



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

JOSH GREEN, M.D.
GOVERNOR

MARK B. GLICK
CHIEF ENERGY OFFICER

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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Thursday, February 9, 2023
2:00 PM
State Capitol, Conference Room 329 and Videoconference

In Support of
HB 348, HD1

RELATING TO RENEWABLE ENERGY.

Chair Nakashima, Vice Chair Sayama, and Members of the Committee, the Hawaii State Energy Office (HSEO) supports HB 348, HD1, which allows the counties to establish, by ordinance, an opt-in program that allows an annual payment in lieu of real property taxes on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility.

HSEO points out recent occurrences where county property tax assessments were suddenly and dramatically increased on certain renewable energy projects on Oahu. Such unexpected and extreme increases in tax liability significantly impact the financial viability of renewable energy projects and may deter developers from bidding on upcoming requests for proposals. For renewable energy projects currently operational and those under development that were selected during a competitive procurement process, after-the-fact tax increases adversely affect Hawaii's reputation as being a great place to invest in renewable energy projects.

While the situation was partially remedied by the City and County of Honolulu's rapid adoption of Ordinance 21-32, HSEO and others have outstanding concerns due to the ordinance's complexity and 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 developing projects were financed, competitively bid, and approved by the Public Utilities Commission.

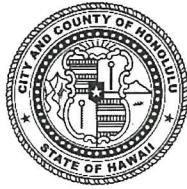
The approach set forth in this bill provides predictability for all parties involved and greatly reduces development risk and costs if adopted by the counties.

HSEO has been informed by the City and County of Honolulu that the provisions of this bill are necessary for the County to take this approach. This is a critical measure to help restore consistency and predictability for future tax revenues of counties by ensuring renewable projects continue to be developed. Reducing risk of future renewable energy projects will ensure Hawaii continues its progress on replacing fossil fueled electricity generation facilities, protecting Hawaii's most vulnerable ratepayers, and advancing the state's renewable energy goals.

HSEO looks forward to working with the counties to adopt an appropriate in-lieu payment for renewable energy projects within their respective real property tax ordinances. This bill will provide the first step in adoption at the county level.

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
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RICK BLANGIARDI
MAYOR

ANDREW T. KAWANO
DIRECTOR

CARRIE CASTLE
DEPUTY DIRECTOR

February 8, 2023

The Honorable Chair Mark M. Nakashima
and Members of the Committee on
Consumer Protection & Commerce
State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Nakashima and Committee Members:

SUBJECT: Testimony in Support of House Bill No. 348 HD1 (2023)
Hearing: Thursday, February 9, 2023, 2:00 p.m., Rm. 329 via videoconference

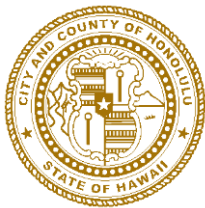
The City supports the State's goal of reaching a one hundred percent (100%) renewable portfolio standard by December 31, 2045. The Department of Budget and Fiscal Services, City and County of Honolulu ("BFS") supports House Bill 348 HD1 (2023) ("HB 348"), which allows the counties to enact an ordinance to assess an annual payment, in lieu of real property taxes ("PILOT"), from independent renewable energy producers who produce renewable energy primarily for public consumption that is sold to an electric utility under a power purchase contract.

Real property taxes are the primary source of revenue that funds many of the City's services. The City assesses *ad valorem* real property taxes, which are based upon both the valuation and classification of the real property. While the City's annual tax rates have remained essentially unchanged for several years, the prices of real estate continue to trend upward, and occasionally spike, due to factors such as home mortgage interest rates, housing inventory levels and demand, and the general state of the economy. HB 348, as presently drafted, may provide financial certainty to renewable energy producers who would pay a rate based upon their megawatt AC nameplate capacity, and allow the counties to collect an annual payment from the renewable energy producers instead of real property taxes to minimize lost revenues to the counties under the PILOT program.

Accordingly, the City respectfully requests that the Committee pass HB 348 without further amendments.

