

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

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DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 13-22

January 29, 2013

The Honorable Chris Lee, Chair
and Members of the Committee on
Energy & Environmental Protection
The Honorable Della Au Belatti, Chair
and Members on Committee on Health
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Lee, Chair Belatti, and Members:

Subject: House Bill 904, Relating to Recycling

The City and County of Honolulu's Department of Environmental Services (ENV) supports House Bill (H.B.) 904 which amends the current statute to further define the minimum requirements for the manufacturer-financed electronic waste recycling program.

ENV participated in the task force which contributed to the provisions outlined in HB 904, and believes that these new measures would go a long way to strengthening the program by defining clear recovery goals and requiring the manufacturers to provide greater convenience to the consumer. Under the existing law, manufacturers can submit a simple mail-back program, which is woefully inadequate to address any significant diversion of electronic waste from county landfills. Manufacturers should be required to provide on-island collection sites and to be accountable for capturing a specified portion, or market share, of the electronics sold within the state.

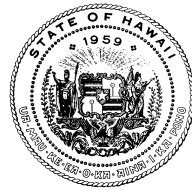
The Honorable Chris Lee, Chair
The Honorable Della Au Belatti, Chair
January 29, 2013
Page 2

We believe that the responsibilities for collecting and recycling electronic waste are best managed by the industry, and support the evolution of this law to strengthen those requirements.

Sincerely,



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



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

In reply, please refer to:
File:

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

HB 904, RELATING TO RECYCLING

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

January 31, 2013
9:30 a.m.

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

2 **Fiscal Implications:** Undetermined.

3 **Purpose and Justification:** This bill has two purposes: first to improve the existing electronic and
4 television recycling program which has not reached its full potential and, second, to expand the program
5 to include electronic products that are currently disposed of in landfills.

6 Hawaii has struggled to manage our waste while protecting the environment for decades. Our
7 geographic and economic isolation have driven our strategy to conserve our natural resources, reduce
8 waste, and divert as much waste as possible from our landfills.

9 Both private and public recycling programs that address paper, metal, glass and plastic materials
10 have grown over the years. Today, the rapid pace of innovation within the consumer electronics
11 industry has made electronic waste a growing component of our waste stream. We must now take the
12 next step to meet the 50% waste recycling goal set by the legislature and develop effective recycling
13 programs for e-waste.

14 Hawaii's existing electronic and television recycling program, initially passed into law by the
15 2008 legislature, addresses only the recycling of computers, computer monitors, computer printers, and

1 televisions. While the law was an important first step, our experience has shown us that today's
2 program is not working nearly as well as it should be.

3 This bill proposes changes that will strengthen the existing program in three ways. First,
4 establishing convenience requirements for manufacturer's recycling programs will make it easier for
5 Hawaii consumers to recycle their electronics or televisions. The existing law has allowed many
6 manufacturers to sponsor inconvenient programs such as those requiring the public to mail back items to
7 be recycled.

8 Second, this bill will institute mandatory recycling goals for manufacturers and increase the
9 amount of material collected and recycled. Our experience has shown that the current program's
10 voluntary goals are simply ignored. These changes alone would increase recycling and reduce the
11 amount of e-waste being dumped in landfills.

12 Finally, the department is proposing to improve the program's effectiveness by expanding it to
13 include a large range of electric products which are currently thrown away despite their recycling value.
14 The new e-waste program would include the recycling of accessory devices for computers and
15 televisions, as well as small household appliances.

16 This bill has been shaped by the input of the Hawaii Electric Device Recycling Task Force.
17 When instructed by the 2012 legislature to examine the e-waste issue in greater depth, the department
18 organized a task force that represents a broad range of stakeholders. Four meetings were held where
19 substantive and productive discussions took place.

20 Reaching consensus amongst such a diverse group is difficult but the department encouraged all
21 points of view and incorporated many of the members' suggestions into this bill. We have submitted a
22 bill that we feel will create a stronger recycling program that will benefit Hawaii's citizens and enhance
23 the protection of our environment. We remain open to ideas that will help to shape an effective e-waste
24 recycling program for Hawaii and look forward to more discussion during this session.

1 Our goal is to create social and physical environments that promote and support good health for
2 all. Thank you for the opportunity to testify on this measure.

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Representative Chris Lee,
Chairman, Hawaii House Committee on
Energy and Environmental Protection

Representative Della Au Belatti,
Chairwoman, Hawaii House Committee on Health

January 29, 2013

**Subject: House Bill 904: The Electronic Device Recycling Act
Hearing January 31, 2013; 9:30AM Room 325**

Dear Chairman Lee, Chairwoman Belatti, and Members of the committees,

I am writing to provide you with Sims Recycling Solutions' comments on the proposed changes to the existing Electronic Waste and Television Recycling and Recovery Act (Chapter 339D). HB 904 was submitted to the legislature at the request of the Hawaii Department of Health as part of the report required of the Department under SB 2822, signed into law in 2012. HB 904 does not reflect the consensus of the task force, or even a majority of its members, since important elements of HB 904 were changed without discussion or input from the task force. Sims Recycling Solutions was an active member of the task force and supports the intent to make improvements to the Act, but we are not able to support HB 904 in its present form. Sims Recycling Solutions would be able to support HB 904 with the changes we have outlined below.

Background

Sims Recycling Solutions is the world's leading electronics recycler, with over 40 facilities in 14 countries. Sims Recycling Solutions has been an active participant in providing the citizens of Hawaii recycling services since the Act was implemented in 2010. We accomplish this by working closely with Pacific Corporate Solutions (PCS) of Aiea, HI. The services PCS and Sims Recycling Solutions provide meet the requirements established in the Act and are performed on behalf of a number of registered manufacturers of electronic equipment. Since the Act was implemented, Sims Recycling Solutions has recycled over 5,000,000 pounds of unwanted electronics from the citizens of Hawaii including every county in the state. Sims Recycling Solutions is also providing similar take back service throughout the United States, Canada, and Europe. It is with this extensive experience that we provide the following suggestions in order to help establish an effective and efficient take back system for the citizens of Hawaii:

§ -2 Definitions.

