NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF TAXATION
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To: The Honorable Marcus R. Oshiro, Chair
and Members of the House Committee on Finance

Date: Thursday, March 29, 2012
Time: 5:30 P.M.
Place: Conference Room 308, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S. B. No. 2288, S.D. 1, H.D. 1, Relating to Energy

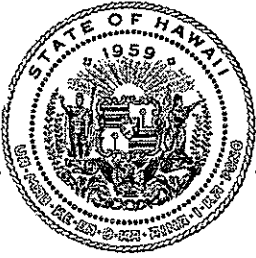
The Department of Taxation (Department) supports S.B. 2288 SD1 HD1. The HD1 version will continue to support the development of renewable energy systems and will make the tax credit easier for the Department to administer.

This measure changes the basis for calculation of the renewable energy technologies tax credit from a per-system basis to a per property basis; prohibits a taxpayer from claiming the renewable energy technologies tax credit for a system installed for the purpose of selling power to a county, state, or federal agency; and increases the maximum amount of tax credit for systems installed on certain properties.

The Department recommends some additional technical amendments to Section 235-12.5, to assist the Department in administering the tax credit claims:

- For consistency, add the following language to subsection (f), clarifying that taxpayers can't change their election after it has been made:
  <u>Elections under subsections (g) or (h) must be made at the time the tax credit is initially claimed. Once a taxpayer claims the credit pursuant to this subsection, taxpayer waives the right to make a claim for the credit under subsections (g) and (h).</u>
- Delete the following sentence in both subsections (g) and (h): ~~[A separate election may be made for each separate system that generates a credit.]~~
- Amend subsection (k) to reflect the effective date of this bill.

Thank you for the opportunity to provide comments.



NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Thursday, March 29, 2012
5:30 p.m.
State Capitol, Conference Room 308

in consideration of
SB2288, HD1
RELATING TO ENERGY.

Chair Oshiro, Vice Chair Lee, and members of the committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the portion of SB 2288, HD1 which would redefine and change the cap for the Renewable Energy Technology System Tax Credit for residential, commercial, and independent power producers' renewable energy systems. DBEDT believes the approach taken in the HD1 to incentivize the deployment of renewable energy systems based on the KW capacity installed is more consistent with the original intent of the measure than the presently defined "system" approach for tax claims.

We are also supportive of the limit to one claim per TMK, but would ask that it be clarified to ensure that new subdivisions built on one TMK, with many single- and multi-family homes, are not limited to one claim for the entire subdivision, but the number of claims equivalent to the number of individual homes.

DBEDT strongly opposes item "j" on page 10 which prohibits a taxpayer from claiming a tax state credit for installing a renewable energy system or entering into a power purchase agreement with any state, county, and federal agency.

Power purchase agreements provide public jurisdictions the benefit of stabilized utility costs which do not fluctuate with rising oil prices or spikes in oil prices. The power provider is responsible by contract to sell the electricity at a pre-negotiated rate over the life time of the contract. When private sector funding is used, such as with power purchase agreements, warranty costs are generally covered in the contract.

Thank you for the opportunity to provide this testimony.

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU
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PETER B. CARLISLE
MAYOR

LORI M.K. KAHIKINA, P.E.
DIRECTOR

CHRIS TAKASHIGE, P.E.
DEPUTY DIRECTOR

March 27, 2012

The Honorable Marcus R. Oshiro, Chair
and Members
House Committee on Finance
State Capitol
Honolulu, Hawaii 96813

Dear Chair Oshiro and Members:

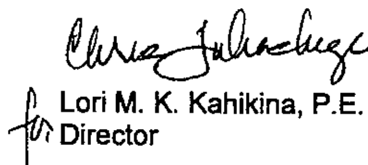
Subject: Senate Bill No. 2288 SD1 HD1 Relating to Energy

The Department of Design and Construction (DDC) respectfully **opposes** Senate Bill 2288 SD1 HD1, which proposes to amend Section 235-12.5 (j) of Hawaii Revised Statutes so that, "No taxpayer shall be allowed to claim a tax credit under this section for installing a renewable energy system for, or entering into a power purchase agreement with, any county, state, or federal agency."

The prohibition would eliminate an alternative financing mechanism for counties to install renewable energy systems without relying solely on capital funds and would provide no reciprocal benefit. The result of this bill's passage would be fewer county renewable energy projects. For this reason, DDC respectfully **opposes** Senate Bill 2288 SD1 HD1.

Thank you for the opportunity to testify.

Very truly yours,



for Lori M. K. Kahikina, P.E.
Director

LK/WB:lm

L E G I S L A T I V E

TAXBILLSERVICE

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

SUBJECT: INCOME, Increase/clarify energy technology tax credit

BILL NUMBER: SB 2288, HD-1

INTRODUCED BY: House Committee on Energy and Environmental Protection

BRIEF SUMMARY: Amends HRS section 235-12.5(b) to provide that the cap of the credit amounts that may be claimed for a renewable energy technology system shall be applicable to each tax map key number rather than for each renewable energy system on a subject property.

For solar energy systems that use the sun to heat water, increases the cap amount of the credit from $2,250 to $2,500 per single family tax map key number; from $350 to $1,000 per unit per multi-family residential tax map key number; and $250,000 per nonresidential tax map key number.

