

# LATE TESTIMONY

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 754, S.D. 1, PROPOSED H.D. 1

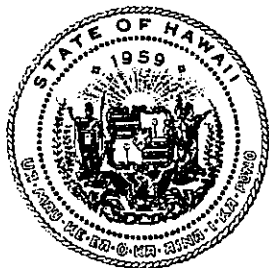
April 4, 2011

## RELATING TO TAXATION

Senate Bill No. 754, S.D. 1, Proposed H.D. 1, temporarily suspends the exemptions for certain persons and certain amounts of gross income or proceeds from the general excise and use tax and requires the payment of the tax at escalating rates. The suspension of the exemption and imposition of the tax commences on January 1, 2012 and ends on June 30, 2015.

The Department of Budget and Finance supports the intent of this proposal. However, in order to address the general fund budget shortfall, we support imposing the tax at four percent rather than phasing in the tax at different rates. The bill also has reporting and data gathering requirements which will help TAX and the Legislature analyze which general excise tax exemptions could be eliminated permanently at the end of the temporary suspension period.

We defer to the Department of Taxation regarding technical issues of the bill.



NEIL ABERCROMBIE  
Governor

MIKE MCCARTNEY  
President and  
Chief Executive Officer

# Hawai'i Tourism Authority

Hawai'i Convention Center, 1801 Kalākaua Avenue, Honolulu, Hawai'i 96815  
Website: [www.hawaii-tourism-authority.org](http://www.hawaii-tourism-authority.org)

Telephone: (808) 973-2255  
Fax: (808) 973-2253

Testimony of  
**Mike McCartney**  
President and Chief Executive Officer  
Hawai'i Tourism Authority

on  
**S.B. 756, S.D. 2, Proposed H.D.1**  
**Relating to Taxation**

House Committee on Finance  
Monday, April 4, 2011  
2:00 p.m.  
Conference Room 308

The Hawai'i Tourism Authority (HTA) the following cautionary comment on paragraph (5) in SECTION 2 of the proposed, H.D. 1, which proposes to amend chapter 237, Hawai'i Revised Statutes, by proposing to temporarily suspend the exemption from the general excise tax amounts received by organizations from convention, conference, or tradeshow registration fees, fees for convention, conference, or tradeshow exhibit or display spaces, and fees for advertising and promotion at the convention, conference, or trade show in brochures.

Organizations, such as the American Dental Association and the American Academy of Neurology, which have booked conventions at the Hawaii Convention Center, derive much of their operating revenue from the fees received from registration, sponsors, and exhibitors. Any reduction in the revenue from these fees will cause financial stress for those organizations. Both organizations indicated that imposing a tax on the sale of display spaces would have affected their decision to hold their event in Hawaii.

The American Academy of Neurology (AAN) was an event attended by 7,500 members. They were told by the Tax Department that they had to pay \$60,000 in GET on booth sales. The AAN generated \$25.3 million in visitor spending and \$2.1 million in tax revenues. In 2003, if they had known that they had to pay the GET on booth sales, they would not have booked their event in Hawaii.

## If the American Dental Association was Charged the GET

Booths	1,000
Cost/Booth	\$2,500.00
Total Revenues	\$2,500,000.00
<b>GET (if required to pay)</b>	<b>\$104,250.00</b>
Delegates	24,000
Room Nights	221,040
Visitor Spending	\$85,260,154.00
<b>Tax Revenue Generated</b>	<b>\$10,992,321.00</b>

If the American Dental Association was charged the GET on booth sales, the State would have lost \$85 million in visitor spending and \$10.9 million in tax revenues.

In 2009 and 2010, there were 26 events at the Hawaii Convention Center that sold displays. In the worst case scenario, all of those events would have been lost to another facility and Hawaii would have lost:

Total number of events that sold displays	26
Total number of delegates for all events	118,355
Total room nights	1,023,204
<b>Total visitor spending</b>	<b>\$420,456,894.00</b>
<b>Tax Revenue Generated</b>	<b>\$54,208,174.00</b>

While the GET can be added on to the fees for sponsors and exhibitors, it will significantly impact the sale of display spaces, because Hawaii is already a more costly destination for exhibitors, with the higher costs of shipping displays and equipment to Hawaii.

