



DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

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

335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
cca.hawaii.gov

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Energy, Economic Development, and Tourism
And
Senate Committee on Government Operations
Wednesday, March 16, 2022
3:00 PM
Conference Room 224 & Videoconference**

**On the following measure:
H.B. 1637, HD1, RELATING TO RENEWABLE ENERGY**

Chairs Wakai and Moriwaki and Members of the Committee:

My name is Dean Nishina, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Division of Consumer Advocacy. The Department supports the intent of this bill.

The purpose of this bill is to authorize a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions.

The Department supported the intent of the newly adopted Revised Ordinance of Honolulu (ROH) 21-32 to reduce the property tax burden of renewable energy projects brought on by the changes in the Real Property Assessment Division's (RPAD) interpretation of how relevant sections of ROH should be applied to renewable energy projects. Further, while the Department generally defers to the Department of Taxation on tax related measures, the Department has remaining concerns with the potential

impact and remaining ambiguity of how RPAD may apply the partial exemption and the resulting assessments on current and future renewable projects, the viability of existing and future renewable energy projects, and, ultimately, the impacts on ratepayers. The Department observes that current power purchase agreements may still experience a significant increase in tax liability despite the new ordinance's attempt to alleviate the burden created through RPAD's recent interpretation and that this will likely affect the cost of future renewable energy projects and will, thus, increase the customers' bills.

The Department appreciates the HD1 modifications to avoid potential constitutional issues that were raised by the Attorney General's office on the original version. The Department is concerned, however, that without specifying the in-lieu fee, there will be uncertainty regarding the magnitude of the fee as well as whether a county may choose to apply the in-lieu fee or not. Thus, the Department is concerned that HD1 will leave us back at "square one", where existing and future renewable energy projects may face unanticipated cost increases in the form of real property taxes or in-lieu fees that will ultimately adversely affect electric customers and Hawaii's clean energy transition.

Thank you for the opportunity to testify on this bill.

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEES ON
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
AND
GOVERNMENT OPERATIONS

March 16, 2022
3:00 p.m.

Chair Wakai, Chair Moriwaki, and Members of the Committees:

MEASURE: H.B. No. 1637, HD1

TITLE: RELATING TO RENEWABLE ENERGY.

DESCRIPTION: Authorizes a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions. Effective 7/1/2100. (HD1)

POSITION:

The Public Utilities Commission (“Commission”) supports this measure and offers the following comments for consideration.

COMMENTS:

The Commission supports this measure, which would encourage renewable energy generation projects and increase clarity around applicable tax treatment.

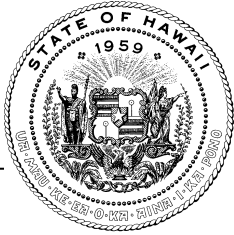
As noted in the measure, in late 2021, the City and County of Honolulu changed its tax treatment of some parcels of land on which renewable energy projects are sited from agriculture to industrial for tax purposes. This resulted in very large, unanticipated tax increases for some projects, which could jeopardize the viability of those projects, as well as increase risks and costs for projects that may be developed in the future.

The Commission worked with other public agencies and stakeholders to create a short-term solution through the Honolulu City Council's Bill 39 (2021), with a stated intent to continue the dialogue among stakeholders in constructing a long-term solution.

The Commission stresses the importance of stability in tax policy in encouraging renewable energy projects in the state. When project pricing is determined during the competitive procurement process, the electric company and project developers make agreements based on certain assumptions about federal, state, and county tax policies. Because these projects often have established contracts with fixed prices, significant changes to the interpretation or application of real property tax provisions could result in delays to projects, and possibly cancellation of projects, due to the potential for requests to renegotiate prices. Additionally, tax uncertainty casts a shadow that could deter renewable energy development and financing in the state.

The Commission supports the intent of this measure to prevent future incidents such as this and to create a stable tax environment that encourages progress toward the State's renewable energy goals. The Commission will continue the dialogue with other agencies and stakeholders to develop and implement complementary county tax policy changes as a long-term solution to this issue.

Thank you for the opportunity to testify on this measure.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

235 South Beretania Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone:
Web:

(808) 587-3807
energy.hawaii.gov

Testimony of
SCOTT J. GLENN, Chief Energy Officer

before the
**SENATE COMMITTEES ON
ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM
AND
GOVERNMENT OPERATIONS**

Wednesday, March 16, 2022
3:00 PM
State Capitol, Conference Room 224 & Videoconference

**SUPPORT
HB 1637 HD1
RELATING TO RENEWABLE ENERGY.**

Chairs Wakai and Moriwaki, Vice Chairs Misalucha and Dela Cruz, and Members of the Committees, the Hawai'i State Energy Office (HSEO) supports HB 1637 HD1, which authorizes a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions.

HSEO's comments are guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

A recent situation occurred where county property tax assessments were suddenly and dramatically increased on certain renewable energy projects on O'ahu. Such increases in tax liability significantly impact renewable energy project finances, in turn affecting project viability for renewable energy projects that are currently operational and projects under-development which were selected during a competitive procurement process.

While the situation was partially remedied by the City and County of Honolulu's adoption of [Ordinance 21-32](#), HSEO has outstanding concerns due to the ordinance's ambiguity. Therefore, HSEO supports a long-term solution that provides for tax

predictability and does not increase the tax liability that was in place at the time the existing and under-development projects were financed, competitively bid, and approved by the Public Utilities Commission. HB 1637 HD1's approach provides predictability for all parties involved if adopted by each of the counties. Additionally, if adopted by the counties, the bill provides tax certainty that will encourage more renewable energy development throughout the state in the future.

HSEO understands various amendments have been recommended for consideration in the bill, of which HSEO is generally supportive and believes further discussion and consideration would be helpful. HSEO has been and will continue to work with all parties to develop long-term solutions that provide consistency and predictability for both the counties' finances as well as for the contracting and financing of existing and future renewable energy projects needed to replace the fossil fueled electricity generation facilities, protect Hawai'i's most vulnerable ratepayers, and advance the state's renewable energy goals.

HSEO looks forward to working with the counties to adopt an appropriate in-lieu fee for renewable energy projects within their respective real property tax ordinances. This bill, or subsequent draft substantially similar in nature and effect, will provide the first step in adoption at the county level across the state.

Thank you for the opportunity to testify.

DEPARTMENT OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
530 SOUTH KING STREET, ROOM 208 • HONOLULU, HAWAII 96813
PHONE: (808) 768-3900 • FAX: (808) 768-3179 • INTERNET: www.honolulu.gov

RICK BLANGIARDI
MAYOR



ANDREW T. KAWANO
DIRECTOR

CARRIE CASTLE
DEPUTY DIRECTOR

March 15, 2022

The Honorable Chair, Glenn Wakai
and Members of the Committee on Economic Development and Tourism
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

The Honorable Chair Sharon Y. Moriwaki
and Members on Government Operations
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Wakai, Chair Moriwaki and Committee Members:

Re: Testimony with Concerns regarding to House Bill No. 1637 H.D.1
Hearing: Wednesday, March 16, 2022, 3:00 p.m., Rm. 224 via videoconference

The City and County of Honolulu ("City") supports the State's goal of reaching a one hundred (100) percent renewable portfolio standard by December 31, 2045, and believes there may be alternate ways of increasing the production and development of renewable energy in the State. In addition to the fact that the preamble in House Bill 1637 H.D.1 ("HB1637 HD1") preamble misstates the facts surrounding the City's enforcement of the agriculture dedication program requirements upon parcels of land used for the commercial production of renewable energy, the City has serious concerns with HB1637 HD1 because the amended bill conflicts with its stated purpose to "provide more certainty for renewable energy developers and ratepayers . . . while also mitigating any potential revenue loss for the county." The City supports an "in lieu of" program and offers amendments that would achieve the stated purpose of the bill.