For all other solar energy systems, increases the cap amount of the credit from $5,000 to $7,000 per single family tax map key number; from $350 to $1,000 per unit per multi-family residential tax map key number; and for a single nonresidential tax map key number, $1,500 per kilowatt placed in service for the first 300 kilowatts of capacity and $1,000 per kilowatt for the next 4,700 kilowatts placed into service provided that the credit shall not apply to kilowatts produced in excess of 5,000 kilowatts of capacity that are placed into service.

For wind energy devices, the cap shall be applicable to each tax map key number rather than for each renewable energy system on a subject property.

No taxpayer shall be allowed to claim a tax credit under this section for installing a renewable energy system for or entering into a power purchase agreement with any county, state or federal agency.

Independent power producers not currently regulated by the public utilities commission that have submitted an agreement with an electric utility company for approval by the public utilities commission by January 1, 2013, shall be allowed tax credits as authorized in the 2012 calendar year for renewable energy technologies placed into service after January 1, 2013 as part of the agreement.

Authorizes the issuance of $_____ in general obligation bonds for fiscal 2013 to purchase renewable energy systems for state facilities that are operated by programs funded by general funds. The appropriation made for the CIP authorized by this section shall not lapse until June 30, 2014.

EFFECTIVE DATE: January 1, 2030; applicable to tax years beginning after December 31, 2012

STAFF COMMENTS: This measure clarifies that the limitation of tax credits claimed for a renewable energy system shall be applicable to each tax map key rather than each system installed. This would ensure that should more than one solar energy system be installed on a commercial property that

property would be eligible for a total tax credit rather than a credit for each system installed on that property.

It should be noted that when the department of taxation implemented the rewritten energy technology tax credit, it qualified each system based on the inverter that served the solar panels as one system. Thus, some property owners installed several systems each with an inverter. Thus, one commercial property could have a dozen inverters with each inverter qualifying for the maximum ceiling even though all systems service a single property. It does not appear that this abuse was the intent of the legislature in setting the ceiling.

What this provision underscores is how the enactment of the current law appears to have been done without careful research. Apparently in an effort to limit the impact of the credits against the general fund resources of the state, lawmakers imposed caps on the dollar amount of credit which could be claimed from the 35% state credit. In the case of the solar energy system (other than for heating water) the current amount is capped at $5,000 for a residential installation. That translates into a price tag of just under $15,000 and the proposed $7,000 cap translates into a price tag of $20,000 for such solar energy systems. However, if the homeowner wants to achieve a net-zero status with the local electric company, a minimum system reportedly costs more than $28,000. Thus, the credit limit does not truly cover the cost of getting off the grid and results in application of the tax credit that this measure attempts to address by limiting the credit to one per property tax map key.

This measure acknowledges the high cost of renewable energy technologies and proposes to increase tax credits for such systems. While some may consider an incentive necessary to encourage the use of energy devices, it should be noted that the high cost of these energy systems limits the benefits to those who have the initial capital to make the purchase. If it is the intent of the legislature to encourage a greater use of renewable energy systems by increasing and expanding the existing system of energy tax credits, as an alternative, consideration should be given to a program of low-interest loans. However, if the taxpayer avails himself of the loan program, the renewable energy credit should not be granted for projects utilizing the loan program as the project would be granted a double subsidy by the taxpayers of the state. Such low-interest loans, which can be repaid with energy savings, would have a much more broad-based application than a credit that amounts to nothing more than a "free monetary handout" or subsidy by state government. A program of low or no-interest loans would do much more to increase the acquisition of these devices.

Instead of providing tax incentives for the purchase of existing technology, lawmakers may want to take advantage of Hawaii's natural environment which lends itself to all sorts of possibilities to explore and develop more efficient means of harnessing the natural resources that pervade the Islands, from wind to sun to geothermal to hydrogen from Hawaii's vast resources, all of which could be further developed with the assistance and cooperation of government in Hawaii.

While the measure would also permit unregulated power producers who have submitted an agreement to an electric utility company for approval by the public utilities commission by January 1, 2013 to claim tax credits authorized in 2012 for renewable energy technologies placed in service after January 1, 2013, provisions should be added to recapture the tax credits if the power producer fails to deliver power to the electric utility by the date agreed upon.

Finally, this proposal appears to deny the credit to those who install such solar energy systems for any public agency or enter into a purchase power agreement with any public agency. This appears somewhat hypocritical for those advocates who espouse energy independence by providing incentives to consumers to utilize alternate energy sources by providing this tax incentive and then to turn around and say that this tax incentive should not be available if the system is installed for a public agency or is structured to sell the energy produced from such devices back to the public agency. Either the tax incentive is there to encourage consumers to get off fossil fuel usage or not. If the tax incentive is adopted solely for the purpose of proving to constituents that something is being done to reduce the use of fossil fuel energy by subsidizing certain taxpayers, then the legislative effort is disingenuous. It is obvious that throughout the 36-year history of this credit, there has been no real commitment to moving consumers off of fossil fuels, but merely a show of political desire to appear as if there is a commitment, albeit insincere, to the environment.

