

SB 1244

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
DEPUTY DIRECTOR

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DEPARTMENT OF TAXATION
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**SENATE COMMITTEE ON ENERGY & ENVIRONMENT
TESTIMONY REGARDING SB 1244
RELATING TO GOVERNMENT**

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

DATE: FEBRUARY 17, 2009

TIME: 2:4P

ROOM: 225

This measure, among other things, modifies the current environmental response tax to be the "environmental response and waste resource management tax" and increases the tax from \$0.05 per barrel of imported oil to \$0.10.

The Department of Taxation (Department) **opposes the tax provision in this legislation as a substantial tax increase.**

Notwithstanding the merits of this measure, this legislation represents a one hundred percent tax increase that will eventually impact the gasoline prices all Hawaii drivers pay. This measure has the potential to drastically slow the economy further due to the economies reliance on fuel for transportation and energy costs.

In recent legislative sessions, tempering high gasoline prices was a top priority that led to passage of an alcohol fuel general excise tax exemption. This legislation runs counter to accomplishments in reducing Hawaii's gas prices. In order to effectively minimize the high price of gasoline at the pump, tax increases such as this legislation, must be avoided.

The Department is also strongly concerned with the timing of this legislation, because the state and nation are in a recession where taxpayers are worried about their finances. This tax is highly regressive and will impact the poor the most.

This legislation will result in a revenue increase of \$1.7 million to the waste resource management special fund.

LINDA LINGLE
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

S.B. 1244, RELATING TO SOLID WASTE

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

February 17, 2009
2:45pm

1 **Department's Position:** The Department of Health respectfully opposes this bill. In these difficult
2 fiscal times, the public is better served by avoiding fee increases.

3 **Fiscal Implications:** Proposes doubling the environmental response tax from 5 cents per barrel
4 of oil to 10 cents. This represents an increase of approximately \$1.7 million in tax collections.
5 Depending on the duties of the commission, it may need administrative staff of one to three people. If
6 the commission has an executive director and two other staff, it may roughly cost from \$200,000 to
7 \$300,000.

8 **Purpose and Justification:** This bill creates a Commission of Waste Resources Management
9 composed of seven members. The commission is assigned the responsibility of revising and
10 implementing the state's integrated solid waste management plan, monitoring activities, information
11 preparation and dissemination, data collection, and other functions the commission deems necessary.
12 The bill creates a new waste resource management fund with the primary funding sources being the
13 environmental response revolving fund and the deposit beverage container special fund. The bill also
14 proposes to double the environmental response tax from 5 cents per barrel of oil to 10 cents.

1 DOH supports source reduction, recycling and other sound solid waste management planning
2 principles. However, we oppose this bill as it expands government by creating a new agency, some of
3 whose functions overlap with the existing Office of Solid Waste Management. The bill itself finds that
4 the department is overburdened with functions. Instead of creating a new commission, a more efficient
5 remedy would be to provide the department with more resources to meet its existing mandates. In any
6 event, more resources are needed. We also note that although commissioners are to serve without
7 compensation, the commission would require salaried administrative staff to carry out its assigned
8 functions.

9 Unfortunately, in these difficult economic times, when even continuing current levels of funding
10 for environmental programs may be at issue, it is more prudent to avoid increased fees, taxes, and
11 expenditures.

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

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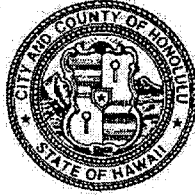
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DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 09-52

February 13, 2009

The Honorable Mike Gabbard, Chair
and Members of the Committee on Energy and Environment
State Senate
State Capital
Honolulu, Hawaii 96813

Dear Chair Gabbard and Members:

Subject: Senate Bill 1244, Relating to Solid Waste

The City and County of Honolulu's Department of Environmental Services (ENV) has concerns regarding Senate Bill 1244 which proposes to modify Chapter 342G, Hawaii Revised Statutes to add a new part entitled Commission on waste resource management.

While it is appropriate to update the State Integrated Solid Waste Management Plan, it is unclear that establishing an additional entity (the Commission) to have exclusive jurisdiction and final authority in all matters relating to preparation, implementation and administration of such plan, will be more effective or timely than can be provided by the Department of Health. Additional entities generally result in additional layers which increases the time to accomplish tasks.

