



**Honua Power**  
renewable energy

Seven Waterfront Plaza, 500 Ala Moana Boulevard, Suite 7-220, Honolulu, Hawaii 96813, Tel. 808-550-2877, Fax 808-523-3122

February 26, 2011

**VIA WEBSITE - [HTTP://WWW.CAPITOL.HAWAII.GOV/EMAILTESTIMONY/](http://www.capitol.hawaii.gov/emailtestimony/)**

Chair Marcus R. Oshiro  
Vice Chair Marilyn B. Lee  
House Committee on Finance  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: HB 422, HD1, Relating to Solid Waste  
Hearing on Monday, February 28, 2011 at 10:30 a.m.

Dear Chair Oshiro and Vice Chair Lee:

Honua Power, LLC submits this letter in strong OPPOSITION HB 422, HD1, Relating to Solid Waste. This bill “applies the solid waste surcharge to waste that is deposited in landfills, incinerators, or waste-to-energy facilities, whether the waste is disposed of in-state or transferred out of state.” This bill expands the application of the solid waste surcharge from disposal facilities to facilities that recycle waste and create renewable energy, such as waste-to-energy facilities.

Honua Power will rely upon construction and demolition waste materials from PVT Landfill to fuel approximately 12 MW net of renewable electrical energy that will be supplied to the residents of Oahu and count toward the state of Hawaii’s renewable portfolio standard goals of 15% renewable energy generation by 2015 and 40% renewable energy generation by 2040. Any charge on feedstock materials, either at the collection and processing stage, or the delivery and use stage, would be an intentional and deliberate attempt to tax and otherwise confound the development of renewable energy resources in our state at an incredibly vulnerable and critical time for such a burgeoning industry.

Honua Power has executed a 20 year power purchase agreement with Hawaiian Electric Company setting forth the price for Honua’s renewable electrical power. This agreement has been approved by the state of Hawaii Public Utilities Commission and the energy provided under the agreement has been held by the PUC, as a matter of law, to meet the definition of “renewable electrical energy” or “renewable energy” as defined under Hawaii Revised Statutes Section 269-91.

Under Hawaii Revised Statutes Section 342G-63(c), the surcharge on the disposal of solid waste was created to fund and encourage waste reduction and recycling, not to tax them and thereby discourage them. This bill has the opposite effect – it increases the cost of waste reduction, recycling and renewable energy facilities. However, there is no mechanism by which Honua Power may raise the price for power under its PPA for any increase in the cost to produce

the renewable electrical energy. Therefore, this surcharge will adversely affect our Company's ability to obtain project financing since it will erode the ability of the project to cover its debt payments.

It is very difficult for projects like ours to receive project finance funding necessary to construct under the debt coverage service ratios currently being imposed by the project finance lenders in the marketplace. This surcharge will have the effect of raising the cost to produce renewable energy without any corresponding way for our company to cover that cost by increasing revenue. Any additional cost to a project like ours, at this time, will have the effect of quashing the successful completion of the project before it is even out of the gate and, going forward, it will unfairly tax our Company at a time when it should be encouraged to develop renewable energy for the state of Hawaii.

Under Hawaii Revised Statutes Section 342G-63(c), the surcharge on the disposal of solid waste was created to fund and encourage waste reduction and recycling, not to tax them and thereby discourage them. This bill has the opposite effect – it increases the cost of waste reduction, recycling and renewable energy facilities. It will tax companies like Honua Power who should be encouraged. At PVT's construction and demolition landfill, these increased costs would be passed along to contractors and raise the cost of all construction projects, such as rail, transit-oriented development, shipyard maintenance, as well as commercial and residential building and renovation. It would directly impede the critically important recovery of Oahu's construction industry.

The solid waste surcharge has been used to fund the Solid Waste Branch generally which is contrary to Hawaii Revised Statutes Section 342G-63(c). As acknowledged in Standing Committee Report No. 193 from your Committee on Energy and Environmental Protection concerning this bill, "the solid waste management surcharge is the main funding source for the Department of Health's solid waste regulatory program and this measure will assist the program in maintaining necessary funding levels." However, the Solid Waste Branch has not in fact promoted waste reduction or recycling, because to do so would take funds away from their budget.

As implemented by the Department of Health, the surcharge is simply a tax on construction and a tax on the production of renewable electrical energy. For these reasons, Honua Power opposes this bill.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kevin Kondo", written in a cursive style.

Kevin Kondo  
Managing Partner  
Honua Power, LLC

**GOODSILL ANDERSON QUINN & STIFEL**

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:  
 GARY M. SLOVIN  
 ANNE T. HORIUCHI  
 MIHOKO E. ITO  
 CHRISTINA ZAHARA NOH  
 CHRISTINE OGAWA KARAMATSU

ALI PLACE, SUITE 1800 - 1099 ALAKEA STREET  
 HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196  
 HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880  
 info@goodsill.com • www.goodsill.com

INTERNET:  
 gslovin@goodsill.com  
 ahoriuchi@goodsill.com  
 meiro@goodsill.com  
 cnoh@goodsill.com  
 ckaramatsu@goodsill.com

**TO:** Chair Marcus R. Oshiro  
 House Committee on Finance  
 Hawaii State Capitol, Room 306  
*VIA FACSIMILE: 586-6001*

**FROM:** Gary M. Slovin

**DATE:** February 26, 2011

**RE:** **H.B. 422, HD1 – Relating to Solid Waste**  
**Hearing: Monday, February 28, 2011 at 10:30 a.m.**  
**Agenda #2**

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Dear Chair Oshiro Members of the Committee on Finance:

I am Gary Slovin, testifying on behalf of PVT Land Company, the owner and operator of the PVT Construction and Demolition Landfill (“PVT”) in Nanakuli. PVT owns and operates Oahu’s only landfill for the disposal of construction and demolition debris.

PVT Land Company **opposes** HB 422, HD1, Relating to Solid Waste. This bill “applies the solid waste surcharge to waste that is deposited in landfills, incinerators, or waste-to-energy facilities, whether the waste is disposed of in-state or transferred out of state.”

This bill expands the application of the solid waste surcharge from disposal facilities to facilities that recycle waste and create renewable energy, such as waste-to-energy facilities. PVT supports companies like Honua, who will take construction and demolition waste feedstock from PVT and generate renewable energy for Hawaiian Electric Company.

Under Hawaii Revised Statutes Section 342G-63(c), the surcharge on the disposal of solid waste was created to fund and encourage waste reduction and recycling, not to tax them and thereby discourage them. This bill has the opposite effect – it increases the cost of waste reduction, recycling and renewable energy facilities. It will tax companies like Honua who should be encouraged. At PVT’s construction and demolition landfill, these increased costs would be passed along to contractors and raise the cost of all construction projects, such as rail, transit-oriented development, shipyard maintenance, as well as commercial and residential building and renovation. It would directly impede the critically important recovery of Oahu’s construction industry.

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For these reasons, PVT opposes this bill.

## FINTestimony

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**From:** mailinglist@capitol.hawaii.gov  
**ent:** Sunday, February 27, 2011 8:22 AM  
**fo:** FINTestimony  
**Cc:** HBPcoop@yahoo.com  
**Subject:** Testimony for HB422 on 2/28/2011 10:30:00 AM

Testimony for FIN 2/28/2011 10:30:00 AM HB422

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Bill Akiona II  
Organization: Hawaii BioEnergy Producers Cooperative  
Address:  
Phone:  
E-mail: [HBPcoop@yahoo.com](mailto:HBPcoop@yahoo.com)  
Submitted on: 2/27/2011

Comments: