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
P.O. BOX 259
HONOLULU, HAWAII 96809

PHONE NO: (808) 587-1510
FAX NO: (808) 587-1560

Bill No. 464

Support Y N

Date 3/23

Time 1716

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Type 1 2 WI

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
TESTIMONY REGARDING SB 464 SD 2
RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 24, 2009
TIME: 9:00AM
ROOM: 325

This measure incoherently amends the renewable energy technologies income tax credit, allows special allocations of the credit by pass-through entities, and unwisely prevents passive activity losses from including depreciable amounts.

The Department of Taxation **opposes sections 1 and 2** of this measure, and, instead of section 3, **prefers the language of Part III of SB 1173 SD1**.

SUPPORT FOR ALTERNATIVE ENERGY—The Department strongly supports the encouragement and implementation of alternative energy systems in Hawaii in order to lessen the State's dependence on alternative energy. As fossil fuel and petroleum prices become more volatile, Hawaii's ability to generate its own energy will make the State more secure and less reliant on others.

SECTION 1: OPPOSE THE UNWORKABLE PASSIVE ACTIVITY LOSS LIMITATION---Hawaii has conformed to the federal tax treatment of passive activity losses, a complex area of tax law instituted to prevent tax sheltering activities. Taxpayers were sheltering taxable income derived from businesses they actively managed by reducing them with losses easily generated from passive activities, such as rental activity. These rules limit the ability of a taxpayer to currently deduct from gross income losses incurred as a result of passive activities. Passive activities include business activities in which the taxpayer does not materially participate in, such as **most Hawaii rental real property**. Under existing federal and State law, passive activity losses can be used only to offset passive activity gains. Special rules apply to rental real property where the taxpayer actively participates in the rental activities, provided certain income levels are not exceeded. If this exception applies, passive activity losses may generally be used to offset income of up to $25,000. In the event the passive activity loss exceeds the amount that the taxpayer can currently use, the excess loss is "suspended." The taxpayer will use such losses in a year in which he falls under the limitations or sells the real property from which the loss was generated.

As proposed, this measure would eliminate all depreciation expense that is used in calculating whether an activity has a gain or loss. For example, residential real property is depreciated using a straight line method over 27.5 years. Thus, a building that cost $275,000 would have depreciation expense of $10,000 per year in determining the extent of passive activity losses or gains. This measure would strike that amount from determining whether a passive activity loss exists for State tax purposes, as well as depreciation expense from all other property related to the rental real property such as improvements, appliances and furnishings. In other words, the depreciation derived from passive activities could be deducted against all income, not just passive income. The net result for State tax purposes is that there will be a **substantial reduction in taxable income** because a person's taxable income will be reduced by a depreciation deduction that previously could only be taken if the person had equal passive gains, in not just renewable energy investments, but all passive activity investments, such as real estate.

This measure also decouples state tax law from federal tax law. It should be noted that while the State can eliminate depreciation from determining whether a passive activity loss has occurred for State tax purposes, there would be no effect on the federal tax consequences. For federal tax purposes, depreciation would still be an expense that must be used in calculating whether the passive activity loss limitation rules apply. In order to accomplish this, the Department would have to generate new forms to track the passive activity losses and whether and when such losses can be used to offset income. This will affect the carryforwards of any losses, such that taxpayers will have to keep track of two different carryforwards: the federal carryforward and the State carryforward. New forms may have to be designed as well. These problems do not currently exists since the passive activity loss limitations are currently the same for both federal and State tax purposes.

SECTIONS 2 AND 3: OPPOSE APPROACH TAKEN, PREFER LANGUAGE AND APPROACH TAKEN IN PART III OF SB 1173 SD1 – Rather than using the approach of allowing taxpayers to have tax credits allocated to them based upon money contributed by other persons, the Department prefers the plainer refundable tax credit approach. Part III of SB 1173, SD1 allows most taxpayers to elect refundable or nonrefundable treatment for the tax credit. If the taxpayer elects refundable treatment, the amount of the tax credit is reduced by 30% in order to maintain revenue neutrality.

With regard to the specific language of the renewable energy technologies tax credit, the Department again prefers the language in SB 1173 SD1, Part III. A major problem with the approach taken in section 3 of this measure is the unnecessary addition of a separate definition and treatment for solar electric energy systems. The original intent underlying the proposed changes to the renewable energy credit (which this bill takes as a starting point, instead of starting with the current statutory language) was to drop distinctions based upon technology types, which requires engineering and scientific expertise on the part of the tax auditor. Instead, the proposed changes sought to make distinctions based upon the use of the system, which can more easily be determined by a tax auditor and administered by the department, hence the definition of "household use." The addition of a solar electric category to the solar and wind categories is nonsensical from a use-based approach. And further frustration arises from the retention of language that does not serve a purpose from a technology-based approach, like the definition of "household use," and the addition of a definition for "solar energy system," which is based upon a use approach, and which confusingly distinguishes solar energy systems from solar electric energy systems based upon the technology being primarily used to exclusively heat eater for household use. It makes no sense to define a technology category based upon its primary use and then limit the category further to its exclusive use. How can one primarily use something exclusively?