Sincerely,


Andrew T. Kawano, Director
Department of Budget and Fiscal Services



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
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HONOLULU, HAWAII 96813-3065
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February 8, 2023

TO: CHAIR MARK M. NAKASHIMA, COMMITTEE ON CONSUMER
PROTECTION & COMMERCE
VICE CHAIR JACKSON D. SAYAMA, COMMITTEE ON CONSUMER
PROTECTION & COMMERCE

FROM: COUNCILMEMBER CALVIN SAY
HONOLULU CITY COUNCIL, DISTRICT V

SUBJECT: TESTIMONY IN SUPPORT OF HOUSE BILL 348 HD1

Aloha Chair Nakashima, Vice Chair Sayama, and Members of the Committee on Consumer Protection & Commerce:

I am a current member of the Honolulu City Council representing District 5 and serving as the Chair of the Zoning Committee. I stand in **support** of House Bill 348 HD1, which allows the counties to establish, by ordinance, an opt-in program that allows an annual payment in lieu of real property taxes (PILOT) on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility.

In my first two years in the Honolulu City Council, I served as Chair of the Committee on Budget. One of the first pieces of legislation I was faced with was related to the real property tax of energy projects. This legislation ultimately was adopted as Ordinance 21-32. As Hawaii works towards its renewable energy goals of achieving a 100% renewable portfolio standard by 2045, we will need to support more large-scale energy projects around the State.

Currently, our real property taxes are calculated based on highest and best use of the parcel. Exemptions can lower taxable value, however these large-scale energy projects are locked into rates set by the Public Utilities Commission (PUC) at the time of approval by the PUC. A PILOT program would provide predictability to the developers of renewable energy projects, reducing risk to the projects and ensuring continued progress towards our energy goals.

Thank you for this opportunity to testify in **support** of House Bill 348 HD1. Thank you for your time and consideration.



**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

**H.B. 348 H.D. 1
Relating to Renewable Energy**

Thursday, February 9, 2023
2:00 p.m., Agenda Item #9
State Capitol, Conference Room 329 & Video Conference

Greg Shimokawa
Director, Renewable Acquisition
Hawaiian Electric

Chair Nakashima, Vice Chair Sayama, and Members of the Committee,

My name is Greg Shimokawa and I am testifying on behalf of Hawaiian Electric in **support** of H.B. 348 H.D. 1, Relating to Renewable Energy. We appreciate the amendments made in the H.D. 1.

This bill proposes to amend HRS Chapter 46, by adding a new section that allows a county the option to impose an annual in-lieu payment 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"); and (2) said in-lieu annual payment may be determined by the county on a per megawatt nameplate AC capacity basis.

Hawaiian Electric supports H.B. 348, H.D. 1, as it is a creative solution to help mitigate the potential negative impacts of RPT fluctuations on the viability of renewable energy projects. It sets forth a clear and simple calculation of the annual in-lieu payment that will be determined on a per megawatt nameplate AC capacity basis.

Thank you for this opportunity to comment on H.B. 348, H.D. 1.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: REAL PROPERTY, Allow Opt-In Payment In Lieu for Renewable Energy Projects

BILL NUMBER: HB 348 HD 1

INTRODUCED BY: House Committee on Energy & Environmental Protection

EXECUTIVE SUMMARY: Allows the counties to establish, by ordinance, an opt-in program that allows an annual payment in lieu of real property taxes on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility.

SYNOPSIS: Adds a new section to chapter 46, HRS, to allow counties to establish a taxpayer program that allows an annual payment in lieu of real property taxes on land or improvements thereon that are actively used for the production or storage of renewable energy that is to be sold to an electric utility for resale to the public, provided that (1) The ordinance also exempts renewable energy projects from one hundred per cent of real property taxes; and (2) The payment may be determined by the county on a per megawatt nameplate alternating current (AC) capacity basis.

EFFECTIVE DATE: July 1, 3000.

STAFF COMMENTS: The preamble to this bill recites that in late 2021, the City & County of Honolulu real property assessment division changed the classification of some parcels of land from agricultural to industrial for tax purposes as a result of those parcels being developed with renewable energy projects. This change in classification resulted in a drastic increase in property taxes for affected renewable energy projects, resulting in some project operators receiving assessments that were hundreds of times higher than their prior assessments. An increase of this scale was not factored into contract negotiations or other business considerations when the affected projects were financed and under development.

We in the Foundation covered that change in “Tax Isn’t a Peanut Butter Cup,” available at <https://www.tfhawaii.org/wordpress/blog/2021/11/tax-isnt-a-peanut-butter-cup/>.

The current bill does nothing to solve this problem (nor can it, for the reasons that follow).

