

HB 2862 HD2



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

COMMITTEE ON ENERGY AND ENVIRONMENT
COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING

H.B. 2862, H.D.2, Relating to Wind Energy

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

March 18, 2008
3:00 pm

1 **Department's Position:** The Department of Health (DOH) supports renewable energy and a faster and
2 more efficient permit process and offers comments.

3 **Fiscal Implications:** None

4 **Purpose and Justification:** This measure is amended to improve the permitting process required for the
5 development of a wind energy and undersea cable project. The Department of Business, Economic
6 Development, and Tourism (DBEDT) is charged with responsibility over the permitting process.

7 The administration had a bill last year which would have coordinated permitting, and this year the
8 Governor's State of the State address included making permitting easier for renewable energy projects, so we
9 are pleased to see acceptance of the concept.

10 The DOH gives priority to processing alternative energy permits and has developed general permits
11 to streamline the permitting process. Our effort has shown that these processes has helped. For example, the
12 DOH took two and three days, respectively, to issue Notices of General Permit Coverage for Big Island
13 Pakini Nui Windfarm and Maui Kaheawa Wind Power project, respectively, after receipt of complete
14 Notices of Intent.

15 We do question whether this bill requires more resources and ask that the legislature not replace the
16 priorities in the executive supplemental budget proposal.

1 Thank you for the opportunity to testify on this measure.

Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
AND
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND
AFFORDABLE HOUSING
Tuesday, March 18, 2008
3:00 PM
State Capitol, Conference Room 414

in consideration of

HB 2862 HD2
RELATING TO WIND ENERGY.

Chairs Menor and Kokubun, Vice Chairs Hooser and Ige, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) appreciates the over-all concept of this bill as it includes initiatives supportive of our goals and objectives, but we are concerned about cost implications and impacts on Hawaii's regulatory system generated by this proposal. HB 2862 HD2 designates the Department of Business, Economic Development and Tourism (DBEDT) as the lead agency for the coordinated processing of permits for an interisland wind energy and undersea cable project.

Currently, DBEDT does not perform any permitting functions although certain of its attached agencies may have that responsibility. As a consequence, DBEDT lacks the regulatory expertise necessary to perform key permit related functions described in this measure, including review of the project permit application for completeness, and monitoring of the work undertaken to ensure compliance with the terms of the permits. The latter responsibility is

particularly problematic since it involves enforcement, a function of the respective permitting agencies.

DBEDT prefers HB 2505 HD2, consistent with the Executive Supplemental Budget, that will establish a renewable energy facilitator position to assist project developers as intended by this measure. This important new position will provide near-term permit facilitation for developers and the means to work with stakeholders to address needed changes to the state's regulatory regime. Such facilitation will include coordination and establishment of permit approval deadlines for the respective agencies.

Should the Committees consider a consolidated permitting process, we recommend the attached draft legislation for such a process also provided with DBEDT's testimony for HB 2863 HD2.

Thank you for the opportunity to offer these comments.



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Testimony by Castle & Cooke Hawaii

**Before the Committees Energy and Environment and Commerce, Consumer
Protection and Affordable Housing**

**March 18, 2008
3:00 pm
Room 414**

HB 2862, HD2 Relating to Wind Energy

Chairs Menor and Kokubun, Vice Chairs Hooser and Ige and members of the committees:

On behalf of Castle & Cooke Hawaii, thank you for allowing me to testify today.

I am Tim Hill, Executive Vice President, Castle & Cooke Lanai Renewable Energy Programs; here to express our support for the intent of HB 2862, HD 2, that establishes a coordinated process for the approval of permits for an interisland wind energy and undersea cable project.

However, coordination is not sufficient. We need consolidation as set forth in the original HB 2862, rather than a coordinated process, as set forth in HB 2862, HD1, for the approval of permits for an interisland wind energy and undersea cable project.

Castle & Cooke is committed to bringing renewable energy to Hawaii. Today, I want to tell you what Castle & