SB 2618

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SENATE COMMITTEE ON ENERGY & ENVIRONMENT

TESTIMONY REGARDING SB 2618
RELATING TO RENEWABLE TECHNOLOGIES

*****WRITTEN TESTIMONY ONLY*****

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: FEBRUARY 4, 2010
TIME: 3PM
ROOM: 225

This measure proposes to allow owners of a solar or wind-powered system to transfer, sell, or assign tax credits to the seller or installer.

The Department of Taxation **opposes this measure as poor tax policy.**

The Department is strongly opposed to any provision that allows Hawaii tax credits to be sold, assigned, or transferred. Allowing taxpayers to market or sell their tax credits is fundamentally poor tax policy because it dissociates the activity of the entity that generates the credit from the entity that enjoys the credit. Selling tax credits can be subject to abuse and suspect motivation by parties involved.

The Department's fundamental and primary concerns regarding credit transfers are the following:

- The transferability rewards a separate taxpayer unrelated to the taxpayer that generated the credit, which is fundamentally poor tax policy for encouraging behavior and directly rewarding that behavior;

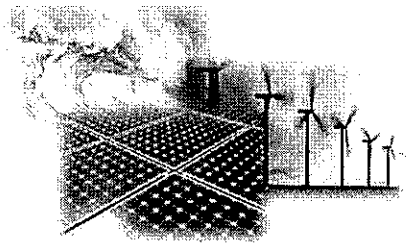
- Transferability will create great hardships for those that claim the credit when another taxpayer's activity generates the credit when the latter taxpayer is audited. For example, if taxpayer A's activity generates the credit and transfers the credit to taxpayer B, and subsequently taxpayer A's activities are audited; the Department will be forced to track down B, advise them that the credit is being rejected, and taxpayer

B will now have a deficiency with the Department due to A's actions. This will cause contract and warranty disputes between taxpayers.

- The Department is not setup to regulate credit transfers. Will the Department be required to establish a "Bureau of Credit Conveyances" in order to track transfers? If this is the case, resources will have to be dedicated to this.

- And, abuse relating tax credit transfer prices will be problematic. The State will be out a $1 when taxpayers will be transferring this $1 for pennies.

blue planet FOUNDATION



SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
February 4, 2010, 3:00 P.M.
Room 225

(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 2618

Chair Gabbard and members of the Committee:

The Blue Planet Foundation supports Senate Bill 2618, a measure that allows the transfer of the renewable energy technologies income tax credit to a system seller or installer.

Blue Planet supports this and other measures which seek to expand the ability for Hawai'i residents and businesses to apply 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, some potential clean energy adopters have found it to be lacking meaningful incentive to invest in Hawai'i renewable energy projects. Senate Bill 2618 wisely expands the types of taxpayers who can essentially take advantage of the credits.

Thank you for the opportunity to testify.

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L E G I S L A T I V E

TAXBILLSERVICE

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

SUBJECT: INCOME, Energy conservation tax credits

BILL NUMBER: SB 2618; HB 2320 (Identical)

INTRODUCED BY: SB by Kidani, Gabbard, Green, Hooser, Sakamoto and 5 Democrats; HB by C. Lee and 5 Democrats

BRIEF SUMMARY: Amends HRS section 235-12.5 to allow an owner who purchases a solar or wind-powered energy system to assign, transfer, or sell the tax credit to the system seller or installer using a form to be prescribed by the department of taxation, and permits the tax credit to be claimed by the system seller or installer, rather than the owner.

Amends the definition of "actual cost" to provide that when an owner assigns, transfers, or sells the owner's tax credit to a system seller or installer, the actual cost of the system incurred by the owner shall not be reduced by the amount of the credit for purposes of the credit calculation under this section.

Defines "owner" as the economic owner of the renewable energy technology system who does not need to be the owner of the property being served by the system; provided that the determination of the economic owner of a system shall be made at the time the system is installed and placed in service. Defines "system seller or installer" for purposes of the measure.