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

Re: HB 348 HD1

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tax. Our supreme court said that the state couldn't tell the counties what not to tax. Even if this bill is enacted, then, the county still retains power to reclassify property for tax purposes based on what is on it and the State has no power to restrict the county's ability to do this.

Digested: 2/7/2023

Clearway Energy Group
100 California Street, Floor 4
San Francisco, CA 94111

clearwayenergygroup.com



February 8, 2023

Via Electronic Submittal

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Mark M. Nakashima, Chair
Rep. Jackson D. Sayama, Vice Chair

Rep. Terez Amato	Rep. Nicole E. Lowen
Rep. Della Au Belatti	Rep. Richard H.K. Onishi
Rep. Mark J. Hashem	Rep. Adrian K. Tam
Rep. Natalia Hussey-Burdick	Rep. Elijah Pierick
Rep. Cedric Asuega Gates	

Thursday, February 9, 2023, 2:00 pm
State Capitol, Via Videoconference, Conference Room 329

Nicola Park
Origination Manager, Clearway Energy Group
Testimony In Support of HB 348
Relating to Renewable Energy

Chair Nakashima, Vice Chair Sayama, and Members of the Committee:

Thank you for the opportunity to testify on HB 348.

Clearway Energy Group ("Clearway") supports this bill. This bill addresses the importance of policy certainty in enabling the financing, construction, and operation of renewable energy projects in Hawaii. Long-term certainty relating to the structure of property taxation for renewable energy projects is essential for the State to be able to achieve its ambitious renewable energy goals. This bill gives the Counties another potential policy approach for achieving these goals by way of a Payment in Lieu of Taxes (PILOT).

Clearway has developed renewable projects in Hawai'i since 2019, including a 45.9 MW site in Waipi'o, a 14.7 MW site in Mililani, and a 49 MW site in Kawailoa on O'ahu's North Shore. In addition, in August 2022, Clearway completed O'ahu's first utility-scale solar and

battery project in the Mililani Agricultural Park, consisting of a 39 MW solar power plant paired with a 156 MWh battery storage system. Lastly, this month (January 2023), Clearway announced that it has achieved commercial operations on its 36-megawatt (MW) solar farm with 144 MWh of battery storage in Waiawa in Central O'ahu. Altogether, the five projects Clearway developed on Oahu total 185 MW for Hawaiian Electric's grid and generate enough clean electricity to power more than 45,500 O'ahu homes each year.

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 taxes, 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 make possible even lower cost financing for renewable energy projects, which would translate to lower power prices for utility ratepayers.

For these reasons noted above, Clearway supports HB 348. Thank you for this opportunity to testify.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Testimony of The Hawaii Solar Energy Association (HSEA) Regarding HB348 HD1, Relating to Renewable Energy, Before the House Committee on Consumer Protection and Commerce

February 9, 2023

Aloha Chair Nakashima, Vice Chair Sayama and committee members:

The Hawaii Solar Energy Association (HSEA) **supports HB348 HD1**, which authorizes the counties to establish by ordinance an opt-in payment in-lieu of taxation (PILOT) program for renewable energy projects.

HSEA members include the majority of locally owned and operated renewable energy companies doing business in the state along with leading global cleantech manufacturers and service providers that invest and sell in our market. We employ thousands of residents in diverse green economy jobs that are innovating, designing, and building Hawaii's pathway to a renewable energy future. We advocate for policies that help Hawaii achieve critical climate and resilience goals by enabling residents and businesses to invest in and benefit from the transition to clean energy. Rooftop solar PV is the leading contributor to Hawaii's clean energy portfolio, making up 44.6% of all renewable energy in the state.¹ These investments provide reliable and affordable power that reduces energy cost burden for all and contributes to Hawaii's energy security as we decarbonize our economy and electric grid.

On principle, renewable energy projects on agricultural or other lands as contemplated in this bill should not be classified and taxed at the same rates as industrial properties because they have markedly different attributes, benefits, and impacts.

First, larger-scale renewable energy generation and storage projects are critical components of Hawaii's resilience and sustainability goals that benefit the public good and therefore are rightly incentivized by state and county policies -- a countervailing city or county policy that suppresses the market for these projects would work against these clearly understood objectives.

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>.



