Bill 39 (2021)
Testimony

MISC. COM. 559

BUD

TESTIMONY OF
JAMES P. GRIFFIN, Ph.D.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAI'I

TO THE
CITY COUNCIL
CITY AND COUNTY OF HONOLULU
COMMITTEE ON BUDGET

Wednesday, October 20, 2021
9:00 AM

Chair Calvin Say and Members of the Committee:

MEASURE: BILL 39 (2021), CD 1

TITLE: RELATING TO REAL PROPERTY TAXATION

DESCRIPTION: The purpose of this ordinance is to amend the provisions relating to the renewable energy improvements real property tax exemption.

POSITION:

The Public Utilities Commission offers the following comments for consideration.

COMMENTS:

The Public Utilities Commission (Commission) supports the intent of this measure to encourage renewable energy generation projects and increase clarity around applicable tax treatment for them. However, the Commission is concerned this measure could still result in significant uncertainty and potential cost increases for many existing and future renewable energy projects throughout Oahu. This includes solar photovoltaic (PV) projects currently in operation, proposed community-based renewable energy (CBRE) projects, renewable and storage projects that will soon be constructed, and potentially additional projects that would be the result of future competitive solicitations for new renewable energy.

The Commission is working closely with the Hawaii State Energy Office, the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, City and

County of Honolulu Department of Budget and Fiscal Services, and other stakeholders to propose revisions to this measure. The Commission therefore respectfully requests additional time to finalize and submit these proposed revisions for the Council's consideration.

The renewable and storage projects that could be affected by this measure are critically important to meet the island's energy needs following the September 2022 retirement of Oahu's single largest generator, the 180 MW AES coal-fired power plant.

Many of the projects that are currently in development are the result of an extensive two-stage competitive procurement process for renewable and dispatchable energy resources. Over the duration of the contracts for these resources (20-25 years), these projects are expected to yield over $866 million in net savings to customers, avoid 26.8 million barrels of fossil fuel, avoid over 11.9 million metric tons of greenhouse gases, contribute significant renewable generation to help meet the State's Renewable Portfolio Standards ("RPS") goals, and reduce customer exposure to fuel price volatility by adding renewable generation and storage to the system at a fixed price.

When the pricing for these projects was determined during the competitive procurement process, the electric company and each project developer made agreements based on certain assumptions about existing federal, state, and county tax policies. Because these projects have established contracts with a fixed price, significant changes to the interpretation or application of the real property tax provisions could result in delays to these projects due to the potential for requests to renegotiate contracted prices.

Oahu still has a long way to go to reach the State's 100% RPS goals. The next round of renewable project development will also need to factor property taxes into project pricing before contracts are finalized. Future projects should be given the opportunity to prepare for any potential tax changes and factor such costs into project pricing. The Commission therefore respectfully requests additional time to finalize and submit proposed revisions to this measure for the Council's consideration.

Thank you for the opportunity to testify on this measure.

From:	CLK Council Info
Sent:	Tuesday, October 19, 2021 8:26 AM
Subject:	Budget Testimony

Written Testimony

Name	Kirsten Baumgart Turner
Phone	
Email	kirsten.b.turner@hawaii.gov
Meeting Date	10-20-2020
Council/PH Committee	Budget
Agenda Item	13. Bill 39 Real Property Taxation
Your position on the matter	Comment
Representing	Organization
Organization	Hawaii State Energy Office
Written Testimony	
Testimony Attachment	
Accept Terms and Agreement	1

IP: 192.168.200.67

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
Committee on Budget
October 20, 2021
9:00 AM
Via Videoconference

On the following measure:
BILL 039 (2021), CD1, RELATING TO REAL PROPERTY TAXATION

Chair Say 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 offers comments on this bill.

