

SUNPOWER

House Committee on Finance

11:00 AM February 25, 2011

HB 796

LATE

Chair Oshiro, Vice-Chair Lee and Committee Members:

Introduction: My name is Riley Saito Senior Manager, Hawaii Projects, for SunPower Systems Corporation. SunPower is a dedicated supporter and participant of the renewable energy initiatives and has been for over thirteen years.

- Charter member of the Hawaii Energy Policy Forum,
- Steering Committee -Hawaii Clean Energy Initiative, Hawaii
- Energy Generation Working Group -Hawaii Clean Energy Initiative, Hawaii
- The SunPower Corporation – Hawaii Representative Energy related PUC dockets.

Financial partner and leadership roles in the tourism industry, cultural preservation, agricultural promotion, educational development, and other community activities. We are focused to work with the energy partners in Hawai'i to reduce importation of fossil fuels, improve the quality of life for Hawai'i future generations.

Mahalo in advance, for accepting comments in **strong opposition to HB 796.**

SunPower Corporation strongly opposes the proposed language changes in Section 235-12.5. of the negative impact it will have on Hawaii's growing solar energy industry. This impact comes from (a) the retroactivity provisions that will cripple the market for commercial solar systems; (b) the signal it sends to the renewable energy investment community about the state's uncertain commitment to renewable energy; and (c) the layoffs and business failings that will result from scaling back the industry that has seen substantial investment designed to increase capacity, just as it is poised for substantial growth. From the perspective of the solar industry the two most problematic aspects of this measure are (1) its impact on projects where the refundable option is elected by the tax filer and (2) its retroactive provisions. The impact of the latter is straightforward – without knowing whether or not the credit will be available, potential project owners, developers, and investors will not advance their projects. This, in turn, eliminates the revenues of solar contractors, electrical contractors, roofing specialists, and other allied construction trades who will need to respond by reducing operating costs. In the case of most solar contractors, who do not have compensating revenue streams, this will result in the elimination of jobs.

In the case of point (1) above, limiting the credit to 80 percent of a tax filer's liability will, in essence, limit the value of the credit to near zero. This is the case because filers without other income sources for which they would like to offset their income tax liability by investing in renewable energy projects (*i.e.*, those for whom the refundable option was devised) have little Hawaii tax liability outside of the project revenues. Given these revenues are modest, or even negative, for several years following construction of the project (projects typically have 20 to 30 year economic (lives) the limitation to 80 percent effectively caps the value of the credit at very low levels. These levels are, in fact, so low that the value of the credit when phased in over time is eroded to the point where it does not meaningfully function as an incentive for renewable energy investment.

SUNPOWER

Note that this would be the case even if the cap were at 100 percent of their income tax liability. If tax filers intending to elect the refundable option had substantial corporate or individual income tax liability, they would have elected the higher nonrefundable credit instead. Yet, it was precisely the lack of tax filers with such liabilities that led the legislature to create the refundable option in the first place.

The SunPower Corporation also notes that many investors may also believe that the restriction to 80 percent of tax liability applies at the entity level (i.e., LLC or business partnership owning a renewable energy project that qualifies for credits under Section 235-12.5), which will make the credits effectively valueless because the entity itself will have limited profits initially. Although we believe that the correct level to apply the restriction is the individual filer level, the uncertainty created by the measure will further discourage investment.

In summary, HB796 is already damaging the solar and wind industries to the point where locally based companies will soon have trouble surviving. The first step in this process is already underway, namely the recoiling of the energy finance community from doing business in Hawaii amid uncertainty regarding the availability of the credit.

In order to mitigate the negative impacts on Hawaii's solar industry, we ask that Section 235-12.5 in its entirety be added to the list of exemptions in section (b) of HB796, which would then read simply: (8) The tax credit under Section 235-12.5.

Thank you for the opportunity to testify on this measure Mahalo,

Riley Saito
Senior Manager, Hawaii Projects SunPower



Hawaii Solar Energy Association
Serving Hawaii Since 1977

February 25, 2011

**HOUSE
COMMITTEE ON FINANCE**

Mark Duda

11:00AM

HB 796

President

TESTIMONY IN STRONG OPPOSITION

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

HSEA strongly opposes this measure because of the negative impact it will have on Hawaii's growing solar energy industry. This impact comes from (a) the retroactivity provisions that will cripple the market for commercial solar systems; (b) the signal it sends to the renewable energy investment community about the state's uncertain commitment to renewable energy – even in the face of rising oil prices that threaten to once again raise the cost of doing business in Hawaii; and (c) the layoffs and business failings that will result from scaling back the industry that has seen substantial investment designed to increase capacity, just as it is poised for substantial growth.

