



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
**HOUSE COMMITTEE ON
FINANCE**
Friday, April 1, 2011
2:00 PM
State Capitol, Conference Room 308

in consideration of
SB 146, HD1
RELATING TO BIOFUEL.

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 146, HD1, which would require diesel fuel sold in the State for use in motor vehicles to contain 5% biodiesel that is produced in the State from locally-sourced products meeting certain certification standards, but has some concerns with details of the bill as written.

The current bill specifically requires biodiesel and only biodiesel. However, like biodiesel, biomass-based drop-in replacements for diesel fuel could also be produced from locally-grown feedstocks and could be blended with petroleum-based diesel for use in motor vehicles.

Therefore, to include other production pathways of biomass-based diesel that could become commercial in the future, we recommend changing references to "biodiesel" to "biofuel" and removing the definition in section (f) on page 3.

Also, it is our understanding that the requirement for locally-sourced product may be in conflict with the interstate commerce clause of the U.S. Constitution.

Thank you for the opportunity to offer these comments.



Western States Petroleum Association

House Committee on Finance

DATE: Friday, April 1, 2011
TIME: 2:00 p.m.
PLACE: Conference Room 308
RE: SB146 SD1 HD1: Relating to Biofuel

I am testifying on behalf of the Western States Petroleum Association (known as WSPA) with **concerns regarding mandates imposed by SB 146 SD1 HD1**. WSPA is a non-profit trade association representing a broad spectrum of petroleum industry companies in Hawaii and five other western states.

SB146 SD1 HD1 requires diesel fuel sold in the State for use in motor vehicles to contain no less than 5% biodiesel that is produced in the State from agricultural products grown in the State. Based on our experience with the ethanol blending law, fuel supply mandates can bring a host of unintended consequences.

Mandates tend to distort normal market functioning. Mandates are usually proposed when parties perceive a need to force a product that is not naturally competitive, into the market.

In HD1, the DBEDT Director may also authorize the sale of diesel fuel that does not meet statutory provisions under certain circumstances. This presents concerns for suppliers and producers regarding unknown factors such as logistics, infrastructure and changing mandates.

The federal government already has a program in place to strongly encourage renewable fuels (including biodiesel and biomass-based diesel) into the market. It's called the Renewable Fuel Standard (RFS2) and it has ever-increasing amounts of certain renewable categories of fuel that fuel suppliers must blend into the fuels they supply to the market every year.

Since fuels are basically fungible commodities, it is best to allow the RFS2 program to be the forcing mechanism. The federal government adjusts the compliance requirements annually to comport with the available supply of the various renewable fuels.

WSPA is concerned that a mandatory introduction of biodiesel may potentially affect fuel quality, mobilize contaminants in the fuel system, or increase the potential for microbial contamination of Hawaii diesel supplies. These performance issues are outside of the scope of Underwriters Laboratories Inc. standards and certification.

Additionally, there are currently several concerns with the introduction of biodiesel in California that are being further evaluated. These concerns include increased NOx emission from B5, increased CO2 emissions, and high aquatic toxicity.

It has also been observed that the presence of biodiesel at some levels can actually lead to increased NOx emissions. And, there is debate about the magnitude of the increase, as it may be a function of not only biodiesel concentration but also engine type and duty cycle.

We strongly support flexibility and the maintenance of all options to meet Hawaii's growing energy needs. However, we are concerned that SB146 SD1 HD1 will create unintended consequences for fuel supplies and consumers.

Thank you for the opportunity to share our concerns regarding this measure.



HOUSE COMMITTEE ON FINANCE

Testimony of
CHRISTOPHER ELDRIDGE
Partner, Aina Koa Pono, LLC

April 1, 2011, at 2:00 p.m.
House Conference Room 308

TESTIMONY IN SUPPORT OF SB 146, SD1, HD 1 RELATING TO BIOFUEL

Chair Oshiro and Members of the Committee:

Aina Koa Pono ("AKP") strongly supports SB 146, SD1, HD1, Relating to Biofuel. We also support further amending SB 146 to ensure that the biofuel will be locally produced—unlike ethanol—without violating any Commerce Clause restrictions and to raise the requirement from a 5% biodiesel-only requirement to a 10% requirement that applies to both biodiesel and biogasoline.

AKP is a locally-owned biofuel company which is building a biofuel plant in Ka'u, Hawaii. We recently entered into a power purchase agreement with HECO to produce biodiesel from locally grown feedstock. A local biofuel industry in Hawai'i can and should be created through the enactment of a "B-10" biofuel requirement. AKP believes there is no need for a year-long study by the Department of Business and Economic Development ("DBEDT") and that a biofuel industry could be created *now*.