The stated purpose of this ordinance is to amend the provisions relating to the alternate energy improvements real property tax exemption. CD 1 clarifies that a renewable energy installation with ongoing active production shall be exempt from real property taxes upon application and approval by the director. The land used for the installations is also eligible for an exemption of 80 percent of the value imposed by the chapter if the renewable energy production is "primarily for use, distribution, or sale to public utilities or for public consumption, and does not apply to the production of renewable energy primarily for personal use or used to sustain private enterprises or operations."

The Consumer Advocate has significant concerns with the potential impact of Section 8-10.15 ROH and offers the following comments for the Committee's consideration.

First, the Department notes that the State of Hawaii has adopted policies that are requiring the transition of Hawaii's energy industry away from fossil fuel generation to renewable sources of energy.[1] The Department also notes that the City and County of Honolulu (County) has adopted similar goals, as is reflected in the County's Climate Action Plan, which has an overall goal of being carbon neutral by 2045.

Among the primary objectives of the Department is to ensure that utility services are affordable and the Department has concerns with recent interpretations related to the calculation of property taxes for renewable energy projects and how those interpretations have created significant increases that may result in increases in customers' electricity bills. Even with the proposed modifications to Section 8-10.15 ROH, it is likely that there will be increases in customers' electricity bills. The Department continues to research this matter since it only recently found out that Section 8-10.15 ROH may affect existing renewable energy projects already delivering renewable energy facilitating compliance with the State's RPS and the County's climate action plan, projects that are currently being contemplated, as well as the feasibility and viability of future projects.

Based on the understanding that Section 8-10.15 ROH may significantly increase the property tax liabilities for current and future projects, this would translate into higher power purchase agreement prices that are passed onto electric customers. To clarify, when projects are developed by independent power producers (IPPs), these IPPs charge the utility company for the energy and capacity, where applicable, that is provided by that IPP. Those costs are passed through directly to electric customers. Thus, if the IPPs will be required to pay higher property taxes, those costs will be passed through and all residential customers, i.e., residential, commercial, industrial, and governmental customers, will all pay higher electricity rates and bills. The Department appreciates that the Bill 39 CD1 – CS1 seeks to restore some of the exemption from property taxes to

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1 See, e.g., Hawaii Revised Statutes § 269-92, which has adopted a renewable portfolio standard that is targeting 100% renewable energy by 2045.

renewable energy projects but the Department is concerned with the prospect of any increases in property taxes that will be passed through in electricity rates, especially during the ongoing pandemic where many customers are struggling to pay bills. There are remaining questions and concerns about the application of the current language as well as the proposed modifications. The Department believes it would be prudent to allow for additional analysis and discussion to facilitate a clear understanding of the likely ramifications.

For that reason, the Department respectfully requests that the Committee carefully consider the potential impacts that the recently adopted interpretation of property tax assessments for renewable energy projects, the potential impacts on all consumers' bills, the potential impacts on existing and future renewable energy projects, and the apparent inconsistency between the State's and County's clean energy and climate plans and the proposed modification on how property taxes are and may be calculated for property on which renewable energy projects exist. The Department believes that, if such factors are considered, it may be reasonable to consider additional modifications to Section 8-10.15 ROH that would not adversely affect the State's and County's clean energy and climate plans. The Department does not have any proposed alternative language because it believes that additional analysis is necessary to avoid creating even further unintended and undesirable consequences but is willing to work with other State agencies, such as the Hawaii State Energy Office and the Public Utilities Commission who are submitting testimonies on Bill 39, as well as County agencies.

The Department appreciates the opportunity to offer these comments for the Committee's consideration.

Hawaiian Electric

TESTIMONY BEFORE THE COMMITTEE ON BUDGET

BILL 39, CD 1 (Proposed)
RELATING TO REAL PROPERTY TAXATION

Wednesday, October 20, 2021
9:00 a.m.
City Council Chamber

Greg Shimokawa
Manager, Energy Procurement
Hawaiian Electric Company, Inc.

Chair Say, Vice Chair Cordero, and Members of the Committee,

My name is Greg Shimokawa and I am submitting written testimony on behalf of Hawaiian Electric Company, Inc. ("Hawaiian Electric") **in support** of Bill 39, Proposed CD 1, Relating to Real Property Taxation.

Hawaiian Electric supports the proposed amendments in Bill 39 that clarify the real property tax exemptions that will apply to renewable energy projects sited on agricultural land. The bill allows for a real property tax exemption for renewable energy projects equal to 80 percent of its value from the measure of the taxes imposed by this chapter. Hawaiian Electric is supportive of such a measure as any real property tax assessed to such projects would be included in a developer's project price and passed on to Hawaiian Electric's customers. This would serve to eliminate the benefits such higher taxes may provide to residents of O'ahu.

In addition, Hawaiian Electric has recently seen the impacts of increased costs on renewable energy projects for materials as well as shipping due to the COVID-19 pandemic. Some developers have indicated that the success of their projects is in jeopardy due to such increased costs. Additional increased costs due to unanticipated taxes may further jeopardize the success of these projects.

Hawaiian Electric appreciates that Bill 39 is consistent with the State's 100% renewable energy goals and will provide more cost certainty to developers so that they can propose projects that will maximize benefits to all customers.

Thank you for this opportunity to comment.

100 California Street, Floor 4
San Francisco, CA 94111

Clearwayenergygroup.com

Clearway

October 19, 2021

Councilmember Calvin Say, Chair Budget Committee
Councilmember Radiant Cordero, Vice-Chair Budget Committee
Honolulu City Council
530 S. King Street, Room 202
Honolulu, Hawaii 96813

RE: Bill 39 (2021) Relating to Real Property Tax Exemption
Testimony IN SUPPORT WITH REQUESTED AMENDMENTS

Dear Chair Say, Vice Chair Cordero, and Members of the Budget Committee:

My name is Nicola Park, Origination Manager for Clearway. Clearway is one of the largest clean energy companies in the United States, operating 4.4 GW of solar and wind assets across 28 states, with the capacity to power about 2.7 million homes. Clearway operates three solar projects on Oahu totaling 110 MW. These include Waipio Solar (45.6 MW), Kawailoa Solar (49 MW), and Mililani II/ Lanikuhana Solar (14.7 MW). Additionally, Clearway has two projects currently under construction on Oahu, which include the Waiawa and Mililani I Solar projects, totaling 75 MW and 300 MWh of battery storage. Clearway's mission is to generate clean, competitive, and reliable energy; to do good by our customers, our communities, our environment, and our people.

Clearway's Waipio and Lanikuhana Solar projects were completed and operational in 2019. Both projects are located on agricultural land and incorporate agriculture into the ongoing operations of the project. Renewable energy is a compatible use under the projects' agricultural zoning. <u>Unfortunately, both projects received real property tax bills in the 2021/ 2022 tax year which were 345 times the amount of prior year liabilities when the Real Property Assessment Division ("RPAD") classified and assessed solar power generation uses as industrial rather than agricultural. There was no change in law or ordinance or other trigger for this change in tax treatment</u>. The RPAD created these described liability increases by claiming that the "highest and best use" of our solar projects' land is industrial despite the fact that the land is zoned for agriculture and is not permitted for industrial use. There is no precedent for this interpretation for any other operational utility scale solar projects. We believe the RPAD has fundamentally misapplied the appraisal concept of highest and best use, which is the valuation principle that land, or improved property, should be valued according to its reasonably probable and legally permissible use. Industrial use is not permitted on this property, and renewable energy does not in itself constitute industrial use of the land. To the

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contrary, renewable energy is much less disruptive to the land than commercial or industrial development, and in many cases is compatible with ongoing agricultural use. In the case of Clearway's Waipio Solar project, compatible agricultural use is required under the projects' State land use permit, whereby Clearway contracts with a sheep farmer to raise and graze 250 head of sheep throughout the term of the PPA.

The impact of reassessment under industrial land valuation and industrial rates is catastrophic for Clearway's operating solar projects. The partial reclassification of Mililani II's agriculture land to industrial land has yielded a year-over-year taxable value increase of ~$29.8M, which translates to an increase of ~$371k in annual property tax liabilities over the 40-year life of the project. Likewise, the portion of Waipio's land that was reclassified from agriculture to industrial land creates a year-over-year taxable value increase of ~$35.1M or ~$437k in annual property taxes over the 40-year life of the project. The assessed value of the Waipio Solar land increased 210 times (from $168,000 to $35,283,600) due to the new assumption that the 'highest and best use' of the land would be for industrial purposes rather than agriculture, at a fair market valuation that appears to be arbitrary, with unclear methodology, for determining the value of industrial land on Oahu.

Additionally, the described land classification change to industrial also increased the tax rate from $5.70/$1,000 to $12.40/$1,000, leading to property tax bills that were 345 times higher on a year-over-year basis. The projects have no ability to absorb such astronomical operating expense increases. These assets operate under fixed-price power purchase agreements (PPAs) with Hawaiian Electric that were approved by the Public Utilities Commission (PUC) in 2019. The increased assessed values and corresponding real property tax rates are devastating to these important energy projects for Oahu and the State and will bankrupt them.

Importantly, this issue is also creating significant risk for Clearway's Mililani I and Waiawa Solar Power projects, which are currently under construction. The PUC earlier this month approved amendments to the projects' PPAs, under which Clearway will accelerate completion of the projects to July 2022 and September 2022 so that they can help improve the reliability of Oahu's power grid following retirement of the 180 MW AES coal power plant in September 2022. Mililani I and Waiawa Solar's schedule acceleration is of critical importance to the island and the State, and is now at risk due to the uncertainty surrounding solar land property tax assessments, which would jeopardize the projects' economic viability.

Clearway is simply seeking to retain the property tax structure that was in place when the projects were developed, contracted, and financed, which is to have the sites continue to be assessed as agricultural land. Taxing renewable energy not located in industrial zones at industrial rates is counter to State policy and the existing real property tax exemption previously passed by the City that already applies to renewable

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energy improvements. The underlying land for renewable energy projects should not be assessed as industrial land unless industrial use is allowable per City and County zoning and permitting rules.

Resolving the issue of tax classification for renewable energy projects is critical if the State is to keep existing renewable energy projects operational, as well as allow the renewable energy projects already contracted by Hawaiian Electric, such as Clearway's Waiawa and Mililani Solar projects to continue construction and operations. For projects that are due to be financed in the in the coming years by Clearway or other independent power producers, this change in interpretation threatens Hawaii's ability to meet its 100% renewable energy goal by 2045.

As currently drafted, Bill 39 would simply reduce the tax rate or tax bills applicable to property where renewable energy is located rather than fundamentally address the change in interpretation of renewable energy as an industrial use. Bill 39 does not address the core problem in the reassessment of Clearway's solar energy sites, which is the dramatic increase in assessed value as well as tax rate due to the assumption that renewable energy is primarily an industrial use. <u>Rather than propose amendments to Bill 39, Clearway's proposed amendment to the bill, discussed below, would clarify that land where a renewable energy project is sited would retain its previous classification after the project is installed</u>. This would mean that renewable projects proposed and built on commercial or industrial lands would continue being taxed at those historical rates, and similarly that projects built and operating on agricultural lands could be eligible for the fully dedicated agricultural use as they previously were eligible.

Accordingly, Clearway respectfully requests that Bill 39 be replaced in its entirety with the following amendment to Section 8-7.1(c)(2), Revised Ordinances of Honolulu 1990, as amended (proposed new language bolded and underlined):

> (2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, and such other factors which influence highest and best use.
>
> Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.
>
> **<u>Notwithstanding any law to the contrary, the director shall not change the classification of land used for the active production or storage of renewable energy to a different class as described in Section 8-7.1(c), due to the use or permitted use of land for the active production or storage of renewable energy.</u>**

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"Renewable energy" should be defined as follows:

> Renewable energy means the production or storage of energy generated or produced using the following sources: wind, sun, falling water, biogas, geothermal, ocean water, currents and waves, biomass, biofuels, and hydrogen produced from renewable energy sources.

