Bill 39, CD1
Testimony

MISC. COM. 574

Email: communications@ulupono.com

HONOLULU CITY COUNCIL REGULAR MEETING
Wednesday, November 10, 2021 — 10:00 a.m.

Ulupono Initiative supports the intent and offers comments on Bill 39 (2021) CD 1, Relating to Real Property Taxation.

Dear Chair Waters and Members of the Council:

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, and better management of freshwater and waste.

Ulupono supports the intent and offers comments on Bill 39 (2021) CD 1, which amends the provisions relating to the alternate energy improvements real property tax exemption.

Ulupono supports the State's commitment to generate 100% of its electricity from renewable energy sources by 2045. To achieve this goal, O'ahu will undoubtedly need to rely on commercial-scale renewable energy projects. As such, and 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.

However, while we appreciate the economic stress that the County has endured since the pandemic and the current budget challenges, recent actions by the Real Property Assessment Division (RPAD) actively contradict a number of the long-term plans and goals of the County, such as the O'ahu General Plan that is before the Council for action today. As such, Ulupono recommends the Council carefully consider the cause and effect of the determined exemption under the new "industrial use" zoning classification. Upon further research on this issue, Ulupono has found that in the event that no exemption was provided, property taxes for renewable energy developers would increase by upwards of 400 times the current rate. At the proposed 80 percent exemption, the increase in property taxes tracks more closely to 40 times the current rate, representing a significant increase to the overall project costs for renewable energy developers, and subsequently, customers' electricity bills. While this measure does provide more clarity on the applicable tax treatment for renewable energy projects, the Council should also be cognizant of the process by which renewable energy developers establish their pricing, and note that increasing property taxes for existing and future renewable energy projects will almost certainly affect the viability/timeline of renewable energy projects in development, slowing the pace at which Hawai'i can achieve its 2045 clean energy goal.

With the above in mind, Ulupono appreciates the Council's efforts to react so quickly to provide this measure as a support mechanism for renewable energy projects. Noting our concerns over the effect of this significant increase in taxes on renewable energy projects, Ulupono asks that the Council consider a higher exemption rate, such as 90% or higher, so as not to interfere with any currently approved, permitted, or constructed system that has fixed, contracted electricity prices that were agreed upon assuming the previous agricultural use land assessment and property taxes would be in effect.

Relatedly, Ulupono believes that the current practice of assessing land zoned for agriculture as "industrial use" for property tax purposes based on the construction of renewable energy improvements on such land substantially negates the benefits of the proposed tax exemption, and appears to be legally problematic.

Among other issues, assessing agriculturally-zoned land as "industrial" fails to give major consideration to the Council's general plan and zoning decisions, causes a lack of uniformity and inequality in assessments with true "industrial" uses, often results in substantially inflated assessments far exceeding the market value of the property (which again implicates issues of uniformity and inequality), and substantially interferes with a renewable energy developer's ability to make economically viable use of its lands and its investment-backed expectations.

In brief, while we appreciate the need to increase revenue and the difficult decisions that rest with the Council, Ulupono asks the Council to urge the City Administration to amend the current industrial use land assessment for renewable energy projects on agricultural land and to reconsider raising the proposed exemption. Both of these recommendations align with, and support, the County's clean energy and sustainability goals which directly support a more resilient and sustainable future for our community.

Respectfully,

Micah Munekata
Director of Government Affairs
mmunekata@ulupono.com

*Note: Ulupono Initiative values this measure before the Council today and appreciates the opportunity to testify; however, we are unable to attend in person due to concerns around COVID-19. Thank you for your understanding.

HAWAII STATE ENERGY OFFICE
STATE OF HAWAII

235 South Beretania Street, 5TH Floor, Honolulu, HI 96813 | energy.hawaii.gov

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

Wednesday, November 10, 2021
10:00 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 supports a solution that does not increase the tax liability that was in place at the time existing and under development projects were financed, competitively bid, and approved by the Public Utilities Commission (PUC). Any increase 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 PUC approvals, and affecting project viability and timelines.