The definition of "electronic device" in HB 904 is substantially different from the current definition in the Act. The definition used in HB 904 is illogical and was arrived at outside the spirit of SB

2822. It is the desire of the Department of Health to increase the scope of devices covered by take back legislation in Hawaii, and Sims Recycling Solutions supports this aspiration. Many other states have broadened the scope of covered devices beyond the list of covered devices in the Act, but have arrived at their list of covered devices in a practical manner based on the risk these devices pose to the environment. States such as New York and Illinois now include up to 17 different categories in their definitions of covered devices. The Department of Health has chosen to ignore many of the concerns and suggestions of the task force members when they developed the current definition of “electronic device” in HB 904.

The expanded definition the Department of Health has included within HB 904 is “any device containing an electric motor, heating element, or a speaker...” This definition is overly broad and illogical. The real-life effect of this definition means that a small transistor radio is a covered device (it includes a speaker), but large stereo components are not included since they do not include speakers which are sold separately. The definition of “electronic device” included in HB 904 would include products traditionally not included in electronic take back legislation and, in fact, not considered electronic devices by most jurisdictions.

With this definition, the citizens of Hawaii will find it less convenient to find recycling services. Under programs in New York and Illinois, collectors take back all devices covered under the law: providing a convenient one stop location for all devices those citizens want to return. Under HB 904, it will be different, since any product with an electric motor is a covered device and any person may use the service. It is the Department’s stated purpose that any item with a motor, including large non-industrial equipment, be included as covered devices. For example, large devices designed for the serious home hobbyist such as metal and wood working tools or home auto mechanic devices could now be returned to collectors. Many entities currently collecting under the Act are not able to properly handle equipment of this type. If collectors are able to cherry pick the types of covered products they are willing to take, there is nothing to stop them from only taking the valuable covered products (PCs), thus forcing the citizens to go elsewhere to drop off more difficult to manage products (TVs).

Finally, the inclusion of this scope of products in HB 904 is contrary to the spirit of consultation and consensus used by the task force. The only other version of this bill, and the only version the task force was able to discuss before the language in HB 904 was finalized, had a completely different definition of “electronic device.” Also, in the three meetings held by the task force, I do not believe anyone foresaw that larger non-industrial equipment would be included. When this definition was disseminated before the last task force meeting, it was already too late to make any changes to the language submitted to the legislature. This new language in HB 904 was completely different from what the task force had talked about during three previous meetings. The scope of covered companies and industries suddenly included entities that had not been included in these earlier discussions. The legislature had not foreseen including these other industries in SB 2822. Although the representatives of these new covered electronic devices were allowed to discuss during the final task force meeting why their products should or should not be included in HB 904 and add any information helpful to the task force, it was too late for the task force to make changes to the language in the bill. I do not believe this was the intent of the legislature when they passed SB 2822 in 2012.

Suggested language:

Sims Recycling Solutions suggests the following language which greatly expands the scope of covered products. This language is based on the definitions used in both Illinois and New York. "Electronic device" means a television, computer monitor, printer, computer (laptop, notebook, tablet, netbook, desktop), computer keyboard, electronic mouse, facsimile machine, videocassette recorder, portable digital music player, digital video disc player, video game console, small scale server, scanner, digital converter box, cable receiver, satellite receiver, and digital video disc recorder.

Shall not include....(continue as written)

§ -6 Manufacturer recycling plan.

One of the goals of HB 904 that Sims Recycling Solutions supports is to provide reasonably convenient service to all of the citizens of Hawaii. Under the current take back program, some manufacturers are exceeding the requirements of the Act by providing service to neighboring islands through take back events and contracts with local municipalities. Under HB 904, all manufacturers will be given a weight obligation. The marketplace will drive more collection activity as manufacturers compete for returned material. Sims Recycling Solutions has already seen less volume available since the Act was implemented in 2010 and we see it becoming increasingly difficult to meet the demands of our manufacturers. By necessity, manufacturers will need to increase collection activities in all counties in order to meet their volume obligations.

The requirement in subsection (c) of § -6 is not efficient and will be very expensive for all stakeholders. Under the current Act, there are approximately 34 different manufacturers' plans covering about 65 different manufacturers. With the increase in the scope of products, there will be many more manufacturers covered under HB 904 and many more take back plans. It is not efficient or necessary to have 50 or more different take back options in every county and every zip code with a population greater than 25,000 people.

Other states have addressed how to fairly provide service to their citizen in both the urban and rural areas. New Jersey found perhaps the most efficient way. The law in New Jersey makes the New Jersey Department of Environmental Protection responsible for making sure all of the counties in New Jersey are provided service. The department accomplishes this requirement by not approving any manufacturer's plan until all counties in New Jersey are provided service in at least one of the manufacturer's plans. The manufacturers provided service to all 23 counties in New Jersey (many extremely remote and sparsely populated) with minimal department intervention. The Department of Health could easily review submitted plans and ascertain if all counties were provided sufficient coverage.

Suggested language:

Sims Recycling Solution suggests the following language to replace subsection (c) of § -6, beginning with the second sentence starting on line 13 and ending on line 17: "The Department of



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Health shall ensure that at least one electronic collection opportunity is available in each county throughout the State and in a manner as to be reasonably convenient, to the maximum extent practicable and feasible, to all citizens in the county." This language is based on the language used in New Jersey's law.

§ -5 Manufacturer registration.

The subject of manufacturers paying a registration fee was discussed during the task force meetings. It was generally agreed during the meetings that the Department should have those administrative costs necessary to manage the take back program paid for through a registration fee. The \$5,000 amount paid into the electronic device recycling special fund in HB 904 is not based on any projected need, nor was the number of entities paying the fee factored into the amount. Stakeholders and the citizens of Hawaii should not be subject to arbitrary costs without budgetary controls. Also, other states have placed a cap on the total unspent funds in their special fund so that fees are not collected beyond what is necessary to administer requirements of their laws.

