of exemption on July 1, 2011;
237-28.1 - gross proceeds received from shipbuilding and ship repairs;
237-29.8 - amounts received by telecommunications common carriers from call center operators for interstate or foreign telecommunications services;

209E-11 - gross proceeds received by qualified businesses in enterprise zones that do not have valid certificates of qualifications from DBEDT on January 1, 2012; and
209E-11 - gross proceeds received by licensed contractors for construction performed for businesses in an enterprise zone or businesses who have been approved by DBEDT to enroll in the enterprise zone program.

Provides for the imposition of a tax of 2% on the previously exempt gross income or gross proceeds of sale between January 1, 2012 and December 31, 2012; 3% between January 1, 2013 and December 31, 2013; and 4% between January 1, 2014 to June 30, 2015. Defines “previously exempt gross income or gross proceeds of sale” for purposes of the measure.

No county surcharge shall be levied, assessed, or collected on any previously exempt gross income or gross proceeds of sale that is subject to taxation by this measure. This section shall not be applicable to gross income or gross proceeds from binding written contracts entered into prior to July 1, 2011 that do not permit the passing on of increased rates of tax. Also provides that the tax not be applicable to any gross income or gross proceeds of sale that cannot be legally taxed under the U.S. Constitution.

Requires the director of taxation, from January 1, 2012 to require the information reporting on all exclusions or exemptions of all amounts, persons, or transactions under this chapter except for: (1) amounts received that are exempt under HRS section 237-24(1) through (7); and (2) any other amounts, persons, or transactions as determined by the director in the best interest of tax administration and made by official pronouncement.

Amends HRS chapter 238 to suspend the following general excise tax exemptions between January 1, 2012 and June 30, 2015:

238-1(6) - the leasing or renting of aircraft or keeping of aircraft solely for leasing or renting for commercial transportation of passengers and goods or the acquisition or importation of aircraft or aircraft engines by a lessee or renter engaged in interstate air transportation;
238-1(7) - the use of oceangoing vehicles for passenger or passenger and goods transportation from one point to another within the state as a public utility;
238-1(8) - the use of material, parts, or tools imported or purchased by a person licensed under HRS chapter 237 which are used for aircraft service and maintenance or the construction of an aircraft service and maintenance facility;
238-3(g) - the use or sale of intoxicating liquor and cigarette and tobacco products 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;
238-3(h) - the use of any vessel constructed under HRS section 189-25 prior to July 1, 1969;
238-3(k) - the use of any air pollution control facility subject to HRS section 237-27.

Provides for the imposition of a tax of 2% on the previously exempt value of property, services, or contracting between January 1, 2012 and December 31, 2012; 3% between January 1, 2013 and December 31, 2013; and 4% between January 1, 2014 to June 30, 2015. Defines “previously exempt value of property, services, or contracting” for purposes of the measure.

No county surcharge shall be levied, assessed, or collected on any previously exempt value of property, services, or contracting that is subject to taxation by this measure. This section shall not be applicable to the value of property, services, or contracting from binding written contracts entered into prior to July 1, 2011, that do not permit the passing on of increased rates of tax. Also provides that the tax not be applicable to any gross income or gross proceeds of sale that cannot be legally taxed under the U.S. Constitution.

If so determined, requires the director of taxation to: (1) exempt or exclude the property, services, or contracting or the use of the property, services, or contracting, from the tax; or (2) apportion the gross value of services or contracting sold to customers within the state by persons engaged in business both within and without the state to determine the value of that portion of the services or contracting that is subject to taxation under HRS chapter 237 for the purposes of section 237-21.

Requires the director of taxation, from January 1, 2012 to require information reporting on all exclusions or exemptions of all amounts, persons, or transactions under the use tax, except for any amounts, persons, or transactions as determined by the director in the best interest of tax administration and made by official pronouncement.

The director of taxation may establish additional requirements, procedures, and forms pursuant to rules adopted under HRS chapter 91 to effectuate this section.

The department of taxation shall have the authority to postpone the payment of any tax imposed under this act until the deadline to file the annual general excise or use tax returns, as applicable, without regard to any extension.

Sections of this act suspending certain exemptions of HRS section 237-24, shall not be affected by the repeal and re-enactment of that section on December 31, 2013, pursuant to Act 70, SLH 2009. Sections of this act suspending certain exemptions of HRS sections 237-24.3 and 237-24.7, shall not be affected by the repeal and re-enactment of those sections on December 31, 2014, pursuant to Act 91, SLH 2010.

This act shall be repealed on June 30, 2015.

EFFECTIVE DATE: July 1, 2011

STAFF COMMENTS: This measure proposes to suspend the selected general excise and use tax exemptions and provides that the amount of the exempt income shall be taxed at the rate of 2.0%, 3.0% and 4% temporarily between 1/1/12 and 6/30/15. Earlier versions of this bill would have imposed a tacit 1% rate on these currently exempt transactions.

It should be remembered that many of the exemptions exist because if the general excise or use tax were imposed on these entities or transactions it would impose an undue burden or cause businesses to structure transactions in an inefficient manner. There are those exemptions that exist because to tax the transaction would be a violation of superior law or may be deemed unconstitutional. Other deductions, exclusions and exemptions exist because they help to reduce the pyramiding effect of the general excise tax. It should be remembered that any imposition of tax will not only result in the increase in the cost of doing business in Hawaii, but may create inequitable taxing situations that were addressed by the specific general excise tax exemption. For example, the exemption of sale of intoxicating liquor, cigarettes and tobacco products, and agricultural, meat, or fish products to persons or common carriers engaged in interstate commerce will no doubt make locally made or sold products uncompetitive with stock that the carrier may have acquired from another jurisdiction where no tax is imposed. The result would be the loss of sales to local providers of such goods and, therefore, the loss of jobs associated with those sales.

This measure would also suspend the leasing and subleasing deduction which was enacted to prevent the pyramiding of the tax which impacts small business who usually sublease their business space from a lessor of real property. This will drive the cost up for small business, making some business either raise prices to an uncompetitive level or to close its doors and go out of business.

For example, gross income received as a result of stevedoring activities, the loading and unloading of ships or aircraft, that is currently exempt would be subject to the proposed general excise tax rate. While it will generate much needed revenue for the state, the added cost represented by the new tax would ripple through the entire economy as nearly 96% of everything residents consume comes over the docks. In other cases, imposing the new tax would constitute double taxation as would be the case on telecommunications home service providers who collect charges for another home service provider in another state where that same amount is subject to the other state's tax. In the case of goods and services sold for consumption outside the state, taxing those goods or services would not only violate interstate commerce, but it would also subject those goods or services to double taxation, being taxed first by Hawaii and then by the other state where the consumer lives or works. Then, as noted above, there are those exemptions that are obsolete where the activity no longer exists such as payments to independent sugar growers or gross income of petroleum refiners of which there are none technically in the state as the existing petroleum refiners are located within the foreign trade zone.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be remembered that the adoption of measures like this that temporarily propose a "tax increase" on certain transactions, will not be effective unless government expenditures are also curtailed. Elimination of many of these exemptions or exclusions would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Adding to the cost of doing business and living in Hawaii may just stall economic recovery, prolonging the downturn in state revenues.

As Hawaii families have tightened their collective belts during these difficult times, so should federal state, and county governments. Before adding additional burdens to Hawaii's overburden taxpayers, both businesses and individuals, state policymakers need to put all programs and services on the table and decide which are really "core" services and which are "nice but not necessary to have" and then rearrange the allocation of resources so that it is only the "core" services that are funded. With many programs now funded through special funds, lawmakers do not have that opportunity to set priorities. Eliminating the general excise exclusions and exemptions for temporary gain may have a more dire consequence in the long run.

That said, this measure underscores the depth and breadth of the financial crisis that the state faces. The point to be made here is that unless elected officials rein in the size and cost of running government in Hawaii, such desperate measures, as this bill represents, may have to be adopted and in doing so will destroy the economic base of the state. This is not a compromise situation but an either or situation, either expenditures are right-sized or the state's economy is put out of business. While lawmakers may believe that their only alternative is to raise more revenues, doing so behind the curtain of business by suspending these exemptions is being less than honest with the taxpaying public as the cost of these revenue enhancements will be hidden from the public at large who instead will blame the businesses who must recover the cost of the additional tax in the shelf price of their goods and services.

Digested 3/21/11

A & B Electric Co., Inc.

March 23, 2011

Testimony to: Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

Re: HB 799 H.D. 1, Relating to Taxation

Chair Fukunaga, Vice Chair Wakai and members of the committee, thank you for the opportunity to submit testimony on this bill. My name is Malcolm Barcarse Jr. and I am in the Corporate Counsel for A & B Electric Co., Inc. We are an electrical contracting company serving Commercial, Industrial, and Marine Customers since 1986. We are testifying in **Strong Opposition** to two particular provisions in this bill that will suspend the exemptions on the "Gross Proceeds received from shipbuilding and ship repair as described under Section 237-28.1" and "Amounts deducted from the gross income received by contractors as described under section 237-13(3)(B).

The shipbuilding and ship repair exemption was passed by the Legislature in 1971. The Senate Ways and Means Committee in its committee report at the time noted that, "this exemption will enable the shipbuilding and ship repair businesses in the State to compete on an even basis with those businesses operated in other states which do not have to pay a general excise tax on their activities. The exemption should result in an expansion of the State's economy through the servicing of shipping and provide a chance to build a new industry which will create new and different tax bases." (See Attachment)

The Ways and Means Committee's prediction has come true as the State has a healthy ship repair industry that our company has been a part of for the past 25 years. One of the key factors in this tax exemption is it puts Hawaii companies on a more level playing field with competition from the mainland and foreign companies as our customers can choose to go to shipyards in Hawaii, the mainland, or overseas. The suspension of this tax credit will damage the ship repair industry here in Hawaii as our prices will be less competitive against our mainland and foreign competition.

Also we are opposed to the suspension of the tax exemption on "amounts deducted from the gross income received by contractors as described under section 237-13(3)(B). The suspension of this exemption is harmful as it will create a double tax situation on most major construction projects and would therefore adversely affect future growth in the construction industry.

It is important to note that this exemption is not a tax break to contractors; instead it assists the construction industry to contract efficiently. A typical construction contract will require not only a general contractor but various subcontractors to cover all necessary construction trades. In some cases the subcontractors will have to hire additional subcontractors. Every single contractor on the job currently assesses the full general excise tax on their work. This exemption allows the owner to have one contract with the general contractor and the general contractor to hire the subcontractors with the excise tax being levied once for all of the work on the contract. Without this exemption the general contractor would have to tax the

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work of its subs which they have already taxed. This creates a tax on top of the tax, and this would be the case at all tiers down the chain. This would create an artificial increase in construction prices which will adversely affect future growth in the construction industry.

