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SENATE COMMITTEE ON WAYS & MEANS

TESTIMONY REGARDING SB 2932 SD 2
RELATING TO ENVIRONMENTAL RESPONSE TAX

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 27, 2008
TIME: 10:30AM
ROOM: 211

This bill increases the State Environmental Response Tax per barrel of petroleum product.

The Senate Committee on Energy & Environment amended the bill by defecting its effective date. The Senate Committee on Economic Development & Taxation amended the measure by unspecifying the tax amount.

The Department has **<u>no comments</u>** on this legislation.

Because the tax rates are unspecified, there is no revenue impact to general fund. Assuming the bill is effective January 1, 2009, and assuming further the following rates are inserted, these results are possible:

New Tax Rate per Barrel	Increase in annual revenue, Environmental Response Revolving Fund (starting in FY2010).
$0.10	$1.7 million
$0.15	$3.5 million
$0.20	$5.3 million
$0.25	$7.0 million

Current receipts on the 5-cent per barrel tax are $1.74 million. Increasing the tax an additional 20-cents will raise the receipts by $1.74 million x 4 = $7.0 million. This is interpolated for other tax rates.

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THEODORE E. LIU
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DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS
Wednesday, February 27, 2008
10:30 AM
State Capitol, Conference Room 211

in consideration of

SB 2932 SD2
RELATING TO ENVIRONMENTAL RESPONSE TAX.

Chair Baker, Vice Chair Tsutsui, and Members of the Committee.

Senate Bill No. 2932 SD2, Relating to Environmental Response Tax, increases the environmental response tax to provide funding for energy conservation and alternative energy development, global warming initiatives, and other programs pursuant to Chapter 128D, Hawaii Revised Statutes. The bill includes an unspecified amount for the increase in the Environmental Response Tax to fund these objectives.

There have been many good ideas introduced this legislative session that support the State's energy and economic development goals. We defer, however, to the Department of Tax and the Department of Budget and Finance on the fiscal impact of this legislation.

Over the last five years, the annual budgeted General Fund appropriation to the State's energy program has averaged about $1.2 million. I would say this amount of funding is disproportionate compared to the broad role and responsibilities of the energy program. As you know, over the past several years, legislative measures have increased the scope and breadth of activity in Hawaii's energy sector. Federal funding has supported the state's energy program at a level twice of the annual state general fund funding, via the federal State Energy Program and competitive grant funding. As the result, two-thirds of the state energy program's staff is federally funded. Federal funding sources are diminishing, and are expected to be practically exhausted within the next 3 to 4 years.

The newly created federal partnership with the State of Hawaii, the Clean Energy Initiative, will bring new sources of funding to energy initiatives in Hawaii, but these will be program-focused, and not designed to replace the federal State Energy Program (SEP) funding that is expiring. Moreover, the partnership will require state matching funds to conduct important work in support of the state's goals for energy security. These opportunities will require staff support and may increase the pressure on limited existing resources.

While the structure of the State's energy program is fairly stable and resilient, the resources that the program has existed on to date are coming to an end, and new sources of funding need to be identified.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR OF HAWAII

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In reply, please refer to:
File:

COMMITTEE ON WAYS AND MEANS

S.B. 2932, SD2, RELATING TO ENVIRONMENTAL RESPONSE TAX

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 27, 2008
10:30 A.M.

Department's Position: The Department of Health appreciates the intent of this bill to provide financial support for energy conservation, alternative energy development, and global warming initiatives. However, the Department respectfully opposes the bill.

Fiscal Implications: Amending HRS Section 243-3.5 to raise the per barrel oil tax from the present 5-cents to 25-cents to fund energy conservation, alternative energy development, and global warming efforts, will increase tax revenues from approximately $1,700,000 in FY 2007 to approximately $8,500,000 annually in the Environmental Response Revolving Fund (ERRF) (about $1,7000,000 per 5 cents).

Purpose and Justification: The bill is designed to have the Environmental Response Revolving Fund (ERRF) collect monies for alternative energy, energy conservation, global warming initiatives, and other efforts.

In general, the Department strongly supports the development of clean energy, independent from fossil fuels, and the reduction of greenhouse gas emissions. We support adequate funding to advance those goals, consistent with administration budget priorities. However, we do not support a fee increase.

