SB 772

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR

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Statement of
RICHARD C. LIM
Interim Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON
WAYS AND MEANS
Thursday, February 24, 2011
9:00 AM
State Capitol, Conference Room 211

in consideration of
SB 772, SD1
RELATING TO BIOFUEL FACILITIES.

Chair Ige, Vice Chair Kidani, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent and offers comments on SB 772, SD1, which would expand the ethanol facility tax credit to include various biofuels; amend the definition of nameplate capacity; require a qualifying facility to be located within the State and to utilize locally grown feedstock for at least 75% of its production output; change the amount of certified credits from $12 million to an unspecified amount; and remove the 40 million gallon production per year cap.

We are unable to support any increase in the total incentive available from $12 million to the extent as it is not included in the executive biennium budget. We recommend that the total amount available remain at the current level.

We would like to recommend some additional modifications.

On page 3, line 1, we recommend stating a production range of 100,000 gallons to 15 million gallons of biofuel. It was our understanding that the intent of the original legislation was to incentivize production facilities of a larger scale to encourage commercial scale production. To avoid potential confusion with beverage producers or hobbyists, we recommend a minimum production of 100,000 gallons, up to a cap of the first 15 million gallons

On page 5, beginning with line 15, we are concerned that it is not clear who selects the seven-day period for determining nameplate capacity, and which seven-day period is used for the calculation.

Thank you for the opportunity to offer these comments.

L E G I S L A T I V E

TAXBILLSERVICE

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SUBJECT: INCOME, Biofuel facility tax credit

BILL NUMBER: SB 772, SD-1

INTRODUCED BY: Senate Committees on Economic Development and Technology and Energy and Environment

BRIEF SUMMARY: Amends HRS section 235-110.3 to change the name of the ethanol facility tax credit to the biofuel facility tax credit including changing any references to ethanol to biofuel. Stipulates that in order to claim the credit, the qualifying biofuel production facility shall be located within the state and utilize locally grown feedstock for at least 75% of its production output. The annual dollar amount of the tax credit during the eight-year period shall be equal to 30 cents per gallon of production.

The credit shall be allowed to a biofuel production facility that commences production on or before January 1, 2017.

Amends the definition of "nameplate capacity" to mean qualifying biofuel production facility's production design capacity, in gallons of fuel grade biofuel per year. Nameplate capacity shall be determined by the facility owner and shall not exceed the amount of production actually recorded during a consecutive seven-day period multiplied by fifty-two.

Increases the annual amount of certified credits from $12 million to $___ million in the aggregate. Repeals the limitation that the income tax credit shall be limited to 40 million gallons per year.

EFFECTIVE DATE: January 1, 2050; applicable to tax years beginning after December 31, 2012

STAFF COMMENTS: The legislature by Act 289, SLH 2000, established an investment tax credit to encourage the construction of an ethanol production facility in the state. The legislature by Act 140, SLH 2004, changed the credit from an investment tax credit to a facility tax credit. This measure proposes to change the ethanol facility tax credit to a biofuel facility tax credit, increase the amount of credits from $12 million to $___ million and repeal the $40 million annual limit in order to claim the credit.

While it has been almost ten years since the credit for the construction of an ethanol plant in Hawaii was enacted and ground has not broken yet, it appears that there are other far more efficient biofuels which could be developed and, therefore, the existing credit, which is specific to ethanol, might not be available to assist in the development of these other types of fuels.

While the idea of providing a tax credit to encourage such activities may have been acceptable a few years ago when the economy was on a roll and advocates could point to credits like those to encourage construction and renovation activities, what lawmakers and administrators have learned in these past few months is that unbridled tax incentives, where there is no accountability or limits on how much in credits can be claimed, are indeed irresponsible as the cost of these credits go far beyond what was ever contemplated. As an alternative, lawmakers should consider repealing this credit and utilize other strategies to encourage the development and use of alternate energy resources such as a loan program or the issuance of special revenue bonds for this purpose or perhaps even a specific appropriation of taxpayer dollars. At least lawmakers would have a better idea of what is being funded and hold the developers of these alternate forms of energy to a deliberate timetable or else lose the funds altogether. A direct appropriation would be preferable to a tax credit as it would provide some accountability for the taxpayers' funds being utilized to support this effort.

This proposal verifies what has been said all along about legislators latching onto the fad of the month without doing very serious research. While ethanol was the panacea of yesterday, lawmakers have learned that there are more down sides to the use of ethanol than there are pluses. Ethanol production demands more energy to produce than using a traditional petroleum product to produce the same amount of energy and the feedstock that is used to produce ethanol basically redirects demand for that feedstock away from traditional uses, causing those other products to substantially increase in price. Even algae, which was once thought of as a great alternative fuel, has been reported to consume more energy and resources than the energy that is produced from the substance. Lawmakers have a wealth of resource information at their finger tips through the Hawaii Natural Energy Institute upon which to draw and learn more about cutting edge research in this area.

Finally, when language is written so vaguely in an attempt to throw a broad net to attract all comers, that vague language can lead to misinterpretation and abuse as witnessed in the case of the tax credits for high technology research and investment. As such, this proposal should come under closer scrutiny instead of being left to interpretation by a taxpayer wanting to utilize the tax incentive to underwrite the cost of what would still be a questionable use of taxpayer dollars.

Digested 2/23/11

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TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

SB 772 SD1, RELATING TO BIOFUEL FACILITIES

February 24, 2011

Chairs Ige, Vice-Chair Kidani and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purposes of SB 772 SD1 are to: (I) expand the facility tax credit to include various biofuels; (ii) rename the tax credit as the biofuel production facility tax credit; (iii) change the determination of the biofuel production facility tax credit from thirty percent of nameplate capacity to 30 cents per gallon of production; (iv) require a qualifying facility to be located within the State and to utilize locally grown feedstock for at least seventy-five per cent of its production output; (v) replace the amount of certified credits from $12 million with an unspecified amount; (vi) amend a reporting requirement by a taxpayer claiming the tax credit; and (vii) remove the 40 million gallon production per year cap.

HREA **strongly supports this measure** as it will assist developers of biofuel facilities projects in Hawaii and support our state's Clean Energy objectives, as well as help create and sustain green jobs for our economy.

Thank you for this opportunity to provide comments in support of this measure.

Please pass this measure out.