Digested 3/27/12

Sierra Club
Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

HOUSE COMMITTEE ON FINANCE

March 29, 2012, 5:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN STRONG OPPOSITION TO SB 2288 SD1, HD1

Aloha Chair Oshiro and Members of the Committee:

The Sierra Club of Hawai'i, with 10,000 members and supporters, strongly opposes SB 2288 SD1, HD1, which would reduce the renewable energy tax credit available to prospective consumers. This measure is a pennywise, pound-foolish step backward in the State's clean energy efforts.

Specifically, the Sierra Club is concerned this measure would (1) decimate utility scale investments; (2) be too abrupt of a change to the residential market; (3) overly incentivize commercial solar installation; and (4) eliminate Government's ability to reduce its electricity costs by making a smart investment in solar and take advantage of existing federal and state tax credits.

A tax credit for renewable energy devices is an important policy tool to encourage investment in clean energy, reducing Hawai'i's dependence on unstable foreign oil and improving Hawai'i's environment. Any proposed change must be measured and avoid large-scale disruption to the industry. To this end, we support the language used in HB 2417 SD1, which addresses the matter in a sensible way.

Hawai'i's renewable energy tax credits have proven incredibly successful in helping to promote the use of solar and other renewable energies in the state. The number of photovoltaic systems installed in Hawai'i has consistently increased each year -- one of the few growth industries in an otherwise economically depressed time period. ***In fact, the State indicates that approximately 15% of the construction jobs last year arose out of the solar industry.*** Let's not lose this green job-creator during a period of economic uncertainty.

Mahalo for the opportunity to testify.

Robert D. Harris, Director

TO: House Committee on Finance
Honorable Representative Marcus Oshiro, Chair
Honorable Representative Marilyn B. Lee, Vice Chair

RE: Testimony Opposing SB 2288 HD1 Relating To Renewable Energy.

Testimony is 3 pages long.

HEARING: Thursday, March 29, 2012, 5:30 p.m., Room 308

Chairman Oshiro and members of the Committee:

My name is Larry Gilbert, and I am the Managing Partner and Chief Executive of Kairos Energy Capital LLC. Kairos Energy Capital is a Hawai'i merchant bank that focuses entirely on providing and arranging funding for renewable energy projects. We have become one of the leading experts in Hawai'i in solar project financing.

SB2288 HD1 consists of two parts: (1) a change in the structure of the Hawai`i renewable energy tax credit to limit the number of "systems" to one per TMK, and thus restructure the cap on the credit amount to limit the amount of the Hawai`i renewable energy tax credit; and (2) an elimination of the credit for projects built for state, county or federal government agencies. The measure should not be passed in its current form, for the following reasons:

Restructuring of the "Cap" to One-per-TMK Could Be Extremely Disruptive

The Hawai`i renewable energy tax credit has contained the very awkward mechanism of capping the amount of the credit on a "per system" basis since its inception. But the implementation of this cap has been worked out over time by the Department of Taxation's interpretive releases so that it is now well understood by the capital markets, investors and developers. The existing structure has been relied upon for many larger projects which are currently in the midst of multi-year development cycles, and substantial amounts of money and resources have been spent in reliance on it.

Any change in the current cap structure should be done with an effective date far enough in advance – at least two years – so that existing project developments in process can run their course before the change is implemented. Accordingly, if this portion of the measure is adopted – which is not recommended -- the effective date of the changes to Section 235-12.5(a),(b), (h) and (k) should not be set at any time prior to tax years beginning on or after January 1, 2015.

The Hawai`i renewable energy tax credit is a "pact" between the State and private capital to induce private capital to invest in Hawai`i renewable energy projects. This "pact" has been successful in triggering hundreds of millions of dollars of investment and creating the most rapidly growing segment of the Hawai`i job market. Investors

rely on the State to keep up its end of the bargain, and not change the rules when they are half way through an investment process and have invested substantial time and resources in reliance on the "pact." The Legislature certainly has the right to restructure the Hawai`i tax credit in any way it sees fit, and has the obligation to taxpayers to manage the State's finances in a prudent fashion.

By providing the capital markets with ample notice of a change in the structure of the credit, the Legislature can send a message that it is a trustworthy and reliable partner in the "pact" with investors. But by implementing an effective date that could disrupt projects already in the midst of a multi-year development cycle, the Legislature would send the message that the State of Hawai`i cannot be trusted as an investment partner, and this message can and would reverberate loudly through all aspects of the capital markets that Hawai`i relies on – not just investors in renewable energy.

Changes to the "Cap" Are Not a Good Way to Manage the Cost of the Credit

As noted, the "cap" in the Hawaii renewable energy tax credit has always been an awkward construct to implement. Whether the cap is applied as one per system, one per TMK, or one per some other measure, it cannot be engineered to allow for the differing needs and conditions of different types of projects. For instance, in the case of one "cap" for a small project on a large TMK, the mechanism could end up over-subsidizing a project, while conversely, one "cap" on a very large, utility-scale project on a single TMK could so constrain the amount of the subsidy that the project is not pursued, thus defeating the purpose of the incentive.

