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HOUSE COMMITTEE ON FINANCE
Hearing Scheduled 3 pm, Wednesday April 8, 2015, Conference Room 308
SB 703, SD 1, Proposed HD 1, RELATING TO SOLID WASTE
Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Luke, Vice-Chair Nishimoto, and Committee Members:

The League of Women Voters of Hawaii opposes SB 703, SD 1, Proposed HD 1 on procedural grounds. SB 703, SD 1 (to modify the solid waste management surcharge which funds state regulation of solid waste) has a different subject than SB 703, SD 1 Proposed HD 1 (to exempt contracts for the extraction and capture of methane generated from municipal waste from the procurement code). If this bill's subject is amended after crossover, this bill's subject will not have 3 readings in the Senate. Article III, Section 15 of Hawaii's Constitution requires that "No bill shall become law unless it shall pass three readings in each house on separate days." The 3 reading requirement applies to the subject of a bill - not just the bill title and bill number.

Thank you for the opportunity to submit testimony.

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol website

April 8, 2015

TO: HONORABLE SYLVIA LUKE, CHAIR, HONORABLE SCOTT NISHIMOTO,
VICE CHAIR AND MEMBERS OF THE HOUSE COMMITTEE ON
FINANCE

SUBJECT: **OPPOSITION TO S.B. 703, SD1, RELATING TO SOLID WASTE.** Increases the solid waste management surcharge to \$ per ton of solid waste disposed of in landfills or shipped out-of-state. Establishes a solid waste management surcharge to cents per ton of solid waste disposed of at waste-to-energy facilities that accept 150,000 tons or more of solid waste annually. Provides for no surcharges to waste-to-energy facilities that accept less than 150,000 tons of solid waste annually and for ash disposed of in landfills that originates from a waste-to-energy facility. Defines "waste-to-energy" facility. Effective July 1, 2050. (SD1)

HEARING

DATE: Wednesday, April 8, 2015
TIME: 3:00 p.m.
PLACE: Room 308

Dear Chair Luke, Vice Chair Nishimoto and Member of the Committee,

The General Contractors Association of Hawaii (GCA) is an organization comprised of over approximately six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is the largest construction association in the State of Hawaii. The mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is in opposition to S.B. 703, SD1 which previously proposed to increase the solid waste management surcharge by a significant amount, but which is now blank. These increased costs, once inserted, will be absorbed by many companies that use the facility and can be viewed as an increased fees and tax to taxpayers paying for public works. GCA opposes any increase that may not be warranted to meet specific Department of Health operating costs within the projected budget. The previously proposed increase was for 90 cents for the solid waste management surcharge, from its existing 35 cents to \$1.25 per ton for solid waste disposed at a landfill or to an out of state facility. The bill also permits no surcharge for waste to energy facilities that accept less than 150,000 tons of solid waste annually and for ash. This bill previously proposed a \$0.90 increase per ton, which would calculate to more than what may be necessary.

GCA is strongly opposed to any increase in the solid waste management surcharge that may not be appropriate through the surcharge mechanism. There is concern that the more appropriate funding should be through the use of State general funds. It appears that the onetime increase of

\$0.90 may not be necessary and that a smaller increase may be warranted. GCA's main concern is with how a proposed increased surcharge would be passed on to contractors and owners, which would in turn, raise the cost of all construction projects. Due to a number of significant infrastructure projects that are expected, such as rail, shipyard maintenance, as well as commercial and residential building and renovation, it would be detrimental to the state's economic recovery to burden private and public projects with extra added taxes framed as surcharges. In today's economic situation, increasing construction costs will adversely affect economic recovery.

We are also very concerned about the potential for immediate implementation of this increased cost for existing public works projects due to the potential effective date of July 1, 2015. Many of our members have existing contracts in place for which contractors had based their costs on the known disposal costs at the time of the bidding process. Any sudden increase in disposal costs after an award of the contract will lead to unanticipated cost increases to the contractors which may not be recovered from the owner.

We respectfully request that this Committee defer S.B. 703, SD1 for the reasons above. Thank you for the opportunity to provide testimony on this measure.



COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair
Rep. Scott Y. Nishimoto, Vice Chair

Wednesday, April 8, 2015
3:00 P.M. Conference Room 308
State Capitol

**Senate Bill 703 HD1 Proposed
Relating to Energy - Testimony in Support**

Chair Luke and Vice Chair Nishimoto, Hawaii Gas has and continues to support the development of renewable natural gas (methane) from local resources. SB703 HD1 Proposed, would streamline the existing procurement process for Counties allowing, but not mandating Counties to sell their waste streams to the gas utility and do so in a fully transparent manner with oversight by the Hawaii Public Utilities Commission.

Currently, the only local sources of renewable natural gas are produced at County waste water treatment plants and landfills. These facilities produce a biogas from the anaerobic digestion, which means in the partial absence of oxygen, of organic matter. Biogas is a form of renewable gaseous energy that has for decades been vented to atmosphere or has been ignited and flared to atmosphere in Hawaii. A more appropriate use of this biogas is to allow the gas utility to enter into a contract with the Counties to utilize proven, nationally deployed technology to capture it, purify it and inject it into the



gas utility pipeline distribution system for sale to an existing customer base.