Additionally, future projects will also be impacted by Bill 39. If the 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.

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, Hawaiian Electric, and industry stakeholders to develop a solution that provides consistency and predictability for both the City's finances as well as for the contracting and financing of existing and future renewable energy projects needed to replace the coal plant and advance our renewable energy goals.

HSEO proposes major changes to CD1 that would:

1) Rescind the tax assessments issued according to industrial classifications
2) Increase the exemption from 80% to 100%.
3) Clarify the duration of the exemption to provide certainty for current and future energy developers.

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

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

Kirsten Baumgart Turner
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San Francisco, CA 94111

Clearwayenergygroup.com

Clearway

November 10, 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 Energy Group (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 is currently constructing the Waiawa and Mililani I Solar projects, totaling 75 MW and 300 MWh of battery storage. The Public Utilities Commission (PUC) recently approved contract amendments to accelerate the completion of the Mililani I and Waiawa projects by July 2022 and September 2022, respectively, to help ensure adequate power supply to the island from renewable sources when the AES coal power plant shuts down in September 2022. Clearway remains concerned with the impact of an unforeseen change in tax assessment policy on our projects, and we appreciate the efforts of the City Council to address this issue through Bill 39.

Two of Clearway's operating projects were the first to be reassessed under a new approach by the Real Property Assessment Division ("RPAD"). The Waipio and Lanikuhana solar projects are both located on agricultural land and incorporate agriculture into their ongoing operations. Solar energy generation is an allowable use on agricultural zoned land under the city's Land Use Ordinance. However, in tax year 2021, these projects were reassessed under a new approach, whereby the area underneath the solar panels was reclassified as Industrial for tax purposes, even though industrial uses are not permitted on either site. There was no change in law or ordinance that triggered this change in tax treatment.

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- In tax year 2020, the Waipio and Lanikuhana projects paid a total of $30,154 in property taxes, reflecting the projects' assessed value as agricultural property, at agricultural tax rates, and due to the agriculture dedications on some parcels.

- In tax year 2021, these projects were reclassified by RPAD as industrial for tax purposes, even though industrial use is not permitted on either site. Clearway received property tax bills totaling $835,710 for the two projects – an increase of 2671%.

The impact of reassessment with industrial assessed values and at industrial tax rates is catastrophic for Clearway's operating solar projects. This issue is also creating significant risk for Clearway's two projects under construction and could derail our efforts to complete those projects in 2022.

Importantly, the impact is much broader than Clearway's projects, as RPAD has indicated that this reclassification will apply to all solar energy projects on Oahu. If this increase in property taxes is sustained, the affected projects will no longer be economically viable. Ongoing expenses would exceed revenues, which are fixed under long-term power purchase agreements with Hawaiian Electric approved by the PUC. <u>The financial institutions that finance renewable energy projects are keenly aware of policy and regulatory risk. If this issue is not addressed, they will be reluctant to make further investments in Hawaii, jeopardizing future renewable energy growth in the state and achievement of the State's 100% by 2045 mandate.</u> A solution is needed to quickly resolve this uncertainty for operating and contracted projects.

Clearway and other independent power producers building renewable energy projects on Oahu are simply seeking to retain the property tax structure that was in place when the projects were developed, contracted, and financed. Clearway's projects were underwritten based on the assumption that the land underlying the projects would continue to be assessed at agricultural rates. Given that the City provides a property tax exemption for renewable energy equipment, it would not be reasonable for the installation of that equipment to prompt a reclassification of the land it sits on.

While we appreciate the intent of Bill 39, in its current form it does not provide the stability needed for contracted and operational projects, because even with a partial exemption, projects would still be exposed to reassessment at industrial rates. We request that Bill 39 be amended to ensure that contracted renewable energy projects are not exposed to substantial changes from their original property tax structure. In addition, we respectfully request that Bill 39 be written to include the 2021 real property tax year to address RPAD's 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.

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Clearway

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

Nicola Park
Clearway Energy Group

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DAVID Y. IGE
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JOSH GREEN
LT. GOVERNOR

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
City Council Chamber
November 10, 2021
10:00 AM
Via Videoconference

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

Chair Waters and Members of the Council:

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 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." This exemption is available if a timely claim for exemption is filed.

The Department supports the intent to reduce the property tax burden of renewable energy projects brought on by recent changes in the Real Property Assessment Division's ("RPAD") interpretation of how relevant sections of Revised Ordinances of Honolulu

("ROH") should be applied to renewable energy projects. However, there remain significant concerns with the potential impact of Section 8-10.15 ROH and the RPAD assessments on current and future renewable projects as well as ratepayers. Thus, the Department offers the following comments for the Council'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 Department's primary objectives is affordable and reliable utility services. Thus, the Department has concerns with the recent RPAD interpretations related to the real property tax assessments for certain renewable energy projects and how those interpretations have created significant increases for certain renewable energy projects. These actions create the likelihood that similar significant increases are likely for other existing and future projects and the likely increases in customers' electricity bills. Even with the proposed modifications in CD1 to Section 8-10.15 ROH, it is likely that there will be increases in customers' electricity bills.

With the recently adopted interpretation of how Section 8-10.15 ROH can be used to change the real property assessment for renewable energy projects on agricultural zoned property to industrial zoned real property tax assessments, this will significantly increase the property tax liabilities for current and future projects. This change in administrative policy could drive existing renewable energy projects to failure. This change in administrative policy could also create a concern for continuing grid reliability and the timely retirement of existing fossil fuel plants since if developers become wary of the uncertainty of risks associated with renewable energy projects, this will likely delay the construction of future renewable energy projects needed to safely and reliably enable the retirement of existing fossil fuel generating units.

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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.

In addition, the recent change in administrative policy will also affect current and future proposals to construct renewable energy projects. That is, without a change in the recently adopted administrative policy or a change to the ROH to make clear that real property assessment for renewable projects will not experience significant increases in the anticipated real property taxes, developers will likely be reluctant to move forward with current proposals and to proposed new projects without greater certainty. In the alternative, the imposition of significantly higher property taxes will simply be passed on to customers since the costs associated with higher property taxes will be built into the prices charged to the utility companies. Thus, it is the customers that will ultimately suffer and bear the burden with these significant increases in property taxes. It should be pointed out, unlike how the real property taxes are assessed, utility bills are generally based on usage and will ultimately be a very regressive form of taxation since the most vulnerable customers, who are unable to reduce their utility usage in the same ways that more affluent customers are able to offset their usage, will suffer the most.

To clarify, when projects are developed by independent power producers (IPPs), the IPPs charge the utility companies for the energy and capacity, where applicable, that is provided by that IPP based on financial assumptions over a typical term of about 20-25 years. Those costs are passed through directly to electric customers through their utility rates. Thus, if the IPPs will be required to pay higher property taxes, those costs will be passed through and all customers, i.e., residential, commercial, industrial, and governmental customers, will pay higher rates and have higher utility bills. Projects that were negotiated based on the assumptions of the previous interpretations of the tax exemptions, including those in operation and those under construction, do not have a way to adjust the rates directly to compensate for the unexpected increase in property taxes.

Another possibility that is already being seen is that developers will request to renegotiate recently approved contracts to not only have higher prices than was originally agreed and approved by the Public Utilities Commission and the developers may seek provisions to allow pass through of any future unexpected increases. It should be noted that recent power purchase agreements were at fixed prices without any riders or contract terms that would allow the pass through of unexpected costs. These fixed price contracts were the result of efforts to avoid the same volatility that follows unpredictable changes in fossil fuel prices, which were passed through energy cost adjustment clauses. As mentioned earlier, such costs are passed onto customers so if developers begin to seek to recover the higher costs as well as the pass through of unexpected costs, the risks and concerns associated with unpredictable changes in utility bills will now be associated with renewable energy projects.

The Department appreciates that the Bill 39, CD1 seeks to restore some of the exemption from property taxes to renewable energy projects, but the Department is still 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 ensure that the changes not adversely affect the State's and County's clean energy and climate plans.