Recommendation:

Sims Recycling Solutions would recommend 1) the amount paid by manufacturers be based on an analysis of the needs of the Department and the number of manufacturers registering with the Department; and 2) place a cap on the balance in the special fund where no additional registration fees are to be collected. Sims Recycling would recommend 18 months of costs as the cap amount.

Again, Sims Recycling Solutions could support HB 904 with these minor changes. Sims Recycling Solutions would like to thank the committee for allowing us to comment on HB 904 and we look forward to working with the legislature and other stakeholders in developing an improved electronic take back program for the citizens of Hawaii.

Sincerely,

A handwritten signature in black ink that reads "Larry King". The signature is written in a cursive, flowing style.

Larry King
Legislative Analyst

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January 30, 2013

Committee on Energy & Environmental Protection
Committee on Health
HAWAII HOUSE OF REPRESENTATIVES
Hawaii State Capitol
415 South Beretania Street
Honolulu, HI 96813

Re: CEDIA's opposition to House Bill 904 in its current form

Dear Representative Belatti, Representative Lee, and members of the committees:

On behalf of the Custom Electronic Design & Installation Association (CEDIA), thank you for allowing us the opportunity to provide written testimony opposing Hawaii House Bill 904 in its current form, legislation that amends and expands the Electronic Device and Television Recycling program.

CEDIA's concerns with House Bill 904 in its current form include the expanded product scope of "electric device." We also recommend an update to the definition of "manufacturer."

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 lighting control subsystems providing control over lighting, security, and heating, ventilation & air conditioning (HVAC) systems.

CEDIA represents seven 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.

CEDIA participated on the Department of Health's Hawaii Electric Device Recycling Task Force and was glad to serve as a resource throughout the task force's work. Electronic waste is an important issue for CEDIA's Hawaii-based members, and we look forward to a workable legislative solution that takes into account Hawaii's unique situation, along with the needs of the residential electronic systems industry.

As introduced, House Bill 904 defines "electric device" as a computer, television, or peripheral, further providing that:

- (1) Effective January 1, 2015 this definition shall expand to include any device containing an electric motor, heating element, or a speaker; and (Page 3, lines 7 – 13)

CEDIA is concerned with including 'electric motor' in the expanded product definition and the unintended impact this would have on equipment used in residential electronic systems projects.

The intent of including 'electric motor' in the expanded definition of "electric device" is to cover products that contain valuable metals, like small appliances. However, this raises concerns for electronic systems contractors working on residential electronic systems projects, as this expanded product scope could include such unintended product categories including but not limited to: motorized window shades, motorized screens, and television lifts. These are important product categories to an electronic systems contractor, but would unintentionally be defined into the expanded product scope. This could lead to manufacturers of this specialty equipment to be discouraged to sell product in or into Hawaii and make it more difficult for electronic systems contractors to provide solutions to their customer's electronic systems projects.

CEDIA would welcome the opportunity to work with committee members and the Department of Health on language that would clarify and meet the legislation's goals, while not imposing unintended consequences on important product categories to the residential electronic systems industry.

Second, as currently written House Bill 904 defines "manufacturer" as:

"Manufacturer" (6) Shall not include person[s] who manufacture less than one hundred **computers** per year. (Page 5, lines 17 – 18).

CEDIA strongly encourages House Bill 904 (Page 5, lines 17 – 18) be amended to read:

"Manufacturer" (6) Shall not include person[s] who manufacture less than one hundred ~~computers~~ **electric devices** per year.

This change will allow the original intent of the threshold proposed by the task force to be met, and in so doing not restrict manufacturers of custom devices often utilized in residential electronic systems projects.

On behalf of CEDIA, thank you for the opportunity to share our concerns on Hawaii House Bill 904 in its current form. CEDIA looks forward to working with members of the Committee on Energy & Environmental Protection and the Committee on Health, Department of Health 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

Cc: Mr. Gary L. Gill, Deputy Director, Environmental Health Administration

Representative Chris Lee, Chair
Representative Cynthia Thielen, Vice Chair
Committee on Energy & Environmental Protection

Representative Della Au Belatti, Chair
Representative Dee Morikawa, Vice Chair
Committee on Health

State Capitol, Honolulu, HI 96813



HEARING Thursday, January 31, 2013
 9:30 am
 Conference Room 325

RE: HB904, Relating to the Recycling

Chairs Lee and Belatti, Vice Chairs Thielen and Morikawa, and Members of the Committees:

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 is appreciative of the opportunity to participate on the electric device recycling task force, and does not disagree with some of the issues regarding the current Hawaii Electronic Device Recycling Program.

However, we have serious concerns with the very ambitious provision in Section 3, subsection 2. (1): *“Effective January 1, 2015, this definition shall expand to include any device containing an electric motor, heating element, or a speaker”* and **for this reason cannot support HB904**. For the retail industry, this definition covers hundreds of thousands of items provided by thousands of vendors. The scope of products affected by this definition is almost incomprehensible.

HB904 requires retailers to review the DOH’s lists of registered manufacturers prior to selling an electric device as per this definition. And, *“a retailer is considered to have complied with [this requirement] if on the date a new electric device was ordered by the retailer the brand was included on the department’s list ...”* The reality of retail is that goods are ordered well in advance of the intended selling date. Many products are not even manufactured until after the order is received. Compliance with the scope of products covered, if even possible within the projected timelines, will be costly.

RMH requests that the Legislature focus on the current Hawaii Electronic Device Recycling Program. As stakeholders, our goal should be to amend and refine this existing program to assure its success. Once this is accomplished, we will have a workable template to include other items. At that time, there should be a review of electric products in the marketplace and a determination made regarding their impact on the waste stream and the feasibility of recycling. These products would then be prioritized and an orderly and cost-effective phase-in developed.

RMH is eager to continue the dialogue. Thank you for the opportunity to comment.

Carol Pregill, President

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Testimony of

**Kevin Messner
Vice President, Policy & Government Relations
Association of Home Appliance Manufacturers**

before the

**The House Energy & Environmental Protection Committee
State of Hawaii**

for

**H.B. 904
Legislation to Amend Hawaii's Existing Electronic Waste and
Television Recycling and Recovery Act**

January 31, 2013

Thank you for the opportunity to provide testimony on H.B. 904 which proposes amendments to the Electronic Waste and Television Recycling and Recovery Act to include home appliances. The Association of Home Appliance Manufacturers (AHAM) **strongly opposes** this bill. The reasons supporting our position are outlined below.

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 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 and its members have spent a considerable amount of time and resources participating in the Department of Health's Electric Device Recycling Task Force in 2012. After several meetings and discussions by the task force a consensus agreement was developing that would focus the scope of the proposed bill to some consumer electronic products, but inexplicably, the Department of Health rejected many of the task force's recommendations and moved away from that consensus view. The first draft of the proposed bill from the Department, which occurred after most of the task force recommended limiting the product scope, surprisingly included a list of small appliances that was derived from a simplistic search of a retail Internet site. It was not based on any recycling or waste disposal data whatsoever. Although further discussions at the task force generally recommended yet again to reduce the product scope, the Department of Health's next version of the bill shockingly not only avoided the path of possible consensus, but actually moved even further away from it by expanding the scope to include "any device containing an electric motor, heating element, or a speaker." This definition would include products such as small household appliances, IT and telecommunications equipment, consumer equipment, certain lighting equipment, electrical tools, toys, sports equipment, control instruments, and automatic dispensers.

We urge the committee to hear the concerns of the wide variety of stakeholders who the Legislature understood needed to be a part of this discussion during the enactment of the bill establishing this task force. Unfortunately, the proposed bill from the Department of Health represents very little of what could have been a consensus and largely agreeable path forward.

Definition of 'White Goods' Needs to be Improved

Approximately 90 percent of major appliances enter a recycling program at the end-of-life, according to data from the Steel Recycling Institute. (<http://www.recycle-steel.org/en/Steel%20Markets/Appliances.aspx>). This impressive figure is the result of well-established, market-based systems active throughout the United States, involving governments, retailers, recyclers, entrepreneurs, and manufacturers. These systems help to ensure that appliances are properly disposed of at the end of their useful lives. HB 904 appropriately excludes white goods from the scope of the bill; however, the definition of white goods needs

further refinement to avoid confusion and the potential to disrupt and reduce the very successful recycling of major appliances due to their value at end of life. We would like to work with the committee on improvements to this definition of white goods in the bill and look forward to providing recommendations in this area to the Committee.

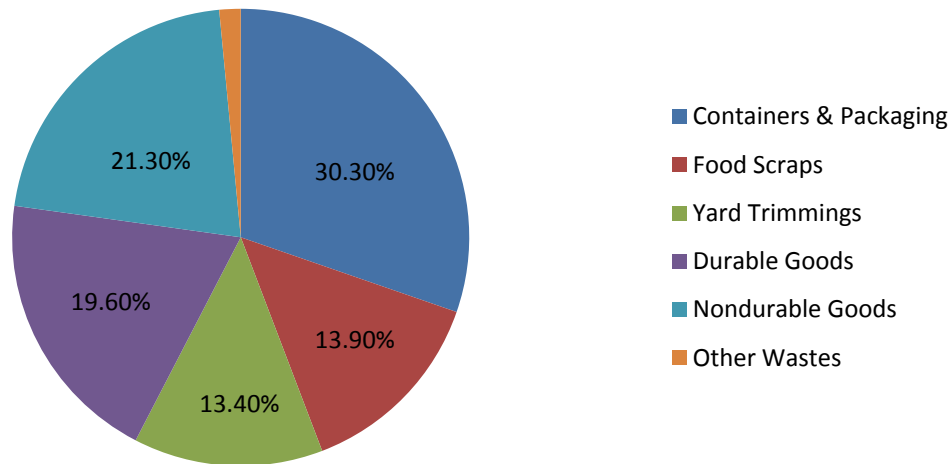
There is No Data to Support the Department of Health's Proposed Bill

HB 904 makes no mention of the current recycling rates of small appliances in the state, nor does it present any evidence as to why such a broad program is warranted. The bill merely states that Hawaii's current program "has not been effective in maximizing the amounts of electronics being recycled[,]” and fails to provide any further explanation. Without such data, it will be difficult to measure the impact – positive or negative – of this bill on recycling and recycling rates within the state. Additionally, while HB 904 states that it “goes far beyond existing *state* programs[,]” (emphasis added) it ignores the existence and success of other recycling systems. The bill also fails to identify any specific deficiencies in either state or other recycling efforts and how such deficiencies would be remedied by this bill. There is simply no supporting data provided. It also provides no objective on how this bill would accomplish those objectives in a meaningful way.

One source of data that the Committee may find informative is from the U.S. Environmental Protection Agency (EPA). EPA has collected and reported data on the generation and disposal of municipal solid waste in the United States for more than 30 years. Although we recognize Hawaii is a unique island state, in EPA's most recent annual report “Municipal Solid Waste Generation, Recycling, and Disposal in the United States,” in 2010, Americans recovered almost 65 million tons of municipal solid waste (MSW) (excluding composting) through recycling. Although total MSW generation in 2010 was 250 million tons, residential waste is estimated to be 55 to 65 percent, with the remainder from commercial and institutional locations, such as businesses, schools, and hospitals amounting to 35 to 45 percent.

EPA's report does breakdown MSW by waste category and small appliances are included in the durable goods category as indicated in the chart below. Durable goods overall account for about 19.6 percent of total MSW or 49 million tons; however, that includes durable goods from the commercial and institutional sector, as well. Small appliances only account for 0.6% of that total.

