

SB 1295

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
ACTING DIRECTOR OF HEALTH

STATE OF HAWAII
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In reply, please refer to:
File:

COMMITTEE ON ENERGY AND ENVIRONMENT

COMMITTEE ON HEALTH

S.B. 1295, RELATING TO GREENHOUSE GAS EMISSION RULES

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health**

**February 22, 2011
2:45 p.m.**

1 **Department's Position:** The Department of Health strongly supports this bill.

2 **Fiscal Implications:** None

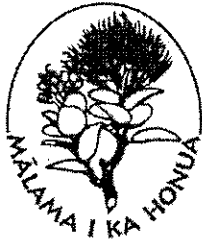
3 **Purpose and Justification:** This bill amends Chapter 342B, Part VI, HRS to remove the
4 December 31, 2011 deadline date but still allows the Department to adopt rules to establish Greenhouse
5 Gas (GHG) emission limits and a statewide GHG emission reporting and verification requirement.

6 The Department strongly supports this measure which removes the deadline date for adopting
7 GHG rules to achieve Hawaii's GHG goal by 2020. Act 234, Session Laws of Hawaii 2007 created the
8 GHG Emission Reduction Task Force to develop a GHG reduction plan and strategy which the
9 Department would implement through a regulatory program. Instead, the Task Force adopted the
10 aggressive energy reduction strategies set forth in the Department of Business, Economic Development,
11 and Tourism (DBEDT), Hawaii Clean Energy Initiative (HCEI). Since the HCEI-based plan meets the
12 GHG emission reduction goals of Act 234, while reducing Hawaii's dependence on fossil fuel, the Task
13 Force had no plan for the Department to implement. Accordingly, the deadline date and the requirement
14 for expeditious adoption of GHG rules by the Department are unnecessary at this time.

1 The Department does intend to develop and adopt a statewide GHG reporting program for
2 stationary sources. Removing the rule deadline would allow the Department time to assess and
3 coordinate efforts with the U.S. Environmental Protection Agency (EPA) which is in the midst of
4 administering the federal GHG Mandatory Reporting Rule whereby subject facilities must report their
5 GHG emissions by March 2011. EPA has struggled for the past year to establish the reporting program
6 including the infrastructure, guidelines, the GHG emission calculators, the database warehouse, and
7 many, many questions. Establishing a Hawaii stationary source GHG reporting and verification program
8 is a first step for the Department in regulating and managing Hawaii's contribution to the global
9 GHG emissions

10 Thank you for the opportunity to testify on this bill.

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Sierra Club Hawai'i Chapter

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SENATE COMMITTEE ON ENERGY & ENVIRONMENT SENATE COMMITTEE ON HEALTH

February 22, 2011, 2:45 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO SB 1295

Aloha Chair Gabbard, Chair Green and Members of the Committees:

The Sierra Club, Hawaii Chapter, with 8000 dues paying members and supporters statewide, *opposes* SB 1295. This Legislature took the historic action of passing a Greenhouse Gas Emission Reduction act nearly four years ago. Regulations should have been developed by now. The failure to enact such rules should not be the sole basis for leaving the entire issue of regulating greenhouse gas emissions upon the *discretion* of the Department of Health.

The purpose of the Greenhouse Gas Emission Reduction act was *not* a “goal” to reduce greenhouse gases, it was *not* a study of our greenhouse gas inventory. It was an enforceable limit and a directive to the Department of Health to implement an action plan to achieve it.

This Legislature correctly observed that we had an urgent need to put in place limits on greenhouse gases now. A limit sends a signal and begins the critical transition today.

Hawai'i's commitment to reduce its greenhouse gas emissions should not be weakened by leaving regulation of the emission limits solely up to the Department of Health's discretion. We suggest this SB 1295 be amended to strike the “word “may” and to keep the current language of “shall.” While we appreciate we may need to push back the date of December 31, 2011 to allow the new administration time to propose a regulatory framework, we suggest the legislature move it back by one year from today (March 1, 2012) and give firm guidance that the Department is to proceed forthwith.

Mahalo for the opportunity to testify.



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Testimony of The Nature Conservancy of Hawai'i
Opposing S.B. 1295 Relating to Greenhouse Gas Emission Rules
Senate Committee on Energy and Environment
Senate Committee on Health
Tuesday, February 22, 2011, 2:45PM, Rm. 225

The Nature Conservancy opposes S.B. 1295. We do not believe that the requirement for Department of Health rules under the State's Greenhouse Gas emission reduction plan should become discretionary.

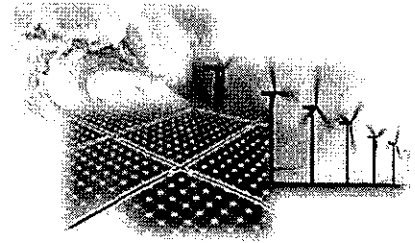
While the Greenhouse Gas Emission Reduction Task Force unanimously supported the goals of the Hawai'i Clean Energy Initiative (HCEI), seven of ten members also strongly recommended that there be additional assurances that emission reduction targets are met in the event that that some HCEI activities are unrealized. These additional assurances or "backstops" included Department of Health regulations.

Please review the Task Force's December 30, 2009 report to the Legislature at DBEDT's website: <http://hawaii.gov/dbedt/info/energy/greenhouse>. You'll see that the members who recommended additional assurances like DOH regulations included the Task Force representatives from DOH and DBEDT.

Also notable is that while the Task Force did not provide the DOH and the Legislature with an actual draft of proposed regulations, the prior Administration had only released half of the money appropriated by the Legislature for the Task Force's work. So, the Task Force was a bit hampered in its ability to produce work products.

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**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON HEALTH**

February 22, 2011, 2:45 P.M.

Room 225

(Testimony is 4 pages long)

TESTIMONY IN OPPOSITION TO SB 1295

Chairs Gabbard and Green and members of the Committees:

The Blue Planet Foundation opposes SB 1295, 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-

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effective reductions in greenhouse gas emissions...” (emphasis added). The law further 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).

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

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

Senate Bill 1295 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

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 Hawaii'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 these committees to hold SB 1295.

Thank you for the opportunity to testify.

Testimony for ENE/HTH 2/22/2011 2:45:00 PM SB1295

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Nancy Davlantes
Organization: Individual
Submitted on: 2/20/2011

Comments:

Given the uncertainty of what the new Congress may do to the EPA, this is no time not to act here in regulating greenhouse gases. Relying on the EPA to do something it may not be able to do only delays what must be addressed. Thank you for opportunity to submit testimony.

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I consider the threat of global warming/climate change to be so grave that we should not miss any opportunity to take corrective action. This bill would remove an existing initiative to do so, and thus should be defeated. The failure of Congress to enact controls on greenhouse gas emissions means that we must rely on the EPA to exert national leadership through regulation, by its nature a slower and probably less vigorous process. A number of states are stepping forward to do what the federal government has not; we should do likewise.

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Testimony for ENE/HTH 2/22/2011 2:45:00 PM SB1295

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Carolyn Knoll
Organization: Individual
Submitted on: 2/20/2011

Comments:

The EPA hasn't adopted the rules needed so the Department of Health must do so; that's why the Department of Health was created. I adamantly oppose this bill.