We recognize the severity of the State's current financial position and the need to increase revenue. However this need should need addressed by suspending tax exemptions that stimulate economic activity. Business will be impacted negatively by the suspension of these exemptions which will result in a further decrease of tax revenues as companies such as ours will generate less economic activity which will directly result in less taxes that we would be paying to the State.

portant to those persons over age sixty-five in that at this age they are more likely to have these expenses. This tax credit will act concomitantly with medicare to give the aged almost free medical care and drug expenses.

Your Committee has also amended the effective date of this bill to take effect on January 1, 1972 to coincide with the beginning of the taxpayer's calendar year.

Your Committee on Ways and Means is in accord with the intent and purpose of **S.B. 586**, as amended in the form attached hereto as **S.B. 586, S.D. 1**, and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee.

SCRep. 566 Ways and Means on **S.B. No. 898**

Your Committee on Ways and Means to which was referred **S.B. No. 898, S.D. 1**, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC WELFARE.",

begs leave to report as follows:

The purpose of this bill is to insure that the public welfare programs of the State better serve the interest of the people of Hawaii. The bill proposes to impose a residency requirement of at least one year regarding eligibility for general assistance under the provisions of Section 346-71, Hawaii Revised Statutes.

Your Committee after review and evaluation of the State's economic assistance program under which general assistance is provided finds that the imposition of such a requirement is necessary in order to decrease and reverse the influx of transient persons which has been increasing at an alarming rate. We find that this influx has greatly increased welfare costs in this State. The General assistance category to which this requirement will apply is fully funded from State Revenues and does not receive any federal support.

Your Committee on Ways and Means is in accord with the intent and purpose of **S.B. No. 898, S.D. 1**, as amended in the form attached hereto as **S.B. No. 898, S.D. 2** and recommends that it pass second reading and that it be placed on the calendar for third reading.

Signed by all members of the Committee except Senator Yoshinaga.

SCRep. 567 Ways and Means on **S.B. No. 924**

Your Committee on Ways and Means to which was referred **S.B. No. 924**, entitled:

"A BILL FOR AN ACT RELATING TO INTOXICATING LIQUOR LICENSES.",

begs leave to report as follows:

The purpose of this bill is to authorize a manufacturer of liquor to sell at wholesale in original packages not only to those with a license to resell, but to others authorized to resell but not required to have a license. (Such as post exchanges, officer's clubs, vessels, and airlines.)

Existing law does not expressly authorize a manufacturer to sell to those who are by law authorized to sell, but who are not required to hold a license.

Your Committee on Ways and Means concurs with the findings and recommendation of the Senate Committee on Intergovernmental Relations as stated in **Standing Committee Report No. 398.**

Your Committee on Ways and Means is in accord with the intent and purpose of **S.B. No. 924** and recommends its passage on third reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 568 Ways and Means on **S.B. No. 1040**

Your Committee on Ways and Means to which was referred **S.B. No. 1040** entitled:

"A BILL FOR AN ACT RELATING TO GENERAL EXCISE TAXATION.", begs leave to report as follows:

The purpose of Section 1 of this bill is to exempt from general excise taxation the gross proceeds from shipbuilding and ship repairs rendered to surface vessels which are federally owned or engaged in interstate or international trade. This exemption will enable the shipbuilding and ship repair businesses in the State to compete on an even basis with those businesses operated in other states which do not have to pay a general excise tax on their activities. The exemption should result in an expansion of the State's economy through the servicing of shipping and provide a chance to build a new industry which will create new and different tax bases.

The purpose of Section 2 of the bill, as amended, is to add a new definition to what sales are sales at wholesale. This new definition will include as a wholesale sale one in which there is a sale to a licensed leasing company which leases capital goods as a service to others. Capital goods are defined as ones which have a depreciable life of more than three years. Your Committee finds that in the leasing field the general excise tax has a pyramiding effect which increases taxes on the leased article to twelve per cent. There is a four per cent general excise tax on the sale to the lessor, a four per cent general excise tax on the leasing of the article, and a four per cent or one-half of one per cent general excise tax on the final sale of the article by the lessor, depending on to whom it is sold. The purpose of this section is to change the rate of taxation on the sale to the lessor to one-half of one per cent providing some tax relief for the lessor. The wholesale sale provisions have been limited to leased capital goods with a depreciable life of more than three years in order not to include smaller household items which are sometimes leased.

The purpose of Section 3 of this bill, as amended, is to amend the present excise tax law as it pertains to a person who engages in the practice of engineering or architecture as a federal cost-plus contractor.

Because Section 237-6 which defines "contractors" failed to include land surveyors and landscape architects with architects and professional engineers, contractors hiring land surveyors and landscape architects as subcontractors are required to pay 4% general excise tax on the fees paid to them. Land surveyors and landscape architects are required also to pay 4% general excise tax on their fees. The land surveyors' and landscape architects' fees are therefore taxed twice.

Your Committee was advised by the Department of Transportation that the professional services performed by architects, professional engineers, land surveyors and landscape architects which are regulated collectively under Chapter 464, Hawaii Revised Statutes, should be treated equally under Sections 237-6 and 237-13, Hawaii Revised Statutes.

Your Committee has also concurred with the amendments made to **S.B. No. 176,** which contained provisions similar to that made in Section 3, as amended, of this bill.

The purpose of Section 4 of the bill, as amended, is to exempt producers of motion pictures or television pictures from the excise tax for a period of five years starting July 1, 1971. This exemption should help to stimulate the industry in Hawaii, and thereby help the State's economy.

The effective date of the changes made by this bill has been changed to January 1, 1972, except for Section 4, to coincide with the start of the new calendar year.

Your Committee on Ways and Means is in accord with the intent and purpose of **S.B. No. 1040,** as amended in the form attached hereto as **S.B. No. 1040, S.D. 1,** and recommends that it pass second reading and be placed on the calendar for third reading.

Signed by all members of the Committee except Senator Hara.

SCRep. 569 Ways and Means on **S.B. No. 1103**

Your Committee on Ways and Means to which was referred **S.B. No. 1103,** entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC UTILITIES.",

begs leave to report as follows:

The purpose of this bill is to revise and update the laws regarding public utilities by imposing a tax, equal to the 2 1/2 per cent franchise tax presently imposed by Section 240-1, Hawaii Revised Statutes on electrical and power companies, on telephone companies and similar communication businesses operating as public utilities.

March 23, 2011

Testimony to: Senate Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice Chair

RE: HB 799, H.D. 1 Relating to Taxation

Chair Fukunaga, Vice Chair Wakai and members of the Committee, thank you for the opportunity to submit testimony on this bill. My name is Malcolm Barcarse, Jr. Chair of the Legislative Committee of Associated Builders and Contractors, Hawaii Chapter an organization representing 124 merit shop contractors in the State of Hawaii. We are OPPOSED to HB 799 H.D. 1 as it relates subsection (A)(1) which suspends the excise tax exemption on "Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)."

While we understand the State's current financial position, the temporary suspension of this exemption will be harmful to the contracting industry and economic development. It is harmful as it will create a double tax situation on most major construction projects and would therefore adversely affect future growth in the construction industry.

It is important to note that this exemption is not a tax break to contractors; instead it assists the construction industry to contract efficiently. A typical construction contract will require not only a general contractor but various subcontractors to cover all necessary construction trades. In some cases the subcontractors will have to hire additional subcontractors. Every single contractor on the job currently assesses the full general excise tax on their work. This exemption allows the owner to have one contract with the general contractor and the general contractor to hire the subcontractors with the excise tax being levied once for all of the work on the contract. Without this exemption the general contractor would have to tax the work of its subs which they have already taxed. This creates a tax on top of the tax, and this would be the case at all tiers down the chain. This would create an artificial increase in construction prices which will adversely affect future growth in the construction industry. For these reasons we ask that this section be removed from the bill.

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mga
Architecture

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2270 Kalakaua Avenue, Suite 1502 | Waikiki, Honolulu, HI 96815

March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

SUBJECT: OPPOSITION TO HOUSE BILL 799 HD1, RELATING TO TAXATION; SECTION 2

I write to you today in OPPOSITION to the current House Bill 799 HD1 related to Taxation where the provisions aim to suspend the key exemptions currently in place for our industry which allow for fair and reasonable tax conditions.

Aside from my belief of the basic unfairness of a "pyramid effect" taxation created by the results of HB 799, the truth also is that the design and construction industry is seriously limping through this dramatic recession, with tragic consequences to a major portion of our local industry population and their families. Should House Bill 799 HD1 be enacted, it would place an additional severe strain on this crippled industry, and very likely prolong the negative downturn for years to come.

I certainly understand that these are challenging times, but I strongly urge you to reject this Bill and ask you to look for more reasonable, justifiable revenue streams that are more economically neutral and that create greater efficiencies within government programs and departments. This shortsighted Bill will only create hardship and economic slowdown and increase costs to the end users.

Sincerely,

Matthew W. Gilbertson
AIA, NCARB, LEED®AP
President
MGA Architecture, LLC

GREEN SAND INC.
architecture + sustainability

March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813
Hearing Date: 3/23/11 at 1:15 PM
RE: HB799 SD1

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2 Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Matthew Goyke, AIA NCARB LEED AP
President
Green Sand Inc.
Sustainability and Design

P.O. Box 2241 / Honolulu, Hawaii 96804 / 808.457.1360 office / 808.237.5909 fax / www.greensandinc.com

Hawaiʻi Conservation Alliance
FOUNDATION

Testimony to: Senate Committee on Economic Development and Technology

Presented by: Michael Lee, Interim Executive Director

Hawai`i Conservation Alliance Foundation

Subject: HB 799 SD1, with public hearing scheduled on 03-23-11 1:15 PM in conference room 16

The Hawaiʻi Conservation Alliance Foundation (HCAF), a 501(c)(3) non-profit organization, strongly opposes the section of HB799 SD1 which suspends for 4 years the exemption from the general excise tax the value or gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces (HRS 237-(a) (5)).

Each year the HCAF hosts the Hawaiʻi Conservation Conference (HCC), which is the largest gathering of people actively involved in the protection and management of Hawaiʻi's natural environment. The purpose of the conference is to facilitate information transfer and interaction between natural resource managers and the scientific community.

The conference serves as a valuable educational and career development tool for conservation professionals. Attendees include students, interns, conservation scientists, land managers, and educators. We strive to keep registration fees as low as possible so students and employees from universities, nonprofit organizations and government agencies can afford to attend the conference each year.