Specific concerns include:

- a. No criteria are established for membership on the unpaid commission which could result in membership not having the technical expertise in solid waste management to effectively prepare and/or validate this important plan. Direct involvement by professionals is essential to the development of a potentially successful plan.
- b. The commission is to consist of seven members, but procedures are identified for only appointing five members.
- c. There is no provision for staff for the commission, or indication of how the Department of Health would provide for support for the commission.

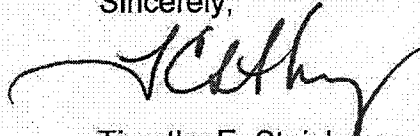
The Honorable Mike Gabbard, Chair
and Members of the Committee on Energy and Environment
February 13, 2009
Page 2

- d. State Commissions are normally established on the mainland to assure that common problems such as the impact of air emissions, illegal dumping, and other cross border issues are addressed fairly and equitably for all member Cities or Counties. Hawaii is somewhat unique as an island state with each county required to provide it's own Integrated Solid Waste Management Plan to address its own solid waste needs to meet its responsibilities under statute. A Commission would take away the authority of local government to administer its local responsibilities.

At this time of economic crisis, most states (including Hawaii) are implementing measures to reduce, not increase, the size of government. If the concern is that the Department of Health cannot meet its requirements regarding the State Integrated Solid Waste Management Plan with its current resources, it might be better to provide the resources that would be related to the commission to the Department of Health to allow their professionals to perform the desired function.

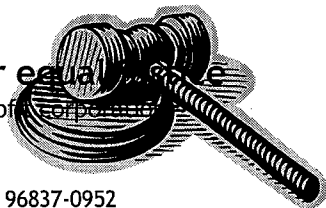
We would encourage you to consider alternatives that do not include establishment of another government entity.

Sincerely,



Timothy E. Steinberger, P.E.
Acting Director

lawyers for equal justice
a hawaii non-profit corporation



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Honolulu, Hawai'i 96837-0952
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SENATE COMMITTEE ON ENERGY & ENVIRONMENT
Tuesday, February 17, 2009, 2:45 P.M. – State Capitol Room 225

TESTIMONY IN SUPPORT OF SB 1244

Aloha Chair Gabbard, Vice Chair Hooser and Members of the Committee:

Lawyers for Equal Justice (LEJ) is a non-profit law firm that advocates on behalf of low-income individuals and families in Hawai'i on civil legal issues of statewide importance. LEJ strongly supports SB 1244, which establishes a solid waste commission, the waste resource management special fund, and provides for the review and revision of the State's integrated solid waste management plan (ISWMP). Hawaii is in the midst of a solid waste crisis. Continued expansion of the Waimanalo Gulch Sanitary Landfill is not the answer. The intent of SB 1244 is to revise the State's solid waste management system to provide comprehensive and innovative solutions to our waste management crisis.

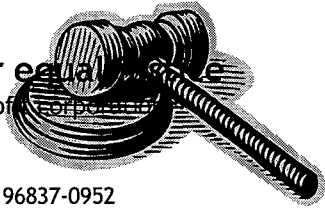
For decades, the State has been talking about how to reduce our solid waste stream. Unfortunately, Hawaii has not even come close to meeting its January 1, 2000 goal of reducing the pre-disposal solid waste stream by fifty percent. Nine years later, while cities and states across the country are adopting zero waste plans, Hawaii is still struggling to meet this modest goal. In fact, we are moving backwards. According to the City and County of Honolulu's "2006 Waste Characterization Study", the solid waste crisis is worsening at an alarming rate. Between 1999 and 2006 waste generation from households increased 10 times faster than population growth. (R.W. Beck, "2006 Waste Characterization Study," April 2007, at p. 3-11).

While provisions of Hawaii law aspire toward the proper management and elimination of solid waste, such aspirations have rarely translated into concrete action. (See H.R.S. § 344-4(2)(g), providing that in order to conserve Hawaii's natural resources and enhance our quality of life, all agencies shall "promote the optimal use of solid wastes through programs of waste prevention, energy resource recovery, and recycling so that all our wastes become utilized."). The State's revised solid waste management plan must include specific goals, enforcement provisions, and penalties for non-compliance. To this end, we propose that among the specific uses of the waste resource management fund should be: "Enforcement of laws and regulations relating to solid waste management, including landfill diversion, waste reduction, and recycling, as well as illegal dumping."

lawyers for equal

a hawaii non-profit corporation

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Previously conducted studies show that landfill expansion is not the answer. For instance, requiring commercial composting would reduce at least 40% of the State's solid waste-stream. Comprehensive waste reduction programs, such as for green-waste composting, curbside recycling, and diversion of construction and demolition debris, must be implemented now. (See, for example, <http://www.ciwmb.ca.gov/condemo>).

