



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON WAYS AND MEANS

Tuesday, April 1, 2008

10:15 AM

State Capitol, Conference Room 211

in consideration of

**HB 2505 HD2 SD1
RELATING TO ENERGY.**

Chair Baker, Vice Chair Tsutsui, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 2505 HD2 SD1 that establishes and funds a renewable energy facilitator position. The position is also provided in the Executive Supplemental Budget to assist developers with the permit approval process and to initiate implementation of appropriate facilitation strategies as intended by this measure.

Pursuant to SCR 164, Regular Session of 2007, DBEDT conducted a study to create a one-stop permit shop for renewable energy projects. The study, submitted to the Legislature, provides information on a number of permit facilitation strategies successfully employed in other states to assist renewable energy project developers without diminishing environmental

objectives. The renewable energy facilitator position is critical to implementation of these strategies.

DBEDT recommends strongly that any effort at improving Hawaii's permitting processes be provided with the appropriate authority and commensurate resources to undertake this difficult task.

Thank you for the opportunity to offer these comments.



COLLEGE OF SOCIAL SCIENCES

HAWAII ENERGY POLICY FORUM

UNIVERSITY OF HAWAII 'I AT MĀNOA

Hawai'i Energy Policy Forum

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Ms. Amy Asselbayer, Ofc of US Rep.
Neil Abercrombie
Ms. Madeleine Austin, World Business
Academy
Ms. Catherine Awakuni, Div. of
Consumer Advocacy
Mr. Warren Bollmeier
Hi Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Mr. Kyle Datta, U.S. Biofuels
Sen. Kalani English, HI State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman
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Mr. Mark Glick, OHA
Mr. Steve Golden, The Gas Company
Dr. Michael Hamnett, RCUH
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Mr. Riley Saito, PowerLight Corp.
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Mr. Bill Short, BIA of Hawaii
Mr. Ray Starling, HI Energy Grp
Mr. Lance Tanaka, Tesoro HI Corp
Dr. Don Thomas, UH Center for the
Study of Active Volcanoes
Mr. Murray Towill, Hawai'i
Hotel Assn
Ms. Joan White, Hon Community
Action Program

Testimony of
Warren Bollmeier
Co-Chair – Renewable Energy Working Group
Hawai'i Energy Policy Forum

Senate Committee on Ways and Means
Tuesday, April 1, 2008
10:15 am
Conference Room 211

IN SUPPORT OF HB 2505, SD 1 – Relating to Energy

I am Warren Bollmeier, Co-Chair of the Renewable Energy Working Group of the Hawaii Energy Policy Forum ("Forum"). The Forum is comprised of 46 representatives from the electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive "10 Point Action Plan," which serves as a framework and guide for meeting our preferred energy vision and goals. The Forum supports the passage of HB 2505, SD 1 as it helps achieve Point 1 – expand renewable energy opportunities.

HB 2505, SD 1 establishes a renewable energy facilitator position in the Department of Business, Economic Development & Tourism (DBEDT). In recent years, Hawaii has attracted a large number of renewable energy developers, thanks in large part to the efforts of the Legislature to make our state a leader in renewable energy use. A full-time renewable energy facilitator in DBEDT would enable renewable energy projects to be implemented at a quicker pace by guiding developers through various permitting processes and procedures, while at the same time ensuring that developers proceed with their projects in an environmentally and culturally sensitive manner.

For these reasons, the Forum supports HB 2505, SD 1 and urges the committee to pass this measure.

Thank you for this opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organization



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Testimony by Castle & Cooke Hawaii
Before the Senate Committee on Ways and Means

April 1, 2008
10:15 am
Room 211

HB 2505, HD2, SD1 Relating to Energy

Chair Baker, Vice-Chair Tsutsui and Members of the Committees: I am Tim Hill, Executive Vice President, Castle & Cooke Lanai Renewable Energy Programs; here to express **our support for the concept of HB 2505, HD2, SD1 establishing a renewable energy facilitator position in the Department of Business, Economic Development & Tourism.**

However, we believe that this measure needs to go even further toward providing authority, including the authority to set agency response deadlines. Without binding or express authority to enforce deadlines, the proposed facilitator may not be able to achieve the intended purpose of this measure. Accordingly we recommend that the current language of HB 2505, HD2, SD1, should be replaced with the original language of HB 2863, with the following amendments.

