

TAXBILLSERVICEDate 3/10

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96815 Tel. 536-4587 Time 720SUBJECT: GENERAL EXCISE, Renewable energy tax exemption for nonprofit organizations **Cat AF AS AX B**BILL NUMBER: SB 1675, Proposed HD-1 Type **1 2 WI**

INTRODUCED BY: House Committee on Energy and Environmental Protection

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to allow an IRC 501(c) nonprofit organization to claim a renewable energy general excise tax exemption for a renewable energy technology system that is installed and placed in service in the state for the exclusive use of the nonprofit organization. The exemption shall be: (1) the lesser of _____ % of the actual cost of a solar energy system or \$ _____ if the system is used to heat water or \$ _____ for all other solar energy systems; or (2) in the case of a wind-powered energy system, the lesser of _____ % of the actual cost of a wind-powered energy system or \$ _____. This section shall apply to renewable energy technology systems that are installed and placed in service on or after July 1, 2010.

The amount of the exemption shall be based upon and limited to the amount of the general excise tax paid by the nonprofit organization for any revenue-generating activities that are taxable under the general excise tax.

Stipulates that if the tax exemption under this section exceeds the nonprofit organization's general excise tax liability, the excess of the exemption over liability may be used as an exemption against the nonprofit organization's tax liability in subsequent years until exhausted.

For tax years beginning after December 31, 2009, the dollar amount of any utility rebate shall be deducted from the cost of the qualifying system and its installation before applying the tax exemption under this section.

Directs the director of taxation to prepare the necessary forms to claim the exemption, may require the nonprofit organization to furnish reasonable information to ascertain the validity of the claim for the exemption, and may adopt rules necessary to effectuate the purposes of this section pursuant to HRS chapter 91. Requires all claims for the exemption, including amended claims, to be filed on or before the end of the twelfth month following the close of the taxable year.

Defines "actual cost," "renewable energy technology system" and "solar or wind energy system" for purposes of the measure.

EFFECTIVE DATE: Tax years beginning after December 31, 2009

STAFF COMMENTS: The proposed measure would allow nonprofit organizations to purchase a renewable energy technology system and offset its cost by a general excise tax exemption. It appears that since nonprofit organizations do not pay any federal or state income taxes and have no tax liability to offset any renewable energy income tax credits that would normally be used to reduce the cost of such

devices, this measure is proposed to reduce the cost of such renewable energy devices purchased by such organizations by reducing their general excise tax liability.

While the adoption of this measure would result in a revenue loss to the state in the amount of general excise tax revenue that the nonprofit organization would have paid to the state, perhaps lawmakers should just appropriate the necessary sum of state funds for the purchase of such devices. At least the potential revenue loss to the state treasury could be limited to a predetermined amount on an annual or biennial basis and thereby avoid total depletion of precious state revenue.

If the intention of this measure is to make the purchase and installation of these energy savings devices attractive to nonprofit organizations, the mechanism already exists in the state and federal tax credits. While the nonprofit organization may not be able to use the tax credits, for-profit entities can partner with a nonprofit and purchase and install such devices and the credits would accrue to the for-profit entity. There are credit tools available that will provide financial leverage to a nonprofit in accessing the tax credits for the for-profit partner. These tools include term loans and equipment leases. In the latter case, those leases can be capital leases, operating leases or tax-exempt municipal leases. In the case of a capital lease, the process would involve a simplified credit review with nominal dollar "buyout" at the end of the term of the lease. The asset in this case is the collateral for the lease/loan. In the case of an operating lease, the lease payments would be a monthly expense and at the end of the term the final payment would be based on the fair market value of the residual. This lease would be an off-balance sheet transaction. In the case of a municipal lease, these would involve state or city government as well as nonprofits that are tax exempt. In this case the lease payments are apportioned to match the monthly cost savings the exempt would realize with that amount paid over as the lease payment until the entire amount of the principal and interest is amortized. In the meantime, the actual cost of acquisition is reduced by the amount of the state and federal credits in the case of all leases as the for-profit entity would recognize the credits in tax savings.

Thus, this proposal reflects a lack of familiarity with how such tax credits can be utilized by altering the financing structure. The proposal takes a convoluted path to trying to provide an incentive to an otherwise tax exempt entity when none is necessary. It also ignores the fact that in many cases, nonprofits may have no taxable income for general excise tax purposes or very little and that a large exemption may take years to realize those savings. Therefore, this measure is not necessary as the incentives already exist for both for-profit and nonprofit organizations.