Of particular concern to LEJ is Waimanalo Gulch Sanitary Landfill's disproportionate impact on O'ahu's low-income communities. Waimanalo Gulch's tower of trash rises 510 feet above sea level. In the past few years, various agencies have issued violations to and fined both the City and County of Honolulu and landfill operator Waste Management approximately \$2.8 million for serious environmental violations. The continued failure to remedy these violations and the threatened expansion of the landfill disproportionately impact low-income communities, exposing them to higher levels of toxic air and water pollution linked to increased rates of asthma, cancer, and other serious health problems. Increased solid waste incineration also raises public health concerns. It is well known that burning garbage releases toxic materials including hydrogen chloride, nitric oxide, lead, cadmium, arsenic, mercury and chromium - all of which can be serious health hazards.

The solid waste crisis facing Hawaii cannot be ignored. The State's Office of Solid Waste Management (OSWM), established in 1991, has been unable to effectively implement and oversee a long-term, comprehensive solid waste management plan. Reevaluating the role OSWM shall play in administering the State's solid waste management system and reviewing the State's out-dated ISWMP, last revised in July 2000, are the first steps toward addressing this crisis.

We ask that you pass SB 1244 so that the public and the legislature can continue to discuss these critical issues regarding Hawaii's solid waste management plan this legislative session. Mahalo for this opportunity to testify in support of SB 1244.

Elizabeth M. Dunne
Senior Staff Attorney



Sierra Club Hawai'i Chapter

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SENATE COMMITTEE ON ENERGY & ENVIRONMENT
Tuesday, February 17, 2009, 2:45 P.M. – State Capitol Room 225

TESTIMONY IN SUPPORT OF SB 1244

Aloha Chair Gabbard and Members of the Committee:

The Sierra Club, Hawaii Chapter, with 5500 dues paying members statewide, strongly supports SB1244, which establishes a solid waste commission, the waste resource management special fund, and provides for the review and revision of the State's integrated solid waste management plan (ISWMP). With the present solid waste crisis perplexing the State as well as the Counties, SB1244 attempts to address the situation and provide clear direction and possible solutions towards resolving this problem.

Hawaii is faced with a solid waste crisis on most islands. A study completed for the City and County of Honolulu in 2006 reveals some shocking facts about Oahu's solid waste situation. Since the last waste characterization study in 1999, the trash from Oahu households increased by 30.2%, from 316,491 tons annually in 1999 to 412,016 tons in 2006. The population increased by roughly 3% over the same period (from 878,906 in 1999 to 906,000 in 2006) – **meaning waste generation from households increased 10 times faster than population growth.** (R.W. Beck, "2006 Waste Characterization Study," April 2007, at 3-11, *available at* http://www.opala.org/pdfs/solid_waste/2006%20Final%20Waste%20Characterization%20Report.pdf).

Hawaii residents generate a whopping average of 6.2 pounds of opala each, daily. That's 41% greater than the national average (4.4 pounds per person) and 210% greater than the average German resident (less than 2 pounds daily). This wastefulness is compounded by our lack of recycling with more than two-thirds of our waste being landfilled or incinerated, and ultimately not addressing the root of the problem. Perhaps most shocking is that nearly **40% of the State's solid waste-stream could be diverted from disposal at the landfill** if the State simply encouraged commercial composting, which has been a statutory priority for over twenty years.

At 510 feet above sea level, the Waimanalo Gulch sanitary landfill has become one of Oahu's tallest manmade structures, exceeding the island's building height limitation by over 100 feet. It is also likely the dirtiest, receiving \$2.8 million in fines in the past few years for 18 environmental violations. No obvious new landfill locations are available and the last selection process produced such unattractive options as Koko Head crater or building a landfill over our sole source of drinking water.

 Recycled

Robert D. Harris, Director

The solid waste crisis facing Hawaii cannot be ignored. The fact of the matter is that solid waste is a hundred trillion dollar industry annually, and the State's Office of Solid Waste Management (OSWM) established in 1991 is presently under-funded and overburdened with too many functions and duties, making it practically impossible for them to effectively accomplish all that the Legislature expects.

It is absolutely critical that this Legislature again address the situation we currently find ourselves in. SB1244 is a starting point for this discussion to occur. To improve the State's solid waste management practices, we must refocus our attention upon sustainable solutions, zero-waste initiatives, and better planning for the long-term. The first steps towards accomplishing this begins with reevaluating the role OSWM shall play in administering the state's solid waste management system, as well as reviewing the State's out-dated ISWMP, last revised in July, 2000.

We know we can do better to reduce our waste stream. Unfortunately, common sense solutions like the currently mandated curbside recycling and green-waste composting on Oahu have been slow to be implemented. Residents want to do the right thing but they need to be educated, and need it to be easy and convenient. Curbside is just that – recycling convenience for bottles, cans, food jars, cardboard, newsprint, and other recyclables, as well as green-waste composting, at your own curb. By establishing this common sense waste reduction program, Honolulu will be joining the 10,000 cities across the mainland that already have curbside collection of recyclables and compostables

Our environment and future generations are paying the real costs for the State being unable to achieve its statutorily prescribed waste diversion goals. Simply put, Hawaii residents cannot wait any longer for a real solid waste solution. We can bury our problems for only so long. We need to start behaving as though we live on an island. Please allow SB1244 an opportunity to move forward from this Committee so that these critical issues can continue to be discussed.

Thank you for this opportunity to testify.



WINDWARD AHUPUA'A ALLIANCE

From the Peaks of Na Ko'olau to the Outer Reefs

*Community-Based Planning
Sustainable Economic Development
Restoration, Preservation, Protection & Public Access
Educational & Cultural Programs*

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

2:45 pm

Tuesday, February 17, 2009

Conference Room 225

SB 1244 - RELATING TO SOLID WASTE

Defer

My name is Shannon Wood speaking on behalf of the *Windward Ahupua'a Alliance* regarding SB 1244 - RELATING TO SOLID WASTE which would create a seven-member *Waste Resource Management Commission*.

After examining the bill, I am not convinced that it is necessary to add still another layer of bureaucracy to our ongoing battles in dealing with solid waste issues.

Therefore, I suggest that you defer the bill until you consult with the experts who have been working on state and county Integrated Solid Waste Plans to see if this bill would be a help or a hindrance.

Mahalo for the opportunity to testify on ¹²⁴⁴ SB ~~1000~~ - RELATING TO SOLID WASTE.

Testimony of George White re: SB1244 – Senate ENE Committee – Feb. 17, 2009

SENATE COMMITTEE ON ENERGY & ENVIRONMENT

Tuesday, February 17, 2009 - 2:45 P.M. – State Capitol Room 225

Re: Testimony in Strong Support of SB 1244

Aloha Chair Gabbard, Vice Chair Hooser and Members of the Committee:

I apologize for being unavailable to testify before you in-person, this afternoon. I write in strong support of SB1244 (Relating to Solid Waste), which attempts to address the solid waste crisis presently perplexing the State.

The problems posed by Hawaii's growing waste stream and our inability to adequately address it, have left Hawaii with severely limited and unsustainable waste disposal options. Landfills across the State have already reached, or will soon reach capacity, yet our State as well as local governments continue to support and allocate funds for short term solutions (such as shipping the trash out-of-State at a significant cost), rather than allocating funds for long term strategies.

Simply given the fact that Hawaii produces almost double the amount of solid waste per person per day compared to the rest of the United States, and the fact that between 1990 and 2006, municipal solid waste generation grew twenty-two percent (22%) across the U.S., but expanded an astounding one hundred-five percent (105%) in Hawaii, we can no longer afford to ignore this worsening situation. Especially when established waste diversion methods such as commercial composting could divert in upwards of 40% of Hawaii's solid waste stream away from the landfill.

In its 2006, 2007, and 2008 annual reports to the Legislature, the State's Office of Solid Waste Management (OSWM) indicated that Hawaii had achieved approximately a thirty percent (30%) reduction in its solid waste stream prior to disposal. Juxtaposed against the progress made in waste reduction between 1990-1999, the State's diversion performance has almost flat-lined during 2000-2009. The present diversion rate is a mere fraction of the statutory goal of fifty percent (50%) by 2000, the State has failed to achieve.