The better way to manage the cost of the credit to the State's taxpayers is through the percentage of cost of the project, with a scale that reduces the incentive amount for larger projects, which generally enjoy much greater economies of scale, and hence need less subsidy. Tinkering with the cap is an idea that should be abandoned.

Prohibition of the Credit for Government Projects is Counterproductive

SB2288 HD1's addition of a new subsection (j) barring use of the State credit for projects done for state, county or federal agencies is financially unsound, and would result in lower availability of renewable energy to government agencies, and much higher costs.

The proposal is financially unsound because it would push government agencies to use a higher cost source of capital -- bond debt – to achieve the same end it gets through use of current cash. In essence, it would be like the government borrowing on its credit card to purchase something, rather than paying cash.

Currently, the state tax credit is monetized very efficiently by the capital markets for government renewable energy projects, because government agencies are considered the most highly desirable counterparty due to their long term financial stability and creditworthiness. Government agencies get the very best energy rates and terms for power purchase agreements because of competition in the marketplace for this business, and accordingly the agencies get 100 cents on the dollar—and sometimes

more—for the value of the state credit. Moreover, the energy they get at the lower rates offsets energy they would have bought from the utility at much, much higher rates—double and more what they are paying for renewable energy—so there is a built-in payment mechanism that does not drain revenue away from other sources.

By contrast, using state general obligation bonds to finance these projects would involve a commitment by the State to pay interest on those bonds over a period of many years, and reduce the capacity of the State to borrow money for other purposes which may be more worthy, such as infrastructure repair. While borrowing rates may be very low right now, that will not always be the case, and even low borrowing rates require payment of interest. Further, creating a need to issue bonds—which is an expensive process with many fees and costs in addition to the interest paid—would also delay the ability of agencies to implement renewable energy projects. And as any agency which has implemented a project can attest, each day lost is an expense incurred for the much more expensive utility energy that would not otherwise have to be incurred.

Finally, if the state credit is unavailable for government agency projects, but remains available for private projects, investors will find private projects more attractive, making it more difficult for government agencies to attract bids for power purchase agreements. And without good access to the power purchase agreement capital markets, those government agencies will be less able to take advantage of the generous federal incentives that now exist, but which may expire or be terminated at any time in the future.

Prohibiting government agencies from using the credit will greatly impair them financially, as well as send a message that the State of Hawai`i does not really believe in its goal of achieving greater energy self-sufficiency through renewables.

To the extent that the proposed prohibition on use of the credit by government agencies is an attempt to prevent them from 'double-dipping' into the State budget, those should be addressed through internal inter-agency accounting mechanisms.

SB2288 HD1 should be deferred indefinitely, because (1) restructuring of the cap to one-per-property could be disruptive to the capital markets and jobs they create, and (2) it will cost government agencies more money.

Thank you for the opportunity to submit this testimony, and please feel free to contact me if I can be of further assistance.

Larry Gilbert
Managing Partner
Kairos Energy Capital LLC
201Merchant Street, Suite 1940
Honolulu, HI 96813
Tel 808 457-1600
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SunRun Inc. | 1.855.4SUNRUN | sunrunhome.com

TESTIMONY IN OPPOSITION TO SB2288

To: House Finance Committee
Hearing on March 29, 2012 at 5:30 p.m., House Conference Room 308

From: Sunrun

Aloha Chair Oshiro and members of the Committee:

SunRun opposes SB2288.

SunRun is a residential solar power service company that has been making rooftop solar accessible to Hawaiian homeowners since 2010 through zero-down residential solar power purchase agreements and partnerships with local installation companies. In addition to advancing the state's laudable renewable energy goals, SunRun's commitment to solar in Hawaii directly supports new local jobs.

Sunrun has invested more than $5M in residential solar projects in Hawaii since 2010 and has generally found Hawaii's business climate attractive and reasonable, with one notable exception; the annual re-examination of the Renewable Energy Technologies Income Tax Credit (RETITC) creates uncertainty that reduces Sunrun's confidence in the Hawaiian solar market.

Sunrun is open to the revisions to the RETITC, but Sunrun opposes SB2288. Sunrun supports predictable, orderly changes such as those described in HB2417_HD2_SD1_proposed. In contrast with SB2288, the RETITC bill being heard by the Senate Ways and Means Committee on March 29, 2012, provides solutions to legislative concerns in a way that creates long-term transparency for market participants. Sunrun believes that this approach is in the best interest of all parties; transparency instills confidence, attracts investment, and fosters competition, thus driving scale and efficiency in Hawaii's solar industry, reducing the cost of solar for consumers, and moving the state closer to its renewable energy goals.

Thank you for the opportunity to testify on this matter.

March 28, 2012

FIN SB2288
5:30 p.m.

Re: Testimony in Opposition

Respectfully submitted:

The Tax Credit Reform of SB2288 undermines the utility scale portion of the market where projects have been in development for years by lowering the incentive amount substantially. It attempts to make change too abrupt in Hawaii's residential market and increases the incentive for portions of the commercial rooftops market (which is the most heavily incentivized already). At a time when the construction industry is losing jobs, the last thing the State needs is to put the solar industry out of work. This is poorly thought out and does not solve the problems it seeks to address.

