

**HB 451 HD1
RELATING TO FOSSIL FUELS**

LATE TESTIMONY

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ALEXANDER & BALDWIN, INC.**

FEBRUARY 20, 2013

Chair Luke and Members of the House Committee on Finance:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and its agricultural company Hawaiian Commercial & Sugar Company on HB 451 HD1, "A BILL FOR AN ACT RELATING TO FOSSIL FUELS."

Hawaiian Commercial & Sugar Company (HC&S) has been in operation for over 140 years and is Hawaii's last remaining sugar plantation. HC&S has approximately 36,000 acres in active sugar cane cultivation and employs about 800 Maui residents. While all of Hawaii's other sugar companies have shut down over the years, HC&S has been fortunate, through significant investments in our agricultural infrastructure and operations, to have sustained our operations and continue as a major employer in the State of Hawaii. Despite the current up tick in sugar prices, history has proven that commodity sugar prices will remain relatively flat, as they have over the last few decades, despite increasing production costs. Thus, HC&S has for a number of years been pursuing, and investing in, a transition from a primary producer of commodity sugar to the production of specialty sugar and renewable energy. In addition to being the main supplier of Sugar In The Raw, the little brown packets of sugar seen at

restaurants and coffee shops across the nation, HC&S is also expanding production and sales of our specialty Maui Brand Sugar.

This bill will impose the State environmental response, energy, and food security tax on solid fossil fuels. We understand that the environmental response tax on liquid fossil fuels was originally adopted for the purpose of establishing a reserve in the event of an oil spill that would affect Hawaii's ocean waters. A nexus was identified between the oil importers and the potential environmental impacts and remedial action that an oil spill may entail as the product is shipped into the State. We believe that similar environmental impacts and remedial action may not be applicable in the event of an inadvertent incident during the transportation of solid fossil fuels to Hawaii.

HC&S generates biomass produced renewable energy for its sugar milling, irrigation pumping, and other agricultural operations and provides renewable energy to Maui Electric Company (MECO) for Maui's residents and businesses. The source of fuel for this renewable energy is bagasse, which is the residual fiber of the sugar cane plant. Not only does HC&S generate approximately 6% of MECO's total electricity, HC&S is also a firm capacity power provider to MECO (i.e. committed power delivery, not on an 'as available' basis), and has played a significant role in the restoration of MECO's electrical service during power outages.

While HC&S's firm capacity renewable energy generating facilities are fueled primarily by sugar cane bagasse, there is a need for these facilities to periodically burn an amount of coal to maintain stable boiler operations (biomass fuel quality can vary depending on harvesting and mill operations), to remain in compliance with air emission regulations, and to meet firm capacity power commitments to MECO, particularly during

the three month off season maintenance period when the mill is not in operation and bagasse is not available.

This bill will impose a tax on the coal that HC&S uses to supplement its production of firm capacity renewable energy that is provided to MECO for use by the Maui community along with the renewable energy that is used for HC&S's agricultural operations. In that the purchase power agreement between HC&S and MECO does not provide for the pass through of any new taxes imposed upon our renewable energy operations, this bill may result in a direct increase in the overall costs for HC&S to produce firm capacity renewable energy for MECO and its agricultural operations.

With the State of Hawaii actively moving towards increasing the local production and use of renewable energy, we believe that a continued focus by the State to implement operational, financial, and tax policies that support and assist firm capacity renewable energy production will enhance the development and use of Hawaii's renewable energy resources and technologies. In that the present draft of this bill may result in the imposition of a tax on the local production of firm capacity renewable energy and increase the overall cost to produce this much needed renewable energy resource, we believe that this bill may create additional financial challenges in its production here in Hawaii.

We respectfully request your consideration to incorporate provisions into this bill to exclude from the State environmental response, energy, and food security tax, solid fossil fuels used by renewable energy production facilities in providing to a public utility, firm capacity renewable energy that primarily utilize non-fossil fuels to generate its firm

capacity renewable energy. We have attached proposed amendments for your consideration.

Thank you for the opportunity to testify.

