

JAN 22 2008

A BILL FOR AN ACT

RELATING TO HYDROGEN FUEL.

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

1 SECTION 1. Hawaii aspires to be the nation's leader in the
2 use of native sources of renewable energy and technologies such
3 as solar panels and wind generators to produce clean energy.
4 Fuel cells are an important part of the greater portfolio of
5 renewable energy technologies that can serve as both an energy
6 storage device and a source of power generation. Fuel cells are
7 highly efficient, reliable, and commercially available today.

8 The utilization of fuel cells is important for building an
9 infrastructure in a broader hydrogen economy. A hydrogen
10 economy is not distinct from other renewable energy technologies
11 such as wind and solar, but to the contrary, it is
12 complementary. Hydrogen can be generated by electrolyzing water
13 with low-cost, off-peak electricity, or with electricity
14 obtained from renewable sources such as solar, wind, or biomass.
15 This makes fuel cell systems both environmentally friendly and
16 highly efficient.

17 Fuel cells also provide emergency backup power and support
18 for critical infrastructural components. The legislature



1 recognizes the need for backup power for emergency management
2 and the overall safety of the general public.

3 Federal regulations will likely require telecommunications
4 companies to provide eight hours of backup power at cell tower
5 sites. The State has over one million mobile wireless telephone
6 subscribers who depend upon the telecommunications
7 infrastructure for communication in the event of a natural
8 disaster or other emergency. The State should ensure that any
9 mandates for providing backup power consider the dependence on,
10 and expense of fossil fuels and the impact on our greatest
11 asset - our natural resources.

12 As hydrogen-fueled vehicles are marketed, there is a need
13 to establish a hydrogen fuel infrastructure. Currently, fuel
14 cells are replacing lead-acid batteries in lift trucks at
15 warehouses and distribution centers. Industrial users are
16 finding these fuel cells to be cleaner, more efficient, and cost
17 effective. These vehicles and their accompanying fueling
18 infrastructure are predecessors for automotive fuel cells,
19 fleets of which are now being deployed on the mainland.

20 This Act provides the base for establishing an
21 infrastructure to replace polluting technologies such as
22 combustion engines, lead-acid batteries, and diesel generators



1 with ultra-clean, efficient fuel cells. This infrastructure
2 will form the foundation for a hydrogen economy in Hawaii and
3 help mitigate risks of the current emergency power situation.

4 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§235- Hydrogen fuel tax credit. (a) There shall be
8 allowed to each individual or corporate taxpayer who is not
9 claimed, or is not otherwise eligible to be claimed as a
10 dependent by another taxpayer for federal or state income tax
11 purposes a hydrogen fuel tax credit that shall be deductible
12 from the taxpayer's net income tax liability imposed by this
13 chapter for the taxable year in which the tax credit is properly
14 claimed.

15 (b) To qualify for the tax credit, the taxpayer shall be
16 in compliance with all applicable federal, state, and county
17 statutes, rules, and regulations.

18 The amount of the tax credit shall be equal to:

19 (1) Thirty-five per cent of all capital, operation,
20 maintenance, or leasing costs related to investments
21 in hydrogen-powered vehicles and hydrogen vehicle
22 fueling stations in the State, including but not



1 limited to the costs of constructing, installing, and
2 equipping hydrogen fuel technologies; provided that
3 the total amount of tax credits paid to all taxpayers
4 per year under this paragraph shall not exceed
5 \$ _____ ; and
6 (2) Thirty-five per cent of all capital, operation,
7 maintenance, and leasing costs related to an
8 investment in commercial stationary hydrogen fuel
9 cells in the State, including but not limited to the
10 costs of constructing, installing, and equipping these
11 technologies in the State; provided that the total
12 amount of tax credits paid to all taxpayers per year
13 under this paragraph shall not exceed \$ _____ ;
14 provided further that the tax credit per _____ fuel cell
15 shall not exceed \$12,000 per taxpayer.

16 (c) For the purposes of this section:
17 "Corporation" means a general partnership, limited
18 partnership, limited liability company, unincorporated business,
19 or other business entity in which a taxpayer owns an interest
20 that is taxed as a partnership or is disregarded as a separate
21 entity from the taxpayer for tax purposes.



1 "Fuel cell property" includes hydrogen fuel cell equipment
2 using hydrogen or a hydrogen-rich fuel in an electrochemical
3 process to generate energy, electricity, or the transfer of
4 heat.