In addition, the bill:

- Prohibits county/state/federal projects from using the credit; thus prohibiting taxpayers from state/county/federal power costs from oil at a time when money is cheap due to low interest rates.
- Takes away a tool that government agencies could use to stabilize rates for decades to come - before oil prices begin to rise in earnest.

Thank you for the opportunity to testify.

Bradley Albert, Manager

Rising Sun, a licensed electrical contractor, has been doing PV since 2003 and has been engaged in the installation of grid-tied PV systems since that time. Rising Sun is one of the top PV installers in Maui County and the State of Hawaii.

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www.risingsunsolar.com

The House Committee on Finance

March 29, 2012; 5:30 p.m.
Conference Room 308

SB 2288, SD1, HD1
Testimony in Opposition

Chair Oshiro, Vice Chair Lee and Members of the Committee, my name is Jon Wallenstrom and I am the President of Forest City Hawaii. Forest City Hawaii is principally engaged in the ownership, development, management and acquisition of commercial and residential real estate and land in Hawaii. It is currently involved in a partnership with the Hawaii Housing Finance and Development Corporation (HHFDC) to develop Kamakana Villages, a mixed-use community of 2,206 homes on the Big Island, of which more than 50% will affordably priced. It recently completed construction of the largest utility-scale solar photovoltaic farm on Oahu to date. A sister company, Hawaii Military Communities, built and manages 6,500 Navy and Marine family homes across 36 neighborhoods on Oahu and Kauai. Parent company, Forest City Enterprises, is an $11.5 billion NYSE-listed national real estate development company.

Forest City opposes SB 2288, SD 1, HD 1. This measure seeks to limit the availability of Hawaii's renewable energy technologies income tax credit ("RETITC") to a subject property. It also prohibits a taxpayer from claiming a tax credit for installing a renewable energy system for or entering into a power purchase agreement with any county, state or federal agency.

Limitation of allowable tax credits creates a disincentive for homeowners to install solar energy generating systems who rely on the tax credits as a means to recouping part of the up-front expense of installing such a system. In turn, it would have a chilling effect on the growth of the solar industry which in 2010 contributed to 15% of statewide construction, creating employment opportunities for our *ohana* during a period of economic downturn.

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The existing structure of the RETITC has been relied upon for many larger projects which are currently in the midst of multi-year development cycles. Substantial amounts of money and resources have been spent on those projects. An abrupt change to the current cap structure would result in disruption of the ongoing projects and would have a negative impact on the industry and property owners.

The prohibition against taxpayers claiming a tax credit for installing a renewable energy system for or entering into a power purchase agreement with any county, state or federal agency would restrict the ability of government agencies to use wind and solar energy systems to lower their energy expenditures, which are currently one of the State's largest cost centers. State taxpayers benefit from installing solar and wind energy systems that fix the cost of power and make for stable, predictable costs over the long term. For this reason, various state agencies, including the Department of Education and the University of Hawaii, two of the State's largest consumers of power, have signed such contracts in recent years. Elimination of this option would alarmingly increase the cost of operating the state and county agencies.

Implementation of renewable energy alternatives, such as harnessing solar power, has been in keeping with the HCEI initiative to ensure long term energy and economic independence, reducing our dependence on fossil fuels importation.

Thank you for the opportunity to testify on this measure.

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(808) 839-8771 fax: (808) 836-7008

SUNPOWER

3/29/2012 **House Committee on Finance**

5:30 pm **TESTIMONY IN STRONG OPPOSITION** **SB 2288 HD1**

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

With this measure the House is proposing to combine the two most problematic solar bills of the session, HB2121 HD2 and HB2417 HD2, into a single bill that would significantly set back the State's efforts to achieve its energy goals; reduce employment in the construction sector; perpetuate Hawaii's dependence on costly imported fossil fuels; and in essence raise the tax burden on the citizens of Hawaii by denying government agencies the opportunity to achieve lower energy costs by de-linking their cost of power from the cost of oil. From the perspective of the long-term economic health of the State of Hawaii, this measure is simply not sound public policy. The remainder of this testimony expands on these points.

The proposed HD2 will cause job losses in construction if passed into law. The General Contractors Association (GCA) recently released a report showing that in the City and County of Honolulu alone 600 construction jobs were lost from January 2011 to January 2012. The construction sector on the Neighbor Islands is in worse shape and does not stand to benefit from rail or high-rise construction, which will eventually help the construction sector recover on Oahu. Solar is thus even more important to construction employment on the Neighbor Islands because overall construction activity is lower and there are no major projects forecast to drive recovery. If this measure is passed, reducing the viability of the solar industry in a significant and abrupt manner, those currently holding well paying jobs will suffer job losses.

Hawaii's economy will suffer is this measure is passed into law. According to DBEDT, the solar industry accounted for 15% of all construction activity in the State in 2011. If SB2288 HD1 were to become law as it stands, its impacts would be greatest on the utility scale market and the residential market. The utility scale market is where the effects on existing Hawaii sub-contractors who are not PV specialists are felt most, because developers of utility scale projects typically hire a team of these contractors to perform the various portions of the job including site preparation, structural steel, electrical, etc. Undermining the viability of the utility scale solar market will take business away from Hawaii based contractors and engineering firms, many of whom are hurting badly already. The measure's impact on the residential market will have the greatest impact on PV specialist contractors, who perform the bulk of residential installations. The disruption caused by this measure will ensure that many of these entities will be forced out of business as the market adjusts to the radically changed incentive regime.