Digested 3/10/10

Bill No. SB1675

Date 3/10

Time 932

Cat AF AS AX (B)

Type 1 2 WI

**Testimony before the
House Committee on**

Energy and Environment

S.B. 1675 SD 2 Proposed HD 1 -- Relating to Renewable Energy

**Thursday, March 11, 2010
10:00 am, Conference Room 225**

**By Arthur Seki
Director, Renewable 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 Renewable 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 the proposed HD1 in S.B. 1675 SD 2 which provides an exemption from the general excise tax for renewable energy systems to non-profit organizations. The proposed changes in this bill will make it more attractive for these organizations to take advantage of this benefit.

Thank you for the opportunity to testify.

Bill No. SB 1675

Statement of
DR. John Tantlinger
Member
Central Union Church
before the
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
Thursday, March 11, 2009
10:00 a.m.
State Capitol, Conference Room 325

Date 3/10

Time 952

Cat-AF AS AX B

Type (1) 2 WI

in consideration of
SB 1675, SD 2, Proposed HD 1
RELATING TO RENEWABLE ENERGY.

Aloha, Chair Morita, Vice Chair Coffman, and Members of the House Committee on Energy & Environmental Protection. My name is John Tantlinger. I am the retired manager of the State's Energy Planning and Policy Branch, but more relevant to the measure before you today -- the proposed House Draft (HD 1) of SB 1675, SD 2 -- I am a member of Central Union Church. I feel privileged that Central Union Church's governing body, its Church Council, has authorized me to present testimony on behalf of Central Union Church on this bill. We express our sincere thanks to Chair Mina Morita and applaud her leadership for introducing and providing a hearing for this measure.

Central Union Church strongly supports the aim of the proposed HD 1 to provide financial incentives for Hawaii's nonprofit sector to install renewable energy systems, and offers comments that we believe would make these incentives equitable with what has been available to the commercial and residential sectors for decades.

It is important to emphasize that it is not our intent to "lobby" the Legislature for the specific benefit of Central Union Church. Rather, as a matter of community outreach, we want to express our support of the intent of,

and offer our comments on this proposed energy market transformation policy initiative that holds the widest potential benefit for Hawaii's income tax-exempt nonprofit organizations that seek to be better stewards of the Earth's bountiful resources, a gift from God. We also hope others will join us in one voice in this important effort.

Since retiring from the State's Energy Program, I continued to do volunteer work at Central Union Church. This work brought me to recognize a niche energy problem that warrants special attention, and requires an innovative energy policy solution, such as the proposed HD 1, to provide financial incentives to the nonprofit sector to install renewable energy systems.

Specifically, since retiring from the State, I continued to work on some projects at Central Union Church. One of these projects in which I remain involved was to form a working group that helped Central Union Church bring in an energy service company (ESCO) to conduct a campus-wide energy audit that identified campus-wide energy improvements, implementation of which the Church is now considering. These improvements would produce an estimated annual energy bill savings of approximately \$40,000.

However, the list of energy improvements recommended by Energy Industries, LLC, the Church's ESCO, could not include solar water heating or solar photovoltaics (PV), because these renewable energy options were not found to be financially cost-effective. The reason was that, unlike the commercial and residential sectors, there are no renewable energy tax incentives available to the Church and other so-called "tax-exempt" nonprofit organizations. As you know, these other sectors' incentives are in the form of income tax credits.

Importantly, though, while so-called "tax-exempt" nonprofit organizations do not pay income taxes, they do pay State General Excise Tax (GET) on funds from revenue-generating activities, for example, weddings conducted by our church. Thus, we believe that State renewable energy GET credits for all nonprofit organizations, similar to the existing renewable energy income tax credits, would provide the appropriate financial incentive for nonprofits to install renewable energy systems. In addition, like the renewable energy income tax credits, we believe that GET credits for nonprofit organizations would be a significantly beneficial policy incentive for all energy stakeholders and Hawaii's taxpayers. We believe that they would open this large renewable energy market, create new jobs, and actually produce positive revenue flow for the State.

The Administration has acknowledged the inadequacy of incentives for nonprofits to install renewable energy systems. When we suggested the idea of renewable energy GET credits for nonprofits to the Administration and discussed it with the Department of Business, Economic Development & Tourism (DBEDT), they were supportive and expressed keen interest in such an incentive.

Therefore, on behalf of Central Union Church, I reiterate our support for financial incentives for Hawaii's nonprofit sector to install renewable energy systems. We hope that you will consider the efficacy of a GET tax credit over an exemption, and that you will pass this measure in a form that will provide the most effective overall incentives to expand renewable energy into Hawaii's nonprofit sector.