While we recognize the challenge of balancing Hawaiʻi's state budget, we do not believe charging an additional 4% to Hawaiʻi's environmental community to attend this specific conference is the way to make up the shortfall. Adding an additional tax burden, hence reducing attendance, would have the unintended consequence of restricting the exchange of ideas and collaboration. In the long term, the opportunity presented by this collaboration will both save the State funds and better protect our unique and irreplaceable natural and cultural resources.

For additional information on the 2011 HCC, please link to
http://hawaiiconservation.org/activities/hawaii_conservation_conference

Michael Lee
Interim Executive Director

677 Ala Moana Blvd, Suite 320, Honolulu, HI 96813 ● 808-687-6151 ● hcastaff@hawaii.edu ●
hawaiiconservation.org/foundation

Riehm Owensby Planners Architects

P.O. Box 390747, Kailua-Kona, Hawaii 96739, Tel. 808.322.6115. Fax 808.322.3391

March 22, 2011
Hawaii State Legislature
EDT Committee

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2** Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Michael J. Riehm, A.I.A., N.C.A.R.B

Natalie J. Iwasa, CPA, Inc.
1331 Lunalilo Home Road
Honolulu, HI 96825
808-395-3233

TO: Committee on Economic Development and Technology

HEARING
DATE: Wednesday, March 23, 2011, 1:15 p.m.

RE: HB799, HD1 Relating Taxation – **OPPOSE Re-Pyramiding**

Aloha Chair Fukunaga, Vice Chair Wakai and Members of the Committee,

This bill would suspend certain general excise tax (GET) exemptions and impose a tax for several years. It would also require certain information reporting.

For years, Hawaii assessed the GET on amounts already taxed at the full rate of 4%. During the past 10 years or so, this pyramiding of tax was gradually reduced via phased-in exemptions and deductions for things such as contracted services and subleased rent. A certain amount of pyramiding of the GET continues to exist as goods and services may be taxed several times at the wholesale rate before reaching the retail level. This is one of the reasons goods and services in Hawaii are so expensive.

There is a difference between removing exemptions for certain industries simply because they were given preferential treatment and removing deductions for goods and services which are already taxed. Please focus on reviewing the former and do not allow an increase in pyramiding of our GET.

From:	Neal Arita
To:	EDTTestimony
Cc:	"Tim Lyons"
Subject:	Testimony on HB700 Relating to Taxation
Date:	Monday, March 21, 2011 5:07:37 PM

THE SENATE
THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION of 2011

Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Hearing on Wednesday March 23, 2011, 1:15pm
Room 016, State Capitol

HB799, HD1 Relating to Taxation

Chair Fukunaga and Committee,

My name is Neal Arita, Executive Director of the Sheet Metal Contractors Association, with 25 member companies.
I ask that you hear of our concern regarding HB799 and the negative implication it has to (all) subcontractors with the suspension of the exemption of excise tax (for subcontractors). It's effect will be a double tax that is received from general contractors and subcontractors for the same work. Our opposition is specifically addressed to Section 2.a. item 22, and Section 2.b.

Although the net effect is increased tax income to the State, a damaging effect of increased cost to owners and users will prohibit new construction and renovation work. Those hurting from the downturn in economy are awaiting cost breaks and incentives; not tax increases.

We, therefore, OPPOSE HB799 and ask that you also oppose this bill.

Mahalo for your understanding in this matter.

Sincerely,

Neal Arita
Executive Director
Sheet Metal Contractors Association
905 Umi Street, Suite 305
Honolulu, HI 96819
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neal@smcahi.com

AMERICAN COUNCIL OF LIFE INSURERS
TESTIMONY IN OPPOSTION TO HB 799, HD 1,
RELATING TO TAXATION

March 23, 2011

Via e mail: edtestimony@capitol.hawaii.gov
Honorable Senator Carol Fukunaga, Chair
Committee on Economic Development and Technology
State Senate
Hawaii State Capital, Conference Room 016
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: HB 799, HD 1,
Relating to Taxation

Dear Chair Fukunaga and Members of the Committee:

Thank you for the opportunity to testify in opposition to HB 799, HD 1, Relating to Taxation.

Our firm represents the American Council of Life Insurers ("ACLI"), a national trade association, who represents more than three hundred (300) legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies account for 90% of the assets and premiums of the United States Life and annuity industry. ACLI member company assets account for 91% of legal reserve company total assets. Two hundred thirty-nine (239) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 95% of the annuity considerations in this State.

Section 2 of HB 799, HD 1, would amend Chapter 237, relating to the State's General Excise Tax, to include a new section which would "require information reporting on all exclusions or exemptions of amounts, persons, or transactions" subject to that Chapter. Excluded are certain stated exemptions, including proceeds or payments made under a life or disability income policy or annuity contract, and "any other amounts, persons, or transactions as determined by the director to be in the best interest of tax administration and made by official pronouncement."

While the purpose for the Department's collection of information is not stated in the bill, the presumed purpose is to enable the Legislature to determine whether the current exclusions and exemptions from the State's General Excise Tax should be continued, amended or repealed.

ACLI objects to HB 799, HD 1.

What information the Department shall require businesses and others to report is not stated in the bill. Thus, there is a potential that the required reporting of information may be burdensome and costly.

Moreover, the collection of information to confirm whether each and every exclusion and exemption provided under current law should be continued (other than the 7 exemptions stated in the bill) is an unnecessary and wasteful expenditure of State funds. This exercise should not encompass those exclusions and exemptions that are known to be achieving their intended objectives and are consistent with public policy.

If the current general excise tax exemption granted to life insurance companies under Section 237-29.7, HRS, was repealed, insurers would be subjected to the State's 4% general excise tax in addition to the State's 2.75% premium tax.

Increasing the tax on life insurers punishes an industry that already pays its fair share of taxes.

At 2.75%, Hawaii already has one of the highest life insurance premium tax rates in the nation (the national average is 1.9%).

Unlike non-insurance corporations which are subject to a tax on their <u>net</u> income, life insurance companies are subject to a premium tax on their <u>gross</u> premiums, without any deductions for claims or expenses and which must be paid regardless of whether a life insurer is profitable.

In order to generate the $26.7M that life insurers already pay under the 2.75% <u>gross</u> premium tax in 2009, life insurers would have to be taxed at a corporate <u>net</u> income tax rate of 13.8%, a rate much higher than the rates of almost any other business.

The Hawaii corporate tax rate for non-insurers ranges from 4.4% to 6.4% of a company's <u>net</u> income. For banks and financial institutions the rate is 7.92%.

If a life insurer is required to pay a general excise tax of 4% on its gross income in addition to payment of the State's 2.75% gross premium tax of $25.4M the life insurer would be subjected to a total tax burden equivalent to a staggering corporate <u>net</u> income tax rate of 26.4%.(13.8% + 12.6%)

Imposing a double tax only on insurers, who already pay the highest amount of tax than any other business in the State, would be patently unfair.

In addition, Hawaii's domestic insurers (that is, insurers who are domiciled in this State) are already subject to additional "retaliatory taxes" in other states because of Hawaii's high premium tax rate of 2.75% on life insurance. By imposing an added general excise tax on insurance companies, Hawaii's domestic life insurers may see a dramatic increase in the amount of retaliatory taxes they must pay to other states whose total tax and fees are less than those imposed by the State of Hawaii.

Hawaii currently has 2 domestic life insurers, the largest of which is an ACLI member company, Pacific Guardian Life Insurance Company, Ltd. ("PGL"), a Hawaii corporation. PGL does business not only in Hawaii but 20 other western states, the Territory of Guam, and the Commonwealth of the Northern Mariana Islands.

If Hawaii were to impose an additional general excise tax on life insurers doing business in this State the resulting increase in the amount of retaliatory taxes PGL would have to pay would make it difficult for PGL to remain competitive in the markets in which it serves. If PGL is unable to do so the jobs of its 140 employees in the State and its ability to contribute to Hawaii's economy may be jeopardized.

Imposing an additional tax would increase a life insurer's cost of doing business in this State.

A life insurance policy differs from a property and casualty policy in that casualty policies are typically renewed annually (which allows for their premium rates to be adjusted on a regular basis). Many life insurance policies insure at a <u>fixed premium</u> for extended periods of time, in the case of term life and disability income insurance policies, and may be as long as the insured's lifetime, in the case of "whole life" insurance policies. As a result, life insurers do not have the flexibility as do other businesses to adjust their premium rates to pass on an increased tax to the currently insured consumer or to take into account other changes in the cost of their insurance as a result of changed conditions and circumstances.

Adding the excise tax to an insurer's cost of doing business in this State may actually reduce tax revenues to the State of Hawaii.

Because life insurance policies have fixed premiums which continue over an extended period of time, the sale of each new insurance policy creates a new ongoing tax revenue stream to the State of Hawaii.

If the price of new policies increases and that deters new purchasers, the tax increase may actually result in a loss of new tax revenues to the State because fewer policies will be sold, thus affecting the ongoing tax revenue stream.

HB 799, HD 1, also contemplates the possible repeal of a fraternal benefit society's exemption from the State's general excise tax. Without an exemption all revenues received by a fraternal benefit society would be subject to tax. This would reduce a society's ability to provide the kinds and level of services and programs to their members and the members of their communities in which they live.

Fraternal benefit societies have been recognized as tax-exempt entities by the federal government and all 50 states for more than a century.

ACLI Fraternal member companies estimate that the state would generate less than $380,000 in new revenue by imposing the proposed 4% GET on fraternal benefit societies. This tax revenue would have a negligible impact on the state's current budget deficit and would severely impede the ability of fraternals to serve the needs of Hawaii communities.

The following are just a few examples of how ACLI Fraternal member companies have helped individuals and partnered with other organizations in Hawaii:

- In Lihue, Thrivent members spent over 3,000 hours preparing and serving lunch on a weekly basis as part of an ongoing relationship with the Kokua Kitchen Community Outreach. Thrivent donated $4,936 to cover meal costs.

- The Independent Order of Foresters proudly supported HUGS, a respite organization for parents of medically fragile children. Over 75 families enjoyed Lunch with Santa, ice skating, and a variety of holiday activities designed for the special needs of HUGS families.

- The Knights of Columbus is the largest financial supporter of the Special Olympics and its members donate thousands of hours to conducting events for special needs children in Hawaii. The Knights also provide financial support for the State's Catholic schools and charities.

Taxing fraternals would severely threaten their ability to provide the volunteer service and direct financial aid they contribute to fill gaps in the social safety net and help Hawaii's people enhance their lives and their communities every day. Volunteering is the key to fraternalism – fraternals don't just donate money, they do the work. The economic equation simply does not add up. Hawaii's people and the State government receive far more benefits from the fraternal tax exemption than they would if societies were subject to the general excise tax.

For the foregoing reasons, ACLI strongly opposes HB 799, HD 1, and requests that life insurers and fraternal benefit societies be removed from the bill.