From the perspective of the solar industry the two most problematic aspects of this measure are (1) its impact on projects where the refundable option is elected by the tax filer and (2) its retroactive provisions. The impact of the latter is straightforward – without knowing whether or not the credit will be available, potential project owners, developers, and investors will not allow projects to move forward. This then eliminates the revenues of solar contractors, electrical contractors, roofing specialists, and other allied construction trades who will need to respond by reducing operating costs. In the case of most solar contractors, who do not have compensating revenue streams this will mean layoffs.

In the case of point (1) above, limiting the credit to 80 percent of a tax filer's liability will, in essence, limit the value of the credit to near zero. This is the case because filers without other income sources for which they would like to offset their income tax liability by investing in renewable energy projects (*i.e.*, those for whom the refundable option was devised) have little Hawaii tax liability outside of the project revenues. Because these revenues are modest, or even negative, for several years following construction of the project (projects typically have 20 to 30 year economic lives) the limitation to 80 percent effectively caps the value of the credit at very low levels. These levels are, in fact, so low that the value of the credit when phased in over time is eroded to the point where it does not meaningfully function as an incentive for renewable energy investment.

Note that this would be the case even if the cap were at 100 percent of their income tax liability. If tax filers intending to elect the refundable option had substantial corporate or

individual income tax liability, they would have elected the higher non-refundable credit instead. Yet, it was precisely the lack of tax filers with such liabilities that led the legislature to create the refundable option in the first place.

HSEA also notes that many investors may also believe that the restriction to 80 percent of tax liability applies at the entity level (i.e., LLC or business partnership owning a renewable energy project that qualifies for credits under Section 235-12.5), which will make the credits effectively valueless because the entity itself will have limited profits initially. Although HSEA believes that the correct level to apply the restriction is the individual filer level, the uncertainty created by the measure will further discourage investment.

In summary, HB796 is already damaging the solar and wind industries to the point where locally based companies will soon have trouble surviving. The first step in this process is already underway, namely the recoiling of the energy finance community from doing business in Hawaii amid uncertainty regarding the availability of the credit.

These firms are the source of funds for virtually all third-party financed projects - including the feed-in tariff; the State of Hawaii's projects awarded for the Department of Education; Kauai Community College; UH Maui; the four Oahu Community Colleges; and several DAGS sites; as well as projects under way for the County of Maui and County of Hawaii; as well as the Department of Defense, both alone and with its partners Actus Lend Lease and Forest City. This seizing up of the energy capital markets also affects third-party financed residential PV systems, which are lowering the cost of energy for more and more of Hawaii's moderate-income families.

In order to mitigate the negative impacts on Hawaii's solar industry, I am asking that Section 235-12.5 in its entirety be added to the list of exemptions in section (b) of HB796, which would then read simply:

(8) The tax credit under Section 235-12.5.

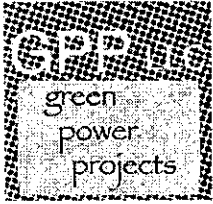
Thank you for the opportunity to testify on this measure.

Mark Duda
President, Hawaii Solar Energy Association

About Hawaii Solar Energy Association

Hawaii Solar Energy Association (HSEA) is comprised of installers, distributors, manufacturers and financiers of solar energy systems, both hot water and PV, most of which are Hawaii based, owned and operated. Our primary goals are: (1) to further solar energy and related arts, sciences and technologies with concern for the ecologic, social and economic fabric of the area; (2) to encourage the widespread utilization of solar equipment as a means of lowering the cost of energy to the American public, to help stabilize our economy, to develop independence from fossil fuel and thereby reduce carbon emissions that contribute to climate change; (3) to establish, foster and advance the usefulness of the members, and their various products and services related to the economic applications of the conversion of solar energy for various useful purposes; and (4) to cooperate in, and contribute toward, the enhancement of widespread understanding of the various applications of solar energy conversion in order to increase their usefulness to society.

