

LINDA LINGLE
Governor



SANDRA LEE KUNIMOTO
Chairperson, Board of Agriculture

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State of Hawaii
DEPARTMENT OF AGRICULTURE
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TESTIMONY OF SANDRA LEE KUNIMOTO
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE HOUSE COMMITTEE ON FINANCE
WEDNESDAY, FEBRUARY 27, 2008
11:00 a.m.
Room 308

HOUSE BILL 3410, HOUSE DRAFT 1
RELATING TO BIODIESEL

Chairperson Oshiro, Vice-Chair Lee and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 3410, House Draft 1. We offer the following comments and concerns. The Department of Agriculture is opposed to Part II of this measure that directs the Department of Agriculture to purchase biodiesel feedstock and biodiesel fuel, and to determine its use. Our reasons include the following:

1. The purchase and use of biodiesel feedstock and fuel shall be left to the market, in other words, the processors, distributors, retailers, and consumers; stimulating demand through incentives or requirements for use of locally produced biodiesel is a better strategy than having this government buy it.
2. The Department has neither the personnel nor the funds to administer the energy feedstock program; and
3. The Department would require an unknown amount of funds to purchase and store biodiesel feedstock and fuels.

This bill has three other incentives to be offered by State government to stimulate the development of biodiesel feedstock production and processing of biodiesel fuels in Hawaii:

1. The Department of Land and Natural Resources is to offer State-owned agricultural lands to biofuel feedstock growers by direct negotiation rather than public auction;
2. The State is to give preference to locally-grown and processed biodiesel blends to fuel its diesel powered vehicles; and
3. Excludes from taxable income the gains to owners of leasehold properties who sell for fee, and to processors for crushing oil seed.

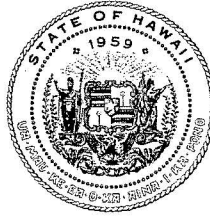
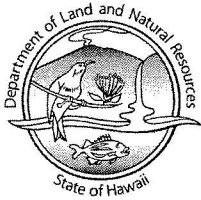
While the Department of Agriculture believes these incentives have merit, we believe it would be better that these incentives be reconsidered upon the completion of the comprehensive renewable biofuels planning framework presently being developed by the Department of Business, Economic Development, and Tourism (DBEDT), pursuant to Act 253 that was passed by the 2007 Legislature. In accordance with Act 253, DBEDT is undertaking a bioenergy master plan that will include a Hawaii renewable biofuels program to manage the State's transition to energy self-sufficiency based in part on biofuels for power generation and transportation. The components of the plan include establishing strategic partnerships for the research, development, testing, and deployment of renewable biofuels technologies and production of biomass crops; evaluation of Hawaii's potential to rely on biofuels as a significant renewable energy resource; supporting biofuels demonstration projects, including infrastructure for production, storage, and transportation of biofuels; promoting Hawaii's renewable biofuels resources to potential partners and investors for development in Hawaii as well as for export purposes; and developing a plan or roadmap to implement commercially viable biofuels development.

We believe that biofuel and food production deserve to be treated as equally important so the same consideration the board is authorized to give biofuels for nominal lease rents and by negotiation should also be afforded to food crops.

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LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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

On House Bill 3410, House Draft 1- RELATING TO BIODIESEL

**BEFORE THE HOUSE COMMITTEE ON
FINANCE**

February 27, 2008

House Bill 3410, House Draft 1 provides various market stimulation incentives for the development of biodiesel, including making state agricultural lands available for biodiesel fuel crops; establishing a state biodiesel feedstock crop and biodiesel fuel purchasing program; and creating tax exemptions for biomass crushing facilities and lands used for biodiesel feedstock crops. The Department of Land and Natural Resources (Department) supports the intent of this legislation but prefers that the Legislature continue to pursue passage of House Bill 3179, a similar measure proposed by the Administration that amends the definition of "renewable energy producer" to include growers and producers of organic materials used primarily for the production of biofuels or other fuels, so that they will be eligible for direct leases of public land.