Again, thank you for the opportunity to testify in opposition to HB 799, HD 1.

Sincerely yours,

CHAR HAMILTON
CAMPBELL & YOSHIDA
Attorneys At Law, A Law Corporation

By:______________________
OREN T. CHIKAMOTO
ochikamoto@chctlaw.com
Direct: 808.524.9630

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	palmer@palmshawaii.com
Subject:	Testimony for HB799 on 3/23/2011 1:15:00 PM
Date:	Tuesday, March 22, 2011 11:38:03 AM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Palmer W. Hafdahl, AIA
Organization: Individual
Address:
Phone:
E-mail: palmer@palmshawaii.com
Submitted on: 3/22/2011

Comments:

PAUL M. DONOHO
ARCHITECT

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2**
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state’s fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state’s economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

POST OFFICE BOX 1727
44-3161 HO’OKAHUA ROAD
HONOKA’A, HI • 96727
P: 808.775.0672
C: 808.756.4061
E: PAUL@DONOHO-LLC.COM

ALEXANDER & BALDWIN, INC.

822 Bishop Street
Honolulu, Hawaii 96813
P.O. Box 3440
Honolulu, HI 96801-3440
www.alexanderbaldwin.com
Tel (808) 525-6611
Fax (808) 525-6652

HB 799 HD1
RELATING TO TAXATION

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

MARCH 23, 2011

Chair Fukunaga and Members of the Senate Committee on Economic Development & Technology:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 799 HD1, "A BILL FOR AN ACT RELATING TO TAXATION."

This bill suspends, until June 30, 2015, various general excise and use tax exemptions and implements a graduated assessment rate on these items and services. A&B acknowledges and understands the fiscal challenges that the Legislature and the State are faced with and the need to identify and implement appropriate measures to balance the State Budget. While we also understand that this bill is one of the revenue generating proposals under consideration, we sincerely appreciate this opportunity to share with you a few comments regarding one of the general excise tax exemptions included in this bill for temporary suspension.

Section 2, Subsection (a) (9) includes a provision to temporarily suspend the general excise tax exemption for the loading and unloading of cargo (i.e. stevedoring services). 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 may be directly increased, resulting in a concurrent increase in the overall cost of consumer goods and other necessities here in Hawaii. In addition, with the imposition of the general excise tax on stevedoring services at the initial point of entry of shipments to Hawaii, the inherent pyramiding effect of the general excise tax may further increase the cost of imported goods prior to purchase/use by Hawaii's residents and businesses. The overall cost of Hawaii grown products that are exported for sale in the competitive domestic and world market places may also be negatively impacted.

Thank you for the opportunity to testify.

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	pauljw@aloha.net
Subject:	Testimony for HB799 on 3/23/2011 1:15:00 PM
Date:	Tuesday, March 22, 2011 10:28:38 AM
Attachments:	OpposeHB799 HD1.cwk

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Paul Weissman
Organization: Individual
Address:
Phone:
E-mail: pauljw@aloha.net
Submitted on: 3/22/2011

Comments:

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2** Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation.

The provision within HB 799 HD1 to remove the exemption afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will adversely affect all our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure aims to extract additional revenues to lower the state's fiscal deficit, this exemption comes at a bad time as the design and construction industry struggles to recover from the economic recession. Temporarily eliminating the general excise exemptions will prolong the recovery period and could result in layoffs as businesses redirect revenues to pay for the additional tax.

This will have a significant impact on the design and construction industry because of the well documented "pyramid effect." A gross receipts tax without key exemptions in place creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to higher costs for housing, commercial, and industrial structures built for Hawaii businesses, state and city governments, and residential homeowners.

We encourage you to seek more economically prudent methods of resolving the state's fiscal deficit. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Pete C. Galvez, AIA

RIED FISHER
AIA
PHONE (808)389-6513 • E-MAIL FISHYLAU@HAWAIIANTEL.NET
410 MAMAKI • HONOLULU, HAWAII 96821 •

March 22, 2011

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2

Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners. This tax will increase the cost of doing business in the State of Hawaii and add significant costs to projects such as the rail, general development, and outside investment.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Ried C. Fisher, AIA

From: mailinglist@capitol.hawaii.gov
To: EDTTestimony
Cc: rrl@waimeaarchitect.com
Subject: Testimony for HB799 on 3/23/2011 1:15:00 PM
Date: Tuesday, March 22, 2011 11:41:02 AM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Rhoady Lee
Organization: Individual
Address:
Phone:
E-mail: rrl@waimeaarchitect.com
Submitted on: 3/22/2011

Comments:
I do not support passage of proposed legislation HB799. It will penalize those in my professionm, many of whom are individual practitioners; this tax will be punative for me and those like me

Jody Nakanelua

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2011 9:58 AM
To: EDTTestimony
Cc: refrey2001@yahoo.com
Subject: Testimony for HB799 on 3/23/2011 1:15:00 PM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Richard Frey
Organization: Kennedy/Jenks Consultants
Address:
Phone:
E-mail: refrey2001@yahoo.com
Submitted on: 3/22/2011

Comments:
The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT) Hawaii State Senate
State Capitol Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.
The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.
While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.
The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.
We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.
Sincerely,

Hawaii Association of Independent Schools

March 23, 2011
1:15 p.m.
Conference Room 016

TESTIMONY TO
THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

RE: HB 799, HD 1 – Relating to Taxation

Dear Chair Fukunaga, Vice Chair Wakai, 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 strongly opposes House Bill 799, HD 1 – Relating to Taxation, which would suspend the general excise tax exemption for Hawaii nonprofit organizations and impose a four-percent tax on all gross revenue from conventions and conferences. Specifically, we are opposed to the following section:

Section 2 (5) The value or gross income received by nonprofit organizations from certain conventions, conferences, trade shows, or display spaces as described under section 237-16.8

In challenging economic times, such as these, 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.

With respect to Section 2 (5) of the measure, our association, along with our affiliate nonprofit, the Hawaiian Educational Council (HEC), produces income from professional development conferences, leadership development conferences, school governance conferences, and more, all of which income supports the operations of both of our non-profits. Income from HAIS programs supports the work we do generally with private schools, while income from HEC supports the work we do generally with public education, and most specifically this year, the work we are doing to assist charter schools.

For these reasons, we urge the Committee to delete these harmful provisions.

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

Phillips Quildon Architects, Inc.

March 22, 2011

Re: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

Aloha to All,

As an architect and local small business, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state. The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term. The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Sandi P. Quildon, AIA
Principal

T: 808.543-6350 F: 808.543-2010 E: sandi@pq-architects.com
Seven Waterfront Plaza, 500 Ala Moana Blvd., Ste. 400, Honolulu, HI 96813

March 23, 2011

Testimony to the
Senate Committee on Economic Development and Technology
in Opposition to HB 799 HD1, ñRelating to Taxationò

Chair Fukunaga, Vice Chair Wakai, and Members of the Committee on Economic Development and Technology:

I am Sandra Weir, Director, Hawaii Operations for NCL America LLC (NCL), I appreciate the opportunity to provide NCLõs testimony on HB 799 HD1 ñA BILL FOR AN ACT RELATING TO TAXATIONò

NCL began cruising in the Hawaiian Islands in 2002 and has made a year round commitment to this market utilizing US Flagged cruise ships. NCL operates in a very competitive, price sensitive market. Over the past few years we have seen many price increases affect our business here in Hawaii, we have absorbed the increases and continued to bring economic benefit to the state. As a domestic flag vessel NCL continues to pay taxes and fees to the state and county including general excise, payroll and fuel taxes, adding to the overall cost structure.

While NCL recognizes the need for the State of Hawaii to obtain additional income, the removal of exemptions in the maritime area will further burden the cost of operations for a US Flagged ship if the stevedoring and tug expenses tax exemption is removed and a tax is levied. NCL, in the past, has also engaged in dry dock repairs at Pearl Harbor, instead of sailing to the West Coast to have the work contracted on the mainland. We have continued to support the Hawaii maritime industry by contracting with local companies to perform the large-scale repairs and upgrades completed during dry docks. Removing the exemption on ship repairs would unduly burden the company and could make it cost prohibitive to continue to contract the work locally.

The committee should also consider the levels of taxation that are assessed at each level in the process of purchasing goods locally, transporting them to the harbor, then securing them on the vessel. This can easily result in GET taxation being assessed multiple times on the same service. The current exemption limits this from happening today in, but its removal could result in multiple levels of taxation on the same products.

~ 2880 Kilihau ~ Honolulu, HI 96819 ~ 808.833.9600 ~

NCL remains committed to building a strong US flag cruise business home ported in Hawaii, however we cannot continue to absorb additional costs and remain viable. Consumers have become very discriminating when booking their travel and there are many alternatives; the proposed tax coupled with the high cost of airfare to the islands, will give other destinations a competitive advantage and place additional burdens on the industry.

Thank you for the opportunity to present testimony in opposition of HB 799 HD1 before your committee. If this bill proceeds we urge you to maintain the current exemptions for stevedoring services (loading and unloading of cargo); tugboat and towage services; loading, transportation and unloading of agricultural commodities; and shipbuilding and ship repair services.

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	sharon@ferrarochoi.com
Subject:	Testimony for HB799 on 3/23/2011 1:15:00 PM
Date:	Tuesday, March 22, 2011 10:41:01 AM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Sharon Ching Williams AIA
Organization: Individual
Address:
Phone:
E-mail: sharon@ferrarochoi.com
Submitted on: 3/22/2011

Comments:
I OPPOSE House Bill 799 as writtten as it presents an undue burden, adding extra expense and effort with a dampening effect on the construction industry and is exactly the opposite of the kind of effort needed to promote business, industry, and growth.

From: mailinglist@capitol.hawaii.gov
To: EDTTestimony
Cc: shaunroth@alum.mit.edu
Subject: Testimony for HB799 on 3/23/2011 1:15:00 PM
Date: Tuesday, March 22, 2011 12:12:04 PM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Shaun Roth
Organization: Individual
Address:
Phone:
E-mail: shaunroth@alum.mit.edu
Submitted on: 3/22/2011

Comments:
Removing the GET exemption for "contractors" including Architects and Engineers will;
- Disproportionally hurt small businesses
- Favor mainland firms over Hawaii firms
- Make building even more expensive, thus discouraging economic growth.

AIA Honolulu
A Chapter of The American Institute of Architects

March 22, 2011

The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2 Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 700 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Honolulu (representing AIA members on Oahu, Kauai, and the Big Island), I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.

The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause an *adverse effect* on our members and allied engineers, a majority of whom are small businesses in Hawaii.

While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.

