

**HB 1464**



P.O. Box 3000  
Honolulu, HI 96802-3000

April 1, 2009

Testimony on HB1464, HD3, SD1 Relating to Energy Resources

Aloha Chair Kim, Vice-Chair Tsutsui and members of the Senate Committee on Ways and Means:

My name is Stephanie Ackerman. I am the Vice President Public Policy and Communications for The Gas Company. Thank you for the opportunity to provide testimony on HB1464, HD3, SD1 Relating to Energy Resources. The Gas Company opposes HB 1464, HD3, SD1 in its current form and respectfully asks that this bill be held.

The Gas Company's comments are narrowed to Part VII of HB1464, HD3, SD1 which clarifies provisions of Act 204 (2008) related to solar water heaters. As you may recall, earlier this session, this committee and the full Senate passed out SB 390, SD2, which retained consumer options with respect to allowing a variance for gas-tankless water heaters in combination with another gas appliance, on par with the other statutory variances, as set forth in Section 196-6.5, Hawaii Revised Statutes. The retention of that option in SB 390, SD2, mirrors Act 204 (2008) as well as the language of HB 1464, HD3.

Act 204 (2008), as passed last year with the inclusion of energy efficient water heating systems, had broad-based support. This landmark legislation is a significant and positive step towards achieving the Legislature's vision of promoting energy security and while giving consumers options to pursue energy efficiency. We believe Act 204 (2008) should be given a chance to work.

The Gas Company respectfully requests that HB 1464, HD3, SD1 be held as it is contrary to the position taken by both this committee and the full Senate earlier this session. In the alternative, The Gas Company requests that language of HB 1464, HD3, SD1 be revised to strike the newly inserted language at p. 23, lines 4-5 to specifically remove:

"and the conditions for a variance as set forth in paragraphs (1) or (2) are met."

Thank you for allowing The Gas Company to present these comments on HB 1464, HD3, SD1.

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: INCOME, Renewable energy resources

BILL NUMBER: HB 1464, SD-1

INTRODUCED BY: Senate Committee on Energy and Environment

**BRIEF SUMMARY:** Amends HRS section 209E to replace the provision allowing a business engaged in producing electric power from wind energy to a public utility company for resale to the public with an expanded provision to include a business engaged in the development or production of fuels, thermal energy or electrical energy from renewable resources, including: (1) wind; (2) sun; (3) falling water; (4) biogas, including landfill and sewage-based digester gas; (5) geothermal; (6) ocean water, currents and waves including OTEC; (7) biomass, including biomass crops, agriculture and animal residues and wastes, and solid waste; (8) biofuels; and (9) hydrogen produced from renewable energy sources, as eligible to receive enterprise zone benefits.

Amends HRS section 235-12.5 to reorganize and regroup the renewable energy tax credits. Deletes the term "photovoltaic" and separates the solar energy systems into two types - one that uses the sun to heat water and the other that includes photovoltaic systems.

A taxpayer shall not be allowed to claim a credit under this section for a renewable energy technology system required by HRS section 196-6.5 that is installed and placed in service on any newly constructed residence authorized by a building permit issued on or after January 1, 2010. This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after July 1, 2009.

EFFECTIVE DATE: July 1, 2009

**STAFF COMMENTS:** The legislature by Act 160, SLH 2000, expanded the enterprise zone laws by revising the definition of qualified businesses to include businesses engaged in producing electric power from wind energy which is subsequently sold to a public utility for resale, making the business eligible for enterprise zone benefits. The proposed measure would further extend enterprise zone benefits to businesses engaged in the development or production of fuels or thermal energy or electrical energy from renewable resources. In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid for a period of seven years and also allows the sale of items sold by such businesses to be exempt from the general excise tax.

If it is the intent of the legislature to encourage new and existing businesses to expand their employment bases and increase their marketing territories, enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out specific areas of the state merely confers preferences for those businesses located within those geographic areas at the expense of all other taxpayers who are not so favored. It should be remembered that those taxpayers who live and work in

the zone will demand the same public services as those who are not as fortunate to be located in the zone. Who then will pay for these services?

Concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses. Enterprise zones are merely an abdication of government's responsibility to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need.

The proposed measure also restructures the renewable energy tax credits. It should be noted that because these systems are currently very expensive to purchase and install, only those taxpayers who have the means to make the conversion or installation will be able to claim the credit. Thus, those families at the lower end of the income scale will not benefit from either the credit or the cost savings to be realized from the device. Since the state still needs resources to provide services and programs, the burden of paying for those programs and services will be shifted to those taxpayers who cannot afford to acquire these devices.