A poll by SMG, which operate the Hawaii Convention Center, revealed only one minor location that imposed a similar tax, which immediately lost a major event when it was imposed. The poll of its industry partners indicates that imposing this additional cost would severely damage Hawaii's brand as a place to do convention business.

We understand that the financial difficulties that the State is facing require decision-makers to make difficult decisions, but we offer these comments to help you make an informed decision.

Thank you for the opportunity to comment on the proposed H.D.1 to S.B. 754.

March 17, 2011

## LATE TESTIMONY

The Honorable Carol Fukunaga  
Hawaii State Capitol, Room 216  
415 South Beretania Street  
Honolulu, HI 96813

RE: Opposition to House ~~Bill~~ 799 SB 754

Dear Senator Fukunaga:

CTIA – The Wireless Association®<sup>1</sup> respectfully opposes HB 799 which is now under consideration in the Senate. Specifically, CTIA opposes the current provision which states “Gross receipts of home service providers acting as service carriers providing mobile telecommunications services to other home service providers as described under Section 2376-13 (6) (d).”

The legislation before your committee will have an adverse financial impact on Hawaii residents, businesses and tourists by creating a new tax on roaming charges. New taxes on wireless services increase the cost to your constituents and thereby discourage the use of those services, including broadband services, which state and federal legislators are determined to universally deploy.

In order to prevent the double taxation of wireless consumers, the U.S. Congress passed the Mobile Telecommunications Sourcing Act (P.L. 106-252), which ensures that wireless calls are taxed according to the caller’s “place-of-primary use”, the customers residential or business street address as defined in the Act. HB 799 would ignore the federal sourcing act mandate and unfairly impose a new tax on calls made by residents of Hawaii and also on calls made by out-of-state wireless customers roaming within Hawaii.

CTIA appreciates the revenue needs for the state during these difficult economic times but Hawaii consumers already contribute significantly to the state through a public service communications tax, a general excise tax, a public utility communications fee and a wireless 911 tax.

As we work to ensure that all Americans have access to state-of-the-art communications capabilities, we need to be mindful that tax policies should promote, rather than impair, our ability to deliver that access. If you have any questions or

<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.

wish to discuss, please contact James Schuler at [JSchuler@CTIA.org](mailto:JSchuler@CTIA.org) or 202-736-3200.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Dane Snowden". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

K. Dane Snowden  
Vice President  
External & State Affairs

# ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES  
of Hawaii

## LATE TESTIMONY

April 4, 2011

**President**

Sheryl Nojima, Ph.D., P.E.  
Gray Hong Nojima & Assoc.  
Ph: (808) 521-0306

**President-Elect**

Douglas Lee, P.E.  
Brown and Caldwell  
Ph: (808) 523-8499

**Treasurer**

Terrance Arashiro, P.E.  
Austin, Tsutsumi & Assoc.  
Ph: (808) 533-3646

**Secretary**

Mike Street, P.E.  
Bowers+Kubota Consulting  
Ph: (808) 836-7787

**Past President**

John Katahira, P.E.  
The Limtiaco Consulting Group  
Ph: (808) 596-7790

**National Director**

Jon Nishimura, P.E.  
Fukunaga & Assoc.  
Ph: (808) 944-1821

**Directors**

Beverly Ishii-Nakayama, P.E.  
Shigemura, Lau, Sakanashi,  
Higuchi & Assoc.  
Ph: (808) 942-9100

Joel Yuen, P.E.

Insynergy Engineering  
Ph: (808) 521-3773

Robin Lim, P.E.

