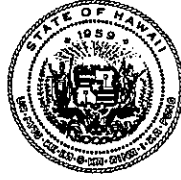


SB 2822

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

## SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

### S.B. 2822, RELATING TO RECYCLING

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

February 14, 2012  
2:55pm

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

2 **Fiscal Implications:** Unquantified.

3 **Purpose and Justification:** Hawaii's current computer and television recycling program has not been  
4 effective. While recycling activity has increased incrementally, consumer convenience has lagged and  
5 computer and television manufacturers have shown no interest in developing a more robust system.  
6 Furthermore, the current system is limited to a small portion of our ever growing stream of electronic  
7 devices.

8 This bill aims to address these issues by proposing a vastly expanded system that would include  
9 all electrically powered products and provide an effective and convenient recycling system for  
10 consumers.

11 If approved this program would place Hawaii at the forefront of consumer product recycling  
12 efforts. Please consider approving this bill to make Hawaii an innovator and leader in recycling and  
13 environmental protection.

14 Thank you for the opportunity to testify on this measure.

William P. Kenoi  
Mayor

William T. Takaba  
Managing Director



Dora Beck, P.E.  
Acting Director

Hunter Bishop  
Deputy Director

**County of Hawai'i**  
**DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**  
25 Aupuni Street • Hilo, Hawai'i 96720  
(808) 961-8083 • Fax (808) 961-8086  
[http://co.hawaii.hi.us/directory/dir\\_envmng.htm](http://co.hawaii.hi.us/directory/dir_envmng.htm)

February 13, 2012

The Honorable Mike Gabbard, Chair  
Committee on Energy & Environment  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

The Honorable Denny Coffman, Chair  
Committee on Energy & Environmental Protection  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

HEARING DATE: Thursday, February 14, 2012  
HEARING TIME: 2:55 a.m.  
HEARING LOCATION: House Conference Room 225

**Re: Testimony on Senate Bill 2822/House Bill 2560, Relating to Recycling**

Dear Senator Gabbard, Representative Coffman, and Committee Members,

The County of Hawai'i Department of Environmental Management is pleased to testify regarding these bills which propose to repeal the existing Hawai'i Electronic Waste & Television Recycling and Recovery Law passed in 2008 and implemented in January 2010, and replace it with an Electric Device Recycling Act.

By taking the lead in passing this type of legislation to cover the vast majority of electric devices, it communicates our State's commitment to protect the health and safety of our residents and be at the forefront to preserve the environment. It also replaces the current ineffective Hawai'i Electronic Waste & Television Recycling and Recovery Law which falls short in providing equitable services to Hawai'i Island and the other neighbor islands, leaving our residents without reasonable choices.

We are in support of the bill only with changes that will provide equal services to Hawai'i County consumers.

One of the deficiencies in the bill is that the Department of Health should be mandated to use money collected in the Electric Device Recycling Fund to "Conduct recycling education and demonstration projects;" (§ -5(d)(2)) to educate the public on the existence of the new law and its effects. The current non-mandated recycling education conducted for the Hawai'i Electronic Waste & Television Recycling and Recovery Law by the Department of Health fails to communicate the existence of the current law and the recycling options available to consumers under the law. Also important is the public must be thoroughly educated on the proposed electric device disposal ban beginning July 1, 2015.

There is a gap between the implementation of the advance recycling fees for electric devices on July 1, 2014 (§ -4 (a)) and the responsibility of retailers to "make available to their customers information on collection services in the State" starting on January 1, 2014 (§ - 6). Without the fees there will likely be no electric device recycling centers in operation to accept the devices from the consumers starting on January 1, 2014.

Under the current Hawai'i Electronic Waste & Television Recycling and Recovery law most of the approved manufacturers' recycling plans require Hawai'i County consumers and other neighbor island consumers to package and mail or ship their electronic waste usually at the expense of the consumer. The results of this challenge have been very negative:

- Increase in complaints about the cost and lack of convenience;
- Reduced recycling of electronic waste due to cost and lack of convenience;
- Increased illegal dumping of electronics on public and private property;
- Increased illegal dumping at the County Recycling & Transfer Stations.

We support assigning the financial responsibility for recycling of electric devices to the manufacturers of these products and relieving the County taxpayer from this burden. However, the law should require that in the absence of a private electric device recycling center establishing on the neighbor islands the Department of Health must fund the convenient collection services for the neighbor islands that would include at minimum one (1) of the two (2) following options:

- 1) Monthly electronic waste recycling collection events on Hawai'i Island (at minimum in Hilo & Kona)
- 2) Permanent electronic waste recycling collection locations on Hawai'i Island (at minimum in Hilo & Kona)

Please review the proposed change to the current bill to provide more equity for our neighbor island community: § - 5 *Electric Device Recycling Fund. (d) Moneys in the electric device recycling fund shall be used to pay recycling fees to certified electric device recycling centers. The department may also use the money to:*

- (1) Implement and enforce this chapter, conduct audits and fund other compliance activities associated with the electric device recycling program.*
- (2) Conduct recycling education and demonstration projects;*
- (3) Promote recyclable market development activities;*
- (4) Support the handling and transportation of electric devices to end-markets;*
- (5) Hire personnel to oversee the implementation of the electric device recycling program, including permitting and enforcement activities; and*
- (6) Fund associated office expenses.*
- (7) In the absence of a private electric device recycling center establishing on each Hawai'i island, the Department of Health must fund convenient collection services that would include at minimum: (a) monthly electric device recycling collection events on each island; and/or (b) permanent electric device recycling centers conveniently located not greater than sixty (60) miles from each High Density Population Area, and open a minimum of two (2) days per week, one on the weekends.**

"High Density Population Area" as used in subsection (c) above might be defined as in HAR §11-282 "High-density population area" means all United States Postal Service Zip Code areas on Oahu, which contain three or more dealers of five thousand or more square feet of interior space; or a resident population of 17,500 or greater."

Prior to this law, the County of Hawai'i was providing a very successful but costly electronics recycling program. It provided permanent collection drop-off sites in Hilo and in Kona. The County spent approximately \$370,000.00 in FY09-10 for this program and recycled approximately 700,000 pounds. This contracted service ended April 30, 2010 and the County has been receiving illegally dumped e-waste, calls and complaints while trying to help our residents understand the current State law and how it benefits them.

The County of Hawai'i believes that there should be equal access to participate in new consumer funded program on the neighbor islands, and that the Counties and its taxpayers should not continue to carry the cost of electric device recycling if no private electric device recycling center opens on the neighbor islands.

Additionally, the law only provides for retailers to annually report the total weight or units of electric devices sold in the State, not by individual Counties. To properly evaluate the success of the new law in each County, we recommend that the law be modified to require retailers and recycling centers to report total weight of electric devices sold and recycled in each County and by specific types of devices recycled.

Please review the proposed change to the current bill to provide more accurate evaluation of program goals by each of the Counties:

*§ - 4 Sales of Electric Devices; Retailer Report; Fee Payment. (b) Each retailer shall generate and submit to the department a monthly report, using forms prescribed by the department, on the net number of electric devices sold, donated, or transferred in each County.*

*§ - 7 Electric Device Recycling Centers. (d)(3) Forward the documentation necessary to support claims for payment as stated in section -9. Including total weight of collected devices in each County.*

Again, we applaud the intent of the legislation and believe with minor amendments, it will encourage the responsible recycling of electronic devices in Hawai'i, provide equal opportunities for all island consumers to participate and protect the environment.

Best Regards,



Dora Beck

ACTING DIRECTOR

cc: Mayor William Kenoi

Aloha,

Thank you for the opportunity to testify on SB 2822.

I have run the Maui County Electronics Recycling Program for nine years (I am not a County employee). We began as a small event-based program which, in its first outing, received about 30 pounds of materials for recycling, in 1999. Today we run an ongoing program open every week of the year, and process as much as 30,000 pounds a week in recyclable electronics.

The program, founded by Maui County Recycling Coordinator Dr. Hana Steel and Recycling Specialist Irene Cordell, began with 100% funding from the County of Maui, which continues to support the program to this day. Currently, our operations are transitioning to a privately funded business. 82% percent of our costs are borne by private business, with a crucial 18% supported by Maui County. We expect a full private business by July 1, 2014.

I applaud the Governor's and the State's efforts to expand the recycling of electronics to include just about everything with a plug. As a recycler, I would be happy to include all materials covered under such a law. One section of the bill under discussion is of particular concern to me: Section 2, -5, 1, d, page 6, concerning the establishment of a fund to pay monies to recyclers such as myself.

As you are aware, in 2008, the State of Hawaii implemented its bill covering electronic recycling regulations for CEDs and TVs. (CHAPTER 339D - ELECTRONIC WASTE AND TELEVISION RECYCLING AND RECOVERY ACT). The bill included provisions for the establishment of a similar fund, monies to be received from Manufacturers' fees paid from electronics manufacturers to the state, for registration of their business within the state, and monies to be disbursed to the entire state to help defray the costs of satisfying the new state requirements.

As of the time of my writing, four years later, to my knowledge not a penny of those funds collected by the state has been distributed to the counties' governments or to any entity within any Hawaii county. And the State has understood its requirement: it has repeatedly promised funding to Maui County over the past several years, and failed to produce.

If the State of Hawaii is going to consider establishing such a fund under SB2822 for private recyclers such as myself, it must build in some safeguards to make certain that the funds are distributed according to law, not according to department or political whim. If not, the results may be that the law puts requirements upon private recyclers such as myself which are overburdensome and perhaps financially unfeasible.

Please consider this issue carefully when you weigh the bill. Thank you.