The Department requests that the language in Part III of SB 1173, SD1 replace Section 3 of this measure, and that Sections 1 and 2 be removed.

OPPOSITION TO UNBUDGETED REVENUE LOSS— The Department also cannot support the amendments to sections 235-2.4(n) (with respect to passive activities) and 235-2.45 (with respect to partnership allocations of the credits), proposed in Sections 1 and 2 respectively, because they are not factored into the budget. The Department must be cognizant of the biennium budget and financial plan. This measure has not been factored into either. Given the forecasted decrease in revenue projections, these amendments would add to the budget shortfall.

REVENUE LOSS—If the effective date is amended to be current, the estimated cost of this proposal will be about $39.2 million annually.

BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

March 24, 2009

Bill No. 464

Support (Y) N

Date 3/23/09

Time 1620

Cat AF AS A/ B C

Type 1 2 WI

Representative Hermina Morita, Chair
Committee on Energy & Environmental Protection
State Capitol, Room 325
Honolulu, HI 96813

RE: SB464, SD2 Relating to Taxation

Dear Chair Morita and Members of the Energy and Environmental Protection Committee:

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports the intent and purpose of SB464, SD2 "Relating to Taxation". BIA-Hawaii is supportive of Section 235-12.5 which would allow a tax credit for each eligible renewable energy technology system. As we understand the bill, those homeowners who wish to install a solar water system after January 1, 2010 will be able to apply for a renewable energy technology tax credit. This would be an incentive for the greater number of existing homes (as compared with the new homes) and will have a greater impact on the reliance of fossil fuels.

BIA-Hawaii opposed the solar mandate which passed last year, citing the fact that the Legislature had not considered that there were more existing homes without solar water heating systems than there were new homes being mandated to include solar water heating systems and that the impact of mandated solar would not be as great as incentivizing existing homes to install solar.

Thank you for the opportunity to share our views with you.

Karen L. Nakamura

Chief Executive Officer
BIA-Hawaii

Bill No. 464

Support Y N

Date 3/23/09

Time 1752

Cat AF AS AX C

Type 1 2 WI

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

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March 23, 2009

EMAILED TESTIMONY TO: EEPTestimony@capitol.hawaii.gov

Hearing Date: Tuesday, March 24, 9:00 a.m., Conference Room 325
(House Committee on Energy & Environmental Protection)

Honorable Representatives Hermina M. Morita, Chair, Denny Coffman, Vice Chair, and Members of the House Committee on Energy & Environmental Protection

Subject: **SB 464 SD2, Relating to Taxation**

Dear Chair Morita, Vice Chair Coffman, and Committee Members,

The American Council of Engineering Companies of Hawaii (ACECH), representing 70 consulting engineering firms, is in support of this bill, Relating to Taxation. Several of our members provide engineering consultation to members of the renewable energy industry, and we believe that this bill is good for our members and for the public at large due to its incentives for alternative energy.

However, we note that the provisions for a refundable credit option for certain taxpayers was removed by WAM, and we believe that it is important to make the credit available to a wider population that this option be put back into the bill.

We appreciate the opportunity to testify on this bill. Please do not hesitate to contact us if you have any questions regarding our testimony.

Respectfully submitted,

Janice C. Marsters

Janice Marsters
National Director

Bill No. 464

Support Y N

Date 3/23/09

Time 2049

Cat AF AS AX BC

Type 1 2 W

DOWLING COMPANY, INC

Room # 325 9:00 AM March 24, 2009

SB464, SD2 RELATING TO TAXATION

Chair Morita, Vice-Chair Coffman and Committee Members:

My name is Jennifer Stites and I am the Green Development Manager for Dowling Company, Inc. ("DCI"). DCI is a Maui-based real estate development company that is committed to sustainable development. To guide this effort and determine our performance metrics, we have adopted the nationally recognized U.S. Green Building Council's ("USGBC") Leadership in Energy and Environmental Design ("LEED") rating system. We are especially proud and excited that DCI's first USGBC LEED certified project is our own office located in Wailuku, Maui. Our office was also the first USGBC LEED certified office on Maui.

DCI proposes that SB464, SD2, be amended by reinserting the language providing for the option to have the PV tax credit refundable. Under the current state of the economy, entities have not been able to monetize the tax credit, thus in order to have an effective tax credit it must be refundable. This will encourage investment in Hawaii from out of state investors and will encourage the deployment of renewable PV energy in Hawaii consistent with the goals of the HCEI.