Total MSW by Category, 2010



Given that large products from the appliance industry continue to be recycled with market-based systems for their high metal content value and the small appliance contribution to the total generation of MSW is only 0.6% (yet shows a higher percentage of recovery when compared to other product categories), appliances should not be within the scope of this bill.

Appliances Should Not be Included in HB 904

No state has ever mandated a product stewardship program for appliances. A province in Canada has added small appliances after beginning with other products. However, the program for small appliances just ended its first year in 2012 and we have not yet seen the results to determine if it was successful. There is a reason for this. Appliances have significantly longer lives than many other consumer products and thus do not enter the waste stream at the rates of some other consumer electronic products. Some major appliances have life-spans that average 20 years or more. Many portable and floor care appliances have life-spans that are well above 10 years. These products do not constitute a priority impact on Hawaii's existing solid waste stream. Many portable and floor care appliances have valuable metals and other materials that enter the recycling stream through the "general" category of materials and thus may not be counted but nevertheless have value and are processed for return to the base substances.

The Task Force spent last year discussing what products should be included in this proposed bill and a consensus was clearly developing. Unfortunately, the attainment of consensus was not pursued by the Department of Health. Please find below information supporting this statement taken directly from the Department's records of the Task Force meetings. (See <http://hawaii.gov/health/environmental/waste/sw/hedrp/hedrp.html>)

- I. Covered Product in Current Laws in Other States (No Small Appliances)
 - Washington: Covered electronic product =CRT or flat panel computer monitor, desktop computer, laptop/portable computer, TVs.

- Minnesota Covered Products: Video Display Devices (VDD) = household TVs, computer monitors, laptops. Covered Electronic Devices (CEDs) = VDDs, computers, computer peripherals, printers, fax machines, DVD players, video cassette recorders.
- Wisconsin: Covered Electronic Devices (CED) = computers (desktop, laptop, netbook, tablet), desktop printers, printer/fax/copier/scanner combinations, video display devices (TVs, computer monitors, ereaders). Eligible Electronic Devices (EED) = EEDs, computer accessories, DVD players, VCRs, DVRs, fax machines.
- California: Covered Electronic Devices (CED) = CRT computer monitors & TVs, LCD computer monitors & TVs, laptop computers with LCD screens, plasma TVs, portable DVD players with LCD screens.

II. Members of the Task Force View that Small Appliances are not a Priority for Inclusion

- | | |
|--|---|
| • Sony | • Custom Electronic Design & Installation Association |
| • City & County of Honolulu | • Reynolds recycling, Inc. |
| • Best Buy | • T&N Computer Recycling Services |
| • Hewlett-Packard | • Sims recycling Solutions |
| • County of Kaua'i | • Consumer Electronics Association |
| • Dell | • MRM-Electronic Manufacturers Recycling Management Company |
| • Consumer Electronics Retailers Coalition | • TechNet |
| • Electronic Recyclers International, Inc. | • Maui County |
| • Retail Merchants of Hawaii | |
| • Ulupono Initiative | |

III. Hawaii State Association of Counties Legislative Proposal Does Not Include Small Appliances.

Concerns with HB 904

Penalties for not meeting recycling goals are inappropriate: How many and which products people bring to a collection or recycling site is out of the control of the manufacturer and has constitutional concerns of whether it violates the “due process” clause by holding someone responsible for another person’s actions. It would be like penalizing the city’s sanitation department if people did not throw away their trash. If manufacturers would meet all obligations for recycling access as approved by the Department, it is inappropriate and unfair for the state to penalize manufacturers for consumers’ behavior that is outside manufacturers’ control.

Selling volumes by manufacturer can drastically change: The weight of products sold by a manufacturer in the most recent two years can vary drastically from the weight of a manufacturer’s products reaching end-of-life. This is especially true for products with lengthy lifespans or when manufacturers expand a product line-up or see a significant increase in sales

volume. And it punishes newer producers with growing sales. Further, just because a product is sold in Hawaii does not mean that product will remain in Hawaii until the end-of life. This approach could lead to a manufacturer being required to collect more electronic waste than it has reaching the end-of-life.

Lack of financing mechanism through fees: Costs attributable to improving the environment and increasing recycling rates should not be hidden to the consumer. A financing mechanism through fees that are passed through to the purchase price are not part of this bill as they are in many other EPR programs, *e.g.*, Oregon's paint recycling program.

Weight is an unfair metric for recycling goals: Products with higher weight levels often have more desirable recyclable content (*e.g.*, metals) that drive increased value and cost recovery for recyclers. In essence, a manufacturer that produces products with the most valuable end-of-life content would be required to meet more stringent recycling goals, and perhaps incur greater penalties if recycling goals are not met. The proposed legislation allows manufacturers to collect any electronic waste to meet recycling goals, so producers would have no incentive to produce more recyclable products. Furthermore, manufacturers who produce heavier and more recyclable products would be unfairly disadvantaged, because all manufacturers of covered products would seek to collect products with the greatest weight and recyclability regardless of which products they produce. While the Department of Health has indicated HB 904 is modeled after British Columbia product stewardship laws, British Columbia's recycling goals are based on unit volume by specific product categories, and are based upon a baseline of actual recycling rates for each of the covered product categories. Beyond the unfairness of weight metrics, there are numerous other concerns with this approach:

- Product weight diminishes over time.
- It is unclear if accessories included with products, such as air purifiers with replaceable filters, may or may not be considered in the weight of product recycled and could be 25% of the product's weight or more.
- Manufacturers often track product weights with packaging, accessories and consumables included, so this approach requires significant manual measurement and recordkeeping.

Video screen exclusion for appliances: The definition of video screen should include the standard exclusions found in 18 other state laws. For example, California (See Cal Pub Resources Code § 42462) limits the screen size to greater than 4 inches measured diagonally and excludes video display devices that are contained in appliances. We would like to work with the committee to include this standard exclusion in Hawaii's legislation.

The retailer, not the manufacturer, determines how many should be shipped: Manufacturers may be unaware of the final retail sales location or date of sale for their products, as in most in most cases manufacturers sell at wholesale to retailers. Manufacturer shipments often vary from actual retail sales.