CUSTOM  
ELECTRONIC  
DESIGN &  
INSTALLATION  
ASSOCIATION

February 13, 2012

Senate Committee on Energy & Environment  
HAWAII STATE CAPITOL  
415 South Beretania Street  
Honolulu, HI 96813

RE: CEDIA's comments in **opposition** to Senate Bill 2822's provisions for an advanced recycling fee for "electric devices" sold at retail

Dear Chairman Gabbard & members of the Senate Committee on Energy & Environment:

On behalf of the Custom Electronic Design & Installation Association (CEDIA), thank you for allowing us the opportunity to provide written testimony **opposing** Hawaii Senate Bill 2822, legislation for an act relating to recycling. CEDIA raises concerns with the very broad definition of "electric devices" and the administrative burden placed solely on retailers to collect an advance recycling fee.

CEDIA is the professional trade association representing companies that specialize in planning and installing electronic systems for the home. These systems include home networking, home automation and communication systems, media rooms and home theaters, single or multi-room entertainment systems, and integrated whole-house subsystems providing control over lighting, security, and heating, ventilation & air conditioning (HVAC) systems.

CEDIA members include residential electronic systems contractors, manufacturers, industry-related professionals, professional services, distributors, and sales representatives and currently include 11 member companies who work in the residential electronic systems industry in Hawaii. All of these companies are electronic systems contractors (ESCs), many of which are independent retailers and installers representing a vital part of small business in Hawaii. According to the *2011 CEDIA Size and Scope of the Residential Electronic Systems Market in the US* research report, nationally ESCs represent between \$7.8 billion and \$8.3 billion in annual revenue.

CEDIA believes the advance recycling fees on all "electric devices" as proposed in Senate Bill 2822 will have devastating economic consequences including lost sales and jobs in Hawaii, and will have a significant impact on the residential electronic systems industry. According to the *2011 CEDIA Benchmarking Survey*, the average net profit for CEDIA members was only 4%, and the legislation's proposal for advanced recycling fees on "electric devices" will create burdensome compliance costs on businesses already working within a challenging economic environment. This regulation is even more burdensome considering that ESCs expect sales for home theater and audio projects to be flat in 2012 (source: *2011 CEDIA Size and Scope of the Residential Electronic Systems Market in the US* report).

Senate Bill 2822's definition for an "electric device" which "means any electrically powered device more than 4 ounces and weighing up to and including 100 pounds including packaging" seems arbitrary and lacks a clear definition and impacts any "electric device" product category. The lack of a clear definition will place a significant administrative burden on almost all "electric device" transactions within the State of Hawaii.

The broad definition for an "electric device" would make it very difficult for electronic systems contractors to accurately bid and price all residential electronic systems projects in Hawaii. Residential electronic systems projects have numerous "electric devices" which are installed and integrated to work together. With the on-going advancement of technology many "electric devices" specified for a project can change from the start to the completion of the project. The proposed provision would create an unclear administrative burden on the independent retailers and installers who design and install these residential electronic systems projects. The proposed interim fees could also significantly decrease sales of "electric devices" and discourage consumers from completing residential electronic systems projects in this current economic environment.

Adding an advance recycling fee to all product categories that are installed into residential electronic system projects including home theaters, media rooms and audio systems will negatively impact an ESC's revenue. These categories represent 62% of ESCs' revenue according to the 2011 *CEDIA Size and Scope of the Residential Electronic Systems Market in the US* research report.

CEDIA supports a shared-responsibility product stewardship approach to the handling of "electric devices" at the end of a product's life cycle. CEDIA strongly supports the need for a statewide solution which involves sharing the responsibility and cost of protecting the environment among all stakeholders. Product stewardship should be addressed by all segments of an "electric device's" life cycle from design, manufacturing, and sale to proper product disposal and recycling. Each segment plays a vital role, and placing the burden solely on the retail segment for "electric devices" recycling with an advance recycling fee is an incomplete and short-sighted solution.

On behalf of CEDIA, thank you for the opportunity to share our concerns on Hawaii Senate Bill 2822. CEDIA looks forward to working with members of the Energy & Environment Committee, staff, and other industry stakeholders on this important issue to Hawaii and the residential electronic systems industry. Thank you for your time and consideration.

Respectfully submitted,



Darren Reaman  
Director of Public Policy  
Custom Electronic Design & Installation Association (CEDIA)  
(800) 669-5329 ext. 144  
[dreaman@cedia.org](mailto:dreaman@cedia.org)





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**Equipment Leasing and Finance Association (ELFA)**  
Statement in Opposition to House Bill 2560 / Senate Bill 2822

The negative impact of House Bill 2560 / Senate Bill 2822 on commercial equipment lease financing provided by Equipment Leasing and Finance Association (ELFA) members would impede commerce and initiate difficult if not impossible mandates. It creates weight-tiered advance recycling fees mandating “every retailer shall pay ... an advance recycling fee on each electric device” with retailer meaning any “person” offering electric devices for sale and person includes a business, partnership, limited liability company or corporation, sweeping in the commercial sector. The resale and lease exclusion removes true leases but other commercial lease financing remain as it replicates in part a California recycling law experiencing improper administration uncovered by the Sacramento Bee newspaper and facing financial struggle.