Most progress on Hawaii's energy goals is being made by the solar industry and this progress will be compromised if the solar industry is disrupted. Despite the optimism about other renewable technologies, most of the progress on Hawaii's renewable energy

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goals made to date has been made by the solar and wind industries. With the future of inter-island cables not yet clear and limited scope for new wind development on Oahu, Hawaii's progress on meeting its statutory renewable goals will grind to a halt without the contributions being made today and in the future by the solar industry.

State & county taxpayers will pay more taxes if this bill passes. With utility rates in Hawaii at or near record levels, all energy consumers are looking for solutions that reduce their energy payments and de-link their energy payments from oil. As some of the State's largest energy consumers, the County, State and Federal governments are also looking for ways to lower their expenditures. To the extent that they are able to do so with power purchase agreements, leasing and other financing methods where the financier makes use of the state solar credit, taxpayers are the beneficiaries of lower and stabilized energy costs. Failing to take advantage of this option simply results in more taxpayer money being spent than is necessary for electricity. Eliminating this option now when the cost of money is at all time lows, and thus long term financing contracts are extremely cheap, is especially unwise.

This measure does not solve problems with the residential credit and introduces new ones. One goal of this measure appears to be to reconfigure the residential tax relative to the well-developed body of guidance provided by the Department of Taxation (DoTax) in its various Tax Information Releases (TIRs) and letter rulings over the past five years. While this guidance is consistent in defining a system in which the credit is available on a per system basis, the measure attempts to shift this to a per property basis. In doing so it would treat townhouse owners differently depending on whether their properties are sited on a single TMK, and limit the credit for families that have more than one home on a single property. This includes duplex units and properties where more than one single family detached home are sited on a single TMK. In essence the proposed change creates a new class of administrative problem while invalidating five years of DoTax guidance, around which the PV industry has developed.

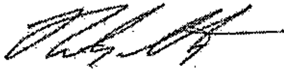
As we have noted in previous testimony on earlier versions of the ideas embedded in this measure, solar participants understand the Legislature's concerns regarding the administrative efficiency and fiscal impact of the renewable energy credit and want to work with the Legislature to address these concerns. However, the industry has grown up with the current DoTax system and we are very concerned that a radical departure from these rules, of the type contemplated by this measure will have negative implications for the State, the industry, its clientele, and the roughly 2,000+ people it currently employs.

For an alternative to this measure we suggest HB2417, SD1 which represents a reasonable approach to addressing the State's issues while keeping the solar industry moving forward. Key elements of the proposal include the following:

- **Make the utility scale credit a production tax credit.** For utility scale projects the incentive is converted from an income tax credit to a production credit, meaning that system owners are paid over time rather than up front. This has the effect of limiting General Fund obligations in any single year, especially in the near term. This is important because the portfolio of utility scale projects coming on line will be substantial in the coming years but should wane thereafter.

- **Lower the incentive level and remove the cap.** For residential and commercial projects below the utility scale, the incentive would decline by five percentage points annually, stabilizing at 20 percent in 2015, but eliminate the current per system caps, as is the case with the federal solar credit. Though it may not be obvious, this lowers the budgetary impact of the residential and commercial credit by millions of dollars annually because the current guidance is generally not binding with respect to system definition. The primary impact of this change is therefore to vastly simply the administration of the solar credit, while it also lowers the cost to the State of incentivizing the same amount of PV.

Mahalo,



Riley Saito
Senior Manager, Hawaii Projects
SunPower

HOUSE COMMITTEEE ON FINANCE
TESTIMONY IN OPPOSITION TO
SB 2288, HD 1 RELATING TO RENEWABLE ENERGY

Testimony of
Solar Energy Industries Association
Thursday, March 29, 2012, 5:30 p.m.
Conference Room 308

Chair Oshiro and members of the Committee:

The Solar Energy Industries Association, SEIA, opposes SB 2288, HD 1. SEIA is the national trade association of the United States solar industry. Through advocacy and education SEIA and its 1,100 member companies work to make solar energy a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry and educating the public on the benefits of solar energy. Many SEIA members are Hawaiʻi companies, or have a strong presence in Hawaiʻi, including Solar City, Sunrun, SunPower, REC Solar, and others.

SEIA recognizes the Legislature's concerns regarding the tax credit. It is critical, however, that any changes to the effective availability and amount of the tax credit not be so dramatic so as to completely disrupt or halt the growing market, particularly for commercial projects. Any change should encourage the continuation of the growth in jobs and investment. SEIA believes that HB 2417, SD 1 accomplishes these goals and supports that bill.

However, as SEIA has indicated in its previous testimony before this committee, SEIA believes that the changes to the tax credit contemplated by SB 2288, HD 1 are too dramatic, particularly with respect to the tax credit available for commercial projects. The changes contemplated by SB 2288, HD 1 would harm the industry and send the wrong message to investors.

Thank you for the opportunity to testify on this matter.