- What if the retailer asks for 100,000 units to be shipped and only 100 are sold?
- Is it sale by the retailer or sale by the manufacturer to a retailer?
- Who would be responsible if products are sold over the Internet into Hawaii without the manufactures knowledge?

- How are store customer returns handled? Do they count against the overall total by weight? How would a manufacturer know if a product is returned?

Registration fee of \$5,000/year to the Hawaii Department of Health: Although manufacturers or importers of 100 units or less are exempted, this is not workable. For example, if a manufacturer only sells 100 blenders a year, then a \$5,000 annual fee would equate to \$50 per blender that may only retail at \$50. That would double the cost of a product and drastically reduce the products options for Hawaiians. This requirement is also an impediment to new entrants into the market and innovation.

Convenient collection method for consumers should not be treated differently: HB 904 should allow a manufacturer to provide any collection mechanism in its plan that increases the convenience of collection for the consumers and is cost effective. Having requirements for physical recycling locations or collection services, limits manufacturer's flexibility in this area to innovate and improve collections.

Conclusion

In conclusion, AHAM believes that the small appliances should be excluded from the scope of HB 904. Further, should the bill move forward, the many deficiencies of the bill should be rectified to avoid decreasing recycling rates, reducing jobs in Hawaii and limiting product availability and options for Hawaiians. For these reasons, we ask the Joint Committee to categorically reject this bill. Please feel free to contact me with any questions that you may have.

Recycle  **Hawai'i**

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FEIN: 99-0293381

To: Rep. Chris Lee, Chair
Rep. Cynthia Thielen, Vice Chair
Other Honorable Members of the House Committee on Energy & Environmental Protection

Rep. Della Au Belatti, Chair
Rep. Dee Morikawa, Vice Chair
Other Honorable Members of the House Committee on Health

Date: January 28, 2013

Re: HB 904

Recycle Hawaii is a 501(c) 3 educational organization incorporated in 1992 and active as a grassroots effort since 1989. Our mission is to educate the public throughout Hawaii about sustainable practices with an emphasis on recycling awareness. As Hawaii's premier recycling organization, RH has played a key role in the introduction of every major resource collection effort including those for single use beverage containers, green waste, glass, paper, plastic, metal, e-waste, used motor oil, cooking oil and latex paint. Throughout our 22-year history, we have been in constant contact with the public regarding recycling issues and we can tell you without a doubt that the vast majority of Hawaii's citizens want more recycling opportunities, especially when it comes to electronic waste.

When the state legislature first passed the Electronic Waste and Television Recycling and Recovery Act, it did so with a great deal of consideration for the manufacturers and retailers of electronic devices that were subject to the new law. While this good faith effort did increase opportunities for recycling electronics in some parts of the state, in other places, specifically the neighbor islands, e-waste recycling suffered a severe setback. Collection programs supported by county funding ended because local agencies took the position that producers were responsible going forward; producers then shirked their responsibility by devising mailback programs. Program failures became so problematic that county agencies on the neighbor islands had to step back in. Just last year, Hawaii County instituted a revolving monthly e-waste collection in an attempt to make up for shortfalls in the manufacturers' plans.

A great deal was learned from this experience. The most important lesson was that the manufacturers cannot be counted on to devise effective plans with meaningful goals. In its

second attempt at crafting legislation to deal with the problem of e-waste, the Department of Health has taken a new approach by mandating ambitious goals and stiff penalties. Industry has countered the department's proposal with claims that it amounts to an unnecessary overreach. . . that manufacturers want to do the right thing and they must be trusted to devise their own plans. Experience has proven otherwise.

There is nothing in HB 904 that prevents the industry from delivering on the promise of product stewardship; rather it provides a necessary guarantee that industry will not renege on that promise. HB 904 will cut costs at the county level, result in high diversion rates and create new business opportunities for Hawaii's people. Recycle Hawaii supports this bill and urges your committees to pass it as written.

Sincerely,

Paul J. Buklarewicz
Executive Director
Recycle Hawai'i

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 30, 2013 4:11 PM
To: EEPtestimony
Cc: rbest@jardencs.com
Subject: Submitted testimony for HB904 on Jan 31, 2013 09:30AM
Attachments: Jarden Letter Hawaii HB 904.pdf

HB904

Submitted on: 1/30/2013

Testimony for EEP/HLT on Jan 31, 2013 09:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Best	Jarden Consumer Solutions	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TESTIMONY OF
TOY INDUSTRY ASSOCIATION (TIA)
SUBMITTED TO
**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
AND
COMMITTEE ON HEALTH**
IN OPPOSITION TO HOUSE BILL 904
“RELATING TO RECYCLING”

JANUARY 31, 2013

www.toyassociation.org

Chairman Lee and Committee Members, the Toy Industry Association (TIA) appreciates this opportunity to provide testimony on House Bill 904. TIA is a not-for-profit trade association composed of more than six hundred (600) members, both large and small in size, located throughout North America.

TIA and its members have long been leaders in toy safety and are continually seeking product and package materials that reduce resource usage and improved life-cycle considerations. TIA and our members support market-based extended producer responsibility efforts, as well as voluntary incentives for increased recovery and sustainable product design. TIA commends the bill's sponsors for a keen interest in improving the environmental profile of products. However, we would like to address concerns with House Bill 904 which proposes to amend and expand the Electronic Device and Television Recycling program.

Toys Do Not Represent a Disposal Problem

House Bill 904 expands the definition of electronic device to include “any device containing an electric motor, heating element, or a speaker.” This definition would include many toys in the scope of the program. The facts show that toys and games do not represent a significant portion of the waste stream and many toy components and their packaging are already recyclable. **In British Columbia, an e-waste collection program found that electronic toys represent only 0.0612% of the total electronic waste stream.**

Further, under a network of U.S. federal requirements, toys and games sold in the U.S. must be safe and comply with strict U.S. safety and environmental standards and must not contain substances known to be harmful to children or that would result in exposure to those substances. As a result of these product

design and safety requirements, some toys have long life-spans and are retained due to their sentimental value or as collectors' items.