ELFA members are passive finance sources not possessing equipment prior to delivery. Weight of equipment will often not be known or the weight of packaging. Does packaging include immediate packaging, a shipping carton and a pallet? Factories frequently use multiple freight haulers to pack and ship products. An equipment category coming from one factory will be packed differently than one from another factory and will vary at a single location. Does the pallet weight on a 99 pound device throw it outside the weight parameters? We question if the fee calculation can be accomplished with certainty in the commercial equipment marketplace.

Equipment lease finance companies are not retailers and differ from Internet sales that will escape the advanced recycling fee. These lessors do not have physical possession or maintain a stock of inventory prior to a lease nor have nor equipment manuals. Commercial leased equipment is shipped directly to lessees from suppliers - manufacturer, vendor or distributor. Invoices provide only general descriptions. It is challenging if not impossible for us to determine what equipment is subject to the fee or how much is due.

This legislation is unworkable in our commercial finance marketplace as the advanced recycling fee establishes unique problems not to be overcome. At the least it should apply only to consumers acquiring electronics for personal, household or family use, where it will face similar issues. Finance sources should also be excluded from the definition of retailer because they do not have possession prior to delivery and are unable to comply with mandates to be established.

Dennis Brown  
Vice President, State Government Relations  
Equipment Leasing and Finance Association  
1825 K Street NW, Suite 900  
Washington, DC 20006  
Phone: (202) 238-3411  
dbrown@elfaonline.org  
www.elfaonline.org



1111 19th Street NW • Suite 402 • Washington, DC 20036  
f 202.872.5955 f 202.872.9354 www.aham.org

**Testimony of**

**Kevin Washington**  
**Director, Government Affairs**  
**Association of Home Appliance Manufacturers**

**before the**

**Committee on Energy and Environment**  
**Hawaii Senate**

**for**

**SB 2822**  
**“Electronic Device Recycling Act”**

**February 14, 2012**

Chair Gabbard, Vice Chair English, and Committee Members:

I appreciate the opportunity to provide testimony on SB 2822 and represent our industry on this issue.

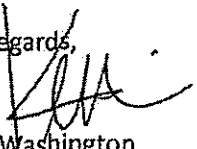
The Association of Home Appliance Manufacturers (AHAM) represents manufacturers of major, portable and floor care home appliances, and suppliers to the industry. AHAM's membership includes over 150 companies throughout the world. In the U.S., AHAM members employ tens of thousands of people and produce more than 95% of the household appliances shipped for sale. The factory shipment value of these products is more than \$30 billion annually, including the millions of home appliances shipped to Hawaii last year alone. The home appliance industry, through its products and innovation, is essential to U.S. consumer lifestyle, health, safety and convenience. Through its technology, employees and productivity, the industry contributes significantly to U.S. jobs and economic security. Home appliances also are a success story in terms of energy efficiency and environmental protection. New appliances often represent the most effective choice a consumer can make to reduce home energy use and costs.

AHAM members traditionally oppose government-mandated recycling programs because of the negative and unforeseeable impact potential they hold for our industry and others. Extended Producer Responsibility (EPR) legislation does not consider its impact on established, successful, market-driven recycling and diversion operations. To that end, AHAM points out the following concerns with SB 2822 in its current form:

- SB 2822 does not protect against a "one size fits all" conclusion that would be implemented under the bill. The proposed plan's success would have to rely on infrastructure in the form of product processors that do not currently exist in Hawaii. Moreover, there is no evidence of the logistical feasibility for the takeback scheme envisioned by SB 2822, and we would question whether the Department of Health (DOH) has the capacity to implement such a government-mandated scheme.
- The recycling results envisioned by proponents do not consider the complete lack of evidence showing that the proposed takeback arrangement will actually achieve the desired rate of recycling in Hawaii.
- The bill fails to consider how products, such as home appliances, may already contemplate and facilitate responsible removal, reuse, and/or disposal of product packaging. It further fails to ensure the opportunity for manufacturer input to provide such insights to inform DOH's work to implement a new scheme in state law.

AHAM believes that enacting SB 2822 would establish a program that will, at best, fix something that is not broken; and, at worst, reduce the current product recycling tonnage, fail to achieve landfill burden and environmental relief, and threaten Hawaii jobs. We feel that open-ended, government mandated, manufacturer-financed public policy is the least effective way to achieve recycling and reuse goals or environmental protection objectives that put the best interests of Hawaii residents first. We express our opposition to SB 2822, and strongly urge the Committee to reject this measure.