LATE TESTIMONY



Green Power Projects LLC

Alan Lennard
P.O. Box 818
Haleiwa, HI 96712
T 808.447.9742 F 808.638.7760
alan.lennard@greenpowerprojects.com

February 25, 2011
8:00 A.M.

HOUSE
COMITTEE ON FINANCE

Alan Lennard
Managing Director

HB 796

TESTIMONY IN STRONG OPPOSITION

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

My name is Alan Lennard

I have been in renewable energy sales and development since 1975, our original marketing firm was started in 1986 in Hawai'i and Green Power Projects LLC has been in our registered business since 2007.

Our business relies on contractors, their subcontractors, engineers and substantial employed specialists and journeyman to perform renewable energy installation projects.

The language of this bill concerning the 80% limitation and conversion to business credit concerning the (235-12.5) for a renewable energy technology system will be counter productive to the State's intention to expand the utilization of renewable energy technology in Hawai'i.

We are imploring your good sense NOT allow this bill to proceed. It will impact a significant amount of employment and devastate one of the most important and promising industries in the state of Hawai'i

Thank you so very much for your consideration regarding this important issue.

Alan Lennard
Managing Director

RENEWABLE ENERGY FUTURES.
Www.greenpowerprojects.com

CALIFORNIA HAWAII NEW YORK

LATE TESTIMONY

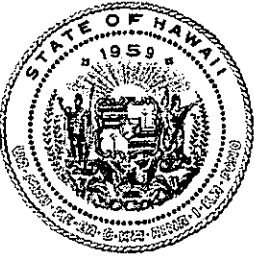
FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 25, 2011 7:20 AM
To: FINTestimony
Cc: peter@sunetric.com
Subject: Testimony for HB796 on 2/25/2011 11:00:00 AM

Testimony for FIN 2/25/2011 11:00:00 AM HB796

Conference room: 308
 Testifier position: oppose
 Testifier will be present: No
 Submitted by: Peter Fletter
 Organization: Individual
 Address:
 Phone:
 E-mail: peter@sunetric.com
 Submitted on: 2/25/2011

Comments:
 Removing support for one of the few high growth business sectors over the last 3 years in Hawaii would be a huge mistake. The solar industry is just beginning to ramp up for Hawaii's commitment to the Clean Energy Initiative of 70% renewable energy by 2030 and ending the renewable energy tax credit support will destroy this momentum. DBEDT has confirmed that every \$1 spent on REITC has returned more than a \$1 to the state in taxes and mainland money that stays in Hawaii. Please say NO to this measure. Mahalo.



NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Interim Director

LATE TESTIMONY

Department of Business, Economic Development & Tourism

before the

COMMITTEE ON FINANCE

Friday, February 25, 2011

11:00 A.M.

State Capitol, Conference Room 308

in consideration of

HB 796

RELATING TO TAXATION

Chair Oshiro, Vice Chair Lee and Members of the House Committee on Finance.

The Department of Business, Economic Development, and Tourism (DBEDT)

understands the intent of this measure, however, Hawaii's economy is still trying to recover from the downturn, many businesses are still struggling, and employment within the State has not fully recovered. DBEDT has serious concerns about the impact of this measure as it would limit all tax credit claims under chapter 235 to only 80% of a taxpayers liability. It calls to question how this would affect the current tax credit programs for the following:

Renewable Energy Technologies Income Tax Credit (Section 235-12.5)

Ethanol Facility Tax Credit (Section 235-110.3)

Motion Picture, Digital Media, And Film Production Income Tax Credit (Section 235-17)

As an example of the effect on the film industry - Hawaii has built and sustained an excellent global reputation for its film industry. A change in Section 235-17, HRS, motion picture, digital media, and film production income tax credit (Act 88), would severely impact Hawaii's ability to remain competitive in the global landscape of film and television production, by reducing tax incentives for film, television and digital media production. The effect of this measure would essentially reduce this credit to a 12% to 16% tax credit and open the State to possible litigation by past claimants as it would be the requirement placed on all carryover business credits from prior years. Many productions made financial decisions based upon the current tax credit incentive.