Legislation that mandates broad collection goals for products ignore consumer behavior, but also the benefits of products that have life-spans beyond the initial consumer. Understanding consumer behavior and market mechanisms is critical to proper product management and EPR mandates ignore real-world factors.

Additionally, HB 904 mandates a registration fee of \$5,000/year to the Hawaii Department of Health – exempting manufacturers or importers of 100 units or less. The average price point of a toy is \$8. Small businesses who do not qualify for this exemption would face drastic increases to the cost of their product.

Flawed Government Mandates

Current mandates for manufacturer take-back programs have not successfully demonstrated positive cost/benefit results in collecting products at the end of their life-cycle. Instead they shift immense collection costs to manufacturers and undermine market progress toward more efficient solutions.

- Mandates to take-back products and packaging have not increased environmental design or recycling. The German Green Dot program that mandates product packaging take-back reduced waste beyond its targets; at the same time, countries without take-back programs (including the U.S, Canada, and the Netherlands) achieved greater reductions in waste without such programs.¹
- Voluntary collection program and the growth of materials recycling industries demonstrate, manufacturers and recyclers are already finding ways to produce more environmentally-efficient products, and use recyclable components and packaging - without government mandates.
- EPR or Product Stewardship mandates do not create “green jobs” instead they create an unnecessary network of consultants, certifiers, and paperwork necessary to comply with a

government-run program. True “green jobs” are created in when there is an efficient market-based opportunity to reuse and recycle products materials.

Conclusion

We urge you to oppose the passage of HB 904 unless without amendments to the definition of electronic device that would exclude children’s toys. On behalf of the members of the Toy Industry Association and our 600 member companies, we thank you for consideration of these concerns. If you or the Committee has any questions with regard to our concerns on this legislation please do not hesitate to contact Jennifer Gibbons, Director of State Affairs for TIA, at 646-512-1320 or jgibbons@toyassociation.org.



Government Relations

701 Pennsylvania Avenue, NW • Suite 750 • Washington, DC 20004

Testimony of

Luke Harms
Manager, Government Relations
Whirlpool Corporation

before the

The House Committee on Energy & Environmental Protection
and the House Committee on Health
State of Hawaii

on

H.B. 904
Legislation to Amend Hawaii's Existing Electronic Waste
and Television Recycling and Recovery Act

January 31, 2013

Whirlpool Corporation appreciates the opportunity to provide testimony on House Bill 904, which would establish a program for the recycling of consumer electronic goods in the state of Hawaii. While Whirlpool Corporation supports and encourages the recycling of major and small appliances, we strongly oppose HB 904 and ask the Committee on Energy & Environmental Protection and the Committee on Health to reject this legislation, which has failed to incorporate many widely agreed upon positions of the task force established by Act 078 (12).

Whirlpool Corporation manufactures and markets home appliances, with 68,000 employees and 65 manufacturing and technology research centers. The company markets *Whirlpool, Maytag, KitchenAid, Jenn-Air, Amana, Brastemp, Consul, Bauknecht* and other major brand names to consumers in nearly every country around the world. Of the products we sell in the United States, approximately 80 percent are made in the United States and we have more appliance manufacturing jobs in the United States than all of our major competitors combined.

Whirlpool Corporation is a member of the Association of Home Appliance Manufacturers (AHAM), which provided detailed testimony on HB 904. We support AHAM's testimony and encourage the committees to carefully evaluate AHAM's concerns and viewpoints with the legislation before you today. We also appreciate the committees' consideration of the written testimony below:

I. HB 904 Requires Clarification of the Exemption for "White Goods"

HB 904 rightfully exempts "white goods" from the from the scope of covered consumer electronic goods due to the highly successful, market driven programs that have achieved a recycling rate of approximately 90 percent in the United States. Whirlpool Corporation encourages the committees to work with AHAM and appliance manufacturers to improve the definition of white goods to further clarify the products that are exempted.

II. Small Appliances Should Be Excluded

Small appliances are not significant generators of municipal solid waste. According to the U.S. Environmental Protection Agency¹, small appliances represent approximately 0.6% of municipal solid waste generation. For this reason, despite passage of dozens of electronic waste laws across the United States, no state has ever mandated a product stewardship plan for small appliances.

In the United States, Whirlpool markets most small appliances under the KitchenAid brand. The iconic KitchenAid stand mixer represents a significant portion of our company's small appliance sales. Unlike many consumer electronics, these products are built largely of metal and have significant end-of-life value. In addition, they rarely enter the waste stream because of their outstanding durability, quality and timeless design.

¹ U.S. Environmental Protection Agency, Annual Report on Municipal Solid Waste Generation, Recycling and Disposal in the United States, 2010

Further aiding the longevity of our products, Whirlpool Corporation's Greenville, Ohio small appliance manufacturing division provides mail-in diagnostics and refurbishment, preventing even more products from entering the municipal waste stream.

HB 904 would unfairly and burdensomely impact Whirlpool Corporation's small appliance business unit for many reasons as outlined below:

HB 904 Punishes Manufacturers of More Recyclable Products

Whirlpool Corporation is proud that our small appliances are designed with sustainability and recyclability in mind. However, as written, HB 904 would encourage all electronic device manufacturers to collect the heaviest and most recyclable products to meet mandated recycling targets and to reduce costs. Essentially, the legislation would penalize our company for the characteristics of our products that make them more sustainable and recyclable (e.g. significant percentage of recyclable metal content, high end-of-life cost recovery) because all electronic device manufacturers would compete to collect our products, while Whirlpool Corporation would be forced to help subsidize the expensive recycling processes for products such as cathode ray tube (CRT) devices that our company has never produced.