The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,

Spencer Leineweber

Spencer Leineweber FAIA
AIA Honolulu President 2011

AIA Honolulu
119 Merchant Street, Suite 402
Honolulu, Hawaii 96813-4452
Phone: 808.545.4242
Fax: 808.545.4243
Website: www.aiahonolulu.org

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	swanderson@ecc.net
Subject:	Testimony for HB799 on 3/23/2011 1:15:00 PM
Date:	Tuesday, March 22, 2011 8:05:03 AM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Steven Anderson
Organization: Individual
Address:
Phone:
E-mail: swanderson@ecc.net
Submitted on: 3/22/2011

Comments:
The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.
The provision within HB 799 HD1 to remove the exemption currently afforded to "contractors" as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.
While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.
The overall impact on the design and construction industry would be very large, because of the well documented "pyramid effect." A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.
We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.
Sincerely,

75-167 Kalani St. Kailua Kona HI 96740
Tel: 808-329-3266 Fax: 808-326-4153
E Mail: tcisco@hawaii.rr.com

Dinmore & Cisco Architects Inc.

Memo

To:	Committee on the Economic Development and Technology	**From:**	T.Cisco
Fax:		**Pages:**	1
Attn:	Honorable Carol Fukunaga	**Date:**	3/22/11
Re:	Bill 799 HD!	**CC:**	

The Honorable Carol Fukunaga, ChairMembers of the Committee on the Economic Development and Technology (EDT)Hawaii State SenateState CapitolHonolulu, HI 96813

Subject: **OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2**Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf Of my small architectural business, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.
The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses like myself in Hawaii.
While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.
The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and

construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.

We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government.   This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written. We are hurting here on the Big Island and do not need any legislation that will increase construction costs. We need construction projects to move forward to rehire our layed off employees and get them off the state unemployment roles!

Aloha

Terrance Cisco AIA

THE LEGISLATIVE CENTER
TLC
1188 Bishop Street, Ste. 1003
Honolulu, Hawaii 96813-3304
PHONE: (808) 537-4308 • FAX: (808)533-2739

March 23, 2011

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

Presented By: Tim Lyons, Legislative Liason
Anheuser Busch Companies

Subject: H.B. 799, HD 1 – RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

I am Tim Lyons, Legislative Liaison for Anheuser Busch Companies and we oppose this bill.

This bill proposes to repeal the current exemption and impose an escalating 2 – 4% tax rate on amounts received for sales to common carriers. With passage of this bill, carriers will likely still buy our products but will do so on the mainland and leave us and the Hawaii tax in the dust. This bill is not a good idea.

We would, therefore, urge you not to pass this bill.

Thank you.

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

March 23, 2011

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

Presented By: Tim Lyons
Legislative Chairman

Subject: H.B. 799, HD 1 – RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

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 (237-A(a)(5).

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

AlohaCare
Building Industry Association of Hawaii
General Contractors Association of Hawaii
Hawaii Association of Independent Schools
Hawaii Association of Realtors
Hawaii Bankers Association
Hawaii Convention Center
Hawaii Credit Union League
Hawaii Food Industry Association
Hawaii Insurers Council
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
Kaua'i Visitors Bureau
Legislative Information Services of Hawaii
Mid-Pacific Country Club
National Association of Insurance & Financial Advisors Hawaii
Organizations Management, LLC
Pacific Telecommunications Council
Painting & Decorating Contractors Association
Plumbing & Mechanical Contractors Association
Presentation Resources
PROcom Hawaii
Retail Merchants of Hawaii
Sand Island Business Association
Sheet Metal Contractors Association
SMEI Honolulu
Hawaii Association of Broadcasters
The Legislative Center, Inc.
Waikiki Improvement Association

SAH - Subcontractors Association of Hawaii

*1188 Bishop St., Ste. 1003**Honolulu, Hawaii 96813-3304*
Phone: (808) 537-5619 ✦ Fax: (808) 533-2739

March 23, 2011

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

Presented By: Tim Lyons
President

Subject: H.B. 799, HD 1 – RELATING TO TAXATION

Chair Fukunaga and Members of the Committee:

I am Tim Lyons, President of the Subcontractors Association of Hawaii and we oppose this bill. Our testimony today represents the collective thoughts of nine (9) separate and distinct subcontracting associations:

ELECTRICAL CONTRACTORS ASSOCIATION OF HAWAII
HAWAII FLOORING ASSOCIATION
HAWAII WALL AND CEILING INDUSTRIES ASSOCIATION
PACIFIC INSULATION CONTRACTORS ASSOCIATION
PAINTING AND DECORATING CONTRACTORS ASSOCIATION
PLUMBING AND MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII
ROOFING CONTRACTORS ASSOCIATION OF HAWAII
SHEET METAL CONTRACTORS ASSOCIATION OF HAWAII
TILE CONTRACTORS PROMOTIONAL PROGRAM

Section 237- A(a)(1) was provided because it is inherently unfair to have a general contractor hire a subcontractor, tax the general contractor on the gross proceeds paid to him and then turn around and tax the subcontractor on the amounts that the general contractor pays to the subcontractor. This is probably one of the truest forms of "taxing the tax". Additionally, the repeal of Section 237- A(a)(2) will only promote a disadvantage to local contractors to that of mainland contractors when doing federal work.

While we recognize the need for income by the State, we don't feel that this is the way to get it. The construction industry faces a huge underground problem as has been discussed in this Committee before and paying an additional 4% (or 4½%) on your gross income will certainly provide the incentive for even more contractors to go underground and not report their income at all. Contractors can give you a whole list of jobs where they did not make 4% on the job while the state government, as this bill proposes, makes 8% on a subcontractors portion. The State will be making more money on the job than the subcontractor himself which, we believe, then provides them every reason in the world to go underground. As we have pointed out before, if State government could find a way to go after unlicensed activity and get the 4% (or 4.5%) that is due, you would solve a good deal of your financial problems.

Based on the above, we cannot support this bill.

Thank you.

Jody Nakanelua

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 22, 2011 9:58 AM
To: EDTTestimony
Cc: t.dale@4ddesigns.com
Subject: Testimony for HB799 on 3/23/2011 1:15:00 PM

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Tonya Dale
Organization: 4D Designs LLC
Address:
Phone:
E-mail: t.dale@4ddesigns.com
Submitted on: 3/22/2011

Comments:
The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT) Hawaii State Senate State Capitol Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2 Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.
The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.
While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.
The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.”   A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.
We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.

Sincerely,
Tonya Dale, AIA, NCARB

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Vancouver, BC V6B 4N6
Phone: 604-681-9515
Fax: 604-681-4364

LATE

NORTH WEST & CANADA CRUISE ASSOCIATION

March 23, 2011

Testimony to the Senate Committee on Economic Development & Technology in OPPOSITION to HB 799 HD 1, "Relating to Taxation."

Aloha Chair Fukunaga, Vice Chair Wakai, and members of the Committee.

Thank you for this opportunity to testify on HB 799 HD 1, "Relating to Taxation."

I am Greg Wirtz, President of the North West and Canada Cruise Association (NWCCA), a trade association of eleven major cruise lines operating in Hawaii, the Pacific Northwest, Canada and Alaska. Our member lines include the following companies: Carnival Cruise Lines, Celebrity Cruises, Crystal Cruises, Disney Cruises, Holland America Line, Norwegian Cruise Line (incl. NCL-America), Oceania Cruises, Princess Cruises, Regent Seven Seas Cruises, Royal Caribbean International, and Silversea Cruises.

Our member lines bring hundreds of thousands of cruise visitors to Hawaii every year, support thousands of local jobs, and contribute an estimated $475 million annually to the state's economy.

Today we are here to provide testimony in opposition to HB 799 HD 1, which would temporarily suspend the GET exemptions for a multitude of industries and services and impose a graduated tax schedule from Jan. 1, 2012 thru June 30, 2015.

We are specifically concerned with the following parts of Section 2 which would repeal:

(9) Amounts received or accrued from the loading or unloading of cargo as described under section 237-24.3(4)(A);

(10) Amounts received or accrued from tugboat and towage services as described under section 237-24.3(4)(B);

(11) Amounts received or accrued from the transportation of pilots or government officials and other maritime-related services as described under section 237-24.3(4)(C);

19) Gross proceeds received from shipbuilding and ship repairs as described under section 237-28.1

For the cruise industry, this would dramatically increase the cost for items such as pilotage, tugboat services, line handling, and ship repairs. We are very concerned as to the impact these additional costs may have on cruise tourism in Hawaii.

Our major concerns are as follows:

1. Like other segments of the travel and tourism industry, the cruise sector is extremely price sensitive.

To a degree never seen before, consumers are considering the total cost of a vacation when making their travel decisions including not only the cost of the cruise, but other costs such as transportation to embarkation ports, shore tours and government taxes and fees.

It has been illustrated in other markets that fee increases can have an impact on cruise traffic. For example, another long-distance destination, Alaska, was dramatically impacted by the introduction of new fees and taxes imposed by the state. Traffic there over the past two seasons (2009/2010) has declined by 15%.

Given these difficult economic times and the importance of tourism to Hawaii, now is not the time to levy taxes and increase costs.

2. Our industry has already been assessed large fee increases by the Dept. of Transportation for projects that will be of no direct benefit to us, and more increases are forthcoming.

Last year, our DOT harbor fees were increased across the board in order to help finance the Harbors Modernization Plan (HMP). None of the HMP projects are of direct benefit to the cruise industry in the form of new piers, passenger facilities, or even repairs on existing cruise facilities. Our passenger fees will increase dramatically this July and go up annually thru 2016. For NCL-America, the primary cruise operator in the state, the first increase will be on the order of 140% of the current fee structure.

3. Our member lines may now have to reconsider dry-docking their vessels here and may instead choose to do so on the West Coast or in other countries.

NCLA's Pride of America has dry-docked in Honolulu for years, and Princess Cruises dry docked two of their vessels in Honolulu a few years ago. Dry dock costs can range up to $5 million per vessel in any given year and employs hundreds of shipyard workers for several days on average. It would be very unfortunate if NCLA or any other lines were to instead spend millions of dollars in maintenance funds at ports outside of Hawaii.

4. **The repeal of the tax exemptions are being proposed without first studying the impacts of doing so.**

HB 1270 proposed that the State first review the economic impacts of the existing tax exemptions and credits and present the results to the Legislature prior to the beginning of the 2012 session. This is a reasonable approach that we recommend be incorporated into HB 799 prior to repealing any of the existing exemptions.

What should also be kept in mind is that Hawaii is a very small piece of the global cruise market, barely 1.5% in terms of passenger count. NCLA has the only large US-flagged cruise ship in the country and has to deal with the associated costs. With respect to international ships, a voyage from the west coast and back requires nine days at sea for four days in the state. These are niche cruises that appeal to a very small segment of the cruising population.

