

STAND. COM. REP. NO. 272 -08

Honolulu, Hawaii
Feb 8, 2008

RE: H.B. No. 2863
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Water, Land, Ocean Resources & Hawaiian Affairs, to which was referred H.B. No. 2863 entitled:

"A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY,"

beg leave to report as follows:

The purpose of this bill is reduce Hawaii's dependence on fossil fuel by establishing an expedited review and approval process for obtaining state and county permits for the siting, development, construction, and operation of renewable energy facilities.

Castle & Cooke Hawaii testified in support of this bill. The Department of Health (DOH) supported the intent of this measure. The City and County of Honolulu Department of Planning and Permitting, Life of the Land, and several individuals opposed this bill. The Department of Business, Economic Development, and Tourism (DBEDT), County of Kauai Planning Department, Public Utilities Commission (PUC), Hawaii Renewable Energy Alliance, and an individual offered comments.

There are problems with this bill at all three levels of government. At the federal level, the United States Environmental Protection Agency delegates authority to DOH for the issuance of air and water pollution permits for various projects. Transferring this delegation of permitting authority from DOH to another entity would require significant changes to state laws and

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programs to meet federal requirements. Such a transfer must also ensure that the State's public trust duties to protect the air and water quality are met. Such a trust responsibility should not be delegated to DBEDT.

At the state level, the time constraints placed on PUC may be unrealistic, given the complexity of review and analysis of a rate agreement. This time constraint would be further compounded when PUC staff or the parties request additional information.

Finally, at the county level, it is unclear whether any overriding state-wide imperative exists to justify superseding existing local control over the site selection of a proposed renewable energy facility. The State has not identified any particular permit issuance problems that warrant the extraordinary measures proposed in this bill. Moreover, your Committees are not convinced that any need exists to justify overriding the community's right to meaningful participation in the public decision-making process or a county's right to set its own land use and planning policies.

At the same time, however, there is a need to assist renewable energy developers in obtaining the necessary permits and approvals. Your Committees are addressing this concern through:

- (1) H.B. No. 2862, H.D. 1, which establishes a consolidated process for a wind energy and undersea cable project; and
- (2) H.B. No. 2505, relating to a renewable energy facilitator position in DBEDT.

Both measures remain alive.

Nevertheless, upon further consideration, your Committees find that continued discussion on this measure might prove beneficial. Accordingly, your Committees have amended this bill by:


- (1) Inserting a defective date of January 1, 2050; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.



As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, Ocean Resources & Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2863, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2863, H.D. 1, and be referred to the Committee on Consumer Protection & Commerce.

Respectfully submitted on behalf of the members of the Committees on Energy & Environmental Protection and Water, Land, Ocean Resources & Hawaiian Affairs,


KEN ITO, Chair


HERMINA MORITA, Chair
With reservations