Thank you for the opportunity to submit testimony.

SUNPOWER

Room # 325 9:00 AM March 24, 2009

LATE TESTIMONY

House Committee on Energy & Environment Protection

SB464 SD2 RELATING TO TAXATION

Chair Morita, Vice-Chair Coffman and Committee Members:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects for the SunPower Systems Corporation. Thank you in advance for accepting **support of SB464 and STRONGLY recommends the refundable language be reinserted into the bill.**

SunPower Systems Corporation ("SunPower") has been a member of the Hawaii Energy Policy Forum since it convened in 2003 and a member of the Energy Generation working group for the HCEI. SunPower is in the business of designing, manufacturing, and delivering the highest efficiency solar electric technology worldwide.

SunPower supports SB464 and proposed amendment to reinsert the refundable option of the tax credit that was included in the original drafting of the bill.

The current tax credit policy is financially restrictive to the point that the photovoltaic industry in the Hawaii has virtually come to a stand still in attracting out of state investors to participate in Hawaii PV projects. This has resulted in out of state financed contracts that could not be executed due to absence of a Hawaii financial partner capable of partnering into a project finance agreement. The DOTA alone accounts for 12+ MW which could have been installed, saving the State of Hawaii tens of millions of dollars over the life of the project. The projects would have reduced the importation of 600,000 barrels of oil and related export of dollars to foreign entities. It has also resulted in major players in the PV industry to shutdown it's operations in Hawaii, waiting for something to change. This includes out of state investors willing and able to finance PV installation in Hawaii providing over 75% of the funding need.

Hawaii's immediate economic stimulus desires requires a REFUNDABLE option for the REITC

If WE go forward without this language:

We will send a message to our Presidential and Congressional leadership that the State of Hawaii /Legislators lacks the political will to partner with the ARRA,.... to recognize that in the current business environment TAX CREDITS do not work. Thus on the Federal level the 30% tax credit is now a 30% grant, making it refundable.

We will send a message to out of state funding sources that Hawaii is not able partner at a 24.5% level.
We will CHOOSE to continue to export billions dollars out of state
We will CHOOSE to continue to budget/fund excessive operating electricity expenses statewide.
We will CHOOSE to continue to fund oil import versus malama pono.

Mahalo for the opportunity to submit testimony.

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Richmond, CA 94804 USA
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L E G I S L A T I V E LATE TESTIMONY

TAXBILLSERVICE

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

SUBJECT: INCOME, Renewable energy technologies tax credit

BILL NUMBER: SB 464, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

BRIEF SUMMARY: Amends HRS section 235-2.4 (n) to provide that IRC section 469(d)(1) shall not include any deduction provided by IRC section 167(a) (with respect to depreciation) as operative for Hawaii income tax purposes. Passive activity credit, as used in IRC section 469, as operative for Hawaii, shall include only those credits which fall under the subparts specified in IRC section 469(d)(2)(A) (with respect to business related credits and other credits) and which have specifically been made operative for Hawaii income tax purposes.

Amends HRS section 235-2.45 to provide that IRC section 704 (with respect to a partner's distributive share) shall be operative for Hawaii income tax purposes except that IRC section 704(b) (2) shall not be applicable to allocations of the renewable energy technologies income tax credit under HRS section 235-12.5.

Amends HRS section 235-12.5 to provide that a taxpayer who claims the credit under this section shall not be eligible to claim any other tax credit under this chapter for the same costs for which a tax credit is claimed; provided that any taxpayer claiming this credit shall not qualify as a high technology business under sections 235-7.3, 235-110.9, or 235-110.91.

Amends HRS section 235-12.5 to reorganize and regroup the renewable energy tax credits. Deletes the term "photovoltaic" and separates the solar energy systems into two types - one that uses the sun to heat water and the other that includes photovoltaic systems. Deletes the provision that the credit is available only to those taxpayers who secured a building permit before 01/01/10.

A taxpayer shall not be allowed to claim a credit under this section for a solar water heater system required by HRS section 196-6.5 that is installed and placed in service on any newly constructed residence authorized by a building permit issued on or after January 1, 2010. This section shall apply to eligible renewable energy technology systems that are installed and placed in service on or after January 1, 2010.

EFFECTIVE DATE: January 1, 2090; applicable to tax years beginning after December 31, 2090

STAFF COMMENTS: This measure would eliminate all depreciation expense that is used in calculating whether an activity has a gain or loss and would provide that depreciation derived from passive activities could be deducted against all income, not just passive income. While the measure provides that taxable income will be reduced by a depreciation deduction that previously could only be taken if the person had equal passive gains, in not just renewable energy, it is questionable whether this is in the intent of the measure. The adoption of this provision would mean that depreciation would be treated differently under the state income tax provision as compared to the federal Internal Revenue Code and runs counter to the state's intent of conforming to the federal income tax law to insure ease of compliance and simplicity.