The Department does not have any proposed alternative language but has been working with other State agencies, the RPAD, and other stakeholders to develop proposed language and is willing to continue working with other stakeholders to address this matter in the event that an administrative solution is not possible at this time.

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

EXECUTIVE CHAMBERS

HONOLULU

DAVID Y. IGE
GOVERNOR

Testimony of
Governor David Y. Ige

before the
Honolulu City Council

Wednesday, November 10, 2021
10:00 AM
Via Videoconference

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

WRITTEN ONLY

Chair Waters and Members of the City Council, Governor David Y. Ige 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.

Hawai'i has ambitious clean energy goals. Pursuant to Hawai'i Revised Statutes (HRS) Section 196-71, Hawai'i must become a carbon negative economy by 2045. Hawaii's Renewable Portfolio Standards, found at HRS Section 269-92, require 100% of Hawaii's electric utilities' net electricity sales to be produced by renewable resources by the same year, 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.

As written, the CD 1 version of Bill 39 will hamper Hawaii's ability to meet these ambitious goals at a critical time when reasonably priced renewable projects must be timely developed to replace fossil fuel energy sources that will be taken offline, beginning in 2022.

The Hawai'i State Energy Office (HSEO), the Hawai'i Public Utilities Commission (PUC), and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (collectively the State stakeholders) have worked with the City and County of Honolulu's Department of Budget and Fiscal Services and Hawaiian Electric Company representatives to formulate a CD 2 version that will address many of the State stakeholders' concerns.

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 Oahu'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 PUC approvals, and affecting project viability and timelines.

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 Oahu'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, the State stakeholders recommend that increases be modest to lessen the burden on ratepayers, and that significant advance notice be provided for prospective project developers.

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.

Thank you for the opportunity to offer these comments for the City Council's consideration.

Catherine Awakuni Colón
cawakuni@dcca.hawaii.gov

Kamehameha Schools

City Council
City and County of Honolulu

Time: 10:00 a.m.
Date: November 10, 2021
Where: City Council Chamber

TESTIMONY
by Kauʻi Burgess
Director of Community & Government Relations

RE: **Bill 39 (2021), CD1 – Relating to Real Property Taxation**

Aloha e ka Luna Hoʻomalu Waters, ka Hope Luna Hoʻomalu Kiaʻāina, a me nā Lālā o ka ʻAha o ke Kūlanakauhale a me ke Kalana o Honolulu.

Kamehameha Schools offers the following **COMMENTS** on Bill 39, CD1, which amends the real property tax exemptions of certain renewable energy projects. It is our understanding that this bill is also connected to the city's decision to assess agricultural lands with solar infrastructure under the "industrial" classification for real property tax purposes.

Kamehameha Schools recognizes the resilience of Hawaiʻi's communities directly impacts the ability of our keiki to succeed in their educational journeys and in life. For that reason, we have engaged in a variety of strategies to improve community resilience, including through the construction and operation of renewable energy projects on our ʻāina.

One of the largest threats to community resilience in Hawaiʻi is our exorbitant cost of living. As reported by the Aloha United Way's 2020 ALICE Report, 42% of Hawaiʻi's working families cannot afford necessities to remain stable and self-sufficient. These families were further disproportionately impacted by the effects of COVID-19. Hawaiʻi's high energy costs is one major contributor to the cost of living. We are concerned that changes in tax liabilities for renewable energy projects may eventually result in higher energy costs to families, which will further diminish community resilience.

We also believe that achieving the State's and City's sustainability goals are one of the greatest ways to improve community resilience. As such, we are similarly concerned that these unanticipated tax liabilities place at risk the viability of existing energy projects, which were arranged under substantially lower tax projections. Increasing costs for existing and potential renewable energy projects on Oʻahu will impede our progress toward 100% renewable energy.

For these reasons, we strongly encourage the Council to examine closely the potential impacts of altering real property taxes for renewable energy projects to ensure community resiliency is not negatively impacted.

Founded in 1887, Kamehameha Schools is an organization striving to advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

ʻAʻohe hana nui ke alu ʻia. No task is too large when we all work together! **Please adopt this resolution.**

Kaui Burgess

kaburges@ksbe.edu

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

TO THE
CITY COUNCIL
CITY AND COUNTY OF HONOLULU

Wednesday, November 10, 2021
10:00 AM

Chair Waters and Members of the Council:

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. However, the Commission is concerned that 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, Hawaiian Electric, renewable energy project developers, and other stakeholders to propose further revisions to this measure. The Commission therefore respectfully requests continued discussion on the measure that will allow the Council to adopt revisions that provide greater certainty regarding the application of real property tax, reduce potential impacts to renewable energy projects and ratepayers, and assist in achievement of the State's renewable energy goals.

Many of the renewable energy and storage projects that are currently in development on Oahu are the result of an extensive two-stage competitive procurement process for renewable and dispatchable energy resources. The renewable and storage projects that could be affected by this measure are critically important to meet Oahu's energy and capacity needs following the September 2022 retirement of Oahu's single largest generator, the 180 MW AES coal-fired power plant.

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 will continue to collaborate with key stakeholders to finalize and submit proposed revisions to this measure for the Council's consideration.

Thank you for the opportunity to testify on this measure.

james.p.griffin@hawaii.gov

REPRESENTATIVE NICOLE LOWEN
HAWAII STATE HOUSE OF REPRESENTATIVES

November 9, 2021

Honorable Member of the Honolulu City Council
Council Chair Tommy Waters
530 S. King Street, Room 202
Honolulu, Hawaii 96813

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

Dear Chair Waters and Members of the Council:

Thank you for reviewing my testimony in support of the intent of Bill 39.

My name is Representative Nicole Lowen and I currently serve as the Chairperson of the Hawai'i House Energy and Environmental Protection Committee. That role gives me the privilege of serving as one of our state's leaders on energy policy, including setting the State's direction for the adoption of renewable energy and movement to a zero-emissions economy.

In 2015, the Legislature passed Act 97, Session Laws of Hawaii 2015, which amended §269-92, Hawaii Revised Statutes, to establish a one hundred per cent (100%) renewable portfolio standard by December 31, 2045, with the intent to transition the State away from imported fuels and toward renewable local resources that provide a secure source of affordable energy.

This policy is not an aspirational goal. Instead, the law requires detailed planning and consideration of what the regulated utility can do and the grid can handle with renewable energy sources and working with independent power producers through power purchase agreements. This regulated planning process involves learning how to configure the electrical system to maximize the use of Hawai'i's renewable resources using data--driven methodology to determine future policies and decisions. Since the renewable portfolio standard sets legally mandated targets, which are reflected in Public Utilities Commission proceedings, this means that renewable energy produced from independent power producers under power purchase agreements must remain consistent and reliable. By having a steady and certain cost of renewable energy below the cost of fossil fuels, plans can be made on how to reach the next set of timelines and goals at lower rates for all ratepayers.

I am testifying in support of bill 39 because I am concerned about the recent dramatic increases imposed by the real property tax division on renewable energy projects. It is my hope that the language of this bill can be amended further to provide sufficient relief for renewable energy developers who negotiated contracts based on reasonable assumptions of current and future costs.

It is my understanding that the current language of the bill does not provide renewable energy developers sufficient relief from the real property tax burden and may jeopardize their ability to commit to our renewable energy goals. I am therefore testifying in support of this bill's intent, however, request that the language be amended to provide further relief for these important renewable energy projects. If there is a desire to increase tax rates in the future, then future projects can negotiate their PPAs based on a known and predictable set of circumstances, although it is also worth noting that these increased costs will likely be borne by ratepayers.

For projects whose contracts have already been negotiated, this dramatic increase creates unanticipated circumstances that could affect the viability of these projects and consequently the State's progress towards 100% renewable energy.

