

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

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CONSERVATION AND RESOURCES ENFORCEMENT
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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TESTIMONY OF THE CHAIRPERSON
OF THE BOARD OF LAND AND NATURAL RESOURCES

On House Bill 2893 – Relating to Intra-County Ferry Service

BEFORE THE HOUSE COMMITTEES ON
TRANSPORTATION
AND
WATER, LAND, OCEAN RESOURCES, AND HAWAIIAN AFFAIRS

House Bill 2893 proposes to provide priority assignment of mooring space for a new ferry route from Maalaea Small Boat Harbor to Lahaina Small Boat Harbor, and provide an exemption from the fuel tax for fuel purchases for ferry service. The Department of Land and Natural Resources (Department) comments are limited to SECTION 2 of this bill as it pertains to assigning priority mooring space to any intra-county ferry service, and defers to the Department of Taxation for comment on the portion of the bill that pertains to exemption from the fuel tax for fuel purchase for the ferry service. The Department does not support SECTION 2.

The Department's Division of Boating and Ocean Recreation (DOBOR) has had conversations with the current ferry service operator and has explained that once the ferry improvements are completed at the Maalaea Small Boat Harbor they will reassess whether additional mooring space is available at the end of the mole where the current ferry terminal is located. Should mooring space be available, DOBOR would be willing to offer mooring at the ferry terminal for authorized ferry vessels. A concern DOBOR has is that if they are required to provide mooring space for all ferry operators then existing tenants of the harbor may have to be asked to vacate in order to accommodate the additional vessels.

Also, due to ongoing construction, vessels are being relocated throughout the harbor and this will continue until construction is completed resulting in very limited mooring space. When mooring space does become available it is offered to the first qualified applicant on the wait list according to the Department's administrative rules. Currently, applicants on the wait list for the Maalaea Small Boat Harbor have been waiting for over ten years for mooring space and we feel that giving preferential treatment to a new commercial operation would not be fair to those who have been on the wait list for years.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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**HOUSE COMMITTEE ON TRANSPORTATION AND
WATER LAND & HAWAIIAN AFFAIRS**

**TESTIMONY REGARDING HB 2893
RELATING TO INTRA-COUNTY FERRY SERVICE**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUAR 4, 2008

TIME: 9:00AM

ROOM: 309

This legislation, among other things, provides a fuel tax exemption for fuel sold to an intra-county ferry service.

The Department of Taxation (Department) takes **no position** on this legislation and **provides technical comments**.

I. THE DEPARTMENT FINDS TRANSPORTATION ALTERNATIVES ARE IMPORTANT.

The Department recognizes the transportation infrastructure limitations currently experienced in Maui County. Providing additional transportation methods is an issue worth pursuing.

II. THE FUEL TAX EXEMPTION SHOULD BE AMENDED.

The Department has concerns over the current drafting of this bill. The current mechanics of this bill are counterintuitive and it does not make sense to include an exemption section within the assessment section of the license tax. The exemption for an intra-county ferry service should be included within the current exemption section provided at HRS § 243-7. The bill should be amended to read:

"§243-7 Tax not applicable, when. (a) This chapter requiring the payment of license fees shall not be held or construed to apply to fuel imported into the State in interstate or foreign commerce while and so long as such fuel is beyond the taxing power of the State, nor to any such fuel exported or sold to the government of the United States or any department thereof for official use of the government, nor to any

fuel exported or sold to another licensed distributor; but every distributor shall be required to report such imports, exports, and sales as provided by this chapter and in such detail as the department of taxation shall require.

(b) This chapter shall also not apply to the sale of liquid fuel sold or used in the State for ultimate use by an intra-county ferry service that serves a county with a population of less than five hundred thousand residents and that includes at least three islands inhabited by permanent residents."

III. REVENUE ESTIMATE

This legislation will result in a revenue loss to the Highway Fund of approximately \$21,200, starting FY2009.

TAXBILLSERVICE

536,4587
120 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel.

SUBJECT: FUEL, Exempt intra-county ferry service

BILL NUMBER: SB 2816; HB 2893 (Identical)

INTRODUCED BY: SB by Baker, English, Tsutsui; HB by McKelvey, Awana, Carroll, Morita

BRIEF SUMMARY: Amends HRS section 243-4 to provide that the fuel tax shall not be imposed on the sale of liquid fuel used by an intra-county ferry service that serves a county with a population of less than 500,000 residents and includes at least three islands inhabited by permanent residents.

Makes a nontax amendment that directs the department of land and natural resources to assign priority moori space to any intra-county ferry service as delineated.

The amendments made to HRS section 243-4 by this act shall not be repealed when that section is repealed and reenacted on December 31, 2009 by Act 103, SLH 2007.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS: While this measure proposes a fuel tax exemption on fuel sold to an intra-island ferry operating between Lanai and Maui, it is questionable whether the proposed exemption alone will reduce the price of its operations to make it possible to operate on a regular basis. On the other hand, one has to question the precedent this proposal sets and begs a response for other intra-island modes of transportation.

Digested 1/29/08

nishimoto2-Bryce

From: Monica.J.Flinders@hawaii.gov
Sent: Friday, February 01, 2008 3:57 PM
To: TRNtestimony
Subject: HB 2893

We are in support of HB 2893. The ferry provides a necessary service to Maui County at an affordable price. The bill would allow for a slip in Maalaea Harbor which would result in a more reliable service between Maui and Lanai. This Maalaea service will provide additional travel options for Lanai residents, commuting workers, and visitors. Creating more transportation options will also have a positive effect on traffic congestion between central and west Maui. In addition an exemption from fuel tax would allow the service to continue without raising prices.

D.L.N.R. Boating
Lahaina Harbor Staff
Hal Silva
Brian Smith
Monica Flinders

nishimoto2-Bryce

From: Makaala Kaaumoana [makaala@hawaiian.net]

Sent: Sunday, February 03, 2008 6:19 AM

To: TRNtestimony

Subject: Testimony against HB2893

Hearing:

DATE: Monday, February 4, 2008

TIME: 9:00 am

PLACE: Conference Room 309
State Capitol
415 South Beretania Street

Testimony against HB2893

Aloha Chairs Souki and Ito;

I testify against this bill on behalf of my family and community. We are concerned about the misplaced priority this proposed legislation would apply to the transport of tourists and local visitors over products of sustenance. I do not support any "special interest" exemptions for this purpose.

Me ka pono,

Makaala Kaaumoana

Maka'ala Ka'aumoana

Community Advocate

P.O.Box 1205

Kilauea, HI 96754

808-828-1205

808-346-5458

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nishimoto2-Bryce

From: Mark at Island Star [mark@islandstarexcursions.com]
Sent: Sunday, February 03, 2008 8:59 AM
To: TRNtestimony
Subject: HB2893/HB3273

Committee on transportation

I support HB2893. It will insure the ability of a ferry service to better follow a timely schedule.

I especially support HB3273. This should have been done years ago. It will free up the court system as well as give the defendant a chance to just pay a fine and not waste his/her time. As well as save valuable court time and expense.

Respectfully,
Wm Mark Robinson
Maui resident