The proposed measure amends provisions of the renewable energy technologies income tax credit to provide that a taxpayer who claims the credit shall not qualify as a high technology business under sections 235-7.3, 235-110.9, or 235-110.91.

It should be noted that because these systems are currently very expensive to purchase and install, only those taxpayers who have the means to make the conversion or installation will be able to claim the credit. Thus, those families at the lower end of the income scale will not benefit from either the credit or the cost savings to be realized from the device. Since the state still needs resources to provide services and programs, the burden of paying for those programs and services will be shifted to those taxpayers who cannot afford to acquire these devices.

As an alternative to the income tax credits, consideration should be given to a program of low-interest loans available to all income levels. The combination of a low-interest loan which can be repaid with energy savings would have a much more broad-base application than a credit which amounts to nothing more than a "free monetary handout" or subsidy by state government for those taxpayers who more than likely can afford to make the conversion. Such a pay-as-you go program was initiated by the Public Utilities Commission late last year with 600 available slots over the next three years. All of those slots were filled in a matter of months, demonstrating the need to help low-income homeowners make the shift to solar energy.

A plus in this measure is that it gets rid of the provision that denies the solar credit to a taxpayer who secures a building permit after January 1, 2010. This was an obvious error in Act 204, SLH 2008, as it took away the incentive for existing homeowners to install solar water heating after 2010. However, the credit still will not be available to developers who build new homes during 2009 as the credit is not available to those homes constructed in 2009, but at least if the developer does not install solar in his or her development, the new homeowner will be able to install the devices once they take occupancy and ownership.

Digested 3/24/09

LATE TESTIMONY

Hawaii Solar Energy Association
Serving Hawaii Since 1977

March 24, 2009 Room 325 9:00 A.M	House Committee on SB464 SD2	Mark Duda President

<u>Testimony in Support</u>

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

HSEA member companies install the majority of residential and commercial PV and hot water systems in Hawaii. The organization's members are thus uniquely positioned to comment on the circumstances under which the Renewable Energy Technologies Income Tax Credit (RETITC) functions as an effective incentive engendering investment in renewable energy and those in which it does not.

From this perspective, HSEA notes that in 2008, a year that saw a roughly 500% increase in the amount of solar installed in our state, virtually no third party-financed projects were interconnected. This is a direct reflection of the difficulties that investors currently face in utilizing the RETITC and not the amount of investment capital potentially available to fund these projects. If these problems with the credit were addresses the RETITC would support immediately support PV installations on most government buildings, non-profit organizations, and a large share of commercial sites as well.

The economic impact of these changes would be substantial. The solar industry in Hawaii is currently approaching $200 million annually and is responsible for 2,000 jobs.

In its current SB464 SD2 makes some of the changes needed to ensure that the credit can properly function to increase the penetration of renewable solar energy in our state. However, HSEA strongly prefers the reintroduction of the provision in SB464 SD1 promoting refundability of the tax credit at a reduced level. HSEA also prefers the provisions in SB464 SD1 that make the credit refundable for those with very low incomes and pension income only. Subsequent pages of this testimony contain the proposed language changes and supporting information.

About the Hawaii Solar Energy Association

Hawaii Solar Energy Association (HSEA) was founded in 1977 and is comprised of more than 30 installers, distributors, manufacturers and financers of solar energy systems, both hot water and PV, most of which are Hawaii based, owned and operated. The organization's primary goals are: (1) to further solar energy and related arts, sciences and technologies with concern for the ecologic, social and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop

P.O. Box 37070 Honolulu, Hawaii 96837
SOLAR HOTLINE (808)521-9085

independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.

[~~(e)~~] (f) If the tax credit under this section exceeds the taxpayer's income tax liability, the excess of the credit over liability may be used as a credit against the taxpayer's income tax liability in subsequent years until exhausted[~~.~~], unless otherwise elected by the taxpayer pursuant to subsection (g) or (h). All claims for the tax credit under this section, including amended claims, shall be filed on or before the end of the twelfth month following the close of the taxable year for which the credit may be claimed. Failure to comply with this subsection shall constitute a waiver of the right to claim the credit.

(g) For each solar energy system or solar electric energy system, a taxpayer may elect to reduce the eligible credit amount by thirty per cent, and if this reduced tax credit exceeds the taxpayer's net income tax liability, the excess of the credit over liability may be refunded to the taxpayer pursuant to a properly claimed election as provided under this subsection. If a taxpayer has no net income tax liability, then the taxpayer may receive the entire reduced tax credit as a refund; provided that no refund on account of the non-reduced or reduced tax credit allowed by this section shall be made for amounts less than $1.

The election required by this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the renewable energy technology system is installed and placed in service. A separate election may be made for each separate system that generates a credit. An election once made is irrevocable.