AKP has already acquired agricultural land in Ka'u, designed a biofuel production facility, and signed a contract with HECO for part of the plant's capacity. The Ka'u plant will produce 24 million gallons per year of biofuel, of which only 16 million gallons will be sold to HECO. A B-10 requirement would create a market for the production facility's additional capacity and also spur the development of up to two additional such plants. AKP is prepared to build these facilities. But to finance these plants and kick-start a local biofuel industry in Hawai'i, AKP needs to be able to provide its investors with some assurance that there will be a demand for the biofuel the facilities produce. Only a biofuel requirement will provide this assurance.

There is no doubt that a local biofuel industry is in Hawai'i's best interest. Specifically, a B-10 requirement for both biodiesel and biogasoline would:

- **Create Jobs.** A 10% biofuel requirement will create up to 2,400 long-term, high-paying jobs in agriculture and biofuel production for Hawai'i residents in order to meet the demand for 50 million gallons of biodiesel and 500 million gallons of biogasoline.
- **Bring in Outside Investment.** Creating a biofuel industry in Hawai'i will attract foreign investors to Hawai'i; those outside dollars will be spent here, further helping Hawai'i's economy.

To: Chair Oshiro and Members of the HOUSE COMMITTEE ON FINANCE
Re: Testimony of Christopher Eldridge, Partner of Aina Koa Pono, LLC, IN SUPPORT OF SB 146,
SD1, HD 1 RELATING TO BIOFUEL
Hearing April 1, 2011, at 2:00 p.m., House Conference Room 308
Page 2

- **Ensure Productive Land Use.** The creation of a local biofuel industry will help return Hawai'i's agricultural lands to productive and sustainable use and will help revive the agricultural sector of our economy.
- **Promote Energy Independence.** Hawai'i is entirely dependent on foreign sources for its gasoline and diesel fuels at present. A B-10 requirement will promote local fuel production. This will give Hawai'i a measure of energy independence and help insulate Hawai'i from fluctuations in the prices of traditional gasoline.
- **Help Achieve Clean Energy Goals.** Just like ethanol, biodiesel and biogasoline burn cleaner than regular diesel fuel and gasoline. Requiring 10% biofuel in gasoline and diesel will keep Hawai'i's skies clean.

AKP recognizes that a local ethanol production industry did not materialize after the enactment of the E-10 legislation, but biofuel is different than ethanol. Biofuel can be produced from many different materials or crops. The process for producing biofuel is also more efficient and less expensive than the process for producing ethanol. A local biofuel production industry will emerge if a B-10 requirement is enacted. Moreover, automatic repeal provisions can be included in B-10 legislation that would automatically repeal the biofuel requirements if there is not sufficient local production of biofuel.

In addition, biofuel will not create the same "mixing" problems that have plagued ethanol. It has the same specifications and characteristics as petroleum-based fuel. Nor will biofuel require distributors to invest in any new equipment or machinery to mix in the biofuel the way they were forced to with ethanol.

A B-10 requirement is a no-cost way to spur investment, job creation and economic productivity – all while helping Hawai'i become less dependent on outside sources of fuel. This is an opportunity that Hawai'i cannot afford to lose in these tough economic times and in the face of continued unrest in the Middle East. Hawai'i needs a biofuel industry and a B-10 biofuel requirement is the way to get us there.

In order to address concerns previously raised by DBEDT and others, AKP suggests that the language of SB 146, HD 1 be amended to add in certain additional protections, including:

- **ASTM Certification.** A requirement that biofuel meet the relevant fuel specifications of the American Society for Testing and Materials.

To: Chair Oshiro and Members of the HOUSE COMMITTEE ON FINANCE
Re: Testimony of Christopher Eldridge, Partner of Aina Koa Pono, LLC, IN SUPPORT OF SB 146,
SD1, HD 1 RELATING TO BIOFUEL
Hearing April 1, 2011, at 2:00 p.m., House Conference Room 308
Page 3

- **Minimum Thresholds.** A requirement that DBEDT certify that 5 million gallons of biodiesel and/or 10 million gallons of biogasoline have been produced locally by January 1, 2014.
- **50% Local Production.** A requirement that DBET certify within two years after the minimum threshold is met that 50% or more of the fuel needed to meet the B-10 requirement is produced locally.
- **Automatic Repeal.** A provision that the B-10 requirement be automatically repealed if the minimum threshold and 50% local production requirements are not met.

These proposed changes, the increase from 5% to 10% and the application to biogasoline and biofuels are recommended.

Thank you for the opportunity to provide this testimony. A B-10 requirement is good for our economy, good for our environment, and good for our autonomy.

FIN Hearing Friday April 1, 2011
2:00 PM, Conference Room 308

House Finance Committee
Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Chair

Support SB 146 SD1, HD1, Relating to Biofuel

Testimony of Pacific Biodiesel, Inc.