Best regards,

  
Kevin Washington  
Director, Government Affairs



Consumer Electronics Association  
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Arlington, VA  
22202 USA  
(866) 858-1555 toll free  
(703) 907-7600 main  
(703) 907-7601 fax  
www.CE.org

February 13, 2012

*Via email: [ENEstimony@captiol.hawaii.gov](mailto:ENEstimony@captiol.hawaii.gov)*

Senator Mike Gabbard  
Chair, Senate Committee on Energy and Environment  
Hawaii State Capitol, Room 201  
415 South Beretania Street  
Honolulu, HI 96813

*Re: SB 2822 Relating to Electronics Recycling*

Dear Chair Gabbard and Members of the Committee on Energy and Environment:

On behalf of the Consumer Electronics Association (CEA)<sup>®</sup>, I am writing to provide comments on SB 2822, which proposes to create a new electric device recycling program.

CEA represents more than 2,000 companies involved in the design, development, manufacturing, distribution and integration of audio, video, in-vehicle electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels.

SB 2822 would repeal Section 339D, Hawaii Revised Statutes, and replace the existing state electronics recycling program with a broadly applied, state-run, retail-administered advance recycling fee system. Given our industry's experience with the HRS 339D program, and given the unique geographic, logistical and recycling infrastructure on the islands, we welcome an open dialogue and exploration of alternatives to improve upon the current program for recycling consumer electronics in Hawaii. The industry recognizes the challenges unique to recycling in Hawaii and in particular, the State's concerns about limited landfill space. While there are strong arguments against a visible fee system, we also recognize the inherent educational value for consumers in a visible fee system when the customer asks what the fee is for, and at that time, they become educated about recycling options for electronic waste. However, we do have several major concerns with SB 2822 as presently drafted, in particular the scope and complexity of the current language, and the choice of a state-run recycling system over one designed and operated by the private sector.

#### CEA Comments

**1. *The scope of covered products is far too broad.*** The Justification Sheet for SB 2822 states that the purpose of this bill is to create a recycling program for all electrically powered consumer products. The actual text of the bill is not so limited. "Consumer" is defined as "a person who buys an electric device," and "person" includes businesses, partnerships, corporations and government entities. While CEA represents the



consumer electronics industry, inclusion of all “electric” devices goes well beyond the scope of the analogous electronics recycling program in California. As written, the bill includes business-to-business (B2B) and business-to-government (B2G) products, which is problematic. The application of a fee on the sale of all new B2B and B2G products that use electricity and weigh between four ounces and 100 pounds would create new burdens and substantial costs for probably half of all B2B equipment suppliers and distributors in Hawaii. B2B and B2G products should not be included in the scope of this bill. Further, the definition of “consumer” should be limited to individuals who buy electric devices primarily for personal, household or family purposes. Similarly, as in the California Advance Recycling Fee (ARF) program, the definition of “retailer” in SB 2822 should be amended to clarify that banks, credit unions, finance companies, leasing companies and other financial institutions are not retailers, as they do not “sell” products to consumers.

Furthermore, the broad scope of the bill compounds the complexity and cost to retailers. Compared to the relatively narrow scope of the California ARF program, SB 2822 would be exponentially more complex, costly and difficult to administer with the scope of products subject to the ARF. Beyond televisions and television peripherals, and computers and computer peripherals, retailers would need to develop new stock-keeping units (SKUs) for virtually all electric products when sold in Hawaii in order to collect and remit the proposed fees:

- kitchen products (e.g., blenders, bread makers, coffee makers, electric grills, rice cookers, electric woks, electric can openers, food processors, ice cream makers, popcorn makers, pressure cookers, steamers, toaster/pizza ovens, teapots, vacuum sealers, waffle makers);
- non-white good home appliances (e.g., irons, sewing machines, electric shavers, hair dryers, electric toothbrushes, cordless phones, vacuum cleaners, wet/dry vacuums, portable air conditioners, heaters and fans, air purifiers, dehumidifiers, pedometers, scales, home weather stations, floor and table lamps);
- office/business equipment (electric pencil sharpeners, water coolers, shredders, intercom equipment, motion detectors, desk lighting, two-way radios);
- musical instruments that use electricity (e.g., electric keyboards, electric metronomes, electric guitars, amplifiers);
- digital cameras;
- mobile phones; and,
- all toys that use batteries or have a plug, among many other products.

This product scope is far too broad and the cost and difficulty in creating retail-administered fees for all these items would be excessive.

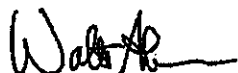
**2. Consistent with producer responsibility principles, any recycling system for consumer electronics should be industry-run.** While the aforementioned California system is a state-run reimbursement system for recycling service providers, CEA recommends that any state-wide system for recycling consumer electronics in Hawaii be managed by industry with government oversight. In contrast with the California model, analogous regulations in British Columbia and in other jurisdictions around the world provide broad leeway for industry to plan, manage and finance the electronics recycling system. The British Columbia model is one possible option worth exploring as an alternative recycling system for consumer electronics. The recycling system in British Columbia was established approximately one year following enactment of the provincial regulation in February 2006, and was the result of extensive consultation with provincial stakeholders and coordinated closely with industry representatives working at a national level in Canada. In addition, given the rapid product evolution in the consumer electronics industry, CEA recommends that industry be given a broad mandate to assume responsibility for the recycling systems that accommodates rapid changes in product types, materials and markets.