(h) Notwithstanding the election under subsection (g), an individual taxpayer may make a pension low-income election for any renewable energy technology system which allows the taxpayer to receive the excess of the renewable energy technologies income tax credit over net income tax liability automatically as a refund to the taxpayer, if:

(1) All of the taxpayer's income is exempt from taxation under section 235-7(a)(2), or (3); or

(2) The taxpayer has a filing status of single or married filing separate and an adjusted gross income of $20,000 or less, or the taxpayer has a filing status of married filing joint, head of household, or qualifying widower with dependent child and has an adjusted gross income of $40,000 or less;

provided that if a tax credit is properly claimed by a taxpayer who has no net income tax liability, the entire tax credit shall be paid to the taxpayer as a refund; provided further that no refund on account of the tax credit allowed by this subsection shall be made for amounts less than $1. A husband and wife who do not file a joint tax return shall only be entitled to make the pension low-income election to the extent that they would have been entitled to make the pension low-income election had they filed a joint tax return.

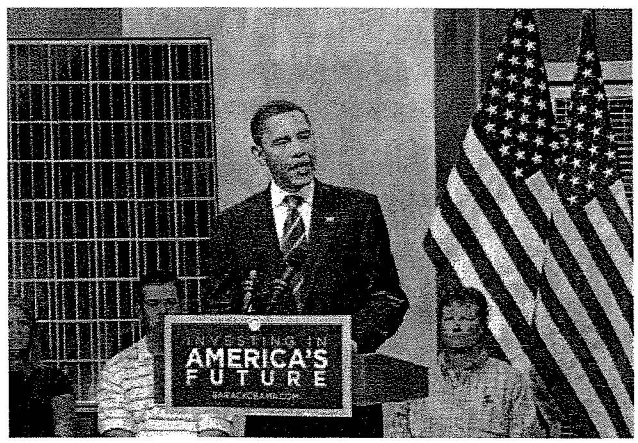
The pension low-income election provided in this subsection shall be made in a manner prescribed by the director on the taxpayer's return for the taxable year in which the renewable energy technology system is installed and placed in service. A separate pension low-income election may be made for each separate system that generates a credit. A pension low-income election once made is irrevocable.

How Fixing Hawai'i's Solar Tax Credit Will Create Jobs and Stimulate Our Economy

Hawai'i Solar Energy Association

Mark Duda
President

Contact:
PO Box 37070
Honolulu, HI 96837
mark@sunetric.com
808.735.1467



Updated: March24, 2009

Summary: The Case for Solar as Stimulus

- Solar is a proven industry that is already responsible for 2,000 jobs in Hawai'i
- Solar is "shovel ready" – funded projects begin stimulating the economy immediately, money is spent in months not years or decades
- $1 of Hawai'i RETITC leverages $4 of private capital/federal money
- Developing renewable energy resources keeps more money in Hawai'i
- The fiscal impact of solar tax credits is positive

➔➔ Fixing the solar tax credit (RETITC) will unlock substantial economic and environmental benefits

Federal Approach to Renewable Energy Emphasizes Immediate Stimulus

- Pre-stimulus solar investment tax credit (ITC) covers 30% of installed project cost (2009 – 2016)
- To address weak demand for all tax credits in a recession the credit was converted to a grant for 2009-2010
- Result 1: Stimulus effect is more immediate because money flows out when project completes
- Result 2: Stimulus effect is larger – because investors don't need to have current year tax bill
- Effect is reduction in cash cost of project by 30 percent in real time

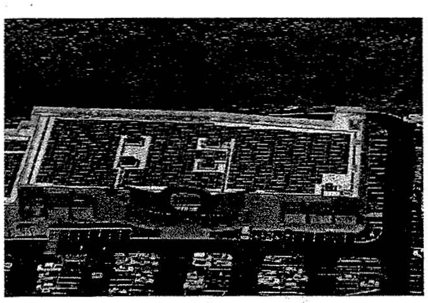
1. Solar in Hawai'i is "shovel ready":

job creation and economic stimulus is immediate

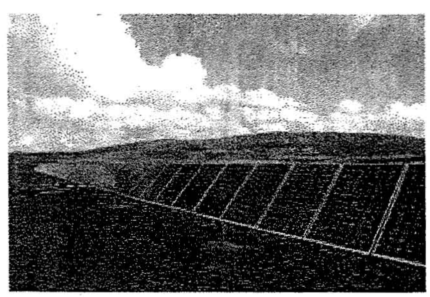
Hawai'i Solar Market in 2008

Photovoltaics	Water Heating	Solar Concentrating
• 15-18 MW in 2008 • $125 million market • 1,412 jobs	•9,500 residential systems in 2008 • $60 million market • 622 jobs	• Demonstration project at NELHA • 120 MW of CSP potential in Hawai'i

