

HB 1471, HD2



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

DAVID Y. IGE
GOVERNOR

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEES ON ENERGY AND ENVIRONMENT
AND
COMMERCE AND CONSUMER PROTECTION**

Thursday, March 19, 2015
3:30 p.m.
State Capitol, Conference Room 225

in consideration of
HB 1471, HD 2

RELATING TO THE FUNDING OF GOVERNMENT PROGRAMS.

Chairs Gabbard and Baker, Vice Chairs Green and Taniguchi, and Members of the Committees.

The Department of Business, Economic Development & Tourism (DBEDT) supports HB 1471, HD2, which expands the application of the Environmental Response, Energy, and Food Security Tax (“Barrel Tax”) to all fossil fuels.

DBEDT notes that the taxation of all fossil fuels is consistent with the original intent of the Environmental Response, Energy, and Food Security Tax created by Act 73, Session Laws of Hawaii, 2010 (“Act 73”), to support self-sufficiency in energy by reducing energy imports and increasing reliance on readily-available renewable resources. Barrel Tax funds deposited into the Energy Security Special Fund will be used to lead the State’s efforts to exceed the Hawaii Clean Energy Initiative goal of 70 per cent clean energy by 2030.

As a matter of fairness, DBEDT recommends that the rate of taxation be equivalent for all fuels and avoid double-taxation where applicable—such as in the case where naphtha, a liquid fuel, is transformed into synthetic natural gas, a gaseous fuel. DBEDT appreciates that this

measure keeps HRS §243-3.5 (a) as is and believes it is prudent to maintain the unit of taxation as “barrel” for petroleum products and using other units for solid and gaseous fuels.

DBEDT defers to the Department of Budget and Finance on any impacts to the budget; the Department of Taxation on the administration of taxes; and the Public Utilities Commission on both the impact of using a separate surcharge to collect the pass through tax for independent power producers, and any gas utility cost recovery.

Thank you for the opportunity to offer these comments in support of HB 1471, HD2.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
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To: The Honorable Mike Gabbard, Chair
and Members of the Senate Committee on Energy and Environment

The Honorable Rosalyn H. Baker
and Members of the Senate Committee on Commerce and Consumer Protection

Date: Thursday, March 19, 2015
Time: 3:30 P.M.
Place: Conference Room 225, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B.1471, H.D. 2, Relating to the Funding of Government Programs

The Department of Taxation (Department) appreciates the intent of H.B. 1471, H.D. 2 and offers the following comments.

H.B. 1471, H.D. 2 applies the Environmental Response, Energy, and Fuel Security Tax to fossil fuels other than petroleum products distributed within the state at a rate of nineteen cents per one million British thermal unit sold by a distributor. The changes are made effective on July 1, 2015.

The first sentence of subsection (c) exempts coal used to fulfill a signed power purchase agreement between an independent power producer and an electric utility from the new tax proposed in this measure. The second sentence goes on to allow an independent power producer to pass on the new tax to the utility. Since the new tax wouldn't apply to coal sold for this specific use, it seems that this provision is unnecessary. If the intent is to allow the passing on of tax where there is no power purchase agreement, the second sentence should be clarified to reflect this intent. Further, the Department is uncertain as to whether at the time the distributor sells the coal the ultimate use of such coal is known.

Finally, the Department notes that administering this measure will require a change in forms and instructions, as well as efforts to educate taxpayers about the change in the law. The Department therefore requests that the bill be made effective after December 31, 2015, to allow time to implement these changes.

Thank you for the opportunity to provide comments.



HB1471 HD2
RELATING TO FUNDING OF GOVERNMENT PROGRAMS
Senate Committee on Energy and Environment
Senate Committee on Commerce and Consumer Protection

March 19, 2015

3:30 p.m.

Room 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1471 HD2, which will ensure continued funding for important government programs related to our state's energy and food security and self-sufficiency.

Historically, Hawai'i has been almost entirely dependent on one form of fossil fuel, petroleum, to meet its energy needs. As this measure notes, the state now utilizes a tax of \$1.05 on every imported barrel of petroleum product, in order to fund important programs relating to environmental protection and remediation, as well as to our energy and food security and self-sufficiency. As Hawai'i seeks to diversify its energy sources by seeking out other forms of non-petroleum fossil fuels, such as natural gas, revenues derived from taxing petroleum imports may decrease. As a result, financial support for these important programs may decline, notwithstanding the continued dependency on nonrenewable energy resources to meet our islands' energy needs.

Accordingly, this measure will ensure continued funding for programs dedicated to decreasing our reliance on fossil fuels and imported food, which should in the long-term reduce the rate of increase in our cost of living, provide greater stability to our local economy, and increase our islands' capacity to achieve food security and self-sufficiency in a changing climate. OHA notes that the proposed tax of \$0.19 per million British Thermal Units (BTUs) of imported, non-petroleum fossil fuels is on par with the tax-per-energy rate of the current \$1.05 tax on each barrel of petroleum, which contains approximately 5-6 million BTUs per barrel. This comparable rate will also ensure stability in revenue generation, even in the event of significant shifts between our nonrenewable energy sources.

