Bill No. 464
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Date 3/22/09
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Testimony before the House Committee on

Energy & Environmental Protection

S.B. 464 SD2– Relating to Renewable Energy

Tuesday, March 24, 2009
9:00 am, Conference Room 325

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

Chair Morita, Vice Chair Coffman, and members of the Committee:

My name is Arthur Seki. I am the Director of Technology for 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). We support S.B. 464 SD2 which amends the renewable energy tax credit. The proposed changes in this bill will make it more attractive for more entities to take advantage of this benefit thus creating more jobs and helping stimulate the sluggish economy.

Thank you for the opportunity to testify.

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CAPITAL

Bill No. 464

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TO: House Committee on Energy and Environmental Protection
Honorable Representative Hermina M. Morita, Chair
Honorable Representative Denny Coffman, Vice Chair

House Committee on Water, Land and Ocean Resources
Honorable Representative Ken Ito, Chair
Honorable Representative Sharon E. Har, Vice-Chair

RE: Testimony in Support of SB464 SD Relating To Taxation.

Testimony is 3 pages long.

HEARING: Tuesday, March 24, 2009, 9:00 a.m.

Madam. Chair and members of the Committee:

I appreciate this committee's consideration of SB464 SD2, and welcome this opportunity submit testimony in support of it.

To state the issue briefly, the Hawai'i Renewable Energy Tax Credit is largely unusable, for the reasons discussed in detail below, and therefore fails of its mission to act as an incentive for Hawai'i taxpayers to invest in renewable energy in our State.

There are a variety of steps that can be taken by the Legislature to make is useable, some minor and technical, and some more major, such as making it refundable. We urge you to take at least some, and preferably all of these steps by passing SB464 SD2, and thus help our State get away from is $6 billion per year fossil fuel dependence and at the same time create thousands of "green" jobs and generate more State tax revenue.

My name is Larry Gilbert, and I am the Managing Director and Chief Executive of Sennet Capital LLC. Sennet Capital is a Hawai'i merchant bank that focuses entirely on providing and arranging funding for Hawai'i companies and renewable energy projects. We have become one of the leading experts in Hawai'i in solar project financing, and recently completed one of the largest solar project financings done in Hawai'i when we arranged the financing for Hoku Solar to put solar panels on all of the Neighbor Island airports for the State of Hawai'i Department of Transportation.

During 2008, we attempted to finance nearly $50 million worth of Hawai'i solar projects. As part of that effort, we spent a great deal of time talking to Hawai'i investors about their interest and ability to use the Hawai'i Renewable Energy Tax Credit contained in HRS 235-12.5. Unfortunately, that effort resulted in <u>zero</u> dollars from Hawai'i investors for solar projects during 2008.

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What we found from that experience is that the Hawai'i Renewable Energy Tax Credit is nearly useless to almost all categories of Hawai'i investors, and does not provide them with any meaningful incentive to invest in Hawai'i renewable energy projects. The problem was not a lack of investor interest—their interest in the deals and the returns was very high—it was that without being able to use the Hawai'i Renewable Energy Tax Credit, the returns were insufficient to entice them invest in these projects versus their other alternatives.

What the Hawai'i investor market tells us from this experience is that the principal problems with the Hawai'i Renewable Energy Tax Credit are:

1) The law is unclear about whether, for any type of taxpayer other than major corporations, the Hawai'i Renewable Energy Tax Credit can be used to offset any type of taxable income other than "passive" income. The Federal renewable energy tax credit clearly <u>cannot</u> be used against anything other than passive income, and Hawai'i investors are concerned that the ambiguous nature of the Hawai'i law would result in the same interpretation. Very, very few Hawai'i investors have sufficient taxable passive income to make it worthwhile to invest for the purpose of taking advantage of the tax credit, and when the uncertainty of the existing law is added to this, the result is the most likely type of Hawai'i investor—the high-net-worth individual or successful small or medium-sized business—cannot use the Hawai'i Renewable Energy Tax Credit.

2) The Hawai'i Renewable Energy Tax Credit cannot be allocated entirely to Hawai'i investors, as a result of which the Hawai'i tax credits cannot be given entirely to the people who can use them. There is a ready market for investment in the Federal energy tax credit by major mainland corporations seeking to manage their Federal tax bill. But almost none of these companies has any meaningful amount of Hawai'i tax liability. The way in which the other parts of the tax code cause the Hawai'i Renewable Energy Tax Credit to work mean that if these major mainland companies put up half the money, they have to receive half of the Hawai'i tax credits, which are useless to them. In essence, the Hawai'i Renewable Energy Tax Credit does not act as any incentive at all for them to invest. And because the Hawai'i credit cannot be "specially allocated" to even the very few Hawai'i taxpayers that might be able to use it against passive income, the credit goes largely or entirely to waste.

3) The Hawai'i Renewable Energy Tax Credit cannot be used by Hawai'i insurance companies against their Hawai'i insurance premium tax liability. Our insurance companies are among the most prolific investors in Hawai'i, and a natural source of capital for renewable energy projects. But again, the Hawai'i Renewable Energy Tax Credit provides no incentive for them to invest in these projects.

