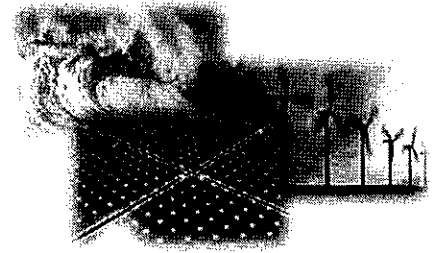




HB 1068



**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

February 3, 2011, 8:30 A.M.

Room 325

**(Testimony is 4 pages long)**

**TESTIMONY IN OPPOSITION TO HB 1068**

Chair Morita and members of the Committee:

The Blue Planet Foundation opposes HB 1068, a measure which repeals the requirement that the Department of Health establish rules to achieve Hawaii's greenhouse gas reduction targets. We believe that such a repeal would be a setback for Hawaii's greenhouse gas (GHG) reduction effort, risk the state failing to achieve the GHG reduction standards, and damage Hawaii's reputation as a policy leader in GHG mitigation efforts.

Put simply, the policy before you would eliminate the requirement that Hawaii implement rules to achieve the maximum practically and technically feasible and cost-effective reductions in GHG emissions.

The historic Act 234 of 2007 was one of the first laws in the nation to set binding, enforceable caps on a state's climate-changing greenhouse gas emissions. The law, modeled after California's AB 32 of 2006, has three objectives:

1. Identify and inventory all sources of greenhouse gases, including secondary sources and "leakage" (GHG emissions increased outside of the state due to Hawai'i activity). This inventory sets the baseline for 1990 levels and current trajectories.
2. Set a binding cap of 1990 GHG levels—the maximum level of pollution—to be achieved by 2020.
3. Adopt rules to achieve the GHG limits. The law requires that the Department of Health develop rules with stakeholders that enable the various GHG emitting sectors to meet the emissions target. The law directs the State to establish "emissions reduction measures to achieve the maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions..." (emphasis added). The law further

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specifies that the rules ensure that any GHG emissions reductions are real, permanent, quantifiable, verifiable, and enforceable.

The first two objectives of the law have been accomplished. The final objective is to be completed by December 31 of this year to enable ample time for the rules to achieve their goal of ratcheting down emissions by 2020. Blue Planet believes that this rulemaking requirement should stand for a variety of critical reasons.

#### *Greenhouse gas reduction rules needed as a backstop to energy goals*

The predominant rationale that GHG reduction rules are unnecessary suggests that attainment of Hawaii's Clean Energy Initiative (HCEI), including the renewable portfolio standard (RPS) and energy efficiency portfolio standard (EEPS), is sufficient to reduce GHG emissions.

While achievement of the RPS and EEPS targets may result in GHG emissions below 1990 levels in 2020, it is not a certainty. Only the electricity RPS and EEPS have been codified in statute, and achieving those goals will be challenging. Current plans to achieve the RPS largely hinge on the development of large-scale wind projects on neighbor islands (with an interisland cable) and biofuel availability for existing power plants. Hawaii's EEPS is among the most aggressive in the country, and current trends suggest it will be very difficult to meet. Further, the many of transportation objectives in the HCEI plan exist mainly as targets. It is unclear if they will be codified or mandated in any meaningful way.

If Hawaii is serious about achieving its GHG reduction goals, a back-up plan should be in place to ensure that fossil fuel reduction plans stay on track.

#### *Greenhouse gas abatement policies could spur innovation and can work synergistically with energy goals*

Rules developed under the existing GHG law could be used to support Hawaii's aggressive energy goals set forth in HCEI. For example, rules could establish fees for carbon pollution which could then be applied to support clean electricity or sustainable transportation projects. The specter of future fines or penalties for failing to achieve sector targets might change utility decision making in investment and interconnection decisions. Sector-based emissions targets could be established by rule to foster efficiency innovation in those sectors, such as ground transportation or solid waste management. Rules could target specific problems (such as vehicle tire pressure), producing programs that have tangible cost-savings and GHG reduction results.

California, which is moving forward with its GHG reduction rulemaking, has identified 69 “scoping plan” measures that it is seeking to implement to achieve its 2020 GHG cap (available online: [http://www.arb.ca.gov/cc/scopingplan/sp\\_measures\\_implementation\\_timeline.pdf](http://www.arb.ca.gov/cc/scopingplan/sp_measures_implementation_timeline.pdf)).

If the goal is to decrease our reliance on imported fossil fuel and increase self-sufficiency, adopting innovative and broad rules to reduce carbon dioxide emissions will help achieve it.

### *Rules adopted could go further than the target in law*

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Hawaii’s GHG reduction law requires that the Department of health adopt rules that achieve the “maximum practically and technically feasible and cost-effective reductions in greenhouse gas emissions.” This legislative direction gives the Director the flexibility to be innovative and explore the canvas of cost-effective solutions to maximize the reduction of Hawaii’s carbon footprint. The 1990 levels of emissions are not an end point; rather, they are a point on a spectrum. Hawaii should endeavor to reduce GHG to the greatest extent possible (that is practical and cost-effective), and the current law requires that.

Further, rules can examine GHG sources and solutions outside of the energy sector. For example, the waste management sector (including wastewater treatment facilities), where methane emissions are a concern, will not be addressed by Hawaii’s GHG law if rules are not developed. Innovative rules could be established that support positive solutions in agriculture and waste management as well, such as reforestation credits, or support for soil solutions such as biochar.

In 2008, as part of HCEI, the international consulting group McKinsey and company identified dozens of cost-effective approaches to abating carbon in Hawaii. This could serve as a template for developing rules to ratchet down Hawaii’s GHG emissions.

### *A “wait and see” approach could fail*

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House Bill 1068 suggests that GHG action at the Federal level could affect the state’s approach. It is unclear if the EPA will be successful at implementing GHG reduction policy, and if they are, if it will be incompatible with the state’s rules. Moreover, Hawaii can adopt rules that contemplate Federal action and be flexible in their implementation.

California—which passed a GHG law a year prior to Hawaii’s law—is proceeding with their rulemaking process. California met their 2010 deadline to put in place a framework for rules governing carbon abatement. In fact, an oil and gas industry-led effort to repeal California’s GHG law failed last year. Other states, including New Jersey and Massachusetts, are proceeding with GHG policy in the absence of federal action.

*Greenhouse gas reduction rules are needed now more than ever*

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Hawai'i is ground zero for impacts of climate change. Our islands face dramatic loss of beaches and shoreline with sea level rise, extreme changes to agriculture due to shifting precipitation patterns, and loss of marine life (and shoreline protection) from ocean acidification.

Since Hawai'i's greenhouse gas law passed in 2007, many of the predicted impacts of human-caused climate change are occurring much faster than anybody expected—particularly ice melt. Last year tied for the hottest year in recorded history, and extreme weather events—consistent with climate change models—are increasing globally.

Hawai'i can and must be a leader in GHG reduction. It is critical that we retain a framework for rules to reduce GHG emissions statewide.

The fact that these rules are due in less than 11 months is no excuse for inaction. The Department of Health has been aware of this deadline for over 3.5 years. Because most of the blame for the inaction falls on the previous Administration, Blue Planet would be open to extending the deadline for the rules by six months.

Blue Planet Foundation respectfully asks this committee to hold HB 1068.

Thank you for the opportunity to testify.