With fuel costs rising again and state passenger fees about to rise significantly this summer, we are very concerned that further taxes on our industry could result in Hawaii becoming a less attractive cruise destination and lose market share to other destinations that offer shorter, less expensive itineraries and are more easily accessible.

Thank you for this opportunity to present testimony before your committee.

Regards,

Greg Wirtz,
President

1357 KAPIOLANI BLVD. / SUITE 1530 / HONOLULU, HI 96814 / PH. (808) 944-1821 / FAX (808) 946-9339 / office@fukunagaengineers.com

March 22, 2011

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016
Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

Dear Chair Fukunaga, Vice Chair Wakai, and Committee Members:

Fukunaga & Associates, Inc. is a Hawaii-owned and managed Civil & Environmental Engineering firm operating in Hawaii since 1969. **We strongly OPPOSE HB 799, HD 1, Relating to Taxation, in particular the portion of the bill (Section 2 (1)) related to gross income by contractors.** The definition of "contractor" includes engineers, architects and other design professionals licensed under Section 464-1, HRS.

The bill implies that prime contractors have been receiving an "exemption" from some portion of their income. This is not the case. HAR §18-237-13-03 simply ensures that the GET is not applied twice to the same income. HAR §18-237-13-0 allows that if a prime contractor hires a subcontractor, and the subcontractor pays the GET, then the prime contractor does not pay GET on the project income that goes to the subcontractor. For example, if the State pays a civil engineer $100,000 to design a project, and the civil engineer in turn subcontracts the geotechnical engineering services for $20,000 and environmental engineering services for $10,000, the civil "prime" contractor pays GET on $70,000, while the geotechnical and environmental engineers pay GET on their income. Under the proposed change, the civil engineer prime would pay GET on the full $100,000, essentially double-taxing the $30,000 allocated to the subcontractors, and forcing the prime contractor to pay taxes on income they did not receive.

In this time of economic stress for all involved in the construction business, this proposal will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on income they don't receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid on Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.
2. Prime Architect-Engineering firms assist their clients by subcontracting specialty services, such as geotechnical, environmental, landscape architecture, surveying, etc. If the prime contractor is forced to pay double taxes on those services, they may request the client to contract those specialty services directly, increasing the administrative burden and risk exposure for the client, and inhibiting the benefits of having the design team collaborate under one contract.
3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Very truly yours,
FUKUNAGA & ASSOCIATES, INC.

Jon K. Nishimura, P.E.
President

FUKUNAGA & ASSOCIATES, INC.

WJE ENGINEERS ARCHITECTS MATERIALS SCIENTISTS

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Honolulu, Hawaii 96814
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www.wje.com

LATE

March 22, 2011

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

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3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

Bernie Wonneberger, AIA, NCARB
Unit Manager and Principal

INSYNERGY ENGINEERING INC
MECHANICAL ■ ELECTRICAL ■ FIRE PROTECTION

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LATE

March 22, 2011

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 779, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

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In this time of economic stress for all involved in the construction business, this proposal will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on income they don't receive, the proposal has a number of other far-reaching implications:

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3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

Joel Yuen, P.E., President

TEC

THERMAL ENGINEERING CORPORATION

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March 22, 2011

LATE

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
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3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

Jeffrey K. Kohara
Sr. Vice President/CFO
Thermal Engineering Corporation

MASA FUJIOKA & ASSOCIATES
Environmental • Geotechnical • Hydrogeological Consultants

98-021 Kamehameha Highway, Suite 337, Aiea, HI 96701

LATE

March 22, 2011

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 779, HD 1, Relating to Taxation**
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3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

Masa Fujioka, P.E.
Managing Partner

Pacific Geotechnical Engineers, Inc.
Soils & Foundation Engineering Consultants

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Waipahu, Hawaii 96797
Telephone: (808) 678-8024
Facsimile: (808) 678-8722
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March 22, 2011

LATE

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

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In this time of economic stress for all involved in business, this proposal will only further burden struggling small businesses, design professionals, and contractors. In addition to forcing these businesses to pay tax on income they don't receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid on Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.

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Due to the many negative outcomes described above, we strongly urge you to **hold this bill**. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

PACIFIC GEOTECHNICAL
ENGINEERS, INC.

Glen Y.F. Lau, P.E.
President

ELECTRICAL CONTRACTOR'S ASSOCIATION OF HAWAIʻI
NECA Hawaiʻi Chapter
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FX: (808) 841-8096
Email: ecah@ecahi.com

LATE

March 22, 2011

To: The Honorable Senator Carol Fukunaga, Chair
And the Members of the Committee on Economic Development and Technology

From: Al Itamoto, Executive Director
Electrical Contractors Association of Hawaii
National Electrical Contractors Association, Hawaii Chapter

Subject: HB799, HD1, Relating to Taxation

Notice of Hearing

Date:	Wednesday, March 23, 2011
Time:	1:15 PM
Place:	Conference Room 016 State Capitol 415 South Beretania Street

Dear Chair Fukunaga and Committee members:

The Electrical Contractors Association of Hawaii (ECAH) is a non-profit association representing 100 electrical contractors in Hawaii. ECAH is also the Hawaii Chapter of the National Electrical Contractors Association. ECAH **strongly opposes** the intent and purpose of HB799, HD1 repealing the exemptions from various persons, in particular contractors. HB799 is not good for the State, the tax payers of Hawaii and contractors. While this bill generates additional tax revenues to the State, it has far reaching ramifications that will continue to hinder the recovery of the construction industry and passes on additional costs to consumers. At the least, this bill should be amended to remove the repeal of the subcontractor's portion of a contractor's gross receipts.

Currently, the subcontractor pays the 4% GETax on their portion of the gross receipts included in the gross receipts reported by the prime contractor, so in effect, 100% of the gross receipts are being taxed at the 4% level. HB799 imposes an additional 2% - 4% on the subcontractor's portion that in effect taxes that portion a second time. If the subcontractor also uses a sub-subcontractor, there's a possibility of an additional level of taxes. There is no logical reason why the same amount of gross receipts should generate a different amount of GETax depending on the amount subcontracted by the prime contractor. In general, this is a poorly thought out piece of legislation.

The construction industry is still experiencing over 50% unemployment and those that are working are not at full time levels. This legislation will only delay the recovery of the industry and adds additional costs to all construction projects. The city recently announced the awarding of the second light rail project and reported that the bids came in under budget. This bill would eliminate some of the savings and cost tax payers more to construct the rail project.

ECAH **strongly opposes** the passage of SB 263. As the Senate did last year, please stop this bill from moving on further.

Thank you for the opportunity to provide testimony on this issue.

TESTIMONY OF KEONI WAGNER ON BEHALF OF HAWAIIAN AIRLINES IN OPPOSITION TO H.B. NO. 799, HD 1, RELATING TO TAXATION

Wednesday, March 23, 2011

LATE

To: Chair Carol Fukunaga and Members of the Senate Committee on Economic Development and Technology:

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 Sections 2 and 3 of H.B. No. 799 HD 1.

Hawaiian Airlines understands the severity of the budget problem and the difficulty of finding solutions to balance the state budget with the severe economic situation facing the state. At the same time, we believe Sections 2 and 3 of this bill will undermine the state's economic recovery and effectively put Hawaii companies at a disadvantage to competitors based elsewhere.

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 Tokyo and Osaka in Japan and to Korea. This growth is providing significant increases in tourism and tax revenues to the state. Last year, the HTA estimated that our Haneda flight alone would boost visitor spending in Hawaii by more than $130 million.

The company has committed to investing in a fleet of new long range aircraft to fulfill its vision to become an even larger contributor to Hawaii tourism. We have taken possession of three new aircraft since Spring 2010, with two more arriving this year and additional aircraft scheduled for delivery in future years.

Hawaiian is the only airline which employs large numbers of individuals in the state. We have hired more than 600 employees over the past two years and plan to hire more in the next few months.

The current exemptions that exist in the law are part of the foundations upon which this growth at Hawaiian has been planned. Elimination of any of the current tax exemptions affecting airlines will disproportionately injure local airlines, such as Hawaiian, and will deepen the competitive disadvantage we already face. Carriers not based in Hawaii have little exposure to state taxes compared to Hawaiian, so the impact on Hawaiian is much larger. We would ask whether it is good policy to pass legislation that as a matter of design actively disadvantages Hawaii-based companies over companies in the same industry that are based in other states.

While 2010 was a positive year for Hawaiian, the risk factors this year are far greater. For example:

a. Oil prices have been steadily increasing and recently hit a two-year high. Our fuel costs are projected to be 50 percent higher this year than in 2010.