As an alternative to the income tax credits, consideration should be given to a program of low-interest loans available to all income levels. The combination of a low-interest loan which can be repaid with energy savings would have a much more broad-base application than a credit which amounts to nothing more than a "free monetary handout" or subsidy by state government for those taxpayers who more than likely can afford to make the conversion. Such a pay-as-you go program was initiated by the Public Utilities Commission late last year with 600 available slots over the next three years. All of those slots were filled in a matter of months, demonstrating the need to help low-income homeowners make the shift to solar energy.

A plus in this measure is that it gets rid of the provision that denies the solar credit to a taxpayer who secures a building permit after January 1, 2010. This was an obvious error in Act 204, SLH 2008, as it took away the incentive for existing homeowners to install solar water heating after 2010.

Digested 4/1/09

**Testimony Before the Senate Committee  
On  
Ways and Means**

April 3, 2009 (9:45 a.m.)

**HB 1464, HD 3, SD 1 - RELATING TO ENERGY RESOURCES**

**By: Alan Hee  
Energy Services Department  
Hawaiian Electric Company, Inc.**

Chair Kim, Vice Chair Tsutsui and Members of the Committee:

My name is Alan Hee, and I represent Hawaiian Electric Company and its subsidiary utilities, Hawaii Electric Light Company and Maui Electric Company, hereinafter collectively referred to as "HECO". HECO supports the intent of HB 1464, HD 3, SD 1, but offers amendments on certain sections of the bill.

**Section 1**

As currently worded, HB 1464, HD 3, SD 1 would prohibit permitting of new public utility owned or operated dual-fuel covered sources or revision of a permit for an existing unit to allow operational changes which might burn more fossil fuel, even under conditions of limited biofuel availability. Until there are reliable, sustainable sources of biofuels, new and existing combustion units will need dual fuel capabilities. Biofuels are the fuel of preference, but if there are not enough biofuels for all the units, some may need to burn biofuel-fossil fuel mixes.

This language may lead to unintended consequences of: 1) the inability to integrate intermittent renewable resources into the system as quickly or efficiently as anticipated, and (2) the inability to provide energy security to military and other operations requiring the ability to operate 24/7 under emergency conditions. HECO therefore offers the following amendment to Section 1:

- On page 1, line 10: add the word "solely" between "electricity" and "from".
- On page 2, line 4: After "July 1, 2009", add "; provided that the permit for any such existing covered source that is permitted to burn both biofuels and fossil fuels may be modified to allow it to use more fossil fuels in the case of an emergency or a shortage of biofuels."

**Section 2**

We respectfully offer a few amendments on Renewable Portfolio Standards ("RPS"), where the bill proposes to modify the definition of "renewable electrical energy". Under the proposed change to section (2) of the definition, electrical energy savings would not count towards RPS starting on January 1, 2015. Those savings include "customer-sited, grid-connected renewable energy systems." Without clarification, this language could mean that generation of renewable energy using photovoltaic systems would no longer count toward RPS from 2015. Therefore, we suggest that the language be clarified as follows:

- On page 3, line 1, insert the following language after “savings”: “...brought about by the use of renewable displacement or off-set technologies, except those savings brought about by the use of customer-sited, grid-connected photovoltaic systems, shall not...”
- In addition, on page 3, line 12 we suggest the insertion of the following clarifying language to distinguish the reference to “electrical energy savings” in the new language in section (3) from its reference in section (2): “brought about by the use of energy efficiency technologies shall not ...”

### **Section 3**

For the same reasons cited in the amendments to Section 1 above, on page 6, line 7, insert the word “solely” between “uses” and “fossil”.

### **Section 11**

HECO supports this section and the development of an energy efficiency portfolio standard (EEPS), although we question the basis and the methodology used to determine the 4,300 GWH standard. An EEPS reflects the commitment of the state to energy efficiency and creates a yardstick against which we can measure our progress as a community towards energy independence.

HECO also supports giving the PUC the authority to adjust the 2030 standard to maximize cost-effective energy efficiency programs and technologies. It is the right agency to administer this standard because it has been involved in the utilities’ integrated resource planning and demand-side management programs for over 13 years.

### **Sections 13 & 14**

HECO supports the language of these sections, which clarifies provisions of Act 204, Session Laws of Hawaii 2008, with respect to the availability of tax credits for retrofit installations of solar water heater systems and the effort to strengthen solar water heating system quality assurance through the development of system standards. We believe the current language in HB 1464, HD 3, SD 1 truly reflects the Legislature’s intent of weaning our state off our dependency on fossil fuel when it passed Act 204. It also recognizes that solar water heaters may not be the optimal solution in all situations and allows variances due to poor solar resource or not being cost effective.