There are many benefits to the counties by working with the gas utility to monetize the methane waste streams such as:

1. Providing the County with a long term revenue stream;
2. Timely elimination of environmental impacts from flared methane gas;
3. Establishing a long-term fuel supply contract between the gas utility and County that is reviewed, approved and regulated by the Hawaii Public Utilities Commission;
4. Utilizing a proven technical approach now being used elsewhere in the United States;
5. Expediting the contract process and reducing costs associated with the standard procurement process,
6. Eliminating the risk of schedule delays in a standard procurement process; and
7. Increasing the renewable gas portfolio of the State of Hawaii.

Based on the above comments, Hawaii Gas suggests the following clarification revisions to the preamble of SB703 HD1 Proposed as shown in Attachment A below.

Thank you.



Attachment A: Senate Bill 703 HD1 Proposed

SECTION 1. The legislature finds that Hawaii's largest source of renewable methane ~~emissions~~ is from the waste streams produced at County waste water treatment plants and landfills. Currently, these waste streams emissions are mostly vented to atmosphere or ignited and flared to atmosphere not serving any beneficial uses. However, ~~the legislature finds that current technology may allow for enhanced elimination of contaminants through techniques such as gas spiking~~. The Legislature finds that these same waste streams can be captured and purified and injected directly into existing gas utility pipelines using proven technology as has been successfully done elsewhere in the United States. This approach will allow the Counties to monetize this renewable resource and generate a revenue stream that can then be used, such as to fund other types of renewable energy projects. Since the buyer is a gas utility, the agreement between the County and gas utility would be reviewed and approved by the Hawaii Public Utilities Commission providing full financial transparency, which would not otherwise be possible if these resources were to be competed in the open market. By utilizing these biogas resources, the Counties can directly contribute toward achieving the State's renewable energy goals and reduce dependence on imported oil. This opens the door for a cleaner and more renewable energy source that will also assist in reducing the State's reliance on imported oil. Moreover, monetization of this waste stream could establish new revenue streams for the State



~~that may be deployed as capital to accelerate development of other renewable resources.~~

In an effort to streamline the process to initiate programs that convert methane at Hawaii landfills and wastewater treatment facilities, the purpose of this Act is to create a temporary exemption from the procurement process to accelerate the development of this needed renewable fuel source.

SECTION 2. Section 103D-102, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Notwithstanding subsection (a), this chapter shall not apply to contracts by governmental bodies:

- (1) Solicited or entered into before July 1, 1994, unless the parties agree to its application to a contract solicited or entered into prior to July 1, 1994;
- (2) To disburse funds, irrespective of their source:
 - (A) For grants as defined in section 42F-101, made by the State in accordance with standards provided by law as required by article VII, section 4, of the state constitution; or by the counties pursuant to their respective charters or ordinances;
 - (B) To make payments to or on behalf of public officers and employees for salaries, fringe benefits, professional fees, or reimbursements;
 - (C) To satisfy obligations that the State is required to pay by law, including paying fees, permanent settlements,



HAWAII GAS
THE CLEAN ENERGY COMPANY

subsidies, or other claims, making refunds, and returning funds held by the State as trustee, custodian, or bailee;

- (D) For entitlement programs, including public assistance, unemployment, and workers' compensation programs, established by state or federal law;
- (E) For dues and fees of organizations of which the State or its officers and employees are members, including the National Association of Governors, the National Association of State and County Governments, and the Multi-State Tax Commission;
- (F) For deposit, investment, or safekeeping, including expenses related to their deposit, investment, or safekeeping;
- (G) To governmental bodies of the State;
- (H) As loans, under loan programs administered by a governmental body;
and
- (I) For contracts awarded in accordance with chapter 103F;
- (3) To procure goods, services, or construction from a governmental body other than the University of Hawaii bookstores, from the federal government, or from another state or its political subdivision;
- (4) To procure the following goods or services which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State:



- (A) Services of expert witnesses for potential and actual litigation of legal matters involving the State, its agencies, and its officers and employees, including administrative quasi-judicial proceedings;
- (B) Works of art for museum or public display;
- (C) Research and reference materials including books, maps, periodicals, and pamphlets, which are published in print, video, audio, magnetic, or electronic form;
- (D) Meats and foodstuffs for the Kalaupapa settlement;
- (E) Opponents for athletic contests;
- (F) Utility services whose rates or prices are fixed by regulatory processes or agencies;
- (G) Performances, including entertainment, speeches, and cultural and artistic presentations;
- (H) Goods and services for commercial resale by the State;
- (I) Services of printers, rating agencies, support facilities, fiscal and paying agents, and registrars for the issuance and sale of the State's or counties' bonds;
- (J) Services of attorneys employed or retained to advise, represent, or provide any other legal service to the State or any of its agencies, on matters arising under laws of another state or foreign country, or in an action brought in another state, federal, or foreign jurisdiction, when substantially all legal services are expected to be performed outside this State;



- (K) Financing agreements under chapter 37D; and
- (L) Any other goods or services which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State; ~~and~~
- (5) Which are specific procurements expressly exempt from any or all of the requirements of this chapter by:
 - (A) References in state or federal law to provisions of this chapter or a section of this chapter, or references to a particular requirement of this chapter; and
 - (B) Trade agreements, including the Uruguay Round General Agreement on Tariffs and Trade (GATT) which require certain non-construction and non-software development procurements by the comptroller to be conducted in accordance with its terms~~-~~; and
- (6) Which are for the extraction and capture of methane from a municipal waste stream for the purpose of conversion into natural gas by a gas utility."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval, and shall be repealed on July 1, 2017.