Built in 2008: Hawai'i's Largest Roof- and Ground-Mounted PV Systems

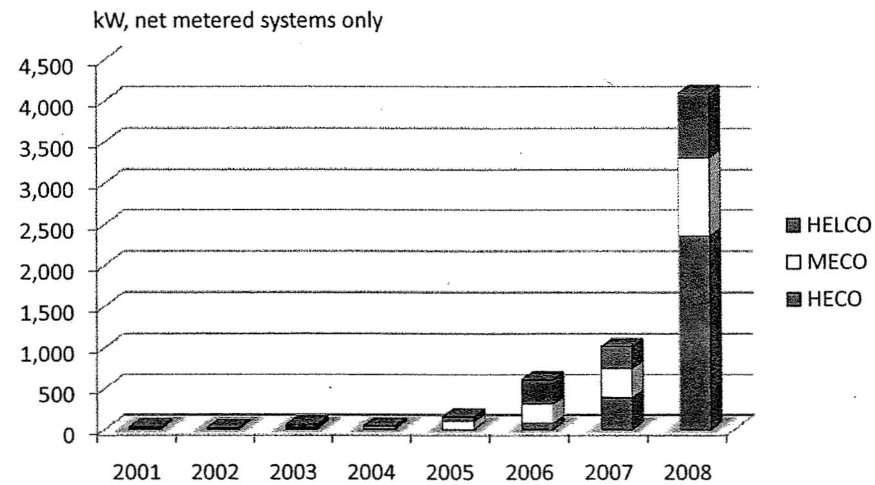


Kona Commons, Hawai'i Island
803 kW
Sunetric



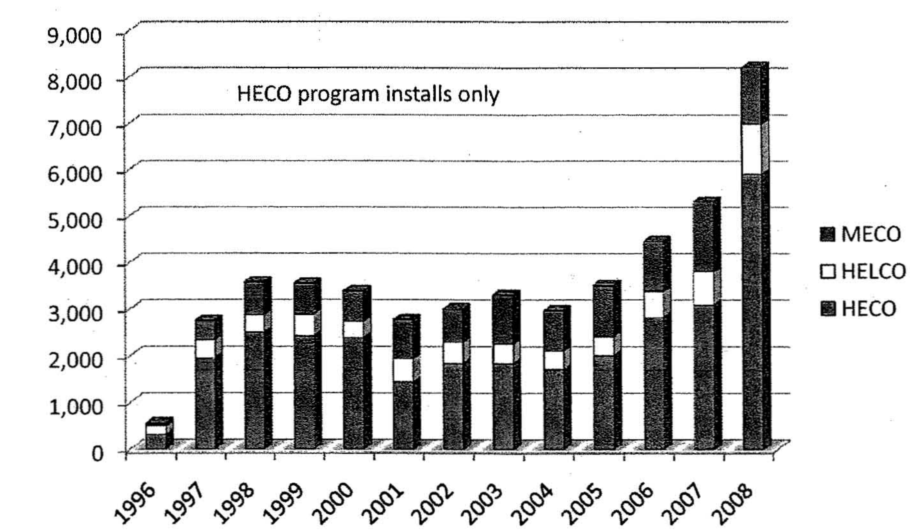
La Ola, Lanai
1.5 MW
SunPower Systems

Solar PV is Growing Exponentially



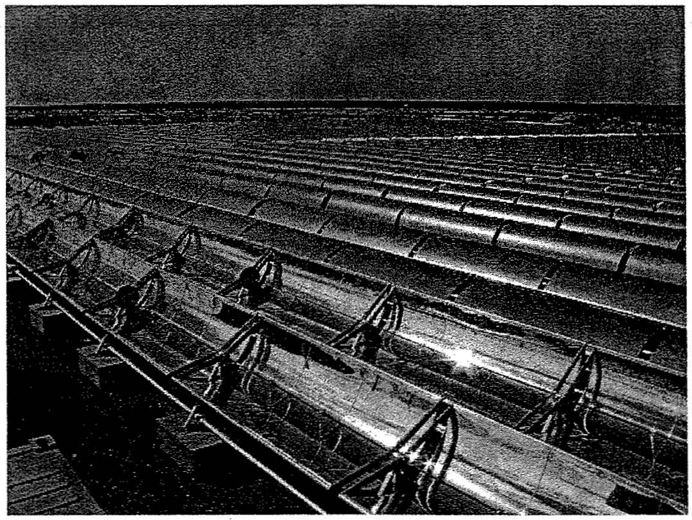
Source: HECO Companies.

