

LINDA LINGLE
GOVERNOR OF HAWAII



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

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Commission on Water Resource Management
Conservation and Coastal Lands
Conservation and Resources Enforcement
Engineering
Forestry and Wildlife
Historic Preservation
Kahooolawe Island Reserve Commission
Land
State Parks

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

On Senate Bill 2816, Senate Draft 1 – Relating To Intra-County Ferry Service

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

March 12, 2008

Senate Bill 2816, Senate Draft 1 proposes to provide priority assignment of mooring space in Maalaea Small Boat Harbor for any new ferry operating from Maalaea Small Boat Harbor to Lahaina Small Boat Harbor, and provide an exemption from the fuel tax for fuel purchases for the 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 in Maalaea Small Boat Harbor 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. As such, the Department feels that giving preferential treatment to a new commercial operation would not be fair to those who have been on the wait list for years.

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**HOUSE COMMITTEES ON TRANSPORTATION AND
WATER, LAND, OCEAN RESOURCES & HAWAIIAN AFFAIRS**

**TESTIMONY REGARDING SB 2816 SD1
RELATING TO INTRA-COUNTY FERRY SERVICE**

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

DATE: MARCH 12, 2008

TIME: 10:45AM

ROOM: 309

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

The Senate Committee on Transportation & International Affairs amended the bill by adding the phrase "rates and exemptions" to the fuel tax section title.

The Senate Committees on Economic Development & Taxation and Ways & Means passed this measure unamended.

The Department of Taxation (Department) **requests 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. Although the previous committee acknowledged our comments, the Department still believes that an 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 no impact to general fund. Highway fund annual revenue will be decreased by \$21,200, starting FY2009. Estimated gallonage was determined from the distance between the relevant harbors for each of the routes. From this, the revenue impact is estimated gallonage times the tax rate, which is \$.02 per gallon for non-highway diesel.