**3. The displacement of HRS 339D with any new program should be concurrent.** CEA notes that Section 5 of SB 2822 would create a six month overlap with the existing recycling program under HRS 339D. Any major change in program architecture should coincide with the repeal of the existing statutory requirements.

Thank you for the opportunity for our industry to comment on SB 2822. If you would like to discuss our recommendations further please do not hesitate to contact me at (703) 907-7765 or [walcorn@ce.org](mailto:walcorn@ce.org), or Allison Schumacher at 703-907-7631 or [aschumacher@ce.org](mailto:aschumacher@ce.org).

Sincerely,

THE CONSUMER ELECTRONICS ASSOCIATION

A handwritten signature in black ink, appearing to read 'Walter Alcorn', with a long horizontal flourish extending to the right.

Walter Alcorn

Vice President, Environmental Affairs and Industry Sustainability

# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Electric device recycling fee

BILL NUMBER: SB 2822; HB 2560 (Identical)

INTRODUCED BY: SB by Tsutsui by request; HB by Say by request

**BRIEF SUMMARY:** Adds a new chapter to HRS as the electric device recycling act to establish a program to encourage the recycling of electric devices in the state. Defines "electric device" as any electrically powered device weighing more than four ounces and weighing up to and including 100 pounds including packaging. Excludes: (1) an electrically powered device that is a part of a motor vehicle or any component part of a motor vehicle assembled by or for a motor vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle; and (2) an electrically powered device that is defined as a white good in Hawaii Administrative Rules, Chapter 58.1.

Requires all retailers in the state who sell electric devices to register with the department of health by January 1, 2014. After January 1, 2014 any person who intends to conduct business as a retailer of electric devices is to register with the department no later than one month prior to the commencement of business.

On August 14, 2014 every retailer is to pay to the department of health, an advance recycling fee on every electric device transferred, donated, or sold beginning on July 1, 2014. The fee shall not apply to electric devices exported for sale outside of the state and shall be imposed only once on each and every electric device. Prohibits a county from imposing or collecting any assessment or fee on electric devices for the same purpose that is the subject of this chapter. Until fees are established by rules, the interim fees shall be as follows:

- \$1.00 for electric devices weighing (including packaging) up to 1 pound;
- \$2.50 for electric devices weighing (including packaging) 1.1 to 5 pounds;
- \$5.00 for electric devices weighing (including packaging) 5.1 to 25 pounds;
- \$10.00 for electric devices weighing (including packaging) 25.1 to 50 pounds;
- \$15.00 for electric devices weighing (including packaging) 50.1 to 75 pounds;
- \$20.00 for electric devices weighing (including packaging) 75.1 to 100 pounds;

Beginning April 30, 2014 and every April 1 thereafter, the department of health shall notify retailers in writing of the amount of the electric device advance recycling fees. The effective date of changes to the fee amounts shall be July 1. The fees shall be determined by the department using data collected pursuant to this part.

On July 1, 2014 every retailer shall charge the consumer a fee equal to the amount to be paid to the department of health for each electric device sold. The fee may appear as a separate line item on the invoice. Requires each retailer to submit a monthly report to the department of health on the net number of electric devices sold, donated, or transferred. Requires retailers who annually transfer, donate or sell 1,000 or fewer electric devices to submit reports and payments quarterly; provided that the quarterly

report and payment periods shall end on March 31, June 30, September 30, and December 31 of each year. All reports and payments shall be made no later than the fifteenth day of the month following the end of the previous payment period.

Establishes the electric device recycling fund into which shall be deposited all fees, payments, and penalties collected by the department of health. Moneys in the electric device recycling fund shall be used to pay recycling fees to certified electric device recycling centers and may also be used to: (1) implement and enforce this chapter, conduct audits and fund other compliance activities associated with the electric device recycling program; (2) conduct recycling education and demonstration projects; (3) promote recyclable market development activities; (4) support the handling and transportation of electric devices to end-markets; (5) hire personnel to oversee the implementation of the electric device recycling program including permitting and enforcement activities; and (6) fund associated office expenses.

On January 1, 2014 retailers are to make available to their customers information on collection services in the state, including the department's website and telephone number. Retailers with a website shall include this information in a visible location on their website.

Delineates provisions for the application, establishment, and operation of an electric device recycling center. The centers shall: (1) accept all electric devices; (2) ensure electric devices collected are properly recycled through a contractual agreement with an out-of-state recycler or an in-state recycling facility; and (3) forward the documentation necessary to support claims for payment.

Requires the department shall pay to each electric device recycling center a handling fee for each electric device collected from a consumer that is: (1) transported out-of-state for recycling; (2) received by an approved in-state company for an approved end use for recycling; or (3) received by a department-permitted recycling facility.

