HB 563,
HD 1

NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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SENATE COMMITTEES ON ENERGY AND ENVIRONMENT & WAYS AND MEANS

TESTIMONY OF THE DEPARTMENT OF TAXATION
REGARDING HB 563, HD 1
RELATING TO TAXATION

TESTIFIER:	**FREDERICK D. PABLO, DIRECTOR OF TAXATION (OR DESIGNEE)**
COMMITTEE:	**ENE/WAM**
DATE:	**APRIL 5, 2011**
TIME:	**2:45PM**
POSITION:	**DEFER TO DBEDT; TECHNICAL COMMENTS**

This measure prohibits claiming the ethanol facility tax credit until tax year 2014.

The Department of Taxation (Department) defers to DBEDT on the merits of this legislation.

It is the Department of Taxation's understanding that currently no qualified ethanol production facilities exist in Hawaii. By delaying the ability of taxpayers to claim this credit until tax year 2014, it allows the legislature to remove this credit from budget consideration during the current, trying fiscal year while continuing to incentivize the eventual construction of an ethanol production facility in Hawaii.

The Department also notes that in its current form the credit is unworkable. The statute currently calculates the dollar amount of the credit based on a percentage of the gallons produced according to nameplate capacity. The credit needs to be a percentage of a monetary amount rather than a production amount in order to be calculable.

Because the credit is currently capped at $12 million in each fiscal year, this bill is estimated to result in a potential revenue gain of up to $12 million per year until after December 31, 2013.

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

SUBJECT: INCOME, Delay claims for ethanol facility tax credit

BILL NUMBER: HB 563, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

BRIEF SUMMARY: Postpones the claiming of the ethanol facility tax credit until January 1, 2014.

EFFECTIVE DATE: Tax years beginning after December 31, 2013

STAFF COMMENTS: The proposed measure would postpone the claiming of the ethanol facility tax credit until January 1, 2014. Inasmuch as it appears that the establishment of any ethanol production facility is only in the preliminary planning stages, and in order to claim the credit a facility must be in operation, the adoption of this measure may be unnecessary as it appears that no ethanol facility will be in operation before January 1, 2014.

Digested 2/24/11

PACIFIC WEST ENERGY LLC
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April 4, 2011

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice-Chair
And Members of the Committee on Energy and Environment

Senator David Y. Ige, Chair
Senator Michelle Kidani, Vice-Chair
Committee on Ways and Means

Hawaii State Capitol
415 S. Beretania
Honolulu, HI 96813

Re: HB 563 – Relating to Renewable Fuels

Dear Chairs Gabbard and Ige, Vice-Chairs English and Kidani and Members of the Committee,

My name is William Maloney and I am the President and Chief Executive Officer of Pacific West Energy LLC and its affiliate, Pacific West Energy Kauai LLC, the developers of the integrated agriculture to green power and biofuel project on Kauai. I testify today in support of HB 563 HD1, prohibiting claiming of the Ethanol Facility Tax Credit before 2014. Our project is the most advanced project, and while we do not expect to be in a position to claim the credit prior to 2014, we understand the State's budgetary challenges, and support a postponement to assist in planning and appropriating State expenditures.

Pacific West Energy LLC continues to intend to construct a fuel ethanol production facility on Kauai, integrated with a renewable energy electricity cogeneration facility. The total project cost is approximately $140 million, with $40 million of this representing the ethanol facility. We are in the land lease negotiations, and negotiating contract farming agreements, and have entered into several contracts in support of this project. Phase one of our project will entail our producing renewable electricity from biomass for sale to Kauai Island Utility Cooperative ("KIUC"). To date, we have expended over $9 million and several years of effort in reliance on the Hawaii Ethanol Facility Tax Credit.

In 2000, and again in 2004, the legislature enacted the Ethanol Facility Tax Credit to stimulate investment in local ethanol production. The incentive is designed to make Hawaiian production competitive with other states providing similar production based incentives, to protect Hawaiian producers from non-domestic imported ethanol, which has also enjoyed much historical governmental support, and to offset the negative economies of scale associated with smaller local production facilities.

The Ethanol Facility Tax Credit was only approved by the legislature in both 2000 and 2004 after comprehensive reviews that included a detailed fiscal and economic analysis commissioned by DBEDT and prepared for the legislature by Decision Analysts Hawaii Inc. ("DAHI"). These cost / benefit analysis required the presentation of all our capital and operating budgets to DAHI. The findings were that the incentive would be revenue positive for the State over the life of the project. At that time the project was to be primarily a molasses based facility – today it is to be a fully integrated facility to employ in excess of 150 jobs. The fiscal and economic benefits to the State from our project that were positive in 2004 would be far greater today with the expanded project scope.

Our project has taken much longer to develop than we originally envisaged. There have been many challenges, including the recent turmoil in the financial sector, volatility in the energy markets, and securing suitable agricultural lands against competing uses. We have recently secured the former Kekaha sugar mill industrial site, and are diligently working with State agencies such as DHHL for agricultural lands. Our project is to be a model for an integrated bio-energy refinery, and it is consistent with the expressed intentions of the Hawaiian legislature to develop indigenous energy resources.

The Ethanol Facility Tax Credit does not cost the State anything currently, and with credits only commencing after a facility has been fully constructed and is in operation, State tax revenues will actually increase by maintaining the Ethanol Facility Tax Credit but postponing the ability to claim credits.

Sincerely,

William Maloney
William Maloney
President & Chief Executive Office
Pacific West Energy LLC