

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

WRITTEN
TESTIMONY ONLY

**AMENDED Testimony COMMENTING on SB2777
RELATING TO THE ENVIRONMENTAL COUNCIL
(This Amended Testimony is Intended to Replace an Inaccurate Statement in a
Previously Submitted Testimony)**

SENATOR DONOVAN M. DELA CRUZ, CHAIR
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 2/25/2020

Room Number: 211

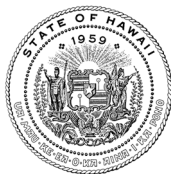
1 **Fiscal Implications:** This measure may impact the priorities identified in the Governor's
2 Executive Budget Request for the Department of Health's (Department) appropriations and
3 personnel priorities. The measure establishes a new special fund, the environmental council
4 special fund as part of the environmental response, energy, and food security tax. It sets the tax
5 rate at 0.00525 cents per barrel of petroleum product and 0.005 per cent of the tax on each
6 million British thermal units of fossil fuel and appropriates \$50,000 out of the environmental
7 response revolving fund (ERRF) under section 128D-2 for the purposes of the environmental
8 council special fund.

9 **Department Testimony:** The Department is very concerned that a decrease of \$50,000 from the
10 ERRF will negatively impact its ability to effectively carry out its' mission of protecting human
11 health and the environment. The Department relies on the \$1,250,000 in ERRF funding to
12 respond to emergency and non-emergency incidents that will have impacts on human health and
13 the environment and simply cannot afford the reduction.

14 **Recommendation:** The Department has conferred with the Office of Environmental Quality
15 Control staff and has identified existing resources to be utilized for expressed Council purposes.
16 Therefore, no additional appropriation is necessary for FY20-21.

17 Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2777

February 25, 2020
12:40 p.m.
Room 211

RELATING TO THE ENVIRONMENTAL COUNCIL

The Department of Budget and Finance (B&F) offers comments on the creation of the Environmental Council Special Fund (ECSF).

Senate Bill (S.B.) No. 2777 establishes the ECSF under the administration of the Office of Environmental Quality Control (OEQC) and dedicates a portion of the Environmental Response, Energy, and Food Security Tax (EREFST) to the ECSF. 0.00525 cents of the EREFST on each barrel or fractional part of a barrel of petroleum product that is not aviation fuel and 0.005 per cent of the EREFST on each 1,000,000 British thermal units of fossil fuel sold by a distributor to any retail dealer or end user, other than a refiner, will be deposited into the ECSF. S.B. No. 2777 also appropriates \$50,000 from the Environmental Response Revolving Special Fund for FY 21 for the purposes of the ECSF.

Funds from the ECSF would be used for the functions of the Environmental Council, which include: serving as liaison between the Director of OEQC and the general public; making recommendations concerning ecology and environmental quality

to the Director of OEQC; monitoring the progress of State, county, and federal agencies in achieving the State's environmental goals and policies; and making an annual report with recommendations for improvement to the Governor, the Legislature, and the public.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 2777, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: FUEL, Earmarks Barrel Tax for Environmental Council

BILL NUMBER: SB 2777

INTRODUCED BY: GABBARD, Moriwaki, Ruderman

EXECUTIVE SUMMARY: Establishes the Environmental Council Special Fund; dedicates 0.005 per cent of the Environmental Response, Energy, and Food Security Tax to the Environmental Council Special Fund. Appropriates \$50,000 to the Environmental Council Special Fund from the Environmental Response Revolving fund.

SYNOPSIS: Adds a new section to chapter 341, HRS, that would establish the environmental council special fund.

Amends section 243-3.5, HRS, to earmark 0.00525 cent of the tax on each barrel to be deposited into the new special fund.

Appropriates \$50,000 from the Environmental Response Revolving fund to the new special fund.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: Act 300, SLH 1993, enacted an environmental response tax (the “barrel tax”) of 5 cents per barrel on petroleum products sold by a distributor to any retail dealer or end user. The collections of the tax were deposited into the environmental response revolving fund until such time the balance in the fund reached \$7 million at which time the imposition of tax was suspended until the balance in the fund declined.

Act 73, SLH 2010, increased the amount of the tax to \$1.05 per barrel and provided that 5 cents of the tax shall be deposited into a newly established environmental response revolving fund; 15 cents shall be deposited into a newly established energy security special fund, 10 cents shall be deposited into a newly established energy systems development special fund; 15 cents shall be deposited into the newly established agricultural development and food security special fund; and the residual of 60 cents shall be deposited into the general fund between 7/1/10 and 6/30/15. Act 107, SLH 2014, extended the sunset date of the \$1.05 environmental response, energy, and food security tax from 6/30/15 to 6/30/30. Act 185, SLH 2015, extended the tax to fossil fuels other than petroleum products as well, based on the BTU equivalent.