Small Appliances Contain Few Electronic Components

Small appliances typically contain significantly fewer electronic components compared to most consumer electronics. For example, the electronic components of televisions and mobile phones can exceed 20 percent of the products' total weight; whereas, the electronic components (mostly circuit boards and power cords) of small appliances produced by Whirlpool Corporation typically represent less than five percent of a product's total weight.

Arbitrary Mandated Recycling Goals Are Unfair

The mandated recycling goals in HB 904 do not consider current recycling rates for specific products types, nor do they accurately reflect the volume of products actually reaching the end-of-life. HB 904 bases recycling goals on the average annual sales of a manufacturer's products in Hawaii during the most recent two years. The proposed legislation fails to consider products' lifespans, whether sales have increased or decreased, or whether a product is new to market.

In the case of KitchenAid small appliances, not only do our products have lengthy lifecycles, but sales have drastically increased in recent years and the product line-up of KitchenAid products is much broader than it was only a few years ago. As such, the weight of products in Hawaii now reaching the end-of-life is a fraction of the weight of current sales.

In addition, manufacturers are unable to control if and when consumers recycle end-of-life products. If the Department of Health approves a manufacturers' plan for the recycling of electronic devices and the manufacturer complies with all provisions of the plan, it is inappropriate for the state to penalize the manufacturer for consumers' decisions on how to manage products at the end-of-life. If recycling goals are unmet, the Department of Health

should work in conjunction with manufacturers of covered products to determine how best to improve recycling rates.

Conclusion

Whirlpool Corporation strongly believes small appliances should be removed from the product scope of HB 904 and that the current legislation is severely flawed and should be wholly rejected. Should the bill advance, the scope should be limited to products that are significant generators of municipal solid waste and that have sufficient end-of-life product volume to justify the cost and operation of physical recycling programs in Hawaii. As written, the legislation would discourage the production of sustainable and recyclable products and would cause significant harm to small appliance manufacturers, with minimal impact on Hawaii's municipal waste systems or the environment.

Please do not hesitate to contact me if you have any questions.



SENT VIA EMAIL

January 30, 2013

Representative Chris Lee
Chair, Committee on Energy and Environmental Protection
Representative Cynthia Thielen
Vice Chair, Committee on Energy and Environmental Protection
Hearing on House Bill 904 - Relating to Recycling
State Capitol, Conference Room 325

Aloha Chair Lee and Vice Chair Thielen!

Enterprise Honolulu stands in strong support of House Bill 904 to expand existing electronic device recycling programs.

What is encouraging with the intent of HB 904, (through recommendations from the task force), is the facilitation of recycling programs provided by manufacturers – looking upstream, as well as the direct benefit to Hawaii's environment.

With the establishment of the Electric Device Recycling Fund will aid the implementation and continuity of service to the consumer and provide for a healthier Hawaii.

Please feel free to contact me directly should you have any questions.

Sincerely,

Pono Shim
President & CEO
Enterprise Honolulu, Oahu Economic Development Board



ENTERPRISE
HONOLULU

THE BUSINESS CLIMATE OF **PARADISE**

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Testimony of

Cade Clark

**Assistant Vice President, Government Affairs
Air-Conditioning, Heating, and Refrigeration Institute**

before the

**The House Energy & Environmental Protection Committee
State of Hawaii**

for

H.B. 904

**Legislation to Amend Hawaii's Existing Electronic Waste and
Television Recycling and Recovery Act**

January 31, 2013

Thank you for the opportunity to provide testimony on H.B. 904 which proposes amendments to the Electronic Waste and Television Recycling and Recovery Act. Unless amended, the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) opposes this bill.

AHRI's 300 member companies manufacture quality, efficient, and innovative residential and commercial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world, and account for more than 90 percent of HVACR and water heating residential and commercial equipment manufactured and sold in North America. In the United States, our industry is responsible for over 130,000 manufacturing jobs.

AHRI is aware of the work the Department of Health's Electric Device Recycling Task Force did in 2012 to move towards a consensus agreement on the scope of the proposed legislation. We were shocked to see in the second draft of the bill a clear divergence from the coalition's potential consensus on scope. The second version of the bill expanded the legislative scope to "any device containing an electric motor, heating element, or a speaker".

This overreaching definition brings HVACR equipment into the scope of the legislation. The bill does include an exemption for a "white good" defined as "a discarded major appliance, including, but not limited to a washing machine, clothes dryer, hot water heater, stove and refrigerator".

§11-58.1-03 of the Hawaii Administrative Rules defines white goods as "electrical and mechanical appliances made primarily of metal parts such as refrigerators, clothes washers, and dryers. Appliances of less than three cubic feet in volume before crushing shall not be included in this definition".

AHRI's interpretation of H.B. 904 is that manufactures of residential built-in and permanently installed heating, ventilation, air conditioning, and refrigeration equipment (i.e. packaged terminal air conditioners (PTACs), central air conditioners, furnaces, boilers etc.) would need to comply with this legislation.

In speaking with the Department of Health, staff indicated that DOH considers HVACR equipment as white goods and accordingly our manufacturers would not fall under the scope of this legislation. While we agree that the bill should not apply to HVACR equipment, the definitions and exemptions for white goods in the bill do not adequately provide the needed legal clarity for the equipment our members manufacture.

HVACR equipment is not traditionally considered an appliance or a white good but its own category of products. HVACR equipment generally has a long life-span and is always installed and removed by professional contractors who then properly dispose of it. While H.B. 904 appropriately excludes white goods from the scope of the bill, the definition of white goods needs further revision to avoid including HVACR equipment.

We would like to work with the Committee on improving the bill's definition of white goods and excluded products and look forward to engaging with the Committee on this issue.

Unless the definition of white goods is amended to categorically include HVACR equipment, we ask the Committee to reject this bill. Please feel free to contact me with any questions that you may have.

thielen3 - Charles

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 30, 2013 3:40 PM
To: EEPtestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB904 on Jan 31, 2013 09:30AM*

HB904

Submitted on: 1/30/2013

Testimony for EEP/HLT on Jan 31, 2013 09:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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