At section -8, **clarify that public hearings will be held** by removing the language stating "provided that the state or county agency shall not be required to hold the public hearing unless required to do so by federal law" as well as the language stating "hold one consolidated public hearing". The new section (a) should state:

If a federal, state, or county law requires a state or county agency to hold a public hearing on a permit application before making a decision on the permit, the coordinator shall hold the public hearing in place of the state or county agency within the sixty-day period set forth in Section -5(a). To the extent practicable, the coordinator shall consolidate public hearings to cover all permit applications and required public hearings.

Pursuant to STAND. COM. REP. NO. 1029-08, items (1) thru (3):

In section -1, include:

"Delegated environmental permit" means an air or water quality permit subject to issuance by the department of health under authority delegated by the United States Environmental Protection Agency.

In section -1, change the definition of power purchase agreement to:

"Power purchase agreement" means an agreement between a renewable energy facility owner and a public utility on the sale of electricity produced by the facility to the public utility.

In section -1, clarify the definition of state permit to:

"State permit" means a permit that is subject to the approval of a state agency pursuant to federal or state law; **except that the term does not include a delegated environmental permit.**

This amendment will ensure that the Department of Health's concerns that their permit authority for air and water quality permits, delegated from the Federal Environmental Protection Agency cannot be delegated are addressed.

Also, pursuant to STAND. COM. REP. NO. 1029-08, item (4):

In section -16, SECTION 5, amend HRS Section 269-27.2(c) to:

- Change all of the deadlines from thirty days to sixty days; and
- ADD the following paragraph at the end of SECTION 5:

For the purpose of this section, (1) the sixty-day period for commission determinations shall be subject to extension by the commission for reasonable cause and for a reasonable time as necessary, but in no event later than the six month deadline for processing of Permits by the energy resources coordinator referred to in Section 3 of Chapter __, and (2) "renewable energy facility owner" means the owner or authorized agent of the owner of a renewable energy facility as defined in section -1."

This amendment will clarify the PUC's authority over power purchase agreements and ensure that the PUC has discretion over establishing an expedited process.

Furthermore, in section -3, amend the general duties of the coordinator to include:

- (1) Implement and further state policies and the compelling state interest in developing indigenous renewable energy resources and decreasing Hawaii's dependency on imported fossil fuels in furtherance of energy self-sufficiency, energy security and reduction of greenhouse gas emissions through coordination, concurrent approval processes, elimination of redundancy in the permitting process, clear and fair deadlines and other

efficiencies in processes and procedures established pursuant to the authority given to the coordinator in this Chapter. The coordinator shall have the power and authority, which shall be liberally construed, necessary to implement and further the state renewable energy policies, mandate and compelling interest in expediting the development of renewable energy facilities, while ensuring, and not circumventing, opportunity for public review and comment, mitigating potential environmental and other impacts from renewable energy projects and protecting the public's health, safety and welfare. In furtherance of this intent, the coordinator shall have the power and authority, as provided under this Chapter, to receive, accept, review, coordinate and approve all applications for Permits necessary for the development of a renewable energy facility on an expedited basis. The coordinator shall coordinate and process Permits concurrently, and shall take not longer than six months following receipt of a completed consolidated application to complete the review and approval of any such application and all Permits relating thereto, subject only to final acceptance of an environmental assessment and/or environmental impact statement as may be required under Chapter 343.

(2) Receive and accept a consolidated application, in a form as the coordinator shall prescribe as required under Section -15, for the approval of the siting, development, construction, and operation of a renewable energy facility. Within ten days following receipt of an application or an amendment or supplement thereto, the coordinator shall give written notice to the applicant as to the coordinator's acceptance of the application, amendment or supplement, or as to any deficiencies relating thereto;

In section -4, sub (a), amend the consolidated application section as follows:

The coordinator shall establish a consolidated application in accordance with Section -15 and require the applicant to pay a fee with the consolidated application. The coordinator shall establish the staffing for the consolidated application and set the fee at an amount mutually agreed upon by the applicant and the coordinator, but sufficient to cover not more than the reasonable, actual and direct costs and expenses of the coordinator, coordinator's staff and contractor, and relevant state and county agencies to provide input and advice on the state and county permits applicable and necessary for and directly related to the applicant's facility. Upon receipt of the fee or periodically thereafter, the coordinator shall transmit to each relevant state or county agency the portion of the fee that reflects the cost to that state or county agency for providing its input, review and advice.