Solar Water Heating Installations up 177% Since 2004



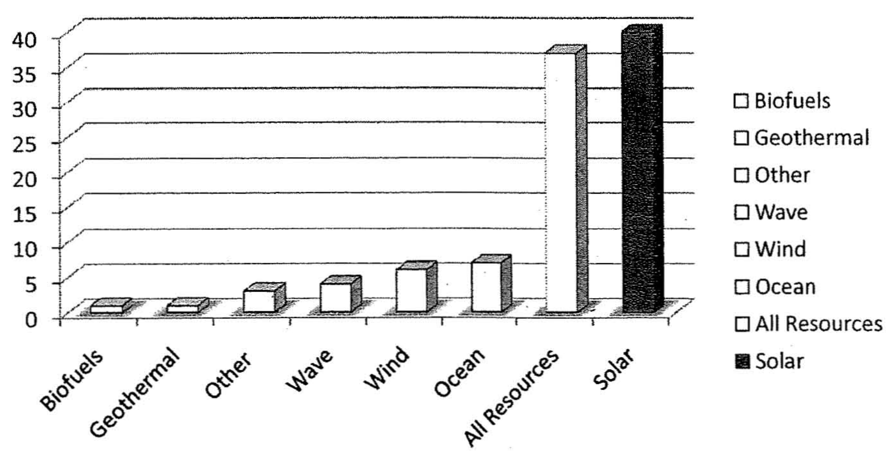
Source: HECO Companies.

Concentrating Solar Is Taking Hold at NELHA



Hawai'i Residents Prefer Solar

Which Source of Clean Energy Is Best for Hawai'i?



Source: Blue Planet Foundation Survey of Hawai'i residents, N=403, Nov-Dec 2008.

2. Why isn't there more solar in Hawai'i?

Answer: Because the Hawai'i state solar tax credit (RETITC) cannot be monetized by investors

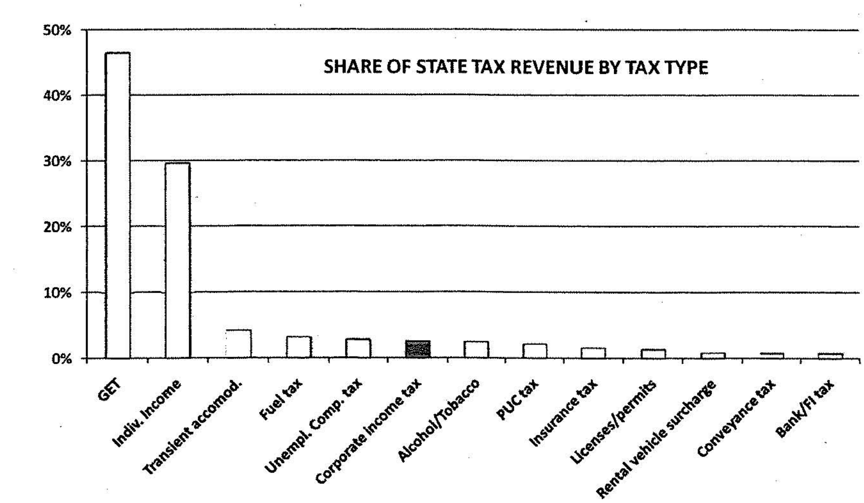
Why Can't the RETITC be Monetized?

1. It is non-refundable
2. It is non-transferable
3. It cannot be specially allocated within partnerships
4. Only valid against passive income
5. It excludes insurance companies

Who Can Use the Credit under Current Rules?

1. Any business that has <u>all</u> of the following
   - A large power bill
   - A large roof or undeveloped land (at same site as load)
   - A substantial tax bill
   - → BUT: There are few such businesses
2. 'C' corporations (as 3rd party investors)
   - → BUT: They prefer other credits
3. Individuals with passive income
   - → BUT: Almost no one has any passive income
4. Banks (as 3rd party investors)
   - → BUT: Limited by own tax liability (only CPB and BOH participated)

Tax Revenue from 'C' Corps is Limited



Source: The 2005 Hawai'i State Input-Output Study. DBEDT. P. 16.

Revenue Level That a 'C' Corp Needs to Use the RETITC

Tax Equity from a Modest Project	
System cost (~ $4,000/month utility bill)	$1,000,000
Tax credit value	$350,000
Implied profit required to use (at 6.4% tax rate)	$5,568,750
Implied revenues (at 20% profit)	$27,343,750

Hawai'i Business Top 250

Rank	Company	2007 Revenues ($m)
221	Hawai'i National Bank	$30.6
222	Sen Plex Corp.	$30.6
223	HIE Holdings Inc.	$29.9
224	Bishop Square Associates	$29.8
225	*Iolani School*	*$29.6*
226	Hale Makua	$29.5
227	*Chaminade University of Honolulu*	*$29.3*
228	Smith Barney Inc.	$28.0
Hypothetical 'C' Corp Investor from Previous Slide		$27.3
229	Garlow Petroleum Inc.	$27.0
230	*YMCA of Honolulu*	*$26.9*
231	LBTC Holdings LLC	$26.2
232	Architects Hawai'i	$26.2
233	United Laundry Services Inc.	$25.9
235	Kahi Mohala Behavioral Health	$25.5