Therefore, OHA urges the Committees to **PASS** HB1471 HD2. Mahalo nui loa for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Broaden and reallocate environmental response, energy, and food security tax

BILL NUMBER: HB 1471, HD-2

INTRODUCED BY: House Committee on Finance

EXECUTIVE SUMMARY: Initially, the 5 cents per barrel environmental response tax was established to address oil spills in state waters. It was temporarily increased to \$1.05, much of which was earmarked to numerous special funds, and was scheduled to sunset on 6/30/30. This measure subjects gaseous and non petroleum based fossil fuels to the tax, which is a tax increase of about 25%.

The tax has taken on a life of its own and lacks transparency, and the special funds it feeds do not come under close scrutiny by either lawmakers or the public. The barrel tax should be repealed and all programs funded out of the environmental response tax should be funded through the general fund.

In addition, lawmakers should consider that this tax is highly regressive, in that it has a disproportionate impact upon those struggling to get by.

BRIEF SUMMARY: Amends HRS section 243-3.5(a) to provide that the environmental response tax shall be imposed on each unit of fossil fuel, other than petroleum products, at the rate of \$0.19 on each one million British thermal units (BTUs) of fossil fuel; provided that: (1) ___% of the tax collected under this section shall be deposited into the energy security special fund; (2) ___% of the tax shall be deposited into the energy systems development special fund; and (3) ___% of the tax shall be deposited into the agricultural development and food security special fund. The tax shall not apply to coal used to fulfill a signed power purchase agreement between an independent power producer and an electric utility that is in effect as of June 30, 2015. Allows an independent power producer to pass the tax on to an electric utility, who, in turn, may recover the cost of the tax through a surcharge subject to the approval of the public utilities commission. Allows a gas utility to recover the cost of the tax as part of its fuel adjustment charge.

Defines “fossil fuel” as a hydrocarbon deposit, such as coal, natural gas, or liquefied natural gas, derived from the accumulated remains of ancient plants or animals and used for fuel; provided that the term specifically does not include petroleum products. (Petroleum products are already subject to this tax and will continue to be subject to the tax.)

EFFECTIVE DATE: July 1, 2015

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The collections of the tax were deposited into the environmental response revolving fund until such time the balance in the fund reached \$7 million at which time the imposition of tax was suspended until the balance in the fund declined to less than \$3 million, at which time the imposition would be reinstated.

The legislature by Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15. Act 107, SLH 2014, extended the sunset date of the \$1.05 environmental response, energy, and food security tax from 6/30/15 to 6/30/30. This measure would extend the environmental response tax to include gaseous and non petroleum fuels.

The environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection, food security, and natural resource protection programs, energy conservation and alternative energy development, air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

The basic problem with the barrel tax is that it lacks transparency, and because the funds are earmarked they do not come under close scrutiny by either lawmakers or the public. Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrite the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers are able to side step that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

To understand the magnitude of the increase being considered, consider that statistics from the U.S. Energy Information Administration (www.EIA.gov) tell us that Hawaii consumed 42.4 million barrels of oil in energy production in 2012. Multiply that by \$1.05 and we are talking about \$44.5 million in barrel tax. The same agency tells us that our total energy consumption in that same year was 280 trillion BTUs. This bill would impose the barrel tax on all fossil fuels at the rate of 19 cents per million BTUs consumed, meaning that if the bill passes we are looking at a total tax of \$53.2 million, an increase of about 25%.

In these times, power is a necessity for almost all families and businesses. A 2012 study by the American Coalition for Clean Coal Electricity (http://www.americaspower.org/sites/default/files/Energy_Cost_-_Impacts_2012_FINAL.pdf) tried to calculate how much in after-tax income goes to energy costs, including the electric bill and the cost of gas to drive the family car. For those with pretax income of less than \$10,000, the study concluded that over 75% of after-tax income went toward energy costs in 2012. For those making \$10,000 to \$30,000, the percentage dropped to 24%; it went to 17% for those making \$30,000 to \$50,000; and it was 9% for those making \$50,000 or more. These, of

course, were national averages. Hawaii households use far less power than those in other states because of our climate; in 2012 we had the fourth lowest per capita energy use in the nation. But on the other hand, our electricity prices were the highest in the nation. When considered together, these cost estimates can't be too far off as they apply to people in Hawaii. So: if we increase tax on power production, we know the tax increases will be passed on to the ratepayers, and guess who gets hit the hardest? If you, as a lawmaker, don't want to overtax the poor, jacking up the barrel tax absolutely is not going to get us there.

Digested 3/17/15



Directors

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Project Development
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Hawaii Gas

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
SENATE COMMITTEES ON ENERGY AND ENVIRONMENT AND
COMMERCE AND CONSUMER PROTECTION

HB 1471 HD2, RELATING TO FUNDING OF GOVERNMENT PROGRAMS

March 19, 2015

Chairs Gabbard and Baker, Vice-Chairs Green and Taniguchi and members of the Committees, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of HB 1471 are to (i) apply the state environmental response tax to fossil fuel other than petroleum product and bases the tax on one million British thermal units (MBTU); (ii) define "fossil fuel" to exclude petroleum product; (iii) exclude coal from the fossil fuel tax under certain conditions; (iv) authorize independent power producers to pass the fossil fuel tax on to the electric utilities; and (v) authorize the electric utilities to recover the cost of the fossil fuel tax through a surcharge.