b. Labor costs are higher with new contracts in effect

c. Aircraft maintenance costs are projected to be higher

d. Investments in opening new routes and markets

e. Uncertainty about Japan visitor traffic

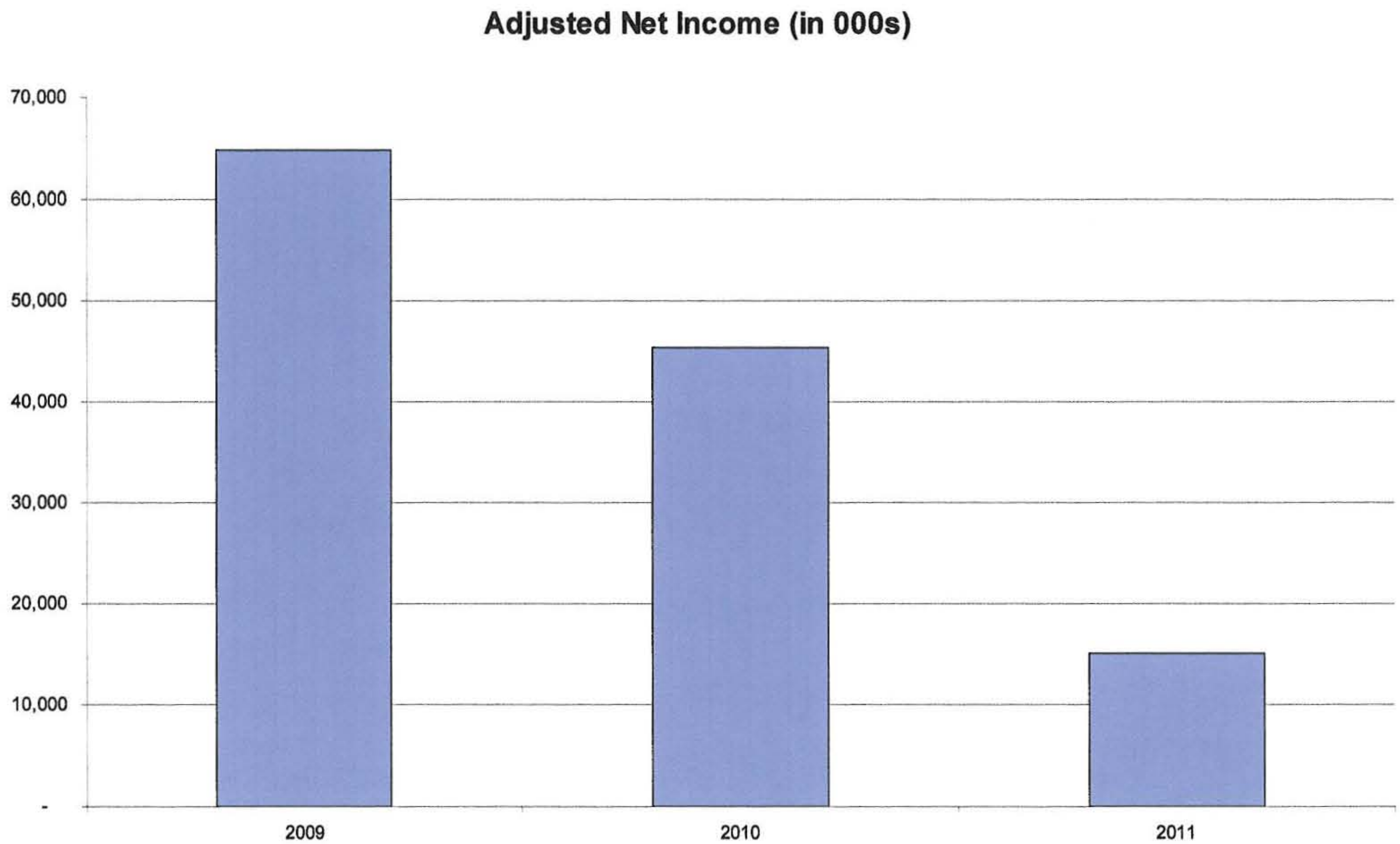
Hawaiian already pays the state approximately $50 million annually in taxes and fees – $5.2 million of that in GET this year – and our employees also contribute more than $9 million in state taxes. The taxes and fees we pay to the State have more than doubled in the last five years and are set to increase further in 2011. Loss of the current tax exemptions would raise Hawaiian's existing tax burden by up to $12 million in 2012 and this amount would multiply in successive years as we bring additional new aircraft into Hawaii. The total increased tax burden on our company would be up to $73 million over four years

Hawaiian is already facing substantial financial pressures with high fuel prices and the prospect of diminished revenues on some routes that have already required increased costs to be passed along in the form of higher fares on mainland and international routes. Loss of these exemptions will require further fare increases across our system and/or other remedies, such as reductions in service and workforce. Accordingly, we urge the Committee to omit Sections 2 and 3 from HB799 HD1.

Thank you for the opportunity to comment on this measure.

HB799 Testimony
Appendix

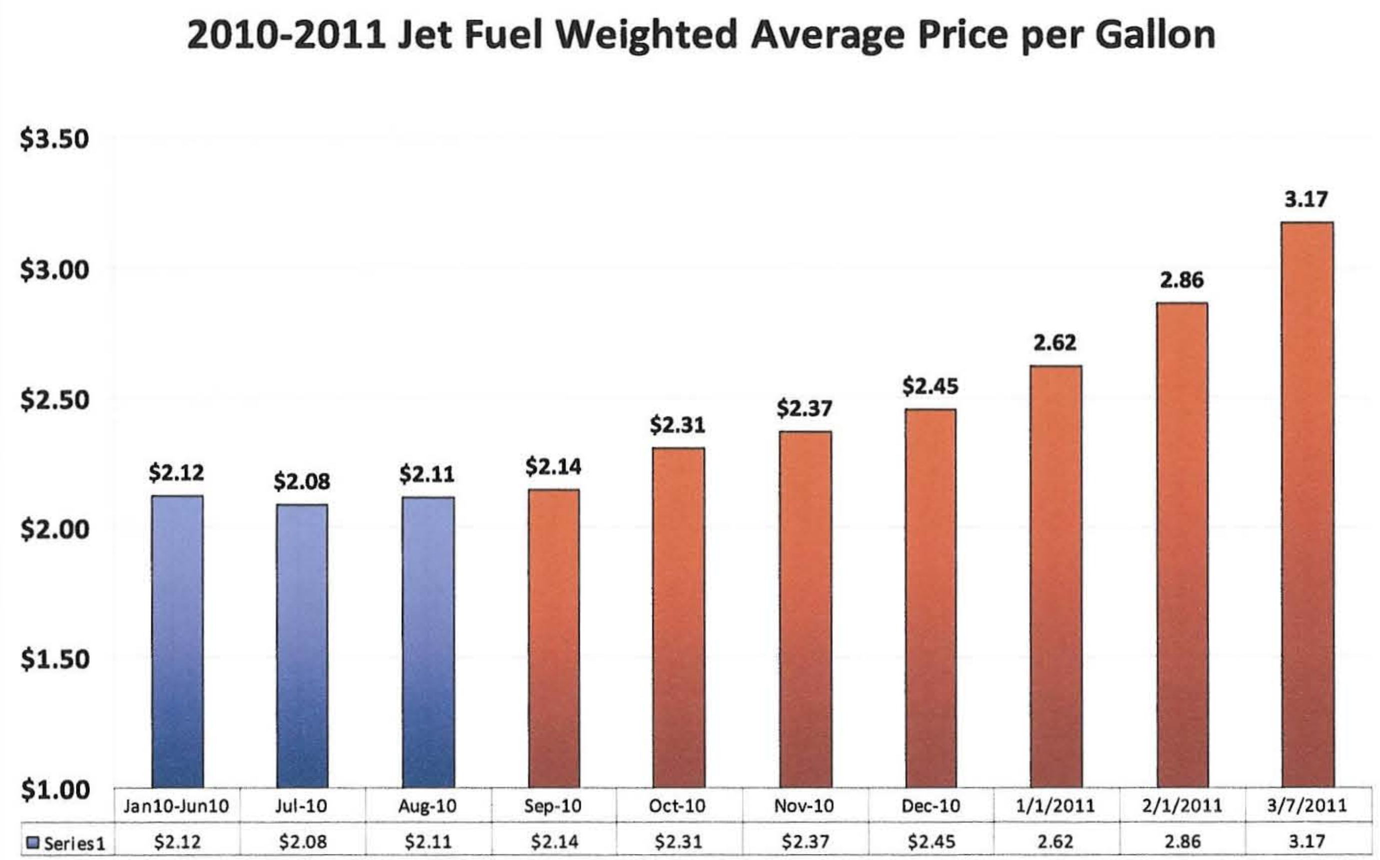
Hawaiian's Financial Performance



- Adjusted to reflect economic fuel expense and remove the effect of beneficial non-recurring tax items
- 2011 information represents mean of Wall Street analyst projections adjusted for current fuel prices

HAWAIIAN AIRLINES

2011 fuel prices could end or reverse growth



1 cent per gallon = $1.6 million annually

Note: LA/MOPS weighted average

HAWAIIAN AIRLINES

From:	mailinglist@capitol.hawaii.gov
To:	EDTTestimony
Cc:	LArakaki@ahldesign.com
Subject:	Testimony for HB799 on 3/23/2011 1:15:00 PM
Date:	Tuesday, March 22, 2011 5:09:53 PM

LATE

Testimony for EDT 3/23/2011 1:15:00 PM HB799

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Lloyd Arakaki
Organization: Individual
Address:
Phone:
E-mail: LArakaki@ahldesign.com
Submitted on: 3/22/2011

Comments:
The Honorable Carol Fukunaga, Chair
Members of the Committee on the Economic Development and Technology (EDT)
Hawaii State Senate
State Capitol
Honolulu, HI 96813

Subject: OPPOSE as written, House Bill 799 HD1 Relating to Taxation; Section 2
Amending Chapter 237, Hawaii Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

On behalf of the more than 800 architect members and other allied design professionals of The American Institute of Architects (AIA), AIA Hawaii State Council, I am writing to OPPOSE HB 799 HD1 on Taxation whose provisions aim to suspend key exemptions currently afforded to significant design and construction efforts in Hawaii, among other key business areas across the state.
The provision within HB 799 HD1 to remove the exemption currently afforded to “contractors” as defined in the Hawaii Revised Statutes (Section 237-13 (03) (B) (i) will specifically cause on adverse effect on our members, and allied engineers, a majority of whom are small businesses in Hawaii.
While this measure is proposed to extract additional revenues to address the state's fiscal crisis, it should be noted that elimination of this specific exemption and others would come at a bad time as the state's economy struggles to come back from the devastation of economic recession. Eliminating the general excise exemptions for temporary gain may have a significantly dire consequence over the long term.
The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs for housing, commercial and industrial structures built for Hawaii businesses, state and city governments and residential homeowners.
We encourage you to seek more economically neutral ways of taxing businesses, and urge you to look deeper at long-term solutions for creating greater efficiencies within the government. This bill has the serious potential of reducing business in a time when Hawaii business needs stimulation. We urge opposition as currently written.
Sincerely,

Copies to:
Senator Glenn Wakai, VIce Chair EDT, Email: senwakai@capitol.hawaii.gov
Senator Rosalyn Baker, Member EDT, Email: senbaker@capitol.hawaii.gov
Senator Malama Solomon, Member EDT, Email: sensolomon@capitol.hawaii.gov
Senator Sam Slom, Member EDT, Email: senslom@capitol.hawaii.gov

ARCHITECTURE
RESTORATION
RENOVATION
RESEARCH

Mason Architects

LATE

March 22, 2011

Senator Samuel Slom, Member
Senate Committee on Economic Development and Technology
Hawai‘i State Capitol, Room 216
Honolulu, Hawai‘i

Re: **OPPOSE** as written, House Bill 799-SD1 Relating to Taxation; Section 2: Amending Chapter 237, Hawai‘i Revised Statutes to temporarily suspend exemption for 1) Amounts deducted from the gross income received by contractors as described under section 237-13 (3) (B)

Senator Slom:

Mason Architects is a 23 person firm. We have managed to weather the recession without having to let employees go but bills like this one tend to make me think our record may come to an end. We understand the State needs to raise additional revenues as well as to continue to cut cost to balance its budget but this bill will be counter-productive. It will substantially increase the cost of design and construction in the state and kill off much needed work for the construction industry when it needs it most.

The overall impact on the design and construction industry would be very large, because of the well documented “pyramid effect.” A gross receipts tax, without key exemptions in place, has a well known escalating effect that creates an extra layer of taxation at each stage of the product and service life cycle. For the design and construction industry this leads to dramatically higher costs.