Geolabs  
Ph: (808) 841-5064

Ginny M. Wright

Executive Director  
P.O. Box 88840  
Honolulu, HI 96830  
Ph: (808) 234-0821  
Cell: (808) 741-4772  
Fx: (808) 234-1721  
Email: gwright@acechawaii.org  
Website: [www.acechawaii.org](http://www.acechawaii.org)

**House Committee on Finance**

**Hearing Date: Monday, April 1, 2:00 p.m., Conference Room 308**

Honorable Representatives Marcus R. Oshiro, Chair; Marilyn B. Lee, Vice Chair; and Members of the House Committee on Finance

Subject: **SB 754, SD1, Proposed HD1, Relating to Taxation**  
**TESTIMONY IN OPPOSITION**

Dear Chair Oshiro, Vice Chair Lee, and Committee Members:

The American Council of Engineering Companies of Hawaii (ACECH) strongly opposes SB 754, SD1, Proposed HD1, Relating to Taxation, as described below. ACECH represents 67 member firms with over 1,300 employees throughout Hawaii, most of which are small businesses. We are comprised of the most highly qualified engineers, land surveyors, scientists, and other specialists.

The bill proposes temporary suspension of certain general excise tax "exemptions" under HAR §18-237. Section 2 (a), item (1) includes "amounts deducted from the amounts deducted from the gross income received by contractors as described under HAR §18-237-13(3)(B). Under §18-237-13(3), providers of professional engineering and architectural services are included under their definition of "contractor".

The bill implies that prime contractors have been receiving an "exemption" from some portion of their income. This is not the case. HAR §18-237-13-03 simply ensures that the prime contractor is not taxed on money they do not receive. HAR §18-237-13-0 allows that if a prime contractor hires a subcontractor, and the subcontractor pays the GET, then the prime contractor does not pay GET on the money that goes to the subcontractor. In this time of economic stress for all involved in the construction business, the proposed bill will only further burden struggling design professionals and contractors. In addition to forcing these businesses to pay tax on moneys they don't receive, the proposal has a number of other far-reaching implications:

1. Large out-of-state businesses that bid on Hawaii projects may be less likely to utilize small business from Hawaii, so they can avoid this duplication of taxes.
2. Prime Architect-Engineering firms assist their clients by subcontracting specialty services, such as geotechnical, environmental, landscape architecture, surveying, etc. If the prime contractor is forced to pay double taxes on those services, they may request the client to contract those specialty services directly, increasing the administrative burden and risk exposure for the client, and inhibiting the benefits of having the design team collaborate under one contract.
3. Taxes are one of the expenses contractors pass on to their clients. This measure would add to the cost of building and construction for the owners of these projects, including State projects.

**Due to the many negative outcomes described above, we urge you to hold this bill, or to remove Section 2 (a), Item (1) from the bill.**

Thank you for the opportunity to provide testimony regarding this measure. Please contact us if you have any questions regarding our testimony.

Respectfully submitted,

ACEC Hawaii

Signature TITI F



LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)



# LATE TESTIMONY

April 4, 2011

Representative Marcus R. Oshiro, Chair and Representative Marilyn B. Lee, Vice Chair  
House Committee on Finance

**Revised Opposition and Comments to SB 754, SD1 Proposed HD1 Relating to TAXATION** (Temporary suspension of GET exemptions and escalating tax payments for contractors; loading, transportation and unloading of agricultural commodities and cargo, including agricultural and building materials and products; High technology research & development grants; and enterprise zone businesses and construction)

**Monday, April 4, 2011 at 2:00 p.m. in CR 308**

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 understands the budget crisis facing the State, and believes that the proposed HD1 amendment is a well-intended effort to suspend certain tax exemptions to increase the tax revenues to balance the State budget. Nevertheless, LURF must **strongly oppose portions of the proposed HD1 to SB 754, SD1**, which propose to temporarily suspend the general excise (GET) and use tax exemptions and increase the tax rates for specified business operations and industries. **The suspension of exemptions, increasing taxes and their combined pyramiding effect will hinder economic development in Hawaii by increasing and pyramiding the costs relating to contractors; loading, transportation and unloading of agricultural commodities and cargo, including, but not limited to materials and products related to agriculture, construction, residential and affordable housing, construction, tourism, commercial, industrial and retail industries; high technology research & development grants; and enterprise zone businesses and construction.** LURF specifically objects to the following portions of the proposed HD1:

- (1) Amounts deducted from the gross income received by **contractors** as described under section 237-13(3)(B);
- (4) Amounts deducted from the gross income of **real property lessees** because of receipt from sublessees as described under section 237-16.5;
- (7) Amounts received from the **loading, transportation, and unloading of agricultural commodities shipped interisland** as described under section 237-24.3(1);

- (9) Amounts received or accrued from the **loading or unloading of cargo** as described under section 237-24.3(4) (A);
- (15) Amounts received as **high technology research and development grants** under section 206M-15 as described under section 237-24.7(10);
- (22) Gross proceeds received by **qualified businesses in enterprise zones**, as described under section 209E-11, that do not have valid certificates of qualification from the department of business, economic development, and tourism on January 1, 2012; and
- (23) Gross proceeds received by **contractors licensed under chapter 444 for construction within enterprise zones performed for qualified businesses within the enterprise zones or businesses approved by the department of business, economic development, and tourism to enroll into the enterprise zone program**, as described under section 209E-11.

**Proposed HD1 to SB 754, SD1.** The proposed HD 1 would “gut” the original SB 754, which related to the distribution of partial payment of taxes, and “replace” it with a HD1 with new contents, which purpose is to temporarily suspend the general excise (GET) and use tax exemptions for certain amounts received by certain persons and, instead, require those persons to pay the applicable tax on those amounts at specified increasing rates. The proposed HD1 provides for certain exceptions; and also provides that the suspension of exemptions and the imposition of the new increasing tax commence on January 1, 2012, and ends on June 30, 2015. Of particular concern to LURF members are the proposed suspension of specific tax exemptions (listed above), as well as the following proposed tax increases:

(b) Except as otherwise provided under subsection (f) or (g), there is levied, assessed, and collected annually against a person receiving or deriving previously exempt gross income or gross proceeds of sale, a tax at the rate of:

- (1) Two per cent on the previously exempt gross income or gross proceeds of sale received or derived by the person from January 1, 2012, to December 31, 2012;
- (2) Three per cent on the previously exempt gross income or gross proceeds of sale received or derived by the person from January 1, 2013, to December 31, 2013; and
- (3) Four per cent on the previously exempt gross income or gross proceeds of sale received or derived by the person from January 1, 2014, to June 30, 2015.

(c) As used in this section, “previously exempt gross income or gross proceeds of sale” means the amount of the gross income or gross proceeds of sale, the exemption for which is suspended under subsection (a). The term also includes the value received by a nonprofit organization from conventions, conferences, trade show exhibits, and display spaces, the exemption for which is suspended under subsection (a)(5).

The proposed HD1 also provides for the following exceptions:

(f) This section shall not apply to gross income or gross proceeds from binding written contracts entered into prior to July 1, 2011, that do not permit the passing on of increased rates of taxes.

(g) The tax imposed under subsection (b) shall not apply to any gross income or gross proceeds of sale that cannot legally be so taxed under the Constitution or laws of the United



States, but only so long as, and only to the extent to which the State is without power to impose the tax.

**LURF's Position.** LURF **strongly opposes portions of the proposed HD1 to SB 754, SD1,** which provide for the temporary suspension of the general excise (GET) and use tax exemptions, and the specified increasing tax rates. The suspension of exemptions, increasing taxes and their combined pyramiding effect will hinder economic development in Hawaii by increasing and pyramiding the costs relating to contractors; materials and products related to agriculture, construction, residential and affordable housing, construction, tourism, commercial, industrial and retail industries; high technology research & development grants; and enterprise zone businesses and construction.