These problems, however, are nothing new. As the findings of SB1244 highlight:

- An informal joint legislative task force (Informal Task Force), convened in 2003, discussed numerous problems with the State's solid waste management system and acknowledged that the statewide solid waste disposal system was out-dated and in need of modernization.
- In January, 2004, the State Auditor conducted an audit, evaluating the administration of the OSWM by the Department of Health (DOH) and concluded that "DOH is not carrying out its solid waste management responsibilities for public health and environmental protection. Ultimately, the Department has failed in its duties to the public and the environment."
 - Referencing a 1994 audit, as well as a 1996 follow-up audit, the Report states that "prior audits show management problems that continue to exist" including "no orderly or efficient management of solid waste programs" and that "very little has changed."
- The 2004 Auditor's Report also warned that "the State is facing a solid waste crisis . . . [which] has reached a critical point and [the State] is now faced with making last-minute decisions to address pressing solid waste issues."
 - The report concludes that "DOH's lack of oversight has resulted in out-dated solid waste management plans that cannot guide effective development and implementation of its solid waste programs."

Testimony of George White re: SB1244 – Senate ENE Committee – Feb. 17, 2009

OSWM is presently overburdened with too many functions and duties, making it practically impossible for it to effectively accomplish all that the Legislature expects. It is incumbent upon this Legislature to address this situation. SB1244 is a step in that direction by establishing a Solid Waste Commission (Commission) to alleviate OSWM of the necessary long-term planning and oversight that has been consistently lacking and needed over the last decade. The make-up and scope of the Commission's authority is yet to be determined, but looking at how other States across the Country have approached the issue, balanced with Hawaii's unique socio-political considerations will be invaluable.

The work of the Commission, as well as the work of the Solid Waste Advisory Council (convened by the Commission to review and revise the State's out-dated solid waste management plan), will require funding. Luckily, various options to fund this work are available to the Legislature:

- **The Environmental Response Revolving Fund (ERRF)**
 - The Legislature amended the ERRF in 2001, explicitly stating that the fund may be used, to support environmental and natural resource protection programs, and **to address concerns related to solid and hazardous waste.** (HRS § 128D-2(b)(2))
 - Increasing the Environmental Response Tax from 5 cents to 10 cents per barrel of petroleum would provide an additional 1.5 million dollars in revenue to the ERRF
 - Impact on the “price at the pump” and the everyday consumer would amount to **not more than a few extra dollars per year.**
- **The Deposit Beverage Container Fund**
 - This successful program and Fund are established under the same statutory section (HRS Chapter 342G) that establishes the work of OSWM and the importance of the State's solid waste management strategy.
 - The work of the Commission as well as the Advisory Council could be sufficiently funded with an appropriation of **less than 2%** of the Fund's available monies (estimated at over **70 million dollars**).
- **Municipal User fees for waste services**
 - According to a study completed for the City and County of Honolulu in 1999, implementation of a municipal user fee has numerous advantages.
 - At a cost of **just \$1.25 per week**, the State could bring in an estimated 2.5 million dollars per year for waste services. (R.W. Beck, “Long-Range Financial Plan and Solid Waste User Fee Study” April 1999, at 3-1-2, *available at* http://www.opala.org/pdfs/solid_waste/resources/LRFP_UserFeeStudy.pdf)
- **Municipal waste tipping fees**
 - Increasing tipping fees will specifically target those delivering municipal waste to processing facilities.
 - Such an increase, however, would likely face significant objections from the solid waste industry.

The State's environmental policy states that in order to conserve Hawaii's natural resources and enhance our quality of life, all agencies shall “promote the optimal use of solid wastes through programs of waste prevention, energy resource recovery, and recycling so that all our wastes become utilized.” (H.R.S. § 344-4(2)(g)). These statutory prerogatives cannot be achieved without significant attention and investment. Mere lip service, mismanagement, and funding excuses over the last decade have cast Hawaii into a dire solid waste crisis. Reviewing, reorganizing, and rejuvenating Hawaii's solid waste infrastructure will stimulate the local economy, provide additional energy resources, and sustain our Hawaii for future generations.

Please move SB1244 forward, to allow for continued discussion and action on this critical issue.