EFFECTIVE DATE: July 1, 2010

STAFF COMMENTS: This measure proposes to allow a purchaser of a solar or wind-powered energy system to assign, transfer or sell the state renewable energy technology tax credit to the seller or installer. While there is no provision at the federal level, it will create a difference in tax treatment of renewable energy devices and may create a compliance and accounting nightmare for the taxpayer and the department of taxation. If the purpose of the measure is to allow an installer to claim the state solar or wind-energy powered system tax credit so that the total system price to the purchaser is reduced by the amount of the credit, resulting in a "net" price to the purchaser, the measure acknowledges the high cost of such systems.

If the intent of this bill is to allow taxpayers who have little or no tax liability to take full advantage of the credit without a reduction in the amount claimed because they have little or no state income tax liability, it may grow less attractive over time as sellers have more than enough credits to offset their liability. On the other hand, will the proceeds of the sale of the tax credit create a taxable incident for the taxpayer? Again, if the intent is to help those low-income taxpayers acquire such alternate energy devices, a different strategy should be pursued such as the loan program discussed below.

It should be noted that the high cost of these energy systems limits the benefit to those who have the initial capital to make the purchase. If the combined incentives of federal and state income tax credits during the early 1980's equal to 50% were not able to encourage more than those who did install

alternate energy devices during the period when the federal credits were in effect, it is questionable whether the state tax credits along with the federal energy tax credits (30%) will encourage many more taxpayers to install such devices. The combined total credit of 65% together with rising electric bills will spur those who are on the edge of being able to afford the installation of these devices to acquire them. Those who do not have the means need other forms of assistance including low-interest/no interest loans or a pay as you save plan that will pay for the devices with the amount of the avoided cost.

As an alternative to the energy conservation tax credits, consideration should be given to a program of low-interest loans available to all income levels. However, if the taxpayer avails himself of the loan program, the renewable energy credit should not be granted for projects utilizing the loan program as the projects would be granted a double subsidy by the taxpayers of the state.

Low-interest loans, which can be repaid with energy savings, would have a much more broad-based 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. A program of low or no-interest loans would do much more to increase the acquisition of these devices. Persons of all income levels could borrow the funds, make the acquisition, and repay the state program in an amount equal to the avoided costs that their utility bills would now reflect. While this recommendation has fallen on deaf ears in the past; the above-mentioned proposal would help put such devices within the reach of more people. The credit, on the other hand, merely becomes a windfall for those who are able to come up with the up-front costs for such devices. This leaves the poor and lower-middle income families still dependent on fossil fuel energy.

Merely providing federal and state tax credits ignores the reality of living in Hawaii, that is, most families don't have the resources to make such a large capital outlay while struggling to put food on the table.

Digested 2/4/10

Hawaii Solar Energy Association
Serving Hawaii Since 1977

February 4, 2010
3:00 P.M.

Senate
COMITTEE ON ENERGY AND ENVIRONMENT
HB 2618

Mark Duda
President

TESTIMONY IN SUPPORT

Aloha Chair Gabbard and Vice Chair English:

HSEA supports this measure, which gives flexibility to developers of renewable energy projects to structure their financing in ways that make projects most likely to proceed. This measure will allow more renewable energy projects to be built by reducing the need to find developers that also have specific types and quantities of tax liability.

HSEA is aware that in the past the Department of Taxation has questioned the wisdom of transferability in general and suggests that the measure could perhaps be redesigned to accommodate these concerns.

Thank you for the opportunity to testify on this measure.

Mark Duda
President, Hawaii Solar Energy Association

About Hawaii Solar Energy Association
Hawaii Solar Energy Association (HSEA) is comprised of installers, distributors, manufacturers and financers of solar energy systems, both hot water and PV, most of which are Hawaii based, owned and operated. Our 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 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.

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