Requires the department to set the handling fee by October 1, 2014 and evaluate the handling fee at least annually. Payments of handling fees shall be based on electric device recycling center reports submitted to the department. The department shall pay the handling fee on the basis of either the weight or number of electric devices recycled, or both.

Prohibits the disposal of electric devices in permitted or unpermitted solid waste facilities beginning on July 1, 2015.

Permits the department of health to contract with a third party to administer the electric device recycling program and may adopt rules pursuant to HRS chapter 91. Further delineates enforcement and administrative penalty provisions

Repeals HRS chapter 339D on December 31, 2014 and provides that all moneys in the electronic device recycling fund shall be transferred to the electric device recycling fund.

Defines "certified electric device recycling center," "consumer," "department," "director," "person," "recycling," "retailer" and "sell" or "sale" for purposes of the measure.

EFFECTIVE DATE: Upon approval



STAFF COMMENTS: This is an administration measure submitted by the department of health HTH-14 (12). The legislature by Act 13, SSLH 2008, established an electronic waste recycling program to address the disposal of computers and televisions by requiring manufacturers to: (1) establish a recycling program to recover the electronic devices sold by the manufacturer; or (2) pay an additional fee and participate in a state department of health's recycling program for electronic devices that are not covered by a manufacturer's recycling plan.

This measure would repeal that program and enact a similar expanded program to include any electric device weighing between four ounces and 100 lbs. While the existing program covers computers and televisions, this measure would include almost anything plugged in up to and including 100 pounds. This would include toaster ovens, microwave ovens, computers, printers, telephones, cell phones, battery chargers, fans, etc.

While it may be desirable to require and promote the environmentally correct disposal of electric devices, it is questionable whether it should be a state run program. It should be noted that there are a number of private companies that will dispose of used computers and electronic goods in the state. Rather than adopting this measure, an educational awareness program regarding the disposal of these electric devices or programs similar to those that dispose of hazardous materials would be preferable.

The adoption of this measure would result in an additional imposition on retailers who sell their electric goods in Hawaii which, no doubt, will be passed on in the form of higher prices of these goods. While the department of health is required to establish an electric device recycling program, it would greatly add to the proliferation of programs and regulations. Recycling of electric devices, or for that matter any of the other numerous "worthy" programs that are important to the health and safety of the community, should be funded out of legislative appropriation rather than a fee imposed on retailers.

If there is any kind of message being sent here by the legislature is that it is not worth it to do business in Hawaii. Like the bottle deposit program, this is just one more nail in the economic coffin. If retailers and other businesses think consumers find shopping on the Internet more advantageous, this measure may drive consumers to make purchases of electric devices from out-of-state vendors who will not be burdened with an addition "tax" like that proposed in this bill. Losing business like that will drive many businesses right out of business for, after all, the retailers will have to recover the cost of the additional tax by passing it on to the consumer in the form of higher prices. What this also says is that lawmakers do not know how to set priorities in expending what resources have already been provided to them by the taxpayers but merely think they can ask for more from taxpayers.

While this measure will establish an electric device recycling fund into which the fees collected by this measure is deposited, if the moneys collected are in excess of the program requirements it, no doubt, will be a fund that may be raided anytime a dire need for more funds arises. It should be noted that this is one of many bills the department of health has sponsored this session that would establish a new fee. Others include a fee for single-use bags used to package purchases, imposing another dollar on vehicle registration charges to fund programs for the disabled instead of using general funds, and subjecting electronic cigarettes to the tobacco tax. The latter the department argues would discourage minors from purchasing such cigarettes as the tax would make the product very expensive, a humorous statement when one learns that the product sells for more than \$20 at the low end and as much as \$120 at the high end. Apparently the department is attempting to find alternatives to general fund financing to perhaps avoid cuts in its programs.

Senator Mike Gabbard, Chair  
Senator J. Kalani English, Vice Chair  
Committee on Public Energy and Environment  
State Capitol, Honolulu, Hawaii 96813

HEARING Tuesday, February 14, 2012  
2:55 pm  
Conference Room 225

RE **SB2822, Relating to Recycling**



Chair Gabbard, Vice Chair English, and Members of the Committee:

Retail Merchants of Hawaii (RMH) is a not-for-profit trade organization representing 200 members and over 2,000 storefronts, and is committed to support the retail industry and business in general in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

**RMH opposes SB2822**, which creates a recycling program for all electrically powered consumer devices, creates the Electric Device Recycling Special Fund, and abolishes the Electronic Device Recycling Fund.

The Hawaii Electronic Device Recycling Program is modeled after the Producer Responsibility approach which is in place in 24 of the 25 states with existing e-waste laws. Chapter 339D, HRS, Electronic Waste and Television Recycling and Recovery Act, is the result of five year's collaboration and has been in place just for two years. HB1521, HD2, which proposes various changes to the statute, is pending in the Finance Committee. The time, energy and industry investment should not be discarded before the program is allowed to mature.