HREA **supports** this measure.

Mahalo for this opportunity to testify.

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator Josh Green, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

HEARING DATE: Thursday, March 19, 2015

TIME: 3:30 p.m.

House Bill No. 1471 HD2 Relating to the Funding of Government Programs

Testimony of Jeff Walsh

President and General Manager of AES Hawaii, Inc.

Background

Chair Gabbard, and members of the Committee on Energy and Environment, and Chair Baker, and members of the Committee on Commerce and Consumer Protection, I am Jeff Walsh, President of AES Hawaii, Inc. ("AES Hawaii"), an independent power producer on Oahu producing electricity for Hawaiian Electric Company, Inc. ("HECO") using coal, among other recycled fuels such as tire-derived fuel, spent oil, and spent activated carbon to generate about 20% of island load at any time. In addition, AES Hawaii is currently permitted and capable of using up to 20% of renewable biomass to generate electricity, and is currently investigating the use of other recycled and renewable fuel to generate electricity.

AES Hawaii has provided safe, reliable and affordable power for the past 22 plus years. AES Hawaii has a Power Purchase Agreement to provide power to HECO, and is the lowest cost provider of energy to HECO on Oahu and in the State of Hawaii.

The AES Hawaii plant utilizes state of the art clean coal technology to effectively comply with all current federal and state environmental standards. Current emissions controls devices are as follows:

- Particulate removed by a fabric filter bag-houses which is the Best Available Control Technology or BACT.
- NOX control using "in-combustion" Selective Non Catalytic Reduction by injection of anhydrous ammonia.
- SOX control using in bed injection of locally mined limestone.

The AES Hawaii facility serves a critical service now and shall continue in the future to serve the citizens of Oahu. The plant provides by far the lowest cost energy on the island of Oahu under a long term contract with HECO. The energy pricing from this plant has provided stable and

predictable energy pricing as compared to the highly variable costs of generating electricity with fuel oil.

AES Hawaii is Oahu's most reliable power plant from plant inception in 1992 to present with an availability factor of approximately 97%. With wind typically operating at 40-60% capacity factors and solar at 16-20% capacity factors, the stability of AES Hawaii complements and facilitates Hawaii's goal of increasing renewable energy.

AES Hawaii, the single largest generator connected to the HECO system, also provides firm capacity to the electric grid and provides dispatchable power which is used to control frequency and voltage on the island grid. This plays a critical role in maintaining grid stability.

Comments

AES Hawaii supports the bill as amended as HB 1471 HD2, which was amended to revise Section 2 of the bill (which amends HRS § 243-3.5) as previously requested by AES Hawaii. Accordingly, AES Hawaii has no further objections and supports this version of the bill.

Thank you for the opportunity to present this testimony.



COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator Josh Green, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Thursday March 19, 2015 at 3:30 PM
Conference Room 225
State Capitol

**House Bill 1471 Relating to Energy
Testimony in Support**

Chairs Baker and Gabbard and Vice Chairs Green and Taniguchi, Hawaii Gas supports the bill in its current form and requests that the cost recovery language, “*d) A gas utility shall be allowed to recover the cost of the tax imposed under subsection (b) as part of its fuel cost in its fuel adjustment charge without further approval by the public utilities commission*” be retained to allow the utility to recover the tax from ratepayers as the electric utility now does.

Hawaii Gas sells the cleanest of all fossil fuel products throughout Hawaii, which emit some 30% to 50% less carbon dioxide than coal and oil. The direct use of gas energy also delivers three-times more energy to the end-user as compared to electricity. Gas energy is therefore in and of itself a tremendous source of energy efficiency for our State. In fact, in 2014, the direct use of synthetic natural gas (SNG) on the island of Oahu avoided the use of some 1,026,636 barrels of low sulfur fuel oil, which would have cost on average \$129,201,532.

If this bill becomes law, the State will increase its revenue by approximately \$1.2 million dollars per year to fund energy and food security programs and the General Fund. Hawaii Gas supports the State’s transition to a clean energy future and entrust our lawmakers to be good stewards of this new revenue generated by the hard working families and businesses in Hawaii.

Thank you for this opportunity.

Joseph Boivin, Jr.

From: mailinglist@capitol.hawaii.gov
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Subject: Submitted testimony for HB1471 on Mar 19, 2015 15:30PM
Date: Tuesday, March 17, 2015 3:22:23 PM

HB1471

Submitted on: 3/17/2015

Testimony for ENE/CPN on Mar 19, 2015 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Marcia Wright	Hawaiian Electric Company, Inc.	Oppose	No

Comments: Please see attached testimony

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
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Subject: *Submitted testimony for HB1471 on Mar 19, 2015 15:30PM*
Date: Tuesday, March 17, 2015 3:55:41 PM

HB1471

Submitted on: 3/17/2015

Testimony for ENE/CPN on Mar 19, 2015 15:30PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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