LINDA LINGLE
GOVERNOR

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HOUSE COMMITTEES ON FINANCE

TESTIMONY REGARDING HB 3410 HD 1 RELATING TO BIODIESEL

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

DATE: FEBRUARY 27, 2008

TIME: 11:00AM

ROOM: 308

This legislation, among other things, provides various incentives to encourage the biodiesel industry in Hawaii, including amendments to Section 235-7, Hawaii Revised Statutes, to provide an income tax exemption for income derived from the operation of an oil seed crushing facility.

The Committees on Energy & Environmental Protection, Water, Land, Ocean Resources & Hawaiian Affairs, and Agriculture, amended the measure in various ways, including eliminating the real property tax exemption and by clarifying definitions for the income tax exclusion.

The Department of Taxation (Department) has no position on this legislation at this time, as all prior technical concerns were addressed. However, the Department points out that this legislation has not been factored into the Executive Budget and is outside the executive priorities for tax relief this legislation session.

This bill will result in an indeterminate revenue loss.

L E G I S L A T I V E

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Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Exclusion for oil seed crushing facility for biodiesel

BILL NUMBER: HB 3410, HD-1

INTRODUCED BY: House Committees on Energy & Environmental Protection and Water, Land, Ocean Resources & Hawaiian Affairs and Agriculture

STAFF COMMENTS: Amends HRS section 235-7 to exclude from state income taxation 100% of the amounts derived from an oil seed crushing facility that processes oil seed produced or grown in the state for biodiesel production in the state.

Makes other amendments relating to establishing incentives for the production of biodiesel in the state.

The amendments made to HRS chapter 237 by this act shall not be repealed when that section is reenacted on January 1, 2013 pursuant to Act 166, SLH 2007.

EFFECTIVE DATE: July 1, 2008

STAFF COMMENTS: This measure proposes an incentive to encourage the production of biodiesel in the state in the form of an income tax exclusion for an oil seed crushing facility which is used to produce the biomass necessary to produce biodiesel.

It should be noted that the use of the tax system to provide financial assistance in the form of an income tax exclusion is an inefficient use of the tax system. This exclusion amounts to nothing more than a subsidy as there is no obvious undue burden of taxes. If one project is blessed with a preferential tax treatment, why shouldn't the next proposal be just as serious a consideration? As such, project specific tax credit proposals violate the integrity of the tax system, setting a precedent with bad tax policy.

Again it should be noted that this measure proposes an exclusion of income from the net income tax. It should be remembered, companies only pay taxes when they make a profit, that is income is greater than expenditures. As such, this bill rewards a company for making profits while all other businesses that make profits must pay the income tax. If this operation were not profitable, then income tax would not apply. It would only seem fair that some of the profits made by the company go to pay for the public services provided to that business and its employees. Further, it should be noted that by exempting the business from the state income tax on its profits, it exposes more of those profits to the federal income tax where the rates are much higher. Thus, in the end, this exemption would end up sending more tax dollars to Washington while leaving Hawaii empty handed.

It should be remembered that giving tax breaks to one select group of taxpayers comes at the expense of all other taxpayers. As such, it is an insult to all other taxpayers that they are not deserving of such tax preferences. Rather than singling out a particular area for tax relief, concurrent efforts must be made to improve Hawaii's business climate to enhance the economic prospects for all businesses.

HB 3410, HD-1 - Continued

If lawmakers want to subsidize this specific project, then an appropriation of funds is far more accountable as taxpayers will then know who is to receive the subsidy, how much is being spent and then they can then judge whether or not this is an appropriate use of state taxpayer dollars.

Finally, as we are all learning the efficacy of using biomass fuels has now been brought into question where some studies show that the road to the production and use of biomass could produce far more greenhouse gases than biomass purportedly saves. Granting tax breaks to technologies that have yet to be proven to be beneficial is like handing out good grades for homework poorly done.

