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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Wednesday, February 19, 2014
Time: 9:25 A.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: S.B. No. 3027, S.D.1, Relating to Economic Development

The Department of Taxation (Department) provides the following comments regarding S.B. 3027, S.D.1, for your consideration.

S.B. 3027, S.D.1, would allow for the creation of "Energy Zones" within the State, to be administered by the Department of Business, Economic Development, and Tourism (DBEDT). Participants in energy zones would receive numerous State tax benefits.

The Department defers to DBEDT regarding the merits of this legislation, and notes the similarity of the energy zones described in this measure to Enterprise Zones, already created in Chapter 209E, Hawaii Revised Statutes (HRS). The production of energy using means other than wind is not an eligible business activity under the Enterprise Zone statutes, due to the definition of "eligible business activity" in Chapter 209E, HRS. The Department notes that S.B. 2764, which has also been referred to this Committee, presents an alternative that would result in the same or similar tax benefits for energy producers, and which utilizes the existing statutory framework already in place.

The Department additionally notes that this measure provides tax benefits for taxpayers, but does not make clear the authority of the Department to audit claims for the tax benefits. In general, when tax benefits are offered, the Department requests that the sections providing tax benefits be placed in Title 14, HRS, so that it is clear that the Department has authority and jurisdiction to audit claims and to enforce compliance.

Thank you for the opportunity to provide comments.

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, February 19, 2014
9:25 a.m.
State Capitol, Conference Room 211

in consideration of
SB 3027 SD 1
RELATING TO ECONOMIC DEVELOPMENT.

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

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments on SB 3027 SD 1, which directs DBEDT to designate energy zones and administer the proposed energy zone program.

DBEDT notes that the Hawaii Clean Energy Initiative is an effective driver in stimulating the development of renewable energy and our State's economy. We also note that there are existing policies and programs in place to incentivize the development of renewable energy in Hawaii. DBEDT advises that any new economic incentive program should reflect the State's energy policy of balancing technical, economic, environmental and cultural considerations, and not be approached strictly on a "renewable energy at any cost" basis.

As this measure does not provide funds for administration of a new program, DBEDT's ability to administer an energy zone program will be limited to what can be done within current budget parameters.

DBEDT respectfully defers to the Department of Taxation on the fiscal impacts of this measure.

Thank you for the opportunity to provide these comments.

L E G I S L A T I V E

TAXBILLSERVICE

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

SUBJECT: MISCELLANEOUS, Energy zone designation

BILL NUMBER: SB 3027, SD-1

INTRODUCED BY: Senate Committees on Economic Development, Government Operations and Housing and Energy and Environment

BRIEF SUMMARY: Adds a new part to HRS chapter 201 to allow the energy resources coordinator to declare up to six areas in each county as energy zones for a period of twenty years; provided the census tract in which the zone is located also meets one of the following criteria: (1) twenty-five percent or more of the population have incomes below eighty percent of the median family income of the county; (2) the unemployment rate is 1.5 times the state average; or (3) is an area with high density or potential energy-intensive production or use.

Delineates eligibility requirements of a qualified business in order to receive energy zone benefits, including state business tax credits, unemployment tax credits, general excise and use tax exemptions and local incentives.

The department of business, economic development, and tourism (DBEDT) shall administer this and shall have the following powers and duties: (1) establish criteria for determining what areas qualify as energy zones; (2) monitor the implementation and operation of this part; (3) conduct a continuing evaluation program of energy zones; (4) assist counties in obtaining the reduction of rules within energy zones; (5) submit annual reports evaluating the effectiveness of the program and any recommendations for legislation to the governor; (6) administer and enforce the rules adopted by the department; and (7) administer this part in such a manner that the area to be designated as an energy zone will most benefit the area and the state.

EFFECTIVE DATE: July 1, 2050 for tax years beginning after December 31, 2014

STAFF COMMENTS: This measure proposes to establish energy zones similar to an area being designated as an enterprise zone. Businesses located in an enterprise zone are eligible for certain tax incentives, bonds, and other appropriate measures. Businesses located in a zone may claim a credit against taxes paid for a period of seven years and also allows the sale of items sold by such businesses to be exempt from the general excise tax. This measure would grant eligible businesses state business tax credits, unemployment tax credits, general excise and use tax exemptions and local incentives.

If it is the intent of the legislature to encourage new and existing businesses to expand their employment bases and increase their marketing territories, 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 2/18/14

<u>Senate Committee on Ways and Means</u>

<u>RE: SB3027</u>

February 19, 2014 9:25 a.m., Room 211

Chair Ige and Members of the Committee:

I **<u>OPPOSE</u>** this measure for the following reasons:

- Creating artificial "energy zones" in low income, high-unemployment regions could lead to less wealthy populations having to host industrial-scale infrastructure that would benefit more wealthy areas that don't want such an imposition.

- Creating artificial "energy zones" in which qualified businesses benefit from tax breaks, "permit process reform," and "exemptions from local ordinances" is an attempt to eviscerate principles of county home rule.

- This bill would allow the creation of artificial "energy zones" upon the whim of the Department of Business, Economic Development and Tourism, rather than having counties apply for such designation, after consultation with their communities. Such designation would then become binding upon the state and Counties; if Counties resist giving up home rule and the designation lapses, "qualified businesses located in the energy zone" will nonetheless be able receive state tax incentives.

- Even DBEDT appears reluctant to assume this responsibility, given the existence of enterprise zoning pursuant to Ch. 209(E), HRS.

- It is unclear what the fiscal implications of this measure would be on businesses/ taxpayers/ratepayers in non-"energy zones" who are unable to access the incentives.

Thank you for this opportunity to testify.

Sally Kaye
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