



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the

**HOUSE COMMITTEES ON ENERGY & ENVIRONMENTAL PROTECTION &
COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS**

Thursday, February 06, 2014

8:40AM

State Capitol, Conference Room 325

in consideration of

HB 2049
RELATING TO STATE ENTERPRISE ZONES

Chairs Lee and Tsuji, Vice-Chairs Thielen and Ward, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) offers these comments on HB 2049, which expands eligible business activity in the State Enterprise Zones (EZ) to include the development or production of various types of renewable energy.

It is current government policy to encourage the development of renewable energy in Hawaii. The primary mission of the Enterprise Zone program is to encourage the development of long-term, full-time jobs for local residents in Hawaii's economically disadvantaged areas. At this time, more research needs to be done to understand the job creation dynamics of these various subsectors of the renewable energy industry to ascertain which subsectors are most appropriate for this program.

We defer to the Department of Taxation on the fiscal impact of this measure, and to the Department of Commerce and Consumer Affairs, Securities Commissioner on the impact of specifying a particular business structure.

Thank you for the opportunity to provide these comments.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI'I S. LOPEZ
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JO ANN M. UCHIDA TAKEUCHI
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**TO THE SENATE COMMITTEES ON ENERGY & ENVIRONMENT
AND ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS & HOUSING
THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014**

Date: Thursday, February 6, 2014
Time: 8:40 a.m.
Conference Room: 325

**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
BUSINESS REGISTRATION DIVISION**

**TESTIMONY ON HOUSE BILL NO. 2049
RELATING TO STATE ENTERPRISE ZONES**

TO THE HONORABLE CHRIS LEE, THE HONORABLE CLIFT TSUJI AND MEMBERS OF THE COMMITTEES:

Thank you for the opportunity to testify. My name is Tung Chan, Commissioner of Securities and head of the Business Registration Division ("Division") of the Department of Commerce and Consumer Affairs. We are offering comments on HB 2049.

The bill proposes a new category of "eligible business activity" for renewable energy but appears to limit the corporate structure of the businesses to SBCs.

While we support the intent of the bill to promote local businesses that engage in renewable energy, we have technical concerns with the portion of this measure that restricts the state enterprise zone ("EZ") program-eligibility to renewable energy

businesses that are organized as sustainable business corporation ("SBC"). We suggest an amendment to remove the corporate restriction.

By way of background, SBCs were established by Act 208, Session Laws of Hawaii 2011, and codified as HRS chapter 420D. SBCs are organized as "regular" C corporations under HRS chapter 414, however, they further agree to comply with additional requirements that render them a SBC. These requirements can be cumbersome and would greatly limit the field of businesses that might qualify for the renewable energy activity category in EZ programs to about 8 companies that are currently registered with the Department as SBCs, instead of the many renewable energy companies in Hawaii. For instance, an established solar company that has already structured its entity as an LLC for pass-through federal tax incentives for renewable energy would have to incur expense and possible loss of incentives to change its entire operation into an SBC. For smaller start ups, these companies would have to spend limited resources on the ongoing SBC requirements instead of on their business. All businesses would have to forgo pass-through tax structures and limited liability features found in LLC's or LLP's in order to participate in the EZ program. The SBC requirement means essentially that the EZ program, meant to be expansive, would make it difficult for many Hawaii companies to participate.

For another example, SBCs also require an extra independent director on the board and an independent officer. Both positions are required to be independent of and can have no material relationship with the SBC. See HRS §§420D-7 and -9. For established companies to remain as nimble and flexible as possible, an extra board member could be a serious corporate inefficiency, making it harder for our home grown

companies to expand and eventually compete globally. For a small owner or start up of a renewable energy business, the cost of the extra director and officer would be burdensome and could be even prohibitive. In either instance, these business restrictions discourage businesses to find their most efficient corporate structures and make it difficult for businesses to participate in the EZ program.

It should be noted that no other eligible business activities in Chapter 209E restricts a company and its leaders to only one business structure. This seems arbitrary and unfair to the businesses in renewable energy. Hawaii businesses that are meant to be assisted by the EZ program so that they can grow and compete should be encouraged to choose the most efficient structure for their business model and not be limited to only one corporate model.

For the foregoing reasons, the Department expresses technical concerns with this bill in its current form. If the Committees wish to pass the bill, we respectfully ask that the limitation on corporate structure be removed. Thank you for the opportunity to testify. I would be happy to answer any questions the Committees may have.

