

STAND. COM. REP. NO. 1439

Honolulu, Hawaii

March 23, 2007

RE: S.B. No. 992
S.D. 1
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Energy & Environmental Protection, to which was referred S.B. No. 992, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ENERGY,"

begs leave to report as follows:

The purpose of this bill is to require the Department of Business, Economic Development, and Tourism to post, on the Department's website, a current list of applications for permits and licenses for hydroelectric projects in and around Hawaii waters.

Your Committee circulated for discussion a proposed House Draft 1 (H.D. 1) to impose a 1 cent per gallon fuel tax on liquid fuel, other than diesel oil, sold for use in electric power generation.

Your Committee received testimony in support of the proposed H.D. 1 from Hamakua Energy Partners L.P. and the Kauai Island Utility Cooperative. The Department of Health offered supporting oral testimony. The Department of Taxation and the Tax Foundation of Hawaii offered comments. The Life of the Land offered oral comments.

Your Committee finds that the wording of "liquid fuel, other than fuel mentioned in paragraph (1)" (meaning diesel fuel) in the proposed H.D. 1 is overly broad and could allow any fuel other

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than diesel to qualify for the 1 cent per gallon fuel tax in the future.

Your Committee further finds that language proposed by the industry, in coordination with the Department of Taxation, clarifies the Legislature's intent that naphtha, when used in power-generating facilities, such as in the Hamakua Energy Partners L.P. plant, be taxed at 1 cent per gallon under section 243-4, Hawaii Revised Statutes. Your Committee recognizes that if the full license tax under section 243-4, Hawaii Revised Statutes, were to be applied to naphtha, electricity consumers would suffer significant hardship and the Big Island may experience a potential increase in air emissions resulting from the substitution of other fuels for naphtha.

Accordingly, your Committee has amended the measure by deleting the contents of the Senate Draft 1 (S.D. 1) and replacing it with the proposed H.D. 1 and further amending the draft by:

- (1) Replacing the reference to "liquid fuel, other than fuel mentioned in paragraph (1)," with "naphtha" to more precisely clarify that only naphtha is subject to the 1 cent per gallon fuel tax;
- (2) Changing the reference from "electric power generation" to "power-generating facility";
- (3) Adding a new definition of "power-generating facility"; and
- (4) Making technical nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 992, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 992, S.D. 1, H.D. 1, and be referred to the Committee on Economic Development & Business Concerns.



Respectfully submitted on
behalf of the members of the
Committee on Energy &
Environmental Protection,

Mele Carroll

HERMINA MORITA, Chair