Source: *Hawai'i Business*, August 2008.
Note: Red text indicates non-profits, which are not eligible for tax credits

3. What Is the Solution?

Fix the Renewable Energy Technologies Income Tax Credit

Evolution of SB464

Issue	SB464	SB464 SD1 (technical amendments)	SB464 SD2
1. Non-refundability	RETITC refundable at reduced rate of 24.5%	RETITC refundable at reduced rate of 24.5%	-----
2. Non-transferability	-----	-----	-----
3. Special allocation	Allows	Allows	Allows
4. Passive income restrictions	Removes passive restrictions	Removes passive restrictions	Removes passive restrictions
5. Ineligibility of Insurance Companies	RETITC applicable to insurance tax	RETITC applicable to insurance tax	RETITC applicable to insurance tax
6. Non-utility for low-income and retirees	After-tax amount is refundable	After-tax amount is refundable	-----
7. Use of multiple credits	-----	-----	Limit projects to RETITC or Act 221

Impact of SB464 Changes

Change	Impact
Make 35% credit **refundable** at discount (24.5%)	Expands range of eligible investors for renewable energy projects
Remove **passive loss restrictions** in RETITC	Allows individual investors to invest in renewable energy projects
Exempt RETITC from **special allocation** restrictions	Streamlines partnership formation for both individual and corporate investors
Allow RETITC to be taken against **insurance tax**	Includes insurance as funders of renewable energy projects
Allow very low-income and seniors to access the credit	Removes regressive provision in current structure

What Are the Benefits to Hawaii?

- Job creation
- Economic stimulus
- Energy security
- Reducing exported dollars for oil
- Reduced carbon emissions
- Sustainability of tourism industry

Fiscal Effect of Refundability is Positive

Refundable Credit on a $1,000,000 Project		
Outflows		$245,000
Inflows		
GET	$223,124	
Payroll taxes	$78,131	
Corporate income tax	$60,611	
Subtotal (inflows)	$361,866	
Net fiscal Impact	**+ $116,866**	

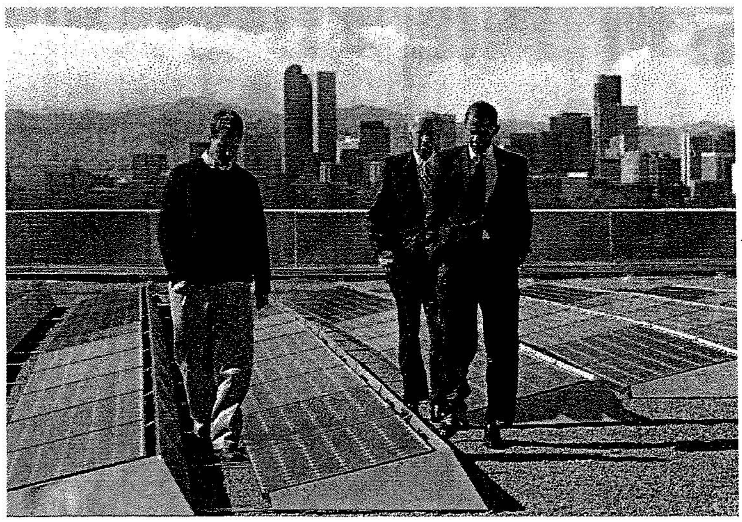
**** The state receives $1.48 for each dollar in tax revenue than it puts out under refundable credit*

Source: State input/output model (calculations and shown in Appendix)

Summary

- Inability to utilize RETITC limits the solar's its ability to stimulate economic activity
- Solar is the only renewable energy technology where all project spending is immediate → federal stimulus money + induced private investment can be fully spent and yield positive spillovers today
- If properly implemented at a reduced rate, RETITC would create thousands of jobs
- Under conservative assumptions fiscal effect of RETITC fix is positive
- Solar industry can create/preserve jobs and help fill a budget hole in the current recessionary environment

Thank You for Considering This Issue



Appendix: Calculating Fiscal Impact

Assumptions used in model

1. RETITC made refundable at reduced 24.5% rate
2. Projects split 60% Oahu, 40% Neighbor Islands
3. Payroll taxes at 8.25 %
4. Corporate income tax at 6.4%
5. MACRS project depreciable basis 85%
6. State input/output model construction industry spending multiplier 1.98
7. Labor share of project cost is 20%

Expenditures Triggered by $1 million Project	
Project cost	$1,000,000
Federal solar credit (ITC)	$300,000
Federal MACRS	$289,000
Subtotal:	$1,589,000
Project Spending at State Input/Output Model Multiplier Rate (1.98)	$4,735,220
Refundable Credit amount	*($245,000)*