The Act 88 tax incentive has helped to attract more than \$700 million in direct production expenditures since its effective date of July 1, 2006, delivering a cumulative economic impact of \$1.2 billion, keeping people employed by contributing over 6,000 jobs in production, small business and visitor industries statewide. This credit remains crucial to Hawaii's ability to maintain and grow a clean industry that has a proven track record of driving economic development and developing our workforce.

Tax credits are invaluable and have been responsible for attracting substantial business investment to the Hawaiian Islands - spurring economic activity, and supporting high-paying job creation while recognizing their direct affect on providing economic stimulus necessary for Hawaii's short- and long-term recovery.

Thank you for the opportunity to offer these comments.

LATE

The Solar Alliance

THE SOLAR
ALLIANCE
MEMBER
COMPANIES

House Committee on Finance
Testimony in Strong Opposition to

HB796

being heard on February 25, 2011 at 11a.m. – Agenda 2
in Room 796

Applied Materials

Borrego Solar

BP Solar

Community Energy

Element Power

First Solar

enXco

Kyocera

Mainstream Energy

Mitsubishi Electric

Oerlikon Solar

Petra Solar

Q-Cells

Sanyo

Schott Solar

Sharp Solar

SolarCity

Solaria

Solar Power Partners

Solyndra

SunRun

Sungevity

SolarWorld

SPG Solar

SunEdison

SunPower

Suntech

Tioga Energy

Trinity Solar

Unirac

Uni-Solar

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

The Solar Alliance opposes HB796 because of the negative impact it will have on Hawaii's growing solar energy industry. This impact comes from (a) the retroactivity provisions that will cripple the market for commercial solar systems; (b) the signal it sends to the renewable energy investment community about the state's uncertain commitment to renewable energy; and (c) the layoffs and business failings that will result from scaling back the industry that has seen substantial investment designed to increase capacity, just as it is poised for substantial growth.

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Working with the
states to develop
cost-effective PV
policies and
programs.

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(8) The tax credit under Section 235-12.5.

Thank you for the opportunity to testify on this measure.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 25, 2011 10:24 AM
To: FINTestimony
Cc: mckjane@hotmail.com
Subject: Testimony for HB796 on 2/25/2011 11:00:00 AM

LATE

Testimony for FIN 2/25/2011 11:00:00 AM HB796

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: Jane McKee
Organization: Individual
Address:
Phone:
E-mail: mckjane@hotmail.com
Submitted on: 2/25/2011

Comments:

TESTIMONY OF WILLIAM G. MEYER, III

LATE

HEARING DATE/TIME: Friday, February 25, 2011
11:00 a.m. in Conference Room 308

TO: House Committee on Finance

RE: **Testimony Of William G. Meyer, III In Strong Opposition To HB796 To The
Extent That The Same Applies To Act 88 (HRS Section 235-17)**

Dear Chair, Vice-Chair and Committee Members:

My name is William G. Meyer, III. I have practiced intellectual property, entertainment and business law in Honolulu for over 30 years and represent both local and major motion picture and television production companies and other members of the creative community.

I am very concerned that HB796 could be interpreted to eliminate the "refundable" nature of the income tax credit available to the motion picture and television industry pursuant to HRS Section 235-17 (Act 88). I strongly oppose this bill as written and respectfully request that this committee include within the exemptions provided in subpart (b) that the claim limitation set forth in subpart (a) not apply to Section 235-17.

As this Committee is well aware the direct repeal of Act 88 and/or the evisceration of the refundable nature of the tax credit available under Act 88 would destroy the motion picture and television industry in Hawaii, an industry which last year produced over \$400,000,000 in direct economic activity for the State of Hawaii.

Respectfully submitted,

/s/ William G. Meyer, III

William G. Meyer, III

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 25, 2011 10:56 AM
To: FINTestimony
Cc: dfelice@sunetric.com
Subject: Testimony for HB796 on 2/25/2011 11:00:00 AM

Testimony for FIN 2/25/2011 11:00:00 AM HB796

Conference room: 308
Testifier position: oppose
Testifier will be present: No
Submitted by: David Felice
Organization: Individual
Address:
Phone:
E-mail: dfelice@sunetric.com
Submitted on: 2/25/2011

LATE TESTIMONY

Comments: