



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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Testimony of
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before the
SENATE COMMITTEE ON WAYS AND MEANS

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COMMENTS
HB 1809, HD3, SD1
RELATING TO TAXATION

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments while supporting the intent of HB 1809, HD3, SD1, which establishes a renewable fuels production tax credit. HSEO's comments are specific to the implementation of the tax credit verification and certification process.

Renewable fuels provide local jobs and economic benefits in energy and agriculture, while contributing to Hawai'i's economic diversification and the potential for greater production of food, cosmetics, and other value-added products. HSEO managed the certification of the previous renewable fuels production tax credit.¹

Although HB 1809, HD3, SD1, is similar to SB2478, SD2, passed by this committee on March 15, there are important differences. SB 2478, SD2 was structured similarly to the previous credit in its final form, and importantly included provisions for the taxpayer to provide an independent third-party certified statement,

¹ The renewable fuels production tax credit, HRS 235-110.31, effective for the five year period between January 1, 2017 and December 31, as established by [Act 202, Session Laws of Hawaii \(SLH\) 2016](#), amended by [Act 142, SLH 2017](#), and further amended by [Act 143, SLH 2018](#).

established deadlines for steps in the certification process, and established an approach in the case of the cap being exceeded in any given year. HSEO recommends including these provisions because they are important to a successful verification and certification process.

HSEO recommends re-wording paragraph (g), starting on page 5, line 9, to add a requirement and timeline for the taxpayer to provide information necessary for the verification of the fuel production claim, in a manner similar to previous requirements:

(g) Not later than thirty days following the close of each calendar year during the credit period, the taxpayer claiming a credit under this section shall complete and file an independent, third-party certified statement, at the taxpayer's sole expense, with the chief energy officer of the Hawaii state energy office. The statement shall be in the form prescribed by the chief energy officer of the Hawaii state energy office and shall include the following information:

- (1) For each type of qualified fuel claimed:
 - (A) The type of fuel produced;
 - (B) The volume of fuel produced;
 - (C) The volume of fuel sold;
 - (D) The lower heating value of the fuel in British thermal units using the lower heating value of fuel produced and sold during the previous calendar year;
 - (E) The feedstock used;
 - (F) The lifecycle greenhouse gas emissions of the fuel produced and sold; and
 - (G) The lifecycle greenhouse gas emissions of the fossil fuel displaced by the qualified fuel.
- (2) The dollar amount of renewable fuel production credit claimed by the taxpayer for qualified fuel produced and sold during the calendar year, not to exceed the amount per taxpayer established in paragraph (a).

- (3) The cumulative amount of renewable fuels production tax credits received by the taxpayer during prior years during the credit period.
- (4) The number of employees of the facility and each employee's state of residency.
- (5) The projected number of British thermal units of renewable fuels production for the succeeding year.
- (6) Whether a renewable fuels production tax credit is anticipated to be claimed in the succeeding year.

HSEO also recommends re-wording paragraph (b), starting on page 2, line 7, to establish a timeline for the review of the information provided, so that if the claim is timely, complete, and accurate, the taxpayer may receive the certificate to file with the taxpayer's tax return:

(b) Within thirty calendar days after the due date of the statements required under subsection (g), the Hawaii state energy office shall:

- (1) Acknowledge receipt of the statements in writing;
- (2) Total all renewable fuels production that the Hawaii state energy office certifies as eligible for the tax credit for the calendar year;
- (3) In the event that the verified credit claims under this section exceed \$ _____ for all eligible taxpayers in any given calendar year, the \$ _____ shall be divided between all eligible taxpayers for that year in proportion to the lower heating value of renewable fuels produced by all eligible taxpayers. Upon reaching \$ _____ in the aggregate, the Hawaii state energy office shall immediately notify the department of taxation. In no instance shall the total dollar amount of certificates issued exceed \$ _____ per year;
- (4) Issue a certificate to the taxpayer verifying the amount of renewable fuels

produced and sold, the credit amount certified for each taxable year, and the cumulative amount of the tax credit during the credit period. The taxpayer shall file the certificate with the taxpayer's tax return with the department of taxation.

- (5) Notwithstanding the Hawaii state energy office's certification authority under this section, the director of taxation may audit and adjust the certification to conform to the facts.
- (6) Notwithstanding any other law to the contrary, the verification and certification information compiled by the Hawaii state energy office shall be available for public inspection and dissemination under chapter 92F.

HB 1809, HB3, SD1 also includes a new requirement (page 2, lines 17-19) for HSEO to certify every five years that that the renewable fuels produced have “life cycle emissions substantially below that of fossil fuels.” The type of emissions to be included is not defined in HB1809, HB3, SD1. HSEO’s proposed revision to paragraph (g)(1)(F) and (G) specifies greenhouse gas emissions, the current language on page 2, lines 17-19, is not specific to greenhouse gas emissions and the definitions section starting on page 8 does not include “life cycle emissions.” Clarifying the types of emissions to be included, and ensuring that the taxpayer provides life cycle information on those same emissions, will be important to successfully completing the required reporting.

Also, HSEO would need to be appropriately resourced to perform certifications. As a consequence of recent drastic budget reductions to personnel, HSEO adjusted the prioritization of staff responsibilities following the sunset of the tax credit on December 31, 2021. HB 1600, HD1 provides a position and funds for an Energy Economics Specialist in HSEO to serve as subject matter expert on energy economics and financing of energy systems. The position would identify market gaps and innovation opportunities, collaborate with stakeholders, and facilitate public-private partnerships to develop projects, programs, and tools to encourage private and public exploration, research, and development of energy resources, distributed energy resources, and data

analytics that will support the State's energy and decarbonization goals; evaluate, recommend, and participate in the development of incentives and programs that encourage resource development; and to assess and evaluate the effectiveness and continued necessity of existing energy related incentives, tax credits, and programs, and provide recommendations and proposed changes. This position would enable HSEO to perform the necessary certifications should that budget become adopted into law.

HSEO defers to the appropriate agencies on matters relating to tax administration and budget concerns.

Thank you for the opportunity to testify.