Pacific Biodiesel, Inc. is the oldest biodiesel production company in the U.S., in continuous operation since its first plant was constructed on Maui in 1996. Having opened America's very first retail biodiesel pump and developed proprietary technology, we have built a solid reputation as a leading pioneer in the biodiesel industry. Pacific Biodiesel owns and operates two biodiesel plants in Hawaii, employs at least 30 residents in this state and is currently developing a new, state-of-the-art, zero-waste biodiesel facility on the Big Island. We have been producing biodiesel in the State for 15 years.

Pacific Biodiesel supports SB 146 SD1, HD1. It is an important step in reaching the Hawai'i Clean Energy Initiative goal of 40% renewables by 2030. The only concern we have is to clarify the direction for 5% biodiesel so that it does not preclude fueling stations wishing to sell 20% blends.

This bill will support further growth in the Hawai'i biofuels industry and is cost neutral to the State. With the current highway diesel fuel use at around 50 million gallons per year, the requirement for this mandate would equal 2.5 mgy. This amount of fuel will be available next year with the opening of Big Island Biodiesel (scheduled for the end of 2011) and will ensure economic revenue to the State of at least \$10 million per year (based on an average diesel cost of \$4 per gallon).

Pacific Biodiesel urges the passage of SB 146, which will promote and encourage a thriving local biofuels economy. Local companies such as Pacific Biodiesel can lead the State of Hawaii forward towards energy independence, new job creation and economic growth through locally owned businesses.

Thank you for the opportunity to testify,

Kelly King, Vice President
Pacific Biodiesel, Inc.
40 Hobron Ave
Kahului, Hawaii 96732
Ph: (808) 877-3144
www.biodiesel.com



FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 2:00 PM
To: FINTestimony
Cc: sayle.hirashima@midpacpetroleum.com
Subject: Testimony for SB146 on 4/1/2011 2:00:00 PM
Attachments: Testimony for SB146v2.doc

Testimony for FIN 4/1/2011 2:00:00 PM SB146

Conference room: 308
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Sayle Hirashima
Organization: Mid Pac Petroleum
Address:
Phone:
E-mail: sayle.hirashima@midpacpetroleum.com
Submitted on: 3/31/2011

Comments:

Testimony for SB146 RE: 5% biodiesel mandate

- We are opposed to any legislation that would implement mandates for the composition of fuel sold to consumers.
- We currently obtain ethanol supply entirely out of state caused by the lack of any ethanol production in the state. This mandate requires that we purchase biodiesel that is only available in Hawaii. We would be unable to get any indication of whether or not the price that we would be paying is fair. Furthermore, as far as we know there is only one current and near-term supplier for fuel that would qualify under this legislation, so we would have no alternative source of supply. A mandate coupled with limited supply and no readily available alternatives will almost certainly lead to higher price for the consumer.
- This legislation is vague. The requirement for acceptable biodiesel under this mandate is that the fuel is "locally-sourced." There is no definition for that this term means.
- The mandated introduction of biodiesel into the diesel motor fuel supply for the state will require significant changes to throughout the fuel supply infrastructure. This is due to the need to use two fuels instead of one. This will result in additional cost for equipment and transportation costs.
- When the ethanol mandate was implemented there was a exemption from the General Excise Tax ("GET") that exempted sales of blended gasoline from the tax, which allowed recovery of some of the start-up costs for the ethanol mandate. There does not appear to be any tax incentives for this mandate.
- The timeframe for implementation (by July 1, 2012) is much too short for the introduction of a new fuel standard for all diesel fuel in the state.
- We are opposed to the requirements to disclose sensitive and proprietary information regarding volumes and supply costs.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, March 31, 2011 12:58 PM
To: FINTestimony
Cc: web@cartoonistforchrist.org
Subject: Testimony for SB146 on 4/1/2011 2:00:00 PM

Testimony for FIN 4/1/2011 2:00:00 PM SB146

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Lee McIntosh
Organization: Individual
Address:
Phone:
E-mail: web@cartoonistforchrist.org
Submitted on: 3/31/2011

Comments:

Mr. Chair and Members of the Committee on Finance:

Aloha, my name is Lee McIntosh. I live in Kau on the Big Island. I am not in favor of SB 146, which relates to biofuel. There is a bill currently before the Legislature, SB 715, that repeals the ethanol mandate that failed miserably in its goals. Why then is the Legislature repeating history, substituting biofuel for ethanol? The Legislature should learn from its past mistakes. SB 146 will continue to drive up the cost of fuel, just as ethanol did, at a time when residents need a break at the pump. Thank you for the opportunity to testify on SB 146.