SB 450

LINDA LINGLE
GOVERNOR

BRENNON T. MORIOKA
DIRECTOR

Deputy Directors
MICHAEL D. FORMBY
FRANCIS PAUL KEENO
BRIAN H. SEKIGUCHI
JIRO A. SUMADA

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 12, 2009

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

SENATE BILL NO. 450

COMMITTEE ON ENERGY AND ENVIRONMENT

Senate Bill 450 clarifies that the additional one cent license tax added to diesel fuel is not applicable to diesel oil that is sold for use in electric power generation by a power-generating facility.

The Department opposes this bill. This legislation will decrease the fuel tax revenues from non-transportation fuel uses by an estimated $1.6 million for fiscal year 2010 and by $1.079 million in fiscal year 2011 and each year thereafter.

At a time when the Highways Division is looking for new ways to generate revenue and maintain current revenue levels, any decrease would be detrimental to the health of the State Highway Fund. The fuel tax revenue account for more than 40% of the State Highway Fund revenues and is the primary means of funding to support the operations and maintenance, and construction of the State Highway System.

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: FUEL, Diesel oil for power generation

BILL NUMBER: SB 450; HB 370 (Identical)

INTRODUCED BY: SB by Hooser, Baker and 7 Democrats; HB by Tokioka, Carroll, Chang, Evans, Hanohano, Herkes, McKelvey, Morita, Nakashima and 2 Democrats

BRIEF SUMMARY: Amends HRS section 243-4 to provide that diesel oil sold for use in electric power generation by a power-generating facility regulated by the public utilities commission shall be taxed at 1 cent per gallon. Requires each entity that uses diesel oil in a power generating facility to certify to the public utilities commission annually that the reduced rate by the entity reduces costs to ratepayers.

Further stipulates that the amendments made by this act shall not be repealed when this section is repealed and reenacted on December 31, 2009 by Act 103, SLH 2007.

EFFECTIVE DATE: Tax years beginning after December 31, 2008

STAFF COMMENTS: The legislature by Act 209, SLH 2007, reenacted a general excise tax exemption for the sale of alcohol fuels which expired December 31, 2006. While Act 209, SLH 2007, took effect on July 1, 2007, the Act also increased the state fuel tax by one cent per gallon including each gallon of diesel oil to 2 cents per gallon. This measure proposes that the fuel tax imposed on diesel oil used to generate electricity shall be taxed at 1 cent per gallon. It should be noted that Act 103, SLH 2007, provided that naphtha used in a power generating facility shall be taxed at the rate of 1 cent per gallon.

While the proposed measure proposes to restore the 1 cent per gallon rate on diesel oil used to generate electricity, there is no logical reason for that tax to be paid as the receipts of the fuel tax are realizations of the state's transportation funds, largely the state highway fund. Since fuel used to generate electricity does not utilize the highway infrastructure, such fuel should be exempt from the state fuel tax.

Setting out that fuel used to generate electricity is subject to the state fuel tax to fund the transportation infrastructure further underscores the inappropriateness of imposing the tax on non-highway use. Thanks to our legislators, the cost of the additional tax on diesel fuel used to generate electricity has contributed to rising energy costs for all taxpayers including government.

Digested 2/2/09