Hawaii Solar Energy Association
Serving Hawaii Since 1977

Second, renewable energy projects are not permanent and can be removed from properties with the land reverting back to prior use with little or no significant degradation. Solar and storage farms if properly permitted and constructed do not create “brownfields.”²

Third, solar panels and energy storage can co-exist with and enhance agricultural practices and therefore support food security and resilience and the preservation of agricultural lands.

Finally, independent power producers that develop energy generation and storage projects for Hawaii’s electric grid should not be treated differently than utility-owned properties that serve the same purpose and need and receive property tax exemptions or otherwise favorable treatment.

We appreciate the collaborative efforts to remove confusion in the market and ensure consistent, appropriate, and fair treatment of renewable energy projects that sell energy to public utilities. We will continue to advocate for additional improvements and this bill offers a viable compromise path forward.

Thank you for the opportunity to testify in **support of HB348 HD1**.

Sincerely,

/s/ Rocky Mould

Rocky Mould
Executive Director

² From the OED, a *brownfield* is defined as “a former industrial or commercial site where future use is affected by real or perceived environmental contamination.”



Email: communications@ulupono.com

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Thursday, February 9, 2023 — 2:00 p.m.

Ulupono Initiative supports HB 348 HD1, Relating to Renewable Energy.

Dear Chair Nakashima and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy and clean transportation choices, and better management of freshwater resources.

Ulupono supports HB 348 HD1, which allows the counties to establish, by ordinance, an opt-in program that allows an annual payment in lieu of real property taxes on the land or improvements thereon that are actively used to produce or store renewable energy that is sold to an electric utility.

Ulupono supports the State's commitment to generate 100% of its electricity from renewable energy sources by 2045. To achieve this goal, all counties will undoubtedly need to rely on commercial-scale renewable energy projects. As such, regardless of the process that derived such significant increases in property taxes on certain renewable energy projects, Ulupono supports the intent of this measure to ease the newly created tax burden on certain renewable energy projects.

Ulupono believes that counties should also be cognizant of the process by which renewable energy developers establish their pricing. Increasing property taxes for existing and future renewable energy projects will almost certainly increase the cost of renewable energy and affect the viability/timeline of renewable energy projects in development, slowing the pace at which Hawai'i can achieve its 2045 clean energy goal.

We appreciate the State's attempt to allow positive county alternatives to support renewable energy projects across Hawai'i.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs

Investing in a Sustainable Hawai'i



February 8, 2023

Testimony in support of **HB 348**

Aloha Legislators,

I am writing to express my support for this bill, on behalf of Longroad Energy. I have worked in renewable energy development in Hawai'i for the past 15 years for several different development companies and have led the development of about 50% of the utility scale wind and solar projects that are operating today in our state.

One of the risks in developing large energy projects in Hawai'i is that a county could decide to increase property tax rates **after** an energy project has locked in its price in a contract with the utility – or even after a project has finished construction. This happened to First Wind on Maui. After the Kaheewa Wind project was built and began operating, Maui County increased property taxes on wind energy projects, and the project's tax bill went up significantly, with no way to adjust pricing to compensate. More recently, in the City and County of Honolulu, a change in interpretation of tax rules led to a significant increase in property taxes for some large solar projects that had already been completed.

Of course, counties should be able to set property taxes as they deem appropriate, but energy projects need some certainty in their future tax payments, so they can keep energy prices as low as possible and help reduce electricity costs to consumers. This bill would allow counties to set a predictable dollar amount, in the form of a payment in lieu of taxes (PILOT). If passed, the bill would establish a mechanism to enable counties to receive substantial revenue from large energy projects -- and enable energy developers to make a predictable payment, for the duration of the project. Counties are not required to implement the PILOT, but it offers them an alternative to facilitate more clean energy projects on their islands.

This bill will encourage more energy companies to do business in Hawaii, raise more revenue for counties, and help **reduce electricity bills for Hawai'i's residents and businesses.**

Mahalo,

A handwritten signature in black ink, appearing to read "Wren W. Wescoatt".

Wren W. Wescoatt
Vice President of Development
wren.wescoatt@longroadenergy.com
808-780-1000

CONFIDENTIAL

HB-348-HD-1

Submitted on: 2/6/2023 6:39:31 PM

Testimony for CPC on 2/9/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Please support HB348.

HB-348-HD-1

Submitted on: 2/7/2023 11:05:26 AM

Testimony for CPC on 2/9/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

I support HB348 which will assist our conversion to 100% renewable energy.