

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 563
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committees on Energy and Environment and Ways and Means, to which was referred H.B. No. 563, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

beg leave to report as follows:

The purpose and intent of this measure is to delay the ability to claim the existing Ethanol Facility Tax Credit until January 1, 2014.

Your Committees received testimony in support of this measure from William Maloney, Pacific West Energy, LLC. Your Committees received comments on this measure from Frederick Pablo, Department of Taxation; and Tax Foundation of Hawaii.

Your Committees find that the Ethanol Facility Tax Credit was enacted as an incentive to stimulate the production of ethanol in the State, thereby contributing to the State's production of renewable energy and independence from fossil fuels. At this point in time, many challenges, including the recent turmoil in the financial sector, volatility of the energy markets, and the securing of suitable agricultural land for the production of ethanol, have resulted in the tax credit being unclaimed.

Your Committees find that although delaying the availability of the tax credit could affect the potential growth of ethanol production in Hawaii, the January 1, 2014 reinstatement date proposed under this measure coincides with the timeframe that



existing ethanol production companies have stated would be the earliest date that ethanol production facilities could be brought online.

Your Committees further find that the current wording of the measure states that the amount of the tax credit is thirty percent of a facility's nameplate capacity. This language is unclear as nameplate capacity is a facility's full-load sustained output and is measured in gallons under this measure, with no other unit of measurement in reference to the thirty percent. Therefore, it appears that the tax credit is to be realized in gallons. For clarity, the tax credit needs to be stated in monetary terms. Your Committees further find that the current requirement that a facility be in production before January 1, 2017, in order to claim the tax credit is contradictory to the tax credit's purpose of spurring the industry and is an even further discouragement as a result of the delayed availability of the tax credit as proposed in this measure.

Accordingly, your Committees have amended this measure by:

- (1) Deleting the provision determining the amount of the credit based on a percentage of nameplate capacity and replacing it with a determination based on an unspecified number of cents per gallon actually produced by the facility;
- (2) Deleting the requirement that the facility's level of production needs to be at least seventy-five percent of its nameplate capacity in order to claim the tax credit;
- (3) Deleting the language that states that the facility must be in production on or before January 1, 2017, in order to claim the tax credit;
- (4) Changing the effective date to make this measure apply, upon its approval, to taxable years beginning after December 31, 2050, to allow for further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Energy and Environment and Ways and Means that are attached to this report, your Committees are in accord with the




intent and purpose of H.B. No. 563, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 563, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Energy and
Environment and Ways and Means,



DAVID Y. IGE, Chair



MIKE GABBARD, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Energy and Environment
ENE

Bill / Resolution No.:* HB 563 HDI	Committee Referral: ENE/WAM	Date: 4/5/11
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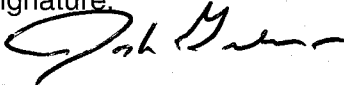
The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	✓			
ENGLISH, J. Kalani (VC)				✓
GREEN, M.D., Josh	✓			
IHARA, Jr., Les				✓
SLOM, Sam	✓			
TOTAL	3	0	0	2

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes

The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 563, HDI	Committee Referral: ENE/WAM	Date: 4-7-11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
IGE, David Y. (C)	/			
KIDANI, Michelle N. (VC)	/			
CHUN OAKLAND, Suzanne	/			
DELA CRUZ, Donovan M.	/			
ENGLISH, J. Kalani	/			
ESPERO, Will	/			
FUKUNAGA, Carol	/			
KIM, Donna Mercado	/			
KAHELE, Gilbert	/			
KOUCHI, Ronald D.	/			
RYAN, Pohai	/			
TOKUDA, Jill N.				✓
WAKAI, Glenn	/			
SLOM, Sam	/			
TOTAL	13	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
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