5 "Hydrogen fuel cells" means equipment using hydrogen or a
6 hydrogen rich fuel in an electrochemical process to generate
7 energy, electricity, or the transfer of heat.

8 (d) In the case of fuel cell property that serves a
9 single-family dwelling, the tax credit shall be taken in the
10 taxable year in which the property is placed in service. For
11 all other fuel cell property, the tax credit shall be taken in
12 five equal installments beginning with the taxable year in which
13 the property is placed in service.

14 (e) If in one of the years in which the installment of a
15 tax credit accrues, the fuel cell property with respect to which
16 the credit was claimed is disposed of, taken out of service, or
17 moved out of State, the tax credit shall expire and the taxpayer
18 shall not take any remaining installment of the credit.

19 (f) No credit is allowed under this section to the extent
20 the cost of the fuel cell property was provided by public funds.

21 (g) Any corporation or subsequent transferee allowed the
22 tax credit, may transfer the tax credit, in whole or in part, to



1 any taxpayer by written agreement, without the requirement of
2 transferring any ownership interest in the property generating
3 the tax credit or any interest in the entity that owns the
4 property.

5 Transferees are entitled to apply the credits against the
6 tax with the same effect as if the transferee had incurred the
7 eligible costs.

8 To perfect the transfer, the transferor shall provide a
9 written transfer statement providing notice of the assignor's
10 intent to transfer the tax credits to the assignee. The
11 statement shall include the:

- 12 (1) Date the transfer is effective;
13 (2) Assignee's name, address, federal taxpayer
14 identification number, and tax period; and
15 (3) Amount of tax credits to be transferred.

16 The department shall issue, upon receipt of a transfer
17 statement conforming to the requirements of this section, a
18 certificate to the assignee reflecting the tax credit amounts
19 transferred, a copy of which shall be attached to each tax
20 return by an assignee claiming the tax credits.

21 Tax credits derived by entities treated as corporations
22 under this section that are not transferred by the entities to



1 other taxpayers under this subsection shall be passed through to
2 the taxpayers designated as partners, members, or owners,
3 respectively, in any manner agreed to by the persons, whether or
4 not the persons are allocated or allowed any portion of the
5 federal energy tax credit with respect to eligible costs.

6 (h) If the tax credit allowed under this section exceeds
7 the taxpayer's net income tax liability, the excess of credit
8 over liability shall be refunded to the taxpayer; provided that
9 no refunds or payment on account of the tax credit allowed by
10 this section shall be made for amounts less than \$1.

11 All claims for tax credits under this section, including
12 any amended claims, shall be filed on or before the end of the
13 twelfth month following the close of the taxable year for which
14 the credits may be claimed. Failure to comply with the
15 foregoing provision shall constitute a waiver of the right to
16 claim the credit.

17 (i) The director of taxation:

18 (1) Shall prepare forms as may be necessary to claim a tax
19 credit under this section;

20 (2) May require proof of the claim for the tax credit; and



1 (3) May adopt rules pursuant to chapter 91 to effectuate
2 the purposes of this section; including provisions
3 with respect to:

4 (A) Establishing entitlement to the tax credit;

5 (B) Transferring of the tax credit; and

6 (C) Pass-through of the tax credit to a legal owner,
7 member, or partner."

8 SECTION 3. Chapter 237, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§237- Exemption for hydrogen powered vehicles. (a) In
12 addition to any other applicable exemption provided under this
13 chapter, there shall be exempted from the measure of taxes
14 imposed by this chapter, all of the value or gross income
15 derived from the sale of:

16 (1) Hydrogen powered vehicles;

17 (2) Materials or parts incorporated into hydrogen powered
18 vehicles; and

19 (3) Hydrogen fuel;

20 provided that the amount of the exemption shall not exceed

21 \$ _____ in total annually.



1 (b) There shall be exempted from the measure of taxes
2 imposed by this chapter, all of the value or gross income
3 derived from the sale of commercial and residential stationary
4 hydrogen fuel cells; provided that the amount of the exemption
5 under this subsection shall not exceed \$ in total
6 annually.

7 (c) For the purposes of this section, "hydrogen fuel
8 cells" means equipment using hydrogen or a hydrogen rich fuel in
9 an electrochemical process to generate energy, electricity, or
10 the transfer of heat."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval
13 and shall apply to taxable years beginning after December 31,
14 2007.

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INTRODUCED BY: Card Fukunaga



Report Title:

Hydrogen Fuel; Tax Credit; General Excise Tax Exemption

Description:

Provides a tax credit and general excise tax exemption for the hydrogen fuel industry.