Based on the foregoing reasons, LURF respectfully requests that this **Committee hold this bill.**

We greatly appreciate the opportunity to present our testimony regarding this matter.

# PLUMBING & MECHANICAL CONTRACTORS ASSOCIATION OF HAWAII



PLUMBING AND MECHANICAL  
CONTRACTORS ASSOCIATION  
OF HAWAII

TELEPHONE: (808) 597-1216  
FAX: (808) 597-1409  
1314 S. King Street, Suite 961  
Honolulu, Hawaii 96814

GREGG S. SERIKAKU  
EXECUTIVE DIRECTOR

Via Email

April 4, 2011

Representative Marcus Oshiro  
Committee on Finance  
House of Representatives  
The Twenty-Sixth Legislature, Regular Session of 2011  
State Capitol

## LATE TESTIMONY

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

### SUBJECT: SB754 SD1 Proposed HD1

My name is Gregg Serikaku. I am the Executive Director of the Plumbing and Mechanical Contractors Association of Hawaii.

The Association for which I speak is strongly opposed to the proposed HD1 to SB754 SD1.

This proposed HD1 will create a tax upon tax scenario that will lead to higher costs for consumers and will inevitably discourage developers from undertaking new construction projects in Hawaii.

The current law **does not** exempt construction contractors from the general excise tax on proceeds received on a construction project, it only allows a general contractor to deduct the amounts payable to subcontractors from the total proceeds subject to GE tax. This deduction only applies if the subcontractor agrees to pay the general excise tax on his share of the income. If the subcontractor does not agree to pay the GE tax on his portion, then the general contractor is not allowed the deduction and must pay GE tax on the entire amount of the proceeds.

Currently, on a \$100K job, if the subcontractors portion of work is \$30K, the prime contractor may deduct this \$30K from the \$100K, and pay the GET on the net balance of \$70K. The subcontractor would then be responsible to pay the GET on the \$30K. This results in GET being paid on a total of \$100K which is correct. If this HD1 is passed, the prime contractor would pay GET on the \$100K (because he would no longer be able to deduct the amount he pays the subcontractor), then the subcontractor would also pay GET on the \$30K he receives. This is classic double taxation! Inevitably, this increased tax would be passed on to the owner or developer, which in turn increases prices for consumers.

We respectfully urge the committee to hold the proposed HD1 to SB754 SD1.

Thank you very much for this opportunity to testify.

Respectfully yours,

Gregg S. Serikaku  
Executive Director

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

ALII 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  
meito@goodsill.com  
cnoh@goodsill.com  
ckaramatsu@goodsill.com

**TO:** Representative Marcus R. Oshiro  
Chair, Committee on Finance  
Hawaii State Capitol, Room 306

*Via Facsimile: 586-6001*

**FROM:** Gary M. Slovin

**DATE:** April 3, 2011

**RE:** S.B. 754, S.D. 1, Proposed H.D. 1 – Relating to Taxation  
Hearing: Monday, April 4, 2011 at 2:00 p.m., Agenda #1

## LATE TESTIMONY

---

Dear Chair Oshiro and Members of the Committee on Finance:

I am Gary Slovin, testifying on behalf of Covanta Energy Corporation, the operator of the HPOWER waste-to-energy facility at Campbell Industry Park. The construction of the third boiler is well underway, providing many good-paying construction jobs.

Covanta respectfully **opposes** pg. 5, lines 18-22 as well as pg. 11 lines 9-11 of S.B. 754, S.D. 1, Proposed H.D. 1. These provisions would suspend the general excise and use tax exemptions that apply to the operations of the HPower waste-to-energy plant in Campbell Industrial Park. The tax that would be imposed through the suspension of these sections would be borne by taxpayers of the City and County of Honolulu. Accordingly, the suspension of the exemptions would not increase the funds available to reduce the deficits being faced by both State and County governments.

Therefore, we oppose the suspension of these sections.

Thank you very much for the opportunity to testify on S.B. 754, S.D. 1, Proposed H.D. 1.