In addition, this amendment must be made retroactive to prior to the 2021 real property tax year to address RPAD's applicable re-classifications for the 2021/22 real property tax year, as such decision was formally rendered by October 1st, 2020, though Clearway was not aware of the decision until the following year.

We humbly ask this committee to consider our request to fully amend the CD1, or allow key stakeholders time to propose a new Bill, so that we can continue operating and constructing our renewable energy assets on Oahu.

We are available to answer any questions or provide any additional information.

Mahalo,

Nicola Park
Clearway Energy Group

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San Francisco, CA 94111

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RELATING TO REAL PROPERTY TAXATION.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the provisions relating to the alternate energy improvements real property tax exemption.

SECTION 2. Section 8-7.1(c), Revised Ordinances of Honolulu 1990, is amended to read as follows:

(c) (1) Real property shall be classified, upon consideration of its highest and best use, into the following general classes, unless it qualifies for a different class as defined in this section:

(A) Residential;
(B) Hotel and resort;
(C) Commercial;
(D) Industrial;
(E) Agricultural;
(F) Preservation;
(G) Public service;
(H) Vacant agricultural; and
(I) Residential A.

(2) In assigning real property to one of the general classes, the director shall give major consideration to the districting established by the city in its general plan and zoning ordinance, and such other factors which influence highest and best use.

Notwithstanding the city's zoning district classification, the director shall assign to the agricultural class any real property classified as tree farm property under HRS Chapter 186.

<u>Notwithstanding any law to the contrary, the director shall not change the classification of land used for the active production or storage of renewable energy to a different class as described in Section 8-7.1(c), due to the use or permitted use of land for the active production or storage of renewable energy</u>.

"Renewable energy" means the production or storage of energy generated or produced using the following sources: wind, sun, falling water, biogas, geothermal, ocean water, currents and waves, biomass, biofuels, and hydrogen produced from renewable energy sources.

From: CLK Council Info
Sent: Tuesday, October 19, 2021 11:11 AM
Subject: Budget Testimony

Written Testimony

Name	Wren Wescoatt
Phone	
Email	wren.wescoatt@longroadenergy.com
Meeting Date	10-20-2021
Council/PH Committee	Budget
Agenda Item	Bill 39
Your position on the matter	Oppose
Representing	Organization
Organization	Longroad Energy
Written Testimony	Aloha. My name is Wren Wescoatt, Director of Development for Longroad Energy. I have been designing and developing wind and solar energy projects in Hawaii for 14 years for several different companies, and I have been the lead developer for about 50% of the utility-scale wind and solar projects currently operating in the state. As Hawaii moves toward 100% clean electricity by 2045, there has been excellent cooperation between developers, utilities, the PUC and state and county departments to keep these projects moving forward and to keep electricity prices as low as possible for local ratepayers. As long as clean energy remains inexpensive, then people don't have to choose between cleaner power and cheaper power: we get both. Recently, the Real Property Assessment Division decided to change the way they had been assessing land under solar projects, now saying that solar equipment on agricultural land should be assessed as "industrial use," which massively increased the real property tax due for solar projects. The problem is not the tax rate, but the assessment, which they just started doing in a new way. We are currently developing a solar project on agricultural land and planning to work with local farmers and ranchers to keep that land under the panes in agricultural use. We worked with DPP and the Honolulu Planning Commission and the state Land Use Commission to approve a special use permit to continue agriculture in and around our project. This also keeps the taxes low and keeps energy prices low. But if RPAD comes in after the fact and suddenly decides to assess the land as "industrial", then our tax would increase from an $3000 per year to more than $1.2 million per year. This is enough to kill most solar projects that have already been approved by the PUC, some of which are already in construction. Bill 39 will do the opposite of what is intended, actually INCREASING taxes on solar projects. We don't need a lower tax rate. We need clarity on how RPAD assess the land. We need a bill that clarifies that RPAD will assess land under renewable energy projects according to the underlying land classification, so that solar projects providing dual-use of land for local agriculture and local clean energy don't get taxed in a way that drives up

everybody's electric bills.