575 7th Street, NW · Suite 400 · Washington, DC 20005 · 202.682.0556(T) · 202.682.0559(F) · www.SEIA.org

March 27, 2012

To: Members of FIN Committee

From: Marco Mangelsdorf, President, ProVision Solar

RE: SB2288 HD1

I have been active in the renewable energy field since 1978, been working in the solar electric field full-time in Hawai'i since 2000 and founded the Hawai'i PV Coalition in 2005.

I support SB2288 HD1.

The intent of the state's renewable energy tax credit was NEVER to promote individual homeowners' ability to double, triple and even sextuple dip as far as getting so many separate $5,000 tax credits per residence. The advent of new inverter technologies and cheaper PV system costs have effectively allowed these multiple tax credits to proliferate over the past several years with the Department of Taxation drawn into the near impossible task of trying to come up with rulings and essentially play the Solar Police, trying to figure out which specific and unique site conditions allow for one versus two versus however many separate tax credits are allowable.

Enough already. We've seen a doubling of installed PV in Hawai'i from 2009 to 2010 and at least another doubling from 2010 to 2011. The PV industry has achieved an economy of scale and price reductions that has allowed PV to become more mainstream and affordable than ever before.

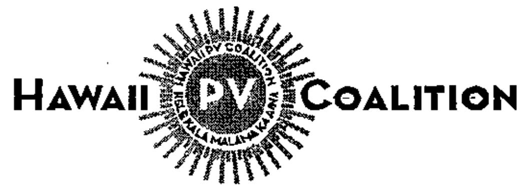
The Department of Education is trying to figure out how to find enough money to pay for the school buses to take keiki to school and it's high time to make these tax credits more balanced and less of a hit on the General Fund with a considerable portion of those dollars going into the pocket of out-of-state developers due to the refundable option.

Tax credits were never designed to be a handout or lift up in perpetuity and it's time to both tighten up the language and reduce the hit on the general fund.

Hysterical claims of likely catastrophe notwithstanding, tightening up the language and limiting the tax credit per TMK will not cause the sky to fall on the state's PV industry. It will restore a balance and fairness to the renewable energy tax credit law.

Thank you.

69 Railroad Avenue, A-7, Hilo, HI 96720
phone (808) 969-3281 fax (808) 934-7462



3/29/2012	**House Committee on Finance**	**FIN**
5:30 PM	**TESTIMONY IN STRONG OPPOSITION**	**SB 2288 HD1**

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

This measure proposes to combine the two most problematic solar bills of the session, HB2121 HD2 and HB2417 HD2, into a single bill that would significantly set back the State's efforts to achieve its energy goals; reduce employment in the construction sector; perpetuate Hawaii's dependence on costly, imported fossil fuels; and in essence raise the tax burden on the citizens of Hawaii by denying government agencies the opportunity to achieve lower energy costs by de-linking their cost of power from the cost of oil. From the perspective of the long-term economic health of the State of Hawaii, this measure is simply not sound public policy. The remainder of this testimony expands on these points.

(1) **The proposed HD2 will cause job losses in construction if passed into law.** The General Contractors Association (GCA) recently released a report showing that in the City and County of Honolulu alone 600 construction jobs were lost from January 2011 to January 2012. The construction sector on the Neighbor Islands is in worse shape and does not stand to benefit from rail or high-rise construction, which will eventually help the construction sector recover on Oahu. Solar is thus even more important to construction employment on the Neighbor Islands because overall construction activity is lower and there are no major projects forecast to drive recovery. If this measure is passed, reducing the viability of the solar industry in a significant and abrupt manner, those currently holding well paying jobs will suffer job losses.

(2) **Hawaii's economy will suffer is this measure is passed into law.** According to DBEDT, the solar industry accounted for 15% of all construction activity in the State in 2011. If SB2288 HD1 were to become law as it stands, its impacts would be greatest on the utility scale market. And the residential market. The utility scale market is where the effects on existing Hawaii sub-contractors who are not PV specialists are felt most, because developers of utility scale projects typically hire a team of these contractors to perform the various portions of the job including site preparation, structural steel, electrical, etc. Undermining the viability of the utility scale solar market will take business away from Hawaii based contractors and engineering firms, many of whom are hurting badly already. The measure's impact on the residential market will have the greatest impact on PV specialist contractors, who perform the bulk of residential installations. The disruption caused by this measure will ensure that many of these entities will be forced out of business as the market adjusts to the radically changed incentive regime.

(3) **Most progress on Hawaii's energy goals is being made by the solar industry and this progress will be compromised if the solar industry is disrupted.** Despite the optimism about other renewable technologies, most of the progress on Hawaii's renewable energy goals made to date has been made by the solar and wind industries. With the future of inter-island cables not yet clear and limited scope for new wind development on Oahu, Hawaii's progress on meeting its statutory renewable goals will grind to a halt without the contributions being made today and in the future by the solar industry.

(4) **State & county taxpayers will pay more taxes if this bill passes.** With utility rates in Hawaii at or near record levels, all energy consumers are looking for solutions that reduce their energy payments and de-link their energy payments from oil. As some of the State's largest energy consumers, the

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County, State and Federal governments are also looking for ways to lower their expenditures. To the extent that they are able to do so with power purchase agreements, leasing and other financing methods where the financier makes use of the state solar credit, taxpayers are the beneficiaries of lower and stabilized energy costs. Failing to take advantage of this option simply results in more taxpayer money being spent than is necessary for electricity. Eliminating this option now when the cost of money is at all time lows, and thus long term financing contracts are extremely cheap, is especially unwise.