I urge the council to continue to work to find an equitable resolution of this real property tax issue. Independent power producers entered into their approved agreements assuming that the full real property tax exemption available in Honolulu City and County applied to their projects, and those contracts do not allow consideration of significant increases to base costs like real property tax.

Please support our state's commitment to our renewable portfolio standards, and the other benefits of renewable energy—jobs, resilience, affordability--and please find an equitable resolution to this issue.

Mahalo,

Nicole E. Lowen

Representative Nicole Lowen
State of Hawaii, House District 6
Chair, Committee on Energy and Environmental Protection

Hawaiian Electric

TESTIMONY BEFORE THE HONOLULU CITY COUNCIL

Comments regarding BILL 39, CD 1

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

Wednesday, November 10, 2021
10:00 a.m.
City Council Chamber

Rebecca Dayhuff Matsushima
Director, Renewable Acquisition
Hawaiian Electric Company, Inc.

Chair Waters, Vice Chair Kiaaina, and Members of the Council,

My name is Rebecca Dayhuff Matsushima and I am submitting testimony on behalf of Hawaiian Electric Company, Inc. ("Hawaiian Electric") **commenting on** Bill 39, CD 1, Relating to Real Property Taxation.

Hawaiian Electric supports the intent of Bill 39 CD 1 and is continuing to work with stakeholders on how to best move forward. However, Hawaiian Electric remains uncertain that the current version of the bill addresses the issues currently surrounding real property tax ("RPT") assessments.

First and foremost, the bill does not appear to address the land reclassification issue (e.g., changing land classified as agricultural to industrial use). Further, there does not appear to be any language that secures the land classification for tax purposes for the life of a renewable energy project. The 2021 RPT assessment for two renewable projects increased 345 times due to tax reclassification. The uncertainty this reclassification issue creates will affect how developers look at the renewable energy landscape in Hawaii. Developers may choose to not participate in future renewable procurements, could withdraw projects currently under development, and may even walk away from existing projects.

Hawaiian Electric urges further consideration of the effects and potential unintended consequences of Bill 39, CD 1, 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. Hawaiian Electric will continue to work with other interested parties to address the concerns underlying the intent of Bill 39.

Thank you for this opportunity to comment.

susan.char@hawaiianelectric.com

Councilmember Tommy Waters, Chair
Councilmember Esther Kia'aina, Vice- Chair
Members of the Honolulu City Council

Bill 39 Relating to Real Property Taxation
SUPPORT INTENT WITH COMMENTS
Honolulu City Council
Wednesday, November 10, 2021
10:00 a.m.
CITY COUNCIL CHAMBER

Aloha Chair Waters and Members of the Honolulu City Council:

Mahalo for the opportunity to provide testimony in support of the intent of Bill 39 with some comments. AES shares Hawai'i's vision for a 100% renewable energy future. We are working to accelerate and support Hawai'i's transition toward a carbon-free energy future with renewable projects across the Hawaiian Islands totaling over 200 MW of solar, solar plus storage and wind resources in operation or under contract, with 102.5 MW of Stage 1 and 37 MW of Stage 2 projects.

Bill 39 seeks to provide an exemption from real property taxes ("RPT") alternate energy improvements when a timely claim for exemption is provided. Under the current version of the bill, the value of all improvements and 80% of the value of land used for the active production of renewable energy would be exempt.

AES understands the need to generate revenue for the City, but strongly feels an exemption from the increased RPT tax liabilities, as determined by BFS, is warranted due to the impact such increase would have on renewable energy projects. Such considerable increases to RPT liabilities would substantially affect the viability of existing and planned renewable energy projects, the job creation associated with such projects and jeopardize the ability of the state to meet its 100% renewable energy goals. More importantly, the RPT increases will significantly increase electricity rates for consumers.

In order to continue the state's transition to 100% renewable energy and avoid drastic increases to consumer electricity rates, AES strongly encourages the City to maintain the current RPT liabilities for renewable energy projects by maintaining the underlying zoning classifications when the project is built and providing a 100% exemption.

Mahalo for your consideration.

Sandra Larsen
AES Hawaii Market Business Leader
sandra.larsen@aes.com