As the model for SB2822, the Department of Health cites the British Columbia Approach to e-Waste Recycling, which is an extremely ambitious industry-administered product stewardship program that places the responsibility for life-cycle product management on the producer and the consumer. There is little burden on or expense to government. If this measure moves forward, we believe this model should be explored, particularly given our budgetary challenges.

We recognize that SB2822 is a far more comprehensive and costly approach to waste. But it is the very scope of this proposal that demands and requires further research and discussion. Our concerns are many; we respectfully note a few:

- Retailers in Hawaii already are accepting electronic products for recycling at no additional charge to the consumer or to government.
- How will the advanced recycling fee be collected from Internet sellers?
- The ARF based on product weight (including packaging) is completely unworkable.
- Electric and electronic products contain components that are valuable, hazardous or otherwise require special handling. The producers of these products are the most appropriate stewards of these items.
- Transportation costs are a major factor. As an island state, our transportation options are limited, and costs continue to escalate.

We respectfully propose that the Chair consider establishing a working group / task force comprised of stakeholders: manufacturers, retailers, recyclers, shippers, government and others: 1) to evaluate current e-Waste program; similar programs are working in twenty-four states; and 2) to explore the options and best practices so as to develop a program that will be effective and manageable and secure the best outcomes to suit the unique needs of Hawaii. Thank you for your consideration and for the opportunity to comment on this measure. We look forward to continuing the dialogue.

Carol Pregill, President

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**SB2822**

**RELATING TO RECYCLING**

**KEN HIRAKI  
VICE PRESIDENT – HAWAIIAN TELCOM  
HAWAIIAN TELCOM**

**February 14, 2012**

Chair Gabbard and members of the Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on SB2822 – Relating to Recycling which creates a recycling program for all electrically powered consumer devices, creates the Electric Device Recycling Special Fund, and abolishes the Electronic Device Recycling Fund.

Hawaiian Telcom is opposed to this measure.

SB2822 is a very comprehensive bill—affecting a widespread group ranging from individuals, businesses, and non-profits. It has very stringent penalties for non-compliance; however, there are many points of concern that have not been addressed in the bill such as:

- affected groups' ability to create such a tracking system;
- financial impact of creating and maintaining such a tracking system;
- confidentiality of information requested;
- maintenance capabilities of the data collection;
- tracking of devices post-inventory;
- prohibition of retailers' ability to protect sensitive customer information;
- and
- lack of requirements for the recycling centers to safeguard confidentiality of consumer information/protection .

This measure will have a serious impact to all current retailers and consumers in our State. Before such a comprehensive program is implemented, all stakeholders should be engaged upon to give the implementers a clear and practical perspective. Based on the aforementioned, Hawaiian Telcom respectfully requests that this measure be held. Thank you for the opportunity to testify.

Testimony for ENE 2/14/2012 2:55:00 PM SB2822

Conference room: 225  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Dave Kozuki  
Organization: Individual  
E-mail: [dave@peoplebridge.com](mailto:dave@peoplebridge.com)  
Submitted on: 2/12/2012

Comments:

I am in strong opposition to SB2822.

We (Our Town 808) have been helping to promote the Aloha Aina recycling days that happen up to 5 times a month at various locations around Oahu. Electronic waste is accepted at most of these events at no charge. There are many other events like this throughout the year. Most of these events are fund raisers for schools and other community organizations and part of the success is the ability for people to drop off a variety of items at one time. Here are two links from the City with specific dates: [http://www.opala.org/solid\\_waste/calendar/calendar.html](http://www.opala.org/solid_waste/calendar/calendar.html) and [http://www.opala.org/solid\\_waste/pdfs/Aloha Aina 2012 Events.pdf](http://www.opala.org/solid_waste/pdfs/Aloha_Aina_2012_Events.pdf). It is clear that this bill is unnecessary and potentially damaging to the good efforts that exist today.

In addition, this bill is a shining example of how Hawaii makes it harder and harder to do business here, putting additional cost and burden on businesses.

I am a member of the newly formed Hawaii Innovation Alliance that has grown to nearly 500 professionals in the span of 2 weeks. I invite you to join the group on Facebook if you are a supporter of Innovation in Hawaii. You may also see additional comments from the group on this bill here:

<https://www.facebook.com/groups/hawaiinnovationalliance/163773800405567/>

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SENATE COMMITTEE ON ENERGY & ENVIRONMENT

Feb 14, 2012, 2:55 pm  
(Testimony is 1 pages long)  
TESTIMONY IN FAVOR OF SB 2822

Aloha Chair Gabbard and Members of the Committee:

I am in strong support of SB 2822 which would create a recycling program for all electrically powered consumer devices, create the Electric Device Recycling Special Fund, and abolish the Electronic Device Recycling Fund.

Hawaii would benefit greatly from a more comprehensive recycling program. Electronic waste can pose an environmental hazard because of metallic components that have the potential to leak into soils and groundwater. In addition, the growing amount of e-waste further burdens our growing waste problem.

I respectfully request that you advance SB 2822. Mahalo for the opportunity to testify.

Joy Leilei Shih