The Department of Budget and Fiscal Services ("BFS") would like to clarify that the City did not unilaterally change its tax treatment of the parcels of land ("Parcels") referenced in HB1637 HD1. The Parcels are located in the State's agriculture district and in the county's AG-1 restricted agricultural zoning district. Prior to 2020, the owners of these Parcels filed petitions to dedicate the Parcels for agricultural use for real property tax purposes under Section 8-7.3 of the Revised Ordinance of Honolulu 1990, as amended ("ROH"). In order to qualify for the agricultural use dedication, the owners certified that at least seventy-five (75) percent of the dedicated land was in active, substantial and

The Honorable Chair, Glenn Wakai
The Honorable Chair, Sharon Y. Morwaki
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Page 2

continuous use for the business of raising and producing agricultural products during the dedication period, and that no land use change was initiated by the owners. The petitions were granted, thereby reducing real property taxes to one (1) percent of the assessed value. In 2020, the City discovered that during the agricultural dedication period, large portions of the Parcels were actually and primarily used for the production and sale of renewable energy products under approved owner-initiated State use permit (SUP) and county conditional use permits which changed the strictly agriculture use permitted under the Parcels' AG-1 restricted agricultural zoning to a use allowing both agriculture and utility production. For the 2021 tax year, the Parcels were classified and assessed on October 1, 2020 based upon their highest and best use, as mandated by ROH Section 8-7.1. Portions of the Parcels not used for the production of renewable energy products maintained the agricultural classification and the agriculture use dedications. The remaining portions primarily and actually used for the production, storage and sale of renewable energy products were classified industrial pursuant to ROH Sections 8-7.1 and 8-7.3.

BFS favors a payment in lieu of taxes (PILOT) program which would promote renewable energy production by: (1) setting a fixed annual payment based upon the maximum dispatchable megawatt AC nameplate capacity stated in the power purchase agreement with the electric utility, and (2) minimizing potential lost revenues to the counties. In contrast, HB1637 HD1 proposes to create an annual fee in lieu of taxes, which, as drafted, is not workable.

First, the annual fee is neither a regulatory fee nor a user fee, and therefore, is susceptible to legal challenges. The payment in lieu of real property taxes should be referred to as a "payment," and not as a "fee."

Second, the PILOT program should be limited to production and/or storage of utility-scale, dispatchable renewable energy that is sold to an electric utility under a power purchase agreement. This would result in an annual fixed payment for the duration of the power purchase agreement with the electric utility, thereby eliminating the risk and concerns expressed by the Hawaii State Energy Office (HSEO) and Hawaiian Electric Company of fluctuating payments over time.

Third, following the adoption of Ordinance 21-32 (2021), BFS notified all renewable energy producers identified by the HSEO of the availability of and deadline to apply for an eighty (80) percent renewable energy real property tax exemption for the 2022-23 tax year. BFS granted the exemption to a significant number of the renewable energy producers that applied. The provisos in subparagraphs (3) and (4) of HB1637 HD1 could be interpreted to either (1) exclude a significant number of renewable energy producers from participating in the PILOT program to fix their tax liability payments, or (2) result in lost revenues to the counties if the renewable energy producers elect to participate in the PILOT program and qualify for the exemption under HB1637 HD1, thereby ignoring the purpose of the "in lieu of" provision and permitting renewable energy producers to avoid paying both real property taxes and the annual "fee." This would clearly defeat a critical element of the stated purpose of the bill to mitigate any potential revenue loss for the counties.

The Honorable Chair, Glenn Wakai
The Honorable Chair, Sharon Y. Morwaki
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In order to achieve the stated purpose of HB1637 HD1, BFS offers the following amendments for the Committee's consideration:

"§46-__ Renewable energy projects; in-lieu payment. A county may enact an ordinance, and may amend the same from time to time, to establish a program which allows an annual payment in lieu of real property taxes (PILOT) on land or improvements thereon that are used to produce or store utility-scale renewable energy that is actively sold to an electric utility; provided that:

(1) The ordinance also exempts renewable energy projects from one hundred per cent of real property taxes; and

(2) The payment shall be determined by the county on a per megawatt basis up to the maximum dispatchable nameplate AC capacity stated in the power purchase agreement with an electric utility.

~~(3) Any renewable energy project that sells electricity to a not-for-profit utility shall be exempt from the fee;~~

~~(4) The county shall not impose the fee or increase existing fees for a renewable energy project to which the county has previously granted an application for a real property tax exemption on the land underlying and improvements relating to the renewable energy project."~~

The proposed wording, which provides for the implementation of the PILOT program, is more aligned with the bill's stated purpose of fixing an amount to be paid in lieu of real property taxes while minimizing revenue losses to the counties. Accordingly, the City respectfully requests that the Committee consider the concerns expressed and amend the bill as proposed herein.

Sincerely,



Andrew T. Kawano, Director
Budget and Fiscal Service

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: REAL PROPERTY, Prohibits Taxation of Renewable Energy Farms

BILL NUMBER: HB 1637 HD 1

INTRODUCED BY: House Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: Authorizes a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions.

SYNOPSIS: Adds a new section to chapter 46, HRS, providing that a county may impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility; provided that: (1) The county, by ordinance, exempts renewable energy projects from one hundred per cent of real property taxes; (2) The fee shall be determined by the county on a per megawatt nameplate AC capacity basis; (3) Any renewable energy project that sells electricity to a not-for-profit utility shall be exempt from the fee; and (4) The county shall not impose the fee or increase existing fees for a renewable energy project to which the county has previously granted an application for a real property tax exemption on the land underlying and improvements relating to the renewable energy project.

EFFECTIVE DATE: July 1, 2100.

STAFF COMMENTS: Apparently, this bill was prompted by concern that in late 2021, the city and county of Honolulu real property assessment division unilaterally changed their tax treatment of some parcels of land on which renewable energy projects are sited from agriculture to industrial for tax purposes. This change resulted in a drastic increase in property taxes for affected projects, resulting in some renewable energy project operators receiving bills that were hundreds of times higher than their prior bills.

We in the Foundation covered that change in “Tax Isn’t a Peanut Butter Cup,” reprinted below.

This bill, however, doesn’t provide the answer. Any county can simply decline to impose the in-lieu fee and then becomes free to apply its property tax to such projects as it wishes.

Article VIII, section 3 of the Hawaii Constitution exclusively and directly gives power to the counties to impose real property tax. *State ex rel. Anzai v. City and County of Honolulu*, 99 Hawai‘i 508, 57 P.3d 433 (2002), established that for at least the past twenty years, any county is “free to exercise its exclusive authority to increase, diminish, enact, or repeal any exemptions involving real property taxes without interference by the legislature.” *Id.*, 57 P.3d at 446. The real property tax is imposed by county ordinance, it is imposed on those under the jurisdiction of the county and not of the state, and the money raised belongs to the county imposing it. Particularly, the *Anzai* case involved a state statute purporting to renew the exemption from real property tax that the state government enjoyed when it was administering the real property tax.

Our supreme court said that the state couldn't tell the counties what not to tax. What the bill apparently seeks to achieve is contrary to this principle.

Digested: 2/23/2022



Tax Isn't a Peanut Butter Cup

by Tom Yamachika | posted in: Weekly Commentary | Nov. 28, 2021 | tfhawaii.org

Once upon a time there were some property developers on Oahu.

They thought that agricultural development would be a good thing. There were lots of tax incentives associated with agricultural development.

Then they got the idea that putting some solar panels on the land would be a good thing too. There were lots of tax incentives associated with renewable energy.

So, they put some solar panels on the agricultural land too.

We have agriculture. And we have renewable energy. Are these two great tastes that taste great together?

Come on. Let's be real. We're talking about property tax, not a peanut butter cup. It turned out to be a recipe for disaster.

Clearway Energy Group, for example, submitted testimony to the Honolulu City Council of their plight. These folks built two solar projects on agricultural land, and, they said, incorporate compatible agriculture into their ongoing operations. Solar energy generation is an allowable use on agricultural zoned land under the city's Land Use Ordinance, they argued.

But the real property tax folks saw the situation a little differently.

To get the special ultra-low property tax rate for agricultural use, the landowner had to make a "dedication agreement" with the tax authorities. Basically, the landowner promised to use the property for agriculture for a certain period of time. The tax folks saw solar panels on the properties and said, "Uhm, that's not agriculture." So, they took

away the ultra-low tax rate, and, while they were at it, they took away the property's agricultural classification. It's industrial property, they said, which happens to be taxed at a rate more than double the agricultural rate even without any dedications.

At the end of the day, Clearway had a real property tax bill of \$30,154 for the 2020-21 tax year (they go with a fiscal year ending June 30), but for the 2021-22 tax year the bill jumped to an eye-popping \$835,710.

Clearway's tale of woe attracted a lot of attention, so much that the Council is now considering Bill 39, which is supposed to address this problem, and state agencies aplenty, including the Governor, the State Energy Office, and DBEDT, have weighed in.

One of the reasons behind this kerfuffle is that this is not just Clearway's problem. Any solar project that is located on agricultural land is subject to this kind of reclassification, and the financial impact would vary depending on how much solar went on the land and how much of the land was previously subject to the ultra-low rates for land dedicated to agriculture.

And then, of course, there is the issue of who is going to pay the enhanced tax if the real property tax folks' methodology is upheld. Clearway and the other power producers have long-term agreements with power buyers such as Hawaiian Electric. If this enhanced charge becomes Hawaiian Electric's problem, it then becomes a problem for all of us who pay electric bills. If the enhanced charge impacts the developers, it will send shock waves through the industry of people who finance renewable energy projects because of the risk of a property developer getting overwhelmed by this tax surprise and thereby going into default on its financing.

What a mess!

Ultimately, the City might legislate itself out of this situation, making some allowances for solar and agriculture peanut butter cups. But for the rest of us the moral of the story is that two great tax-favored tastes won't always taste great together, and one must be extremely careful when mix-matching tax incentives.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Testimony of The Hawaii Solar Energy Association Regarding HB 1637 HD1, Relating to Renewable Energy, Before the Senate Committees on Energy, Economic Development and Tourism and Government Operations

Wednesday, March 16, 2022

Chairs Wakai and Moriwaki, Vice-Chairs Misalucha and Dela Cruz, and Committee members, my name is Rocky Mould and I am the Executive Director of the Hawaii Solar Energy Association (HSEA). We **support HB 1637 HD1** which authorizes a county to impose an annual payment in-lieu of taxation on land or improvements on land used to produce or store renewable energy that is sold to an electric utility, under certain conditions.

HSEA members include the majority of locally owned and operated renewable energy companies in the State of Hawaii, employing thousands of local individuals in a diverse set of well-paying jobs including, but not limited to, contractors, designers, electricians, engineers, financiers, installers, salespeople, and service technicians.

HSEA advocates for policies that provide cost-effective, equitable, and high-impact solutions to achieve Hawaii's climate resilience and renewable energy goals by enabling residents and businesses to invest in and benefit from the transition to clean energy. Distributed energy resources (DERs) are the leading contributor to Hawaii's clean energy transition with 45.7% of Hawaii's renewable energy coming from customer-sited, grid-connected solar PV.¹ And now, Hawaii leads the nation, by far, in pairing solar PV with energy storage at 79% of all residential and 38% of all small-scale commercial installations.² These investments in resilient power systems not only save energy costs for residents and businesses, but they also provide energy security and reliability for the entire electricity system as we retire fossil fuel power plants such as the AES coal plant.

HSEA appreciates efforts to clarify and ensure consistent and fair tax treatment of renewable energy projects that sell energy to public utilities. These projects sell energy at predetermined

¹ See Hawaiian Electric's "Key Performance Metrics, Renewable Portfolio Standard compliance" available at <https://www.hawaiianelectric.com/about-us/key-performance-metrics/renewable-energy>.

² See Lawrence Berkeley National Laboratory, *Tracking the Sun, Pricing and Design Trends for Distributed Photovoltaic Systems in the United States* (2021 Edition) at Slide 14 (finding that "Hawaii has, by far, the highest storage attachment rates of any state").



Hawaii Solar Energy Association
Serving Hawaii Since 1977

rates under long term contracts approved by the Public Utilities Commission. As a result, project owners are highly exposed to cost changes outside of their control. A recent tax reclassification of renewable energy projects on agricultural lands by the City and County of Honolulu had the combined impact of shifting these projects to a higher tax rate and increasing the assessed property values to which those higher rates are applied. While a temporary remedy was created in ordinance by the City Council, HSEA believes more needs to be done to ensure appropriate, consistent, and fair tax treatment of renewable energy projects going forward. This bill offers a viable solution and path forward, if enacted.

HSEA **supports Bill 1637 HD1** and humbly asks the Committees to advance the measure.

Thank you for the opportunity to testify.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE SENATE COMMITTEES
ON ENERGY, ECONOMIC DEVELOPMENT, AND
TOURISM and GOVERNMENT OPERATIONS**

H.B. 1637 H.D.1

Relating to Renewable Energy

March 16, 2022

3:00 p.m., Agenda Item #4

State Capitol, Conference Room 224 and Videoconference

Rebecca Dayhuff Matsushima
Vice President, Resource Procurement
Hawaiian Electric Company, Inc.

Chairs Wakai and Moriwaki, Vice Chairs Misalucha and Dela Cruz, and Members of the Committees,

My name is Rebecca Dayhuff Matsushima and I am testifying on behalf of Hawaiian Electric Company, Inc. (“Hawaiian Electric” or the “Company”) in **support** of H.B. 1637 H.D.1, Relating to Renewable Energy, with a requested amendment.

H.B. 1637 H.D.1 proposes to amend Chapter 46, Hawai‘i Revised Statutes, by adding a new section that allows a county the option to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, provided that: (1) the county, by ordinance, exempts the renewable energy project from 100% of real property tax (“RPT”); (2) said in-lieu annual fee is determined by the county on a per megawatt nameplate AC capacity basis; (3) any renewable energy project that sells electricity to a not-for-profit utility shall be exempt from the fee; and (4) the county shall not impose the fee or increase existing fees for a renewable energy project to which the county has previously granted an application for RPT exemption on the land

underlying and improvements relating to the renewable energy project.

Hawaiian Electric supports H.B. 1637 H.D.1, as it is a creative solution that offers an option that will allow counties to avoid the Honolulu RPT issues that arose in 2021. It sets forth a clear and simple calculation of the annual in-lieu fee that will be determined on a per megawatt nameplate AC capacity basis. In addition, the proposed annual in-lieu fee option contains stipulations that protect renewable energy project developers from future cost increases.

However, there are still some areas in the bill that Hawaiian Electric would like to address.

The term "...land or improvements on land that are actively used to produce or store renewable energy..." is not clear and should be defined if this bill were to advance. For example, it is unclear whether land under solar panels or wind turbines would be considered "actively used".

Hawaiian Electric would like to request the following deletion of language in the preamble, as the language misstates a utility's tax liability to the county:

"The purpose of this Act is to provide more certainty for renewable energy developers and ratepayers ~~and ensure that these projects are allowed the same tax exemptions that are already provided to utility-owned energy projects under county law,~~ while also mitigating any potential revenue loss for the county, by authorizing a county to impose an annual in-lieu fee on land or improvements on land that are actively used to produce or store renewable energy that is sold to an electric utility, under certain conditions."

Hawaiian Electric would like to continue to stress that the liabilities of projects currently contracted should not change, as changes to the economics after a project is contracted may cause the project to no longer be viable. If project costs increase,

developers may try to pass on this financial burden to customers through a request to amend a project's power purchase agreement. Additionally, Hawaiian Electric has seen the impacts of increased cost on renewable energy projects currently in development for materials as well as shipping due to the COVID-19 pandemic. Some developers have indicated that the success of their projects are in jeopardy due to such increased costs.

Thank you for this opportunity to support H.B. 1637 H.D.1, Relating to Renewable Energy, and thank you for considering our requested amendments.



Testimony Before the Senate Committees on Energy, Economic Development and
Tourism and Government Operations

By David Bissell
President and Chief Executive Officer
Kaua'i Island Utility Cooperative
4463 Pahe'e Street, Suite 1, Lihu'e, Hawai'i, 96766-2000

Wednesday, March 16, 2022; 3:00 pm
Conference Room #224 & Videoconference

House Bill No. 1637 HD1 - RELATING TO RENEWABLE ENERGY

To the Honorable Senators Glenn Wakai and Sharon Y. Moriwake, Chairs, Senators Bennette E. Misalucha and Donovan M. Dela Cruz, Vice Chairs and Members of the Committees:

Kaua'i Island Utility Cooperative (KIUC) is a not-for-profit utility providing electrical service to more than 34,000 commercial and residential members.

KIUC supports this measure.

Over the past 10 years, KIUC has made great strides in achieving the State of Hawai'i mandate of 100% renewable generation by the year 2045. In 2020, KIUC's energy mix included 67% renewable generation: the highest percentage in the state. We expect to report a similar percentage for 2021.

Achieving the 100% renewable mandate, as well as the benchmarks that have been set between now and 2045, is an extremely challenging task. Our success in reaching nearly 70% renewable a full ten years ahead of the State of Hawai'i's established benchmark is largely attributable to our ability to engage leading renewable companies in power purchase agreements (PPA) that are beneficial for them as well as our members.

Much of KIUC's current renewable portfolio includes hydro, solar and solar/BESS resources that are purchased from third parties via long-term PPA's. These agreements have helped us stabilize rates significantly, as they decouple us from the volatility of oil pricing.

Significant unforeseen additional costs for our renewable energy partners, such as those that created the impetus for this bill, could impact existing PPAs and drive costs up, which will ultimately be borne by members. This bill would minimize that possibility for KIUC.

We encourage you to support HB1637 HD1.

Clearway Energy Group
100 California Street, Suite 400
San Francisco, CA 94111

clearwayenergygroup.com



March 16, 2022

Via Electronic Submittal – *Written Testimony Only*

COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

Sen. Glenn Wakai, Chair
Sen. Bennette E. Misalucha, Vice Chair

COMMITTEE ON GOVERNMENT OPERATIONS

Sen. Sharon Y. Moriwaki, Chair
Sen. Donovan M. Dela Cruz, Vice Chair

Wednesday, March 16, 2022, 3:00 pm
State Capitol, via videoconference

Nicola Park
Origination Manager, Clearway Energy Group
In support of HB 1637
Relating to Renewable Energy

Chairs Wakai and Moriwaki, Vice Chairs Misalucha and Dela Cruz, and Members of the Committees:

Thank you for the opportunity to testify on HB 1637. Clearway Energy Group (“Clearway”) supports the intent of this bill, which highlights the importance of policy certainty in enabling the financing, construction, and operation of renewable energy projects in Hawaii. Long-term certainty about the structure of property taxation for renewable energy projects is essential for the State to be able to achieve its ambitious renewable energy goals.

Clearway operates three solar projects on Oahu totaling 110 MW and has two new solar and battery storage projects currently under construction. Clearway’s Mililani I and Waiawa projects, totaling 75 MW AC of solar generating capacity with 300 MWh of battery storage, are coming online at a critical time for Oahu, when reliability is expected to otherwise decrease following the retirement of the 180 MW coal plant in September 2022.

To make both investment and sustainable operation viable, renewable energy projects must be able to maintain relatively stable expenses and revenues over time. All of Clearway’s projects, as well as other utility-scale renewable energy projects, are contracted under long-

term, fixed-price power purchase agreements. These fixed-price contracts provide 100% of the ongoing revenue to the projects during the duration of the contracts and must cover all operating expenses along with the projects' debt service. The cost and availability of financing for renewable energy projects is dependent upon the risk and variability in the projects' revenues and expenses. Fixed-price contracts typically enable low financing costs, reducing the total cost of the project and enabling greater ratepayer savings – but this is only possible if variability in expenses, including property tax, can also be controlled.

Because it takes years to develop and construct a utility-scale renewable energy project, developers must estimate the property taxes to be paid over the term of the contract at the time they submit bids into a competitive solicitation. While project budgets are set to accommodate normal variability in property taxes over time, they cannot accommodate a change in land classification for real property tax purposes or a change in the assessment method for land or equipment that would result in taxes being substantially different from the status quo as of the time the projects were contracted.

If the Counties had the authority to and were to, in fact, provide a fixed option such as a payment in lieu of taxes (PILOT) that could be reliably calculated upfront for the duration of the project's contract, this would reduce uncertainty and would enable even lower-cost financing for renewable energy projects, which would translate to lower power prices for utility ratepayers.

Clearway hopes that these comments are helpful in informing consideration of HB 1637, and we look forward to working with the Legislature and providing any needed information on our projects.

Thank you for this opportunity to testify.

HB-1637-HD-1

Submitted on: 3/12/2022 1:49:08 PM

Testimony for EET on 3/16/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Keith Neal	Individual	Support	Written Testimony Only

Comments:

Support.

HB-1637-HD-1

Submitted on: 3/12/2022 3:18:01 PM

Testimony for EET on 3/16/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

Stop being so Greedy and Crooked The people of Hawaii have had it with all you crooks in the Government your time is coming to and END!!