More savvy owner/developers will work around the pyramiding effect by hiring subcontractors and engineers directly rather than entering into traditional sole source contracts with general contractors and architects. The net effect is more administrative expenses for the owner/developer, greater coordination delays for all involved, greater insurance risk, and no increased tax revenue for the state. Less savvy owners will either pay the significant higher cost or choose not to move forward with a project if they can wait for the law to expire—eliminating potential work for an industry starved of it.

We encourage you to seek more equitable and effective means of raising revenue in lieu of removing this critical exemption.

Sincerely,

John Fullmer, AIA,
Vice President

(Home Address: 459 Kawaihae Street, Honolulu, Hawai‘i 96825)

1099 Alakea Street, Suite 2400
Honolulu, Hawaii 96813
Tel: 808-523-8499
Fax: 808-533-0226
www.brownandcaldwell.com

LATE

March 22, 2011

Brown AND Caldwell

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

Dear Chair Fukunaga, Vice Chair Wakai, and Committee Members:

Brown and Caldwell strongly OPPOSES HB 799, HD 1, Relating to Taxation, in particular the portion of the bill (Section 2 (1)) related to gross income by contractors. The definition of "contractor" includes engineers, architects and other design professionals licensed under Section 464-1, HRS.

The bill implies that prime contractors have been receiving an "exemption" from some portion of their income. This is not the case. HAR §18-237-13-03 simply ensures that the General Excise Tax (GET) is not applied twice to the same income. HAR §18-237-13-03 allows that if a prime contractor hires a subcontractor, and the subcontractor pays the GET, then the prime contractor does not pay GET on the project income that goes to the subcontractor. For example, if the State pays a civil engineer $100,000 to design a project, and the civil engineer in turn subcontracts the geotechnical engineering services for $30,000 and land surveying services for $20,000, the civil "prime" contractor pays GET on $50,000, while the geotechnical engineer and land surveyor pay GET on their income. Under the proposed change, the civil engineer prime would pay GET on the full $100,000, essentially double taxing the $50,000 allocated to the subcontractors, and forcing the prime contractor to pay taxes on income they did not receive.

In this time of economic stress for all involved in the construction business, this proposal will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on income they don't receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid in Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.

2. Prime Architect-Engineering firms assist their clients by subcontracting specialty services, such as geotechnical engineering, land surveying, etc. If the prime contractor is forced to pay double taxes on those services, they may request the client to contract those specialty services directly, increasing the administrative burden and risk exposure for the client, and inhibiting the benefits of having the design team collaborate under one contract.

3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Very truly yours,

Brown and Caldwell

Douglas B. Lee, P.E.
Vice President

Community Planning and Engineering, Inc.

LATE

March 22, 2011

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

Dear Chair Fukunaga, Vice Chair Wakai, and Committee Members:

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In this time of economic stress for all involved in the construction business, this proposal will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on income they don't receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid on Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.
2. Prime Architect-Engineering firms assist their clients by subcontracting specialty services, such as geotechnical, environmental, landscape architecture, surveying, etc. If the prime contractor is forced to pay double taxes on those services, they may request the client to contract those specialty services directly, increasing the administrative burden and risk exposure for the client, and inhibiting the benefits of having the design team collaborate under one contract.

1100 Alakea, Sixth Floor | Honolulu, Hawaii 96813 | Tel: (808) 521-7491 | Fax: (808) 526-2476 | Email: mail@cpe-hawaii.com

3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

Anson M. Murayama, P.E.
Chief Executive Officer

1916 Young St. • 2nd Floor
Honolulu, HI 96826
PH (808) 942-9100
FAX (808) 942-1899

SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

March 22, 2011

EMAILED TESTIMONY TO: **EDTTestimony@Capitol.hawaii.gov**

LATE

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Howard K.C. Lau
Craig H. Sakanashi
Wayne K. Higuchi
Beverly Ishii-Nakayama

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

Dear Chair Fukunaga, Vice Chair Wakai, and Committee Members:

Shigemura, Lau, Sakanashi, and Higuchi & Associates (SLSH), a Hawaii-owned and -operated small business engineering firm, **is in strong opposition of HB 799, HD1, Relating to Taxation, in particular the portion of the bill (Section 2 (1)) related to gross income by contractors.** The definition of "contractor" includes engineers, architects and other design professionals licensed under Section 464-1, HRS.

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Respectfully submitted,

Beverly K. Ishii-Nakayama
Principal

CONSULTING STRUCTURAL ENGINEERS

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Respectfully submitted,

Wayne K Higuchi

Wayne K. Higuchi
Principal

CONSULTING STRUCTURAL ENGINEERS

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SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

March 22, 2011

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Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

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Craig H. Sakanashi
Wayne K. Higuchi
Beverly Ishii-Nakayama

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Howard K.C. Lau
President

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SHIGEMURA, LAU, SAKANASHI, HIGUCHI AND ASSOCIATES, INC.

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Respectfully submitted,

Craig H. Sakanashi
Principal

CONSULTING STRUCTURAL ENGINEERS

BOWERS + KUBOTA CONSULTING

• Project Management • Planning • Architectural/Engineering Design • Construction Management

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March 22, 2011

LATE

Senate Committee on Economic Development and Technology
Hearing Date: Wednesday, March 23, 1:15 p.m., Conference Room 016

Honorable Senators Carol Fukunaga, Chair; Glenn Wakai, Vice Chair; and Members of the Senate Committee on Economic Development and Technology

Subject: **HB 799, HD 1, Relating to Taxation**
TESTIMONY IN OPPOSITION

Dear Chair Fukunaga, Vice Chair Wakai, and Committee Members:

Our company strongly OPPOSES HB 779, HD 1, Relating to Taxation, in particular the portion of the bill (Section 2 (1)) related to gross income by contractors. The definition of “contractor” includes engineers, architects and other design professionals licensed under Section 464-1, HRS.

The bill implies that prime contractors have been receiving an “exemption” from some portion of their income. This is not the case. HAR §18-237-13-03 simply ensures that the GET is not applied twice to the same income. HAR §18-237-13-0 allows that if a prime contractor hires a subcontractor, and the subcontractor pays the GET, then the prime contractor does not pay GET on the project income that goes to the subcontractor. For example, if the State pays a civil engineer $100,000 to design a project, and the civil engineer in turn subcontracts the geotechnical engineering services for $20,000 and environmental engineering services for $10,000, the civil “prime” contractor pays GET on $70,000, while the geotechnical and environmental engineers pay GET on their income. Under the proposed change, the civil engineer prime would pay GET on the full $100,000, essentially double-taxing the $30,000 allocated to the subcontractors, and forcing the prime contractor to pay taxes on income they did not receive.

In this time of economic stress for all involved in the construction business, this proposal will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on income they don’t receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid on Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.

2. Prime Architect-Engineering firms assist their clients by subcontracting specialty services, such as geotechnical, environmental, landscape architecture, surveying, etc. If the prime contractor is forced to pay double taxes on those services, they may request the client to contract those specialty services directly, increasing the administrative burden and risk exposure for the client, and inhibiting the benefits of having the design team collaborate under one contract.

3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

C. Michael Street, PE
Project Manager

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22 March 2011 (revised)

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The bill implies that prime contractors have been receiving an "exemption" from some portion of their income. This is not the case. HAR §18-237-13-03 simply ensures that the GET is not applied twice to the same income. HAR §18-237-13-0 allows that if a prime contractor hires a subcontractor, and the subcontractor pays the GET, then the prime contractor does not pay GET on the project income that goes to the subcontractor. For example, if the State pays a civil engineer $100,000 to design a project, and the civil engineer in turn subcontracts the geotechnical engineering services for $20,000 and environmental engineering services for $10,000, the civil "prime" contractor pays GET on $70,000, while the geotechnical and environmental engineers pay GET on their income. Under the proposed change, the civil engineer prime would pay GET on the full $100,000, essentially double-taxing the $30,000 allocated to the subcontractors, and forcing the prime contractor to pay taxes on income they did not receive.

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Due to the many negative outcomes described above, we strongly urge you to hold this bill. Thank you for the opportunity to provide testimony regarding this measure. Please let me know if you have any questions regarding our testimony.

Respectfully submitted,

SSFM INTERNATIONAL, INC.

Michael P. Matsumoto, P.E., FACEC
President/CEO

March 23, 2011

LATE

Hawaii Farm Bureau
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HEARING BEFORE THE
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT
AND TECHNOLOGY

RE: HB 799 HD1
RELATING TO TAXATION

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

General Excise Tax places Hawaii at a competitive disadvantage to exporting states that do not levy GET. Most states levy a sales tax that is collected from the ultimate consumer of products fostering wholesale interstate competition. Moreover, most states have exemptions for food products.

According to Wikipedia: "An unusual example of an excise tax is found in the State of Hawaii. In lieu of a sales tax, the State of Hawaii imposes a General Excise Tax, or GET, on all business activity in the State. The GET is charged at a rate of 4% for most businesses and 0.5% for wholesalers. The tax is imposed on all business entities; so in essence, the tax is collected at every level of production (material supplier to manufacturer to wholesaler to retailer.)

Our members are concerned that HB 799 HD 1 proposes suspending GET exemptions on the following:
(6) Amounts received by sugarcane producers as described under section 237-24(14);
(7) Amounts received from the loading, transportation, and unloading of agricultural commodities shipped interisland as described under section 237-24.3(1);

If this legislation were to pass, taxes on transportation of the aforementioned products and revenue derived from sugar production would increase to 4% by 2014.
HFBF asks that these exemptions be retained and stricken from this legislation.

These additional costs will inevitably be passed on to consumers. It is important to highlight that these increased taxes will hurt the most vulnerable in our society.

Since consumers will be incentivized by cheaper pricing to choose mainland imports over locally produced foodstuffs, local farm and ranch product sales will decline, leading to cascading effect of unemployment and eventual reduction in tax revenue. These newly unemployed will soon be on the welfare rolls necessitating increased social spending.

Ideally, Hawaii should be focused on creating an economic environment in which the cost of production of local products is more competitive in the marketplace, not less. More locally produced food will lead to increased employment, food security, environmental, economic and social sustainability, open space preservation that beckons tourists, and will reduce the probability of introduction of invasive species hitchhiking in shipments of imports.

We understand that the increased cost is offset by the continuation of benefits and services provided by our State agencies in education, crop certification and crop protections. While HFBF and the agricultural community are cognizant of the need for the state to increase revenue, we choose our political leaders based in part, on their long-range vision. Shortsightedness in imposing burdensome tax policy will inevitably damage or stall our economy. The result will be application of additional pressure to increase social spending and will not achieve the common goal of a vigorous economy.

Thank you for the opportunity to offer comments to HB 799 HD 1.

Chris Manfredi
Hawaii Farm Bureau Federation