Additionally, the Department is concerned that a substantial increase in the oil tax revenues may lead to even greater expenditures for energy-related purposes, which would strain our ability to carry out our statutorily mandated functions to be ready to respond to oil spills and hazardous substance releases and the funds support of 38 positions.

We ask that any appropriation avoid an adverse impact the priorities in the Executive Supplemental Budget.

Thank you for the opportunity to testify on this important measure.

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Increase state environmental response tax

BILL NUMBER: SB 2932, SD-2

INTRODUCED BY: Senate Committee on Economic Development and Taxation

BRIEF SUMMARY: Amends HRS section 243-3.5(a) to increase the state environmental response tax from 5 cents to ___ cents per barrel.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The legislature by Act 300, SLH 1993, enacted an environmental response tax of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. This measure proposes to increase the tax from by 5 cents to ___ cents per barrel to provide additional revenue for the expanded purposes of the fund.

It should be remembered that the environmental response tax was initially adopted for the purpose of setting up a reserve should an oil spill occur on the ocean waters that would affect Hawaii's shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed other responsibilities on the fund, including environmental protection and natural resource protection programs, such as energy conservation and alternative energy development, to address concerns related to air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking water, and underground storage tanks, including support for the underground storage tank program of the department of health.

It should be noted that the enactment of the barrel tax for the environmental response revolving fund is the classical effort of getting one's foot in the door with a palatable and acceptable tax rate with the possibility of increasing the tax rate once it is enacted which is being proposed by this measure. Because the tax is imposed at the front end of the product chain, the final consumer does not know that the higher cost of the product is due to the tax. Thus, there is little, if any, accountability between the lawmakers who enacted the tax and the vast majority of the public that ends up paying the tax albeit indirectly.

It should be remembered that the State Auditor has singled out this particular fund as not meeting the criteria established and recommended that it be repealed. The Auditor criticized the use of such funds as they hide various sums of money from policymakers as they are not available for any other use and tend to be tacitly acknowledged in the budget process. More importantly, it should be recognized that it is not only the users of petroleum products who benefit from a cleaner environment, but it is the public who benefits. If this point can be accepted, then the public, as a whole, should be asked to pay for the clean up and preservation of the environment.

Funds deposited into a revolving fund are not subject to close scrutiny as an assumption is made that such

SB 2932, SD-2 - Continued

funds are self-sustaining. It should be remembered that earmarking of funds for a specific program represents poor public finance policy as it is difficult to determine the adequacy of the revenue source for the purposes of the program. To the extent that earmarking carves out revenues before policymakers can evaluate the appropriateness of the amount earmarked and spent, it removes the accountability for those funds. There is no reason why such a program should not compete for general funds like all other programs which benefit the community as a whole.

Rather than perpetuating the problems of the barrel tax, it should be repealed and all programs that are funded out of the environmental response fund should be funded through the general fund. At least program managers would then have to justify their need for these funds. By continuing to special fund these programs, it makes a statement that such environmental programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

If it is a matter that no funds in this fiscal environment have been set aside to address federal environmental mandates, then consideration should be given to first prioritizing how the money that is already in the fund is to be spent and then to set a sunset deadline by which these programs are to be general fund financed and the tax repealed.

Given that the prior draft of the measure that proposed to increase the tax from 5 cents to 25 cents amounted to a tax increase of 500%, can its sponsors hold their heads high when they return to their constituents and tell them that while their colleagues rant and rave about the collusive petroleum industry ripping off motorists at the pump that they themselves contribute to not only the high cost of gasoline, but also the high cost of electricity to light our homes to the pricey take-out lunch because the cost of that energy will increase even more with this proposal. While lawmakers would like to preen their feather that they are oh-so eco friendly and environmentally concerned, they do so at a cost to the taxpayer. While tax increases are unacceptable in these difficult times, this proposal is especially reprehensible as it hides behind the skirt of being environmentally concerned and it hides behind the shadow of businesses that will end up with the blame of ripping off the consumer yet again. Voters going to the polls this November should be reminded of these lawmakers who are digging their hands even deeper into the taxpayers' pocketbooks.

Digested 2/26/08