NEIL ABERCROMBIE
GOVERNOR

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To: The Honorable Chris Lee, Chair
and Members of the House Committee on Energy and Environmental Protection

The Honorable Clift Tsuji, Chair
and Members of the House Committee on Economic Development and Business

Date: Thursday, February 06, 2014
Time: 8:40 a.m.
Place: Conference Room 325, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 2049 Relating to State Enterprise Zones

The Department of Taxation (Department) provides the following comments regarding H.B. 2049 for your consideration, and defers to the Department of Business, Economic Development, and Tourism regarding the merits of H.B. 2049.

H.B. 2049 would expand the definition of "eligible business activity" in section 209E-2, Hawaii Revised Statutes (HRS), allowing more types of businesses to take advantage of the Enterprise Zones described in Chapter 209E, HRS.

The current definition of "eligible business activity" for the purposes of State Enterprise Zones includes the production of electric power from wind energy for certain purposes. The inclusion of wind energy in the definition excludes other types of energy production from being eligible business activity. If the Legislature intends to allow other types of energy production businesses to take part in the Enterprise Zone program, these changes to the definition of "eligible business activity" are necessary.

The Department additionally notes that the original inclusion of wind energy applied only to energy sold primarily to a public utility for resale to the public, whereas the additions proposed by H.B. 2049 do not include this qualification.

Thank you for the opportunity to provide comments.

**Testimony before the
House Committees on

Energy & Environmental Protection
and
Economic Development & Business**

H.B. 2049 – Relating to State Enterprise Zones

**Thursday, February 6, 2014
8:40 am, Conference Room 325**

**By Arthur Seki
Director of Renewable Technology
Hawaiian Electric Company, Inc.**

Chairs Lee and Tsuji, Vice Chairs Thielen and Ward and members of the Committees:

My name is Arthur Seki—I am the Director of Renewable Technology at Hawaiian Electric. I am testifying on behalf of Hawaiian Electric and its subsidiaries, Maui Electric and Hawaii Electric Light, hereinafter collectively referred to as Hawaiian Electric Companies.

Hawaiian Electric Companies strongly support H.B. 2049, which amends the state enterprise zone language to include energy storage and all renewable energy resources. Land availability and incentives will help energy storage and renewable energy development.

Thank you for the opportunity to present this testimony.



**Testimony in Support of HB2049
Sustainable Business Corps & State Enterprise Zones**

I am writing to support the inclusion of companies organized using Hawaii's new "sustainable business corporation" legal entity (SBCs) as qualified businesses for the benefits of locating in a State Enterprise Zone. Currently these benefits are restricted to businesses involved in manufacturing, processing agricultural products, wind power, or doing GMO R&D.

SBCs are required to benefit all their stakeholders including the community, environment, and workforce as well as investors. Furthermore they are required to set goals, have metrics and report publicly on an annual basis. In other parts of the U.S. these are known as "B-Corporations".

While SBC's were created in 2011, Hawaii has yet to contribute any incentives for SBC's outside of making the entity available. Of course, those choosing this entity already have a public service motivation, and most "impact investors" by definition are motivated to invest in these entities. However, there are investors who would like to see other incentives in place. Given the existence of the State Enterprise Zone program, adding SBC's seems like a small but reasonable approach.

I am currently working with the Hawaii Electric Vehicle Network (HEVN), one of Hawaii's first SBCs, which is raising a second round of financing to launch an electric vehicle car rental operation integrated with a market and technology R&D program that will accelerate the development and commercialization of additional renewable energy products and services.

My background includes the honor of launching and operating the State and Federal tax-payer funded Small Business Development Center (SBDC) on Maui between 1990 to 2009 which helped over 3,000 businesses raise money or increase revenues over \$100 million. Prior to moving to Hawaii in 1989, I served as the Director for Industrial Development for Queens County in NYC, served as a management consultant to financial service companies, and operated the NYU Business School's Urban Business Assistance Corp.

I encourage you to support HB2049

Aloha

A handwritten signature in black ink that reads "David B. Fisher". The signature is written in a cursive, flowing style.

David B. Fisher



**Testimony to the House Committee on Energy and Environmental Protection
and Committee on Economic Development and Business
Thursday, February 6, 2014 at 8:40 A.M.
State Capitol – Conference Room 325**

RE: HOUSE BILL 2049 RELATING TO STATE ENTERPRISE ZONES

Chairs Lee and Tsuji, Vice Chairs Thielen and Ward, and Members of the Committees:

The Chamber of Commerce of Hawaii **supports** HB 2049 Relating to State Enterprise Zones.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the “Voice of Business” in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state’s economic climate and to foster positive action on issues of common concern.

Enterprise zones were designed to attract investment into an area to stimulate the economy and create jobs. Many of these businesses have done so very successfully. To include corporations invested in renewable energy will provide exponential growth and development to these areas and provide further support to the state’s economy.

