

HB 122, HD1, SD1

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
AGRICULTURE**

**Tuesday, April 05, 2011
2:55 PM
State Capitol, Conference Room 229**

**In consideration of
HOUSE BILL 122, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO RENEWABLE ENERGY**

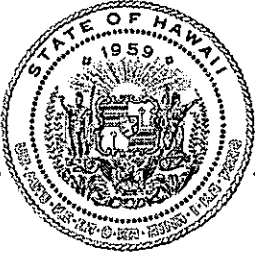
The purpose of House Bill 122, House Draft 1, Senate Draft 1 is to extend the repeal date of Act 173, Session Laws of Hawaii, 2009, until July 1, 2020. House Bill 122, House Draft 1, Senate Draft 1 is intended to facilitate the financing and development of renewable energy projects by exempting developers of renewable energy projects from subdivision requirements. The Department of Land and Natural Resources supports the bill.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



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

NEIL ABERCROMBIE
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development and Tourism
before the
**SENATE COMMITTEE ON
AGRICULTURE**
Tuesday, April 5, 2011
2:55 p.m.
State Capitol, Conference Room 229
in consideration of
HB 122 HD1, SD1
RELATING TO RENEWABLE ENERGY.

Chair Nishihara, Vice Chair Kahele, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) strongly supports HB 122 HD1, SD1, which extends the repeal date of Act 173 (2009) to July 1, 2020 and expressly applies the subdivision exemption to easements and leases for wind energy facilities permitted in State Agricultural Districts.

The ability of renewable energy developers to subdivide parcels under the Act for renewable energy facilities enables financial security and financing. This in turn aids the development of renewable energy projects. Therefore, we encourage your support of this measure.

Thank you for the opportunity to offer these comments.



LAND USE RESEARCH
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April 5, 2011

Senator Clarence K. Nishihara, Chair and Senator Gilbert Kahele, Vice Chair
Senate Committee on Agriculture

Support of, and Proposed Amendments to HB 122, HD1, SD1 Relating to the Renewable Energy. (Extends repeal date of Act 173 (2009), exempting renewable and wind energy projects from subdivision requirements)

Tuesday, April 5, 2011 at 2:55 p.m. in CR 229

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF is in **support of HB 122, HD1 SD1** which extends the repeal date of Act 173, Session Laws of Hawaii 2009 (Act 173). Act 173 exempts renewable energy projects from subdivision requirements for State agricultural or conservation lands from July 1, 2013 to July 1, 2020. This bill also clarifies that wind energy facilities projects are also included in the exemption. LURF **also strongly supports an amendment which would make Act 173 permanent.**

Background. Renewable energy projects require acreage for facilities and access easements in configurations which often times do not coincide with existing, already subdivided lot boundaries or parcels established by the land court system. Current laws generally prohibit the transfer of such interests of land which have not been subdivided or otherwise shown on land court maps. The purpose of Act 173 was to facilitate the financing and development of renewable energy projects by allowing the transfer of an interest in agricultural or conservation land for a renewable energy project, without the requirement of a subdivision or land court approval. In 2009, Act 173 was enacted to address this issue, and allows the lands for renewable energy projects to be created, enforced, and recorded, without requiring the landowner to obtain formal subdivision or land court approvals. Since its passage, we are not aware of any complaints or problems with Act 173, and it has assisted in expediting the process for renewable energy projects, while still protecting the health, safety and welfare of the public.

LURF's Position. LURF and its members support and employ solar, wind and other renewable energy devices. LURF **supports** HB 122, HD1, SD1, which would continue to allow and expedite the financing and development of solar, wind and other renewable energy facilities by allowing leases and easements pertaining to such facilities on agricultural and conservation lands to be created for mortgages and other conveyances with a subdivision exemption. This bill will ensure that such projects proceed successfully and lead Hawaii to a sustainable future.

Thank you for the opportunity to express our **strong support for HB 122, HD1, SD1 and the proposed amendment to make Act 173 (2009) permanent.**



KAMEHAMEHA SCHOOLS

TESTIMONY TO THE SENATE COMMITTEE ON AGRICULTURE

Hearing Date: Tuesday, April 5, 2011
2:55 p.m., Conference Room 229

Good Afternoon Chair Nishihara and Vice Chair Kahele:

RE: Testimony in Support of H.B. No. 122 H.D. 1 S.D. 1 - Relating to Renewable Energy

I am Kapu C. Smith, Senior Land Asset Manager for Kamehameha Schools' Kawaihoa Plantation in Waialua, Oahu. I am here to testify in support of H.B. No. 122 H.D. 1 S.D. 1 because it extends the exemption period and seeks to clarify that wind energy facilities permitted in agricultural districts under the Land Use Law (§205-2(d)(4) and §205-2(d)(8)), are exempt from subdivision requirements, similar to solar energy facilities. Both changes are needed to facilitate the financing and development of renewable energy projects by exempting developers of renewable energy projects from subdivision requirements and providing the clarity required for wind energy facilities. In addition, we would like to suggest one additional change to section 201N-13, HRS, to conform to the new sunset date for Act 173.

Thank you for the opportunity to testify in support of H.B. No. 122 H.D. 1 S.D. 1 and we hope that you will consider the proposed amendment described above.

**TESTIMONY IN SUPPORT OF HB 122 HD1 SD1
HEARING BEFORE THE SENATE COMMITTEE ON AGRICULTURE
2:55PM ON TUESDAY, APRIL 5, 2011
CONFERENCE ROOM 229
STATE CAPITOL**

Aloha Chair Nishihara, Vice-Chair Kahele, and members of the Committee.

My name is David Tarnas, and I work with SunFuels Hawaii, LLC, a biofuels company that is exploring opportunities for developing a biomass-to-liquid (BTL) project on the island of Hawaii.

Of the various development scenarios we are evaluating, most of the possible locations for a biorefinery are on agricultural lands. This is because any potential biorefinery business seeks to reduce the transportation distance from the lands where the feedstock is harvested to the biorefinery where the feedstock is converted to biofuels. In most cases the appropriate site for the biorefinery is one small part of a larger TMK agricultural parcel. Having an exemption from the subdivision requirement for such projects is reasonable since a biofuel facility is designated by state law as a permitted use of lands in the state agricultural district.

HB 122 HD1 SD1 is a useful bill that extends the sunset date for the exemption from subdivision requirements for biofuel production facilities developed on land in the state's agricultural district.

On behalf of SunFuels Hawaii, I strongly encourage the Committee to approve this bill.

Mahalo.