(5) **This measure does not solve problems with the residential credit and introduces new ones.** One goal of this measure appears to be to reconfigure the residential tax relative to the well-developed body of guidance provided by the Department of Taxation (DoTax) in its various Tax Information Releases (TIRs) and letter rulings over the past five years. While this guidance is consistent in defining a system in which the credit is available on a per system basis, the measure attempts to shift this to a per property basis. In doing so it would treat townhouse owners differently depending on whether their properties are sited on a single TMK, and limit the credit for families that have more than one home on a single property. This includes duplex units and properties where more than one single family detached home are sited on a single TMK. In essence the proposed change creates a new class of administrative problem while invalidating five years of DoTax guidance, around which the PV industry has developed.

As we have noted in previous testimony on earlier versions of the ideas embedded in this measure, solar participants understand the Legislature's concerns regarding the administrative efficiency and fiscal impact of the renewable energy credit and want to work with the Legislature to address these concerns. However, the industry has grown up with the current DoTax system and we are very concerned that a radical departure from these rules, of the type contemplated by this measure will have negative implications for the State, the industry, its clientele, and the roughly 2,000+ people it currently employs.

For an alternative to this measure we suggest the SD1 of HB2417 being circulated, which represents a reasonable approach to addressing the State's issues while keeping the solar industry moving forward. Key elements of the proposal include the following:

- **Make the utility scale credit a production tax credit.** For utility scale projects the incentive is converted from an income tax credit to a production credit, meaning that system owners are paid over time rather than up front. This has the effect of limiting General Fund obligations in any single year, especially in the near term. This is important because the portfolio of utility scale projects coming on line will be substantial in the coming years but should wane thereafter.

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Thank you for the opportunity to testify on this measure.

Mark Duda

Government Affairs Committee Chair, Hawaii PV Coalition

About the Hawaii PV Coalition

The Hawaii PV Coalition was formed in 2005 to support the greater use and more rapid diffusion of solar electric applications across the state. Working with business owners, homeowners and local and national stakeholders in the PV industry, the Coalition has been active during the state legislative sessions supporting pro-PV and renewable energy bills and helping inform elected representatives about the benefits of Hawaii-based solar electric applications.

The Coalition has also taken a very active role in policy discussions to promote best practices for distributed generation and interconnection rules. The Hawaii PV Coalition is currently intervening in two open PUC dockets, the Reliability Standards Working Group (2011-0206) and Rule 14H (2010-0015).

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blue planet FOUNDATION

HOUSE COMMITTEE ON FINANCE
March 29, 2012, 5:30 P.M.
Room 308
(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO SB 2288 SD1 HD1

Chair Oshiro and members of the Finance Committee:

The Blue Planet Foundation opposes HB 2288 SD1 HD1, a proposal which strictly limits the size of the tax credit that renewable energy investors can use per property and reduces alternatives for State facilities to participate in energy cost-reducing programs. Passing this measure will significantly reduce the incentive to invest in renewable energy, likely damage to the solar and wind industries in Hawai'i, and deliver a major setback to the state's clean energy efforts.

While Blue Planet appreciates the need to minimize the impact on the state budget during these challenging fiscal times, cutting the clean energy tax credits today would be pennywise and pound foolish. The solar tax credit has been extremely effective at making Hawai'i a leader in solar water heating installations—creating local jobs and providing steady revenue from its business creation. Moreover, the installation of solar water heaters, photovoltaic systems, and wind systems helps to plug the leak of billions of dollars out of the islands' economy. Further, investments in this technology—and the companies and jobs that provide it—pays dividends back to the state in the form of income tax, general excise tax, and outside investment—among other forms.

Limiting the number of "systems" that are eligible for the tax credit essentially caps the allowable credit *regardless* of the size of the system. Such a policy would discriminate against homeowners who are investing in larger systems (for example, a one kilowatt PV system would receive an identical credit as a 5 kilowatt PV investment). The system caps (and thereby the "system" definition) should be removed altogether to provide more clarity in the incentive.

A reduction or disruption in these tax incentives could significantly curtail the solar and wind industries in Hawai'i and reduce our ability to decisively move off of oil.

Jeff Mikulina, executive director • jeff@blueplanetfoundation.org
55 Merchant Street 17th Floor • Honolulu, Hawai'I 96813 • 808-954-6142 • blueplanetfoundation.org

The HD1 of SB 2288 also eliminates the ability of state and county agencies to enter into power purchase agreements or arrangements with entities that are using the renewable energy income tax credit. This change would essentially remove another tool for government entities to hedge against high energy prices tied to oil at a time when financing is affordable because interest rates are low. Government entities should have the ability to weigh all the options (bonds, direct investment, power purchase arrangements, etc.) and select the most cost effective approach.

We respectfully ask that this Committee either hold SB 2288 or forward the measure in its previous SD1 draft.

Thank you for the opportunity to testify.