4) The Hawai'i Renewable Energy Tax Credit can only be used by Hawai'i taxpayers. Other states, such as Oregon, California and (indirectly) New Jersey provide a mechanism for their tax incentives to be converted to cash by investors who cannot use those incentives to offset state income taxes. The

amount of investment capital which exists in Hawai'i is relatively limited versus the amount that could be profitably deployed for renewable energy projects here, so cutting off the use of the Hawai'i credit to incentivize these non-Hawai'i investors puts Hawai'i at a disadvantage in terms of attracting capital to finance renewable energy projects.

The Hawai'i market has the potential to immediately attract $100 million to $200 million per year in investment capital for renewable energy projects here. These projects would generate hundreds if not thousands of jobs, reduce Hawai'i's dependence on imported oil, and protect our environment. Yet of the $50 million of projects that Sennet Capital could potentially have financed in 2008, zero got financed, principally due to the problems described above with using the Hawai'i tax credit.

SB464 SD2 addresses the flaws in the existing Hawai'i Renewable Energy Tax Credit by (1) removing the restriction on the type of income that it can be used to offset, (2) makes it specially allocatable, and (3) makes it available to Hawai'I's insurance companies. A fourth provision, making the credit refundable, was deleted in SD2.

If Hawai'i is serious about incentivizing investment in renewable energy projects, then making the minor changes to the Hawai'i Renewable Energy Tax Credit which are contained in SB464 SD2 would be a very good way to do so. We strongly support SB464 SD2, and encourage you to pass it out of committee with a favorable recommendation. Hawai'i could be one of the best states in the country for solar projects, and attract tens and hundreds of millions in outside capital to help build them, which in turn provides stimulus to our economy and jobs for our electricians, construction workers and others who install and maintain these projects, as well as put millions of dollars in energy savings into the economy rather than shipping them overseas to buy foreign oil.

Thank you for the opportunity to submit this testimony, and please feel free to contact me if I can be of further assistance.

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TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

SB 464 SD2, RELATING TO TAXATION

March 24, 2009

Chair Morita and Vice-Chair Coffman and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission ("Commission") and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of SB 464 SD2 are to: (i) amend the renewable energy technologies income tax credit to allow special allocations of the credit in certain cases, and prevents passive activity losses from including a depreciation deduction; and (ii) provide that a taxpayer who claims the renewable energy technologies income tax credit cannot claim any other tax credit for the same actual costs for which a tax credit is claimed under the renewable energy technologies income tax credit or qualify as a qualified high technology business.

HREA offers the following comments in **support**:

1. RETITC and its Predecessor. The predecessor to the RETITC, the Energy Conservation Income Tax Credit, has been shown to provide an integrated array of energy, environmental and economic benefits. While the RETITC also leverages private investment and makes valuable contributions to our RPS law, its real value has been its net economic stimulus. Renewables are high-tech and their development encouraged by the tax credits has created and sustained jobs providing net economic benefits to the state; and

2. When Times are Tough. HREA appreciates the decisions that legislators have to make, especially when times are tough. With the tax credits, through a good deal of economic tough times since the inception of the ECITC in 1990 to now, we now have over 100,000 solar water heaters installed and the beginnings of the distributed renewable generator market, e.g., photovoltaics and wind. In short, the tax credits have been outrageously successful to consumers and have spawned and help sustain a new industry.

Thank you for this opportunity to testify.

Bill No. 464

Support Y N

Date 3/23/09

Time 1323

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blue planet FOUNDATION

Bill No. 464
Support (Y) N
Date 3/23/09
Time 2235
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SENATE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
March 24, 2009, 9:00 A.M.
Room 325

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 464 SD2, SUGGESTED AMENDMENT

Chair Morita and members of the committee:

The Blue Planet Foundation supports SB 464 SD2, expanding the ability for investors to use the clean energy investment tax credit. This measure will help to accelerate the investment in Hawaii's clean energy future by encouraging more private investment in solar thermal, photovoltaic, and wind energy technologies. By leveraging private investment in clean energy, state tax incentives will yield numerous benefits through job creation, reduced dependency on imported fossil fuel, reduced greenhouse gas emissions, and economic development.

While current law provides for a tax credit for various renewable energy devices, investors have found it to be lacking meaningful incentive to invest in Hawai'i renewable energy projects. The problem is that the current incentive only applies to a narrow class of taxable income. Senate Bill 464 SD2 wisely expands the types of income that the tax credits can be taken against and expands the types of taxpayers who can take the credits.

Investment experts estimate that the Hawai'i market has the potential to immediately attract $100 million to $200 million per year in investment capital for renewable energy projects in the state. These projects would generate hundreds if not thousands of jobs, reduce Hawaii's dependence on imported oil, and protect our environment.

Blue Planet asks that SB 464 SD2 be amended to include the provisions from SB 464 SD1 that would have made the renewable energy technologies income tax credit refundable in certain circumstances.

Please forward an amended SB 464 SD2 to encourage private investors to make a down payment on Hawaii's clean energy future.

Thank you for the opportunity to testify.

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