Thank you for this opportunity to express our views.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Renewable energy enterprise zone

BILL NUMBER: SB 2764; HB 2049 (Identical)

INTRODUCED BY: Keith-Agaran, Baker, Dela Cruz, English, Espero, Galuteria, Ige, Kidani, Solomon, Tokuda and 1 Democrat; HB by McKelvey, Brower, Oshiro, Tsuji

BRIEF SUMMARY: Amends HRS section 209E-2 to amend the definition of “eligible business activity” to include the development, production, or energy storage by a sustainable business corporation of fuels, thermal energy, or electrical energy from renewable resources including: (1) wind; (2) the sun; (3) falling water; (4) biogas; (5) geothermal; (6) ocean water, currents and waves; (7) biomass; (8) biofuels; and (9) hydrogen.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: Act 160, SLH 2000, expanded the enterprise zone laws by revising the definition of qualified businesses to include businesses engaged in producing electric power from wind energy which is subsequently sold to a public utility for resale, making the business eligible for enterprise zone benefits. This measure would further extend enterprise zone benefits to businesses engaged in the development or production of electric power from various renewable energy sources.

In an enterprise zone, businesses are attracted and encouraged to relocate to the zone through tax incentives, bonds, and other appropriate measures. Businesses located in an enterprise zone may claim a credit against taxes paid for a period of seven years and the sale of items sold by such businesses are exempt from the general excise tax.

If it is the intent of the legislature to encourage new and existing businesses to expand their employment bases and increase their marketing territories, enterprise zones merely exacerbate what is already considered a poor climate in which to do business. Singling out specific areas of the state merely confers preferences for those businesses located within those geographic areas at the expense of all other taxpayers who are not so favored. It should be remembered that those taxpayers who live and work in the zone will demand the same public services as those who are not as fortunate to be located in the zone. Who then will pay for these services?

Concurrent efforts must be made to improve Hawaii’s business climate to enhance the economic prospects for all businesses. A more appropriate focus of government should be to create a nurturing and supportive business climate so that all businesses can thrive in Hawaii and provide the jobs the people of Hawaii need.

Digested 2/4/14



LETTER OF SUPPORT FOR HB 2049

**Joint Committee on Energy and Environmental Protection/
Economic Development and Business**

RELATING TO STATE ENTERPRISE ZONES

Hearing Date: Thursday, February 6, 2014
Time: 8:40am
Place: Conference Room 325
State Capital
415 South Beretania Street

Aloha Chair Lee, Vice Chair Thielen, Chair Tsuji, Vice Chair Ward and EEP/EDP Committee Members,

As the Founder and President of Hawai'i's first organized and structured Sustainable Business Corporation based on Maui but expanding quickly statewide, we will initially be creating about 100 new good paying direct jobs (with many other construction and indirect jobs), and will be the largest and most advanced Renewable Energy, all-Electric Vehicle rental, Smart Grid, R&D facility and operation in the Country. Our EV rental facility will be LEED certified, (building on the State's Green Airports Initiative) and our all-EV fleet will primarily be powered by Clean Energy generated by PV or Wind generated on Maui. Additionally, we will be deploying 1,000+ Smart EV Charging Stations across the State of Hawai'i with our Project Partners ChargePoint which will be one of the largest EV Charging Networks in the country, and by far the largest per capita in the United States.

Mahalo Chairs Lee and Tsuji for your leadership as it relates to Clean Energy and Sustainability in Hawai'i! This amended Law adding SBC's as an eligible business activity will help our State move towards energy independence and security, sustainability, create local jobs, enhance our environment by significantly reducing GHG and CO² in our State, assist us in meeting and exceeding the Hawai'i Clean Energy Initiative goal of 70% Clean Energy by 2030, and by being a leader in the nation in Clean Energy!

Your support in favor of this amendment would be greatly appreciated by me, the HEVN Team, Project Partners and Stakeholders, but most importantly by Kama'aina and especially by our keiki and Kapuna for protecting our environment and leaving Hawai'i nei a better place for future generations.

Respectfully submitted for your consideration and support,
Michael Snyder

*Ua lehulehu a manomano ka 'ikena a ka 'ano o ka nohona –
Great and numerous is the knowledge of the environment*

Michael Snyder
Founder and President
Hawaiian Electric Vehicle Network
Hawaii's first Sustainable Business Corporation
www.hevn.net

Founder and President
Hawai'i Clean Energy Foundation - Ka Hui Ikehu Ma'ema'e o Hawai'i

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HB2049

Submitted on: 2/4/2014

Testimony for EEP/EDB on Feb 6, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Rod	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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HB2049

Submitted on: 2/5/2014

Testimony for EEP/EDB on Feb 6, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
michelle sewell	Individual	Support	No

Comments: Please support HB2049. It will help provide jobs and is good for sustainability. Thank you

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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