In section -5, sub(a) and b), amend the approval of state permits process as follows:

(a) When the coordinator receives an application for a renewable energy facility that requires state permits, concurrently with the determinations and

processes of the coordinator under Section 6(a) and the other sections of this Chapter and within the sixty days following receipt of a completed consolidated application, the coordinator, after consultation with relevant federal, state, and county agencies, shall determine the terms and conditions to be imposed on the state permits that are necessary to protect the public health, safety and welfare to the extent practicable without unduly delaying, impairing or frustrating the purposes, policies and goals of this chapter. The terms and conditions may require the applicant to improve off-site infrastructure or establish measures to mitigate significant adverse environmental effects, but only to the extent directly caused by the applicant's renewable energy facility.

The coordinator shall make the determination for all terms and conditions of all required state permits no later than sixty days after receipt of a completed consolidated application; provided that, if an approval for a federal permit or delegated environmental permit, or acceptance of an environmental assessment or environmental impact statement, is a prerequisite to the approval of a state permit required for the facility, the coordinator's determination shall be made, but its effectiveness shall be conditioned upon approval of the federal permit, delegated environmental permit and/or acceptance of the environmental assessment or environmental impact statement, as applicable.

(b) Immediately upon determining the necessary terms and conditions under subsection (a), the coordinator, on behalf of the relevant state agencies, shall approve the state permits with those terms and conditions. The approval shall take effect on the sixty-first day after the coordinator's acceptance of a completed consolidated application; provided, however, that, if an approval for a federal permit or delegated environmental permit, or acceptance of an environmental assessment or environmental impact statement, is a prerequisite to the approval of a state permit required for the facility, the approval shall be conditioned upon and made effective one business day following the approval of the federal permit, delegated environmental permit and/or acceptance of the environmental assessment or environmental impact statement, as applicable. If a judicial proceeding has been timely initiated under section 343-7(c) regarding the acceptance of the statement, the state permits shall be subject to the order entered with the final judicial decision on the dispute. The coordinator may publish the coordinator's approval of all state permits in one consolidated document.

In section -7, amend the coordination with federal permits section as follow:

(a) Concurrently with the sixty-day period set forth in Section -5(a), the coordinator shall establish and implement a system to coordinate the approval of required federal permits with state and county permits for a renewable energy facility. The system shall include a process for coordinating the federal environmental impact statement process with the

state environmental impact statement process, such that they run concurrently with each other and with the state and county permitting processes.

(b) The coordinator also shall establish and implement a system to coordinate and concurrently process the issuance of delegated environmental permits by the department of health with approval of state and county permits for a renewable energy facility.

(c) The coordinator may convene interagency working groups for the purpose of this section.

In section -11, amend the power purchase agreement section as follows:

Power purchase agreement not a state permit under this chapter;
Coordination of efforts. A power purchase agreement between a renewable energy facility owner and a public utility shall not be a "permit" subject to approval by the coordinator. Any power purchase agreement shall be subject to the applicable provisions of chapter 269. However, the coordinator shall establish and implement a system to coordinate and concurrently process the review and approval by the public utilities commission of any power purchase agreement for electricity generated by a renewable energy facility. The coordinator may convene an interagency working group for the purpose of this section.

In section -13, sub (a), amend the judicial review section as follows:

Any person aggrieved by the approval of a state or county permit or term or condition of any approved permit may file an action for relief in the circuit court. Notwithstanding any other provision of this chapter to the contrary, for the purposes of bringing judicial action under this subsection, the term "person aggrieved" shall include the applicant and any state or county agency, office, council or other government entity which has decision making authority related to the approved permit. Other parties, pursuant to court action, may be adjudged aggrieved.

On behalf of Castle & Cooke, I ask for your support for the concept of HB 2505, HD2, SD1, utilizing the original HB 2863, with several amendments. Mahalo and thank you for your consideration of our testimony.