



Via Capitol Website

February 3, 2009

**Senate Committee on Energy and Environment
Hearing Date: Tuesday, February 3, 2009, 2:45 p.m. in CR 225**

**Testimony in Support of Increased Tax Credit Incentives
and in Opposition to Mandatory Photovoltaic Energy Systems
SB 155 – Relating to Renewable Energy
(Mandatory photovoltaic systems for new residences
and increased tax credits)**

Honorable Chair Mike Gabbard, Vice-Chair J. Kalani English
& Energy and Environment Committee Members:

My name is David Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF and its members understand that Hawaii is particularly at risk during times of energy shortages, that we must reduce our dependence on fossil fuels and that we must start to employ other clean and efficient sources of energy for our residences. As such, LURF members support and employ solar energy or comparable renewable energy devices in their residential projects, and are taking the following position regarding this bill:

- LURF supports the general intent of this SB 155, and **strongly supports the increase in tax credit incentives** for photovoltaic energy systems for single family, multi-family and commercial properties;
- LURF is **opposed to the repeal of those tax credits**, as provided in the bill; and
- LURF is also **opposed to the photovoltaic system provisions for every new residential single-family residence, condominium, or townhouse in the current version of SB 155.**

SB 155. The purposes of SB 155, are as follows:

- To mandate that photovoltaic energy systems be installed in the construction of every new residential single family residence, condominium and townhouse, which acquires a building permit after January 1, 2011;
- That installation of photovoltaic energy systems shall be in accordance with Hawaiian Electric company's 100-point installation inspection or a comparable quality assurance standard;
- To increase the tax credits for photovoltaic energy systems for single-family residential property from the current thirty-five percent of the actual cost or \$5,000, whichever is less, to seventy-five percent of the actual cost, or \$12,500, whichever is less;
- To increase the tax credits for photovoltaic energy systems for multi-family residential property from the current thirty-five percent of the actual cost or \$350 per unit, whichever is less, to seventy-five percent of the actual cost, or \$1000 per unit, whichever is less;
- To increase the tax credits for photovoltaic thermal energy systems for commercial properties from the current thirty-five percent of the actual cost or \$500,000, whichever is less, to seventy-five percent of the actual cost, or \$1,000,000, whichever is less;
- The bill also includes provisions for repeal of the tax credits by the Energy Resources Coordinator under certain conditions.

LURF's Position. While we agree that we, as a community, should work to conserve more energy, and we fully support the increase in tax credits, we also believe that the choice of energy conservation devices should be governed by market forces and government incentives, rather than by mandatory government regulations. Thus, we oppose the photovoltaic mandate on every new single-family townhouses and condominiums, based on, among other things, the following:

- "If it ain't broken, don't fix it." The present system of rebates and incentives are working, there is no need for any additional regulation or increased costs to new homeowners;
- We believe the choice to install a photovoltaic or solar thermal energy system should be left to each individual homeowner.
- This mandatory legislation will increase the sales prices of homes in Hawaii since the cost of a photovoltaic or solar thermal energy systems and installation will be "passed-on" to the new homebuyer.
- The increased sales prices caused by this bill will adversely impact the ability of new homebuyers to qualify for mortgage loans.
- Photovoltaic and solar mandates will also cause the loss of HECO rebates for homeowners;
- The regulatory process established by this bill is subjective, confusing, unenforceable and of questionable legality;
- Instead of mandatory legislation, the legislature should encourage making solar thermal energy devices or comparable renewable energy devices "cost-neutral" to new homebuyers and developers, by providing up front credits and incentives to developers to counteract the detrimental consequences of this mandate – which will result in increased costs of such devices (which will be passed-on to new homebuyers) and the resulting increased prices of new homes.
- Philosophically, this is the classic "Carrot versus the Stick" approach to influence peoples' behavior. We prefer the "carrot" approach and would recommend that

incentives be increased for developers of new residential projects who install energy conservation devices, rather than require compliance through legislation. If the legislature grants sufficient incentives and tax credits to developers of new residential development projects, then the impact of this legislation could be cost-neutral for new homebuyers.

- The purported purpose of the bill is to significantly reduce the State's dependence on imported oil over time, however, it is curious that this bill does not require solar thermal energy systems to be installed on all state buildings. Instead, it only focuses on government requirements which would increase the costs of new single-family residential, townhouse or condominium developments. If the stated purpose of the bill is true, one wonders why government does not impose the same requirements upon itself.

Other Concerns

- **Broad exceptions are unenforceable.** The regulatory process established by this bill remains subjective, confusing and unenforceable. The criteria for granting exceptions ("impracticable due to poor solar resource," or "cost prohibitive") are subjective, lack consistent application, and therefore, are unenforceable. There are no definitions or technical standards to define "impracticable" or "cost prohibitive," thus each architect or engineer can create their own interpretations to justify exceptions.
- **Enforcement Questions?** SB 155 requires that installation of photovoltaic energy systems shall be in accordance with Hawaiian Electric company's 100-point installation inspection or a "comparable quality assurance standard." Hawaiian Electric may change its standards and it is unclear what a "comparable quality assurance standard" would be. It is also unclear who will do the inspections and how the technical requirements will be enforced.
- **Effective Date.** The bill, which would go into effect on January 1, 2011, is impracticable and not feasible especially in these hard economic times for developers and even small lot owners who want to develop a multi-family residential units. The date of implementation will also cause increased single family residential, townhouse and condominium prices, and will impose a hardship on families wanting to purchase a residence.

Thank you for the opportunity to express our concerns on this matter.