Thank you very much for the opportunity to offer these comments.

God bless you all.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
PEARL IMADA IBOSHI
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Bill No. SB1675

Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Thursday, March 11, 2010
10:00 AM
State Capitol, Conference Room 325

Date 3/10

Time 1907

Cat AF AS BI

Type 1 WI

in consideration of
SB1675 HD1 (proposed)
RELATING TO RENEWABLE ENERGY.

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

The Department of Business, Economic Development, and Tourism (DBEDT) supports the proposed House Draft 1 of SB 1675, which would allow nonprofit organizations to receive an excise tax exemption for renewable energy systems, but defers to the Department of Taxation on administration of the measure.

Nonprofit organizations are often very interested in renewable energy. However, they are unable to make use of incentives provided to other entities. This incentive could make the difference for a significant number of projects, and thus generate jobs, tax revenues, and energy diversification that would not otherwise exist.

We encourage your support of this bill. Thank you for the opportunity to offer these comments.

Cyndi Apana

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 10, 2010 7:27 PM
To: EEPtestimony
Cc: james.bac@dbedt.hawaii.gov
Subject: Testimony for SB1675 on 3/11/2010 10:00:00 AM
Attachments: SB1675_SD2, HD1_PROPOSED bill_.pdf

Bill No. 1675

Testimony for EEP 3/11/2010 10:00:00 AM SB1675

Date 3/10

Conference room: 325
Testifier position: support
Testifier will be present: Yes
Submitted by: James Bac
Organization: DBEDT
Address: 235 S. Beretania St. Honolulu, HI
Phone: 587-3876
E-mail: james.bac@dbedt.hawaii.gov
Submitted on: 3/10/2010

Time 1927

Cat AF (AS) AX B

Type 1 (2) WI

Comments:
Attachment of proposed SB1675,SD2,HD1.

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 237, Hawaii Revised Statutes, is amended by
2 adding a new section to be appropriately designated and to read
3 as follows:

4 "§237- Renewable energy tax exemption; nonprofit
5 organizations. (a) Each nonprofit organization that has
6 obtained tax exempt status under section 501(c) of the Internal
7 Revenue Code, may claim a renewable energy general excise tax
8 exemption under this chapter for an eligible renewable energy
9 technology system that is installed and placed in service in the
10 State for the exclusive use of the nonprofit organization. The
11 general excise tax exemption may be claimed as follows:

12 (1) For each solar energy system: per cent of the
13 actual cost or the cap amount determined in subsection
14 (b), whichever is less; or

15 (2) For each wind-powered energy system: per cent of
16 the actual cost or the cap amount determined in
17 subsection (b), whichever is less;



1 "Renewable energy technology system" means a new system
2 that captures and converts a renewable source of energy, such as
3 solar or wind energy, into:

4 (1) A usable source of thermal or mechanical energy; .

5 (2) Electricity; or

6 (3) Fuel.

7 "Solar or wind energy system" means any identifiable
8 facility, equipment, apparatus, or the like that converts solar
9 or wind energy to useful thermal or electrical energy for
10 heating, cooling, or reducing the use of other types of energy
11 that are dependent upon fossil fuel for their generation.

12 (d) For taxable years beginning after December 31, 2009,
13 the dollar amount of any utility rebate shall be deducted from
14 the cost of the qualifying system and its installation before
15 applying the tax exemption under this section.

16 (e) The director of taxation shall prepare any forms that
17 may be necessary to claim a tax exemption under this section,
18 including forms identifying the technology type of each tax
19 exemption claimed under this section, whether for solar or wind.

20 The director may also require the nonprofit organization to
21 furnish reasonable information to ascertain the validity of the
22 claim for exemption made under this section and may adopt rules



Report Title:

General Excise Tax; Exemption; Nonprofit Organizations

Description:

Provides a general excise tax exemption for nonprofit organizations that install renewal energy technology systems.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



10:00am for Decision Making

SB1675 SD2	RELATING TO RENEWABLE ENERGY.	Net Energy Metering; Renewable Energy; Electricity; Public Utilities Commission
SB2563 SD1	RELATING TO ENERGY EFFICIENCY.	Energy Efficiency; HCEI; Lead By Example Goals
SB2858 SD1	RELATING TO RETAIL WHEELING.	Retail Wheeling; Public Utilities; Intra-Governmental
SB2231 SD1	RELATING TO ELECTRIC VEHICLES.	General Excise Tax; Electric Vehicles; Exemption
SB2357 SD2	RELATING TO RENEWABLE ENERGY.	Renewable Energy; Gas Utility; Reporting Requirements