HB 451 HD2 (Proposed)

RELATING TO FOSSIL FUELS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that imported natural gas and coal are fossil fuels with environmental and economic impacts equivalent to that of imported petroleum products. Under current law, increased importation of liquid natural gas or coal would decrease the revenue derived from the environmental response, energy, and food security tax on petroleum products while still causing similar effects on Hawaii's economy and environment. The purpose of this Act is to levy the environmental response, energy, and food security tax on all liquid, gaseous, and solid fossil fuels.

SECTION 2. Section 243-3.5, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) In addition to any other taxes provided by law, subject to the exemptions set forth in section 243-7, there is hereby imposed a state environmental response, energy, and food security tax on ~~[each barrel or fractional part of a barrel of petroleum product]~~ each barrel equivalent of liquid, gaseous, or solid fossil fuels having an energy content of 5,800,000 British Thermal Units sold by a distributor to any retail dealer or end user of [petroleum product,] fossil fuels, other than a refiner; **provided that this section shall not apply to solid fossil fuels utilized by an independent power producer that provides firm capacity power to a public utility whereby the annual heat input from non-fossil fuels of the firm capacity power generated by the independent power producer exceeds the annual heat input from fossil fuels.** The tax shall be \$1.05 on each barrel equivalent of liquid, gaseous, or solid fossil fuels having an energy content of 5,800,000 British Thermal Units or fractional part of a barrel equivalent of ~~[petroleum product]~~ liquid, gaseous, or solid fossil fuels that is not aviation fuel; provided that of the tax collected pursuant to this subsection:

- (1) 5 cents of the tax on each barrel equivalent shall be deposited into the environmental response revolving fund established under section 128D-2;
- (2) 15 cents of the tax on each barrel equivalent shall be deposited into the energy security special fund established under section 201-12.8;

- (3) 10 cents of the tax on each barrel equivalent shall be deposited into the energy systems development special fund established under section 304A-2169; and
- (4) 15 cents of the tax on each barrel equivalent shall be deposited into the agricultural development and food security special fund established under section 141-10.

The tax imposed by this subsection shall be paid by the distributor of the [~~petroleum product.~~] fossil fuel."

2. By amending subsection (d) to read:

"(d) Every distributor shall keep in the State and preserve for five years a record in such form as the department of taxation shall prescribe showing the total [~~number of barrels and the fractional part of barrels of petroleum product~~] amount, in British Thermal Units, of liquid, gaseous, or solid fossil fuels by type of liquid, gaseous, or solid fossil fuels sold by the distributor during any calendar month. The record shall show such other data and figures relevant to the enforcement and administration of this chapter as the department may require."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1, 2100, and shall be repealed on June 30, 2015; provided that section 243-3.5, Hawaii Revised Statutes, shall be reenacted in the form in which it read on June 30, 2010.



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LATE TESTIMONY

HOUSE COMMITTEE ON FINANCE

February 20, 2013, 2:00 P.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF HB 451, HD1 WITH PROPOSED AMENDMENTS

Aloha Chair Luke and Members of the Committee:

The Sierra Club, Hawaii Chapter, with over 10,000 dues paying members and supporters statewide, respectfully *supports* HB 451 HD1. This measure ensure fairness by applying the barrel tax to other forms of fossil fuels, rather than simply taxing one fuel source: oil. The bill is a smart and needed improvement to Hawaii's historic carbon tax and ensures we don't create a perverse incentive to favor one fossil fuel over another.

Having reviewed DBEDT's proposed amendments, we support the proposal to clarify this bill to include the definition of a barrel of oil for consistency and ease of administration.

We also support reallocating the barrel tax to its original purpose of supporting food and energy security. Making such an amendment provide additional funds to programs to offset the environmental impacts of oil, provide funding for energy efficiency projects and development of renewable energy, as well as spark greater amounts of local food development critical for Hawai'i's long-term future. These are long-term programs that require investment. This is understood by the public, as is demonstrated by polling show strong support for the original purpose of the barrel tax.

Mahalo for the opportunity to testify.