Digested 2/26/08

Testimony before the House Committee on

Finance

H.B. 3410 HD1 – Relating to Biodiesel

**Wednesday, February 27, 2008
11:00 am, Conference Room 308**

**By Arthur Seki
Director of Technology
Hawaiian Electric Company, Inc.**

Chair Oshiro, Vice-Chair Lee and Members of the Committee:

My name is Arthur Seki – I am the Director of Technology in the Energy Solutions & Technology Department at Hawaiian Electric Company. I am testifying on behalf of Hawaiian Electric Company (HECO) and its subsidiary utilities, Maui Electric Company (MECO) and Hawaii Electric Light Company (HELCO), hereby referred to collectively as the HECO Utilities.

We support H.B. 3410 HD1 that would provide incentives for biodiesel development in Hawaii.

As you may know, HECO Utilities are committed to exploring and using biofuels in its existing and planned generating units. The use of biofuels can reduce the State's dependence on imported oil and increase the amount of renewable energy from sustainable resources. This commitment by the HECO Utilities is demonstrated by the following initiatives:

- HECO's next power plant (100 MW) on Oahu (located at Campbell Industrial Park) will be 100% biofueled;
- MECO tested biodiesel in its diesel engines and combustion turbine at Maalaea power plant and will conduct further tests;

- HECO and MECO are partnering with BlueEarth Biofuels to build a 40 million gallon per year biodiesel production plant on Maui;
- HECO is developing test plans for a biofuel blend demonstration in a steam boiler generating unit on Oahu;
- HELCO will be testing biodiesel blends in a diesel engine on the Big Island;
- MECO will be testing glycerin (biodiesel by-product) in a Kahului steam boiler on Maui;
- HECO is providing seed funding to the Hawaii Agriculture Research Center (HARC) and the agriculture departments at the University of Hawaii's Manoa and Hilo campuses to conduct biofuel crop research; and
- HECO is examining micro-algae biofuel development that could use carbon dioxide from our power plant stacks.

In conclusion, HECO Utilities support H.B. 3410 HD1 as a way to stimulate the development of locally produced biofuels.

Thank you for the opportunity to present this testimony.



Committee On Finance

**House of Representatives
February 27, 2008
Agenda #2**

House Bill 3410, HD1 (in support with suggested amendment)

Chair Oshiro, Vice Chair Lee and members of the Committee, my name is David Leonard and I am the chief operating officer of Imperium Renewables Hawaii LLC. Imperium Renewables is a leading producer of environmentally-friendly biodiesel fuel and operates the nation's largest biodiesel processing facility in Washington State.

In Hawaii, Imperium has been making exciting progress in building a major biodiesel production facility at Kalaeloa Barbers Point Harbor. This facility will make a significant contribution to Hawaii's renewable, sustainable and independent energy future, and we are committed to utilizing local feedstock when and where it is feasible. To that end, we have already invested substantial time, effort and funds in research on algae and plants that may be suitable for production in Hawaii.

Imperium Renewables supports this bill but requests amendments to the definitions of "biodiesel" in Sections 1 and 4, and "oil seed crushing facility" in the last paragraph of Section 4.

With respect to the definition of biodiesel, we ask that the Committee adopt language which is a more standard industry definition of biodiesel and which has been recommended by the National Biodiesel Board. That definition is as follows:

"Biodiesel" means a fuel composed of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of ASTM (American Society for Testing & Materials) D6751.

The current language excludes oil seed crushing facilities that are integrated with a biodiesel production facility from a tax exemption provided to other functions associated with biodiesel production. This distinction is not consistent with current market models and may limit the progress of developing indigenous feedstock. We recommend that the last phrase in section 4 ("and may not be integrated with a biodiesel production facility") be deleted.

Biodiesel is a clean-burning alternative fuel made from oils derived from farm crops, and can be used in any conventional diesel engine. It can be used in pure form (100% biodiesel) or in a "blended" form, in which it replaces a percentage of petroleum diesel. A U.S. Department of Energy study determined that biodiesel reduces carbon dioxide emissions by more than 50%, compared to petroleum diesel. Imperium's high quality fuel meets or exceeds ASTM D-6751 specifications.

Thank you for the opportunity to testify.