The environmental response tax was initially adopted to set up a reserve should an oil spill occur on the ocean waters that would affect Hawaii’s shoreline. The nexus was between the oil importers and the possibility that a spill might occur as the oil product was being imported into the state. Now that the fund has become a cash cow, lawmakers have placed numerous and sundry other responsibilities on the fund, including environmental protection, food security, and natural resource protection programs, energy conservation and alternative energy development, air quality, global warming, clean water, polluted runoff, solid and hazardous waste, drinking

water, and underground storage tanks, including support for the underground storage tank program of the department of health.

The basic problem with the barrel tax is that it lacks transparency, and because the funds are earmarked they largely avoid scrutiny by either lawmakers or the public. Rather than perpetuate the problems of the barrel tax, lawmakers should consider repealing it and funding all programs that are funded out of the environmental response fund through appropriations against the general fund. At least program managers would then have to justify their need for these funds. If general funds are insufficient to underwrite all the essential programs and programs such as those funded through the barrel tax, then lawmakers need to justify any increase in taxes which underwrite the general fund or lawmakers will be forced to set priorities for those precious general funds. Currently, lawmakers can sidestep that difficult task by creating these hidden taxes and earmarked funds like the barrel tax. By continuing to special fund these programs, it makes a statement that such programs are not a high priority for state government. This sort of proliferation of public programs needs to be checked as it appears to be growing out of hand and at the expense of the taxpayer.

Digested 1/29/2020



300 Kuulei Rd. Unit A #281 * Kailua, HI 96734 * Phone/Fax (808) 262-0682 E-Mail: hfff3000@gmail.com

February 25, 2020

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S. C. Keith-Agaran, Vice Chair

SB 2777

RELATING TO THE ENVIRONMENTAL COUNCIL

Hawaii's Thousand Friends, a non-profit organization dedicated to ensuring that growth is reasonable and responsible and that planning and land use decisions protect natural and cultural resources and human health and are implemented in conformity with the law, supports SB 2777, which establishes the Environmental Council Special Fund to provide a funding source for the Environmental Council.

Created under HRS 341-3 the Environmental Council consists of up to fifteen volunteer members who serve as liaisons between the OEQC director and the general public, monitor the progress of state, county and federal agencies in achieving the State's environmental goals, and prepares an annual report with recommendations for improvements to the governor, the legislature and the public.

For the last two plus years Environmental Council members worked on the long overdue revision to Hawai'i's Environmental Statement Rules (HAR Title 11 Chapter 200). The Council held public hearings, reviewed countless public comments, responded to public comments and met up to ten times per year producing three draft versions before the final rules were signed by the Governor on August 9, 2019.

Passage of SB 2777 is critical because dedicated sources of funding ensure that funds are available for council members to travel from neighbor islands to required meetings on Oahu, to prepare the required annual report and continue public out reach and communications.

While the Environmental Council is charged with many responsibilities there has never been a dedicated source of funding.

Passage of SB 2777 will ensure that funding is available so that these dedicated volunteers can continue working to achieve the State's environmental goals.

SB-2777

Submitted on: 2/22/2020 4:10:02 AM

Testimony for WAM on 2/25/2020 12:40:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Robin Kaye	Individual	Support	No

Comments:

I am testifying in strong support of SB2777, which requests an annual appropriation of \$50,000 for the Environmental Council.

The Environmental Council (EC) is a critical component of our State's interwoven web of environmental protections. As described in HRS § 341-6, it was created to : "serve as a liaison between the director of the Office of Environmental Quality Control [OEQC] and the general public by soliciting information, opinions, complaints, recommendations, and advice concerning ecology and environmental quality through public hearings or any other means and by publicizing such matters as requested by the director pursuant to section 341-4(b)(3)."

The Environmental Council serves under the guidance of the OEQC, which is itself under the administrative auspices of the State Department of Health (DOH.) Approval of SB2777 would provide the Environmental Council with an annual appropriation of approximately .00005% of the Department of Health's annual budget — a minini amount clearly not jeopardizing the important and critical work of the DOH.

It is an all volunteer group, composed of representatives from every island (save Niihau and Kahoolawe) that meet in Honolulu once every month. For the past two years, it has worked diligently on revising the administrative rules governing the EIS and EA permitting process, which hadn't been revised since 1996.

It is statutorily mandated to publish an annual report, yet it has no budget under which it can pay for this. It is statutorily mandated to serve as the "ears" for the Office of Environmental Quality (OEQC), yet it has no budget under which it can pay for this. Almost half of its members come from the Neighbor Islands, yet it has no budget under which it can pay for this.

To date, those expenses have been covered by OEQC's funds, and donations from several generous volunteer members of the EC. It is time for the EC to have those mandated responsibilities appropriately funded.

Please support SB2777 and allow the Environmental Council to do its work properly.

Mahalo for your consideration,

Robin Kaye