Mahalo,
Wren Wescoatt
Director of Development
Longroad Energy

Testimony Attachment	
Accept Terms and Agreement	1

IP: 192.168.200.67

Hawaiian Electric

TESTIMONY BEFORE THE COMMITTEE ON BUDGET

REVISED Written Comments regarding BILL 39, CD 1 (Proposed)

A REQUEST FOR AMENDMENTS TO SECTION 8-10.15, REVISED ORDINANCES OF HONOLULU 1990, RELATING TO REAL PROPERTY TAXATION

Wednesday, October 20, 2021
9:00 a.m.
City Council Chamber

Greg Shimokawa
Manager, Energy Procurement
Hawaiian Electric Company, Inc.

Dear Chair Say, Vice Chair Cordero, and Members of the Committee,

My name is Greg Shimokawa and I am **resubmitting revised written testimony** on behalf of Hawaiian Electric Company, Inc. ("Hawaiian Electric") **commenting on** Bill 39, CD1 (Proposed), Relating to Real Property Taxation. **For the record please replace our earlier testimony submitted on October 19, 2021 with this testimony.**

Hawaiian Electric supports the intent of the proposed amendments to Bill 39 to the extent that they clarify the real property tax exemptions that will apply to renewable energy projects sited on agricultural land. The bill allows for a real property tax exemption for renewable energy projects equal to 80 percent of its value from the measure of the taxes imposed by this chapter if approved by the director.

To the extent that this bill would change the tax treatment for any existing projects, Hawaiian Electric would oppose such modifications. Hawaiian Electric believes that projects that with executed power purchase agreements should be treated under the tax laws in place at the time those agreements were executed.

Hawaiian Electric has recently seen the impacts of increased cost on renewable energy projects for materials as well as shipping due to the COVID-19 pandemic. Some developers have indicated that the success of their projects is in jeopardy due to such increased costs. Additional increased cost due to unanticipated taxes may further jeopardize the success of these projects. The potential for drastic changes in the real property tax liability for projects currently in operations could also have unintended negative consequences for their continuing viability. In addition, for future projects, any real property tax assessed to such projects would be included in a developer's project price and passed on to Hawaiian Electric's customers. This would serve to eliminate the benefits such higher taxes may provide to residents of O'ahu.

Hawaiian Electric urges further consideration of the effects and potential unintended consequences of Bill 39, CD1 (Proposed) and emphasizes that cost certainty for developers and renewable project owners is important for continuing progress towards the State's 100% renewable energy goals, with projects that will maximize benefits to all customers.

Thank you for this opportunity to comment.

HAWAII STATE ENERGY OFFICE
STATE OF HAWAII

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DAVID Y. IGE
GOVERNOR

SCOTT J. GLENN
CHIEF ENERGY OFFICER

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Testimony of the
Hawai'i State Energy Office

before the
Honolulu City Council
Committee on Budget

Wednesday, October 20, 2021
9:00 AM
Via Videoconference

Comments in consideration of
BILL 039 (2021), CD1
RELATING TO REAL PROPERTY TAXATION

Chair Say and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers the following comments on Bill 39 (2021), CD1, which amends Section 8-10.15, Revised Ordinances of Honolulu (ROH) 1990 (Real Property Tax) relating to the real property tax exemption for alternate energy improvements.

HSEO's comments are guided by its statutory purpose under Hawai'i Revised Statutes Section 196-71 and its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, and carbon negative economy by 2045. The island of O'ahu achieved just under 31% electricity generation from renewable energy in 2020. The execution of the City and County of Honolulu's climate action policy to transition to 100% renewable energy and achieve net negative carbon emissions by 2045 will require replacing 69% of Oahu's remaining electricity with non-fossil sources over the next 23 years.

The issue being addressed, and potential solution being proposed by Bill 39, CD1, must be carefully considered from the perspective of impacts on three categories of renewable energy projects: (1) projects already in existence and operation; (2) projects now under development and undergoing regulatory review; and, (3) future projects and those conducting early due diligence.

HSEO strongly recommends maintaining the original tax classifications that were in place at the time projects existing and under development were financed and approved by the Public Utilities Commission (PUC).

HSEO has been working with the PUC, the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs, the City and County of Honolulu 's

Department of Budget and Fiscal Services, and other stakeholders. HSEO feels additional stakeholder coordination is needed to ensure the intended purpose of the bill is met while avoiding unintended consequences.

Applicability to Existing Projects

Currently, there are at least eleven (11) solar photovoltaic (PV) projects each exceeding 0.5 megawatts (MW) on City zoned agricultural land. In total these projects provide approximately 154 MW of production capacity on O'ahu's grid and play an important role in producing renewable energy for the community.

A change in tax liability will significantly impact project finances, which may have a ripple effect on power purchase agreements, requiring renegotiations with the utility and renewed Public Utilities Commission (PUC) approvals, and affecting project viability and timelines.

To avoid this, HSEO recommends taxing the land at the value it was zoned for as determined by the City's general plan and zoning ordinance, as past precedent has been for these projects. For these reasons, HSEO believes Bill 39 should be amended to maintain the current tax liability as estimated under the power purchase agreements that were approved by the PUC.

Applicability to Projects Now Under Development

There are currently eight (8) utility-scale solar PV plus storage projects under Hawaiian Electric's Stage 1 and Stage 2 Requests for Proposals (RFP) that have already completed the necessary financing analysis and have been approved by the PUC. For these projects, the approved monthly payment does not change for the entire term of the contract (20-25 years). Pricing for these projects is based on the past precedent of real property taxes, which prior to 2021, assessed the land property tax at the rate in which the project parcel(s) were zoned according to the City's general plan and zoning ordinance. These projects were competitively bid through Hawaiian Electric's procurement process and the proposed unit price was a primary determining factor in their selection over other projects. The competitive bidding process began in 2017 for Stage 1 projects and 2018 for Stage 2 projects. Significant changes to property taxes would impact the financing of these projects and could ultimately result in the need to renegotiate their contracted prices or, in the most extreme case, discontinue the projects altogether.

Collectively, the approved Stage 1 and 2 projects will contribute over 356 MW of energy, equivalent to powering over 139,000 homes. The paired storage components provide 1,563 MWh of energy storage capacity which will increase grid reliability, provide needed renewable energy during periods of intermittency or non-sunlight hours, and increase O'ahu's overall energy resiliency. These projects collectively represent cost savings of over $866 million net present value in 2022 dollars over their contract term. These savings benefit all utility rate payers. These projects will also contribute to an estimated 1,500 construction and skilled labor jobs over the next two to three years and approximately 30 permanent jobs on O'ahu.

In addition to the PUC-approved Stage 1 and 2 projects there are other large solar PV projects planned on O'ahu that could be impacted by Bill 39 such as those under the community-based renewable energy program and Hawaiian Electric's Feed-in-Tariff program.

Applicability to Future Projects

The project financing for projects that will be developed in the future will also be impacted by Bill 39. If land property tax increases, future proposed projects will likely seek higher energy unit prices from Hawaiian Electric. Increased prices would ultimately be passed down to the electricity rate payer, impacting the electric bill of all O'ahu residents, with low and middle income residents bearing a higher energy burden.

Should the City Council decide to increase real property taxes for future renewable energy projects, HSEO recommends the increase be modest to lessen the burden on ratepayers. HSEO also recommends significant advance notice be provided for prospective project developers.

HSEO believes this is an important issue that could have repercussions for all O'ahu residents and looks forward to the discussions of appropriate taxation for renewable energy projects.

HSEO appreciates the opportunity to offer these comments for the Committee's consideration.