Thank you for the opportunity to testify on this measure.

**HAWAII RENEWABLE ENERGY ALLIANCE**

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TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII  
RENEWABLE ENERGY ALLIANCE BEFORE THE  
SENATE COMMITTEE ON WAYS AND MEANS

HB 1464 HD3 SD1, RELATING TO ENERGY RESOURCES

April 3, 2009

Chair Kim, Vice-Chair Tsutsui and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about Hawaii's energy future. HREA's 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 HREA's 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 purpose of 1464 HD3 SD1 is Provides for and encourages renewable energy use and development, and energy efficiency. HREA supports the **intent** of this bill with comments on and recommended amendments to the following sections (see the attachment):

- (1) Section 2 (RPS). The last sentence of item "(3)" should be deleted. Specifically, the phrase "customer-sited grid-connected photovoltaics is not referenced anywhere else in item "(3) and is confusing and not needed;
- (2) Sections 2 (RPS) and 11 (EEPS). HREA notes that elements of the RPS are deleted in Section 3, and we believe the intent is to include these elements in the EEPS. However, this intent is not expressed in the language of the bill. Also in Section 11, there is no indication as to which entity the public utilities commission shall make responsible for the EEPS. HREA recommends this responsibility be given to the Public Benefits Fund Administrator;
- (3) Section 11 (EEPS). HREA notes that "energy efficiency" is not defined and a proposed definition is included in the attachment, along with additional suggested language to clarify the transition of certain RPS elements to the EEPS; and
- (4) We support Sections 12 (Solar Water Heating System), 13 (Solar water heater system required for new single-family residential construction), 14 (Renewable energy technologies; income tax credit), and 15 (Solar water heater system standards).

Thank for this opportunity to testify.

**Excerpts from HB 1464 SD1**

SECTION 2. Section 269-91, Hawaii Revised Statutes, is amended by amending the definitions of "renewable electrical energy" and "renewable energy" to read as follows:

"Renewable electrical energy" means:

- (1) Electrical energy generated using renewable energy as the source;
- (2) Electrical energy savings brought about by the use of renewable displacement or off-set technologies, including solar water heating, sea-water air-conditioning district cooling systems, solar air-conditioning, and customer-sited, grid-connected renewable energy systems; provided that, beginning January 1, 2015, electrical energy savings shall not count toward renewable energy portfolio standards; or

[+](3) [+] Electrical energy savings brought about by the use of energy efficiency technologies, including heat pump water heating, ice storage, ratepayer-funded energy efficiency programs, and use of rejected heat from co-generation and combined heat and power systems, excluding fossil-fueled qualifying facilities that sell electricity to electric utility companies and central station power projects[-]; provided that beginning January 1, 2015, electrical energy savings shall not count toward renewable energy portfolio standards. ~~Beginning January 1, 2015, electrical energy savings shall not include customer-sited grid-connected photovoltaic systems.~~

Given this, the public utilities commission shall ensure that the electrical energy savings measures deleted above from the renewable energy portfolio standard are incorporated into an electrical energy savings portfolio standard as a companion to the renewable energy portfolio standard.

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SECTION 11. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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Excerpts from HB 1464 SD1

"§269- Energy efficiency portfolio standards. (a) The public utilities commission shall establish energy efficiency portfolio standards that will maximize cost-effective energy efficiency programs and technologies. Energy-efficiency measures shall include electrical energy savings brought about by the use of traditional energy efficiency technologies, including heat pump water heating, ice storage, ratepayer-funded energy efficiency programs, and use of rejected heat from co-generation and combined heat and power systems, excluding fossil-fueled qualifying facilities that sell electricity to electric utility companies and central station power projects.

(b) The energy efficiency portfolio standards shall be designed to achieve four thousand three hundred gigawatt hours of electricity use reductions statewide by 2030; provided that the commission shall establish interim goals for electricity use reduction to be achieved by 2015, 2020, and 2025, and may also adjust the 2030 standard by rule or order to maximize cost-effective energy efficiency programs and technologies.

~~(b)~~(c) The commission shall assign the responsibility for achievement of the energy-efficiency portfolio standards to the Public Benefits Fund Administrator. The Public Benefits Fund Administrator may elect to subcontract for certain energy-efficiency services via competitive bidding processes. In turn, the utility company and any of its subsidiaries may elect to respond to any solicitations from the Public Benefits Fund Administrator for energy-efficiency services.

~~(de)~~The commission shall establish incentives and penalties based on performance in achieving the energy efficiency portfolio standards by rule or order."

(e) The public utilities commission shall evaluate the energy-efficiency portfolio standard every five years, beginning in 2013, and may revise the standard, based on the best information available at the time, to determine if the energy-efficiency portfolio standard

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**Excerpts from HB 1464 SD1**

established by this section remains achievable. The commission shall report its findings and revisions to the energy-efficiency portfolio standard, based on its own studies and other information, to the legislature no later than twenty days before the convening of the regular session of 2014, and every five years thereafter.

(f) Beginning in 2015, in addition to traditional energy-efficiency measures, energy-efficiency measures shall also include shall count toward this standard: (i) electric energy savings brought about by the use of renewable displacement or off-set technologies, including solar water heating, seawater air conditioning district cooling, and solar air conditioning systems; and (ii) customer sited, grid connected, net metered renewable energy systems.

Comments to Senate Committee on  
Ways and Means

By Michael V. Yamane P.E.  
Engineering Manager  
Kauai Island Utility Cooperative  
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Friday, April 3, 2009, 9:45 a.m.  
Conference Room # 211

**House Bill No. 1464, HD3, S.D. 1 – Relating to Energy Resources.**

To the Honorable Donna Mercado Kim, Chair; Shan S. Tsutsui, Vice-Chair, and  
Members of the Committee:

Thank you for the opportunity to comment on this measure. My name is Mike Yamane, representing Kauai Island Utility Cooperative (KIUC). KIUC generally supports H.B. No. 1464, HD3, SD1, but is opposed to a particular provision of this bill – the fossil fuel generating facility prohibition - because it could negatively impact KIUC.

KIUC is the only electric cooperative in the State of Hawaii, and the only electric utility serving the people on the island of Kauai. Unlike the for-profit, investor-owned, and much larger utility companies in Hawaii, KIUC is member-owned, its shareholders and ratepayers being one in the same. KIUC members elect the Board of Directors through a democratic process and this Board, along with KIUC staff, develops KIUC's Strategic Plan.

KIUC'S Strategic Plan sets forth two priorities: (1) to generate at least 50% of our electricity from renewable energy sources by 2023, a goal that will lower KIUC's greenhouse gas emissions to 1990 levels; and (2) to commit to fair and equitable rates for reliable service. As evidenced by its priorities, KIUC is committed to breaking the State's dependence on foreign oil and to taking steps to protect our environment but KIUC also needs to ensure the viability of the cooperative for the sake of its members/customers. Thus, a balance has to be struck between what would otherwise appear to be competing interests to enable actual change over time to occur.

Section 1 of this bill contains a prohibition that could jeopardize that balance. This section would limit the ability of electric utilities to build new generators and/or modify existing generators that burn fossil-based fuels. As evidenced by testimony presented by the Department of Business and Economic Development, the intent of this ban is to disallow the building of new electric generation units that use *any* amount of fossil fuel. This means that units utilizing a combination of fuels, fossil and non-fossil, even if the percentage of non-fossil fuel significantly outweighs the amount of fossil fuel in the combination, would not be approved. This prohibition would not only limit KIUC's ability to provide affordable electricity to its members/customers but may also prevent KIUC from ensuring an adequate supply of that electricity.

KIUC respectfully requests that the language contained in Section 1 specify that the prohibition only applies to *solely* fossil fuel electric generation units and/or that the language be amended to provide for an exemption from the prohibition based upon the Public Utilities Commission determination of “extraordinary circumstances” - circumstances (1) that may have detrimental and adverse effects on the ratepayer or the viability of the public utility; (2) in which there is certainty as to the unavailability of renewable fuels, or (3) where fossil fuels are needed for start up generation<sup>1</sup>. These amendments would maintain the objective of limiting the building and modifying of generators dependent on fossil fuel but would also allow for flexibility to accommodate KIUC’s unique character to ensure continued, safe and reliable service to the people of Kauai.

*KIUC has already taken the steps to permit the use of biodiesel in each of its thirteen generating units. This places KIUC in an excellent position to move in the direction of its renewable goals when a cost effective sustainable source of biodiesel is contracted. This multi-fuel mix of fossil and renewable resources allows KIUC fuel flexibility to deal with fuel supply and economic changes that KIUC has no control over.*

Thank you for the opportunity to comment on this bill on behalf of KIUC.

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<sup>1</sup> This suggested amendment was derived in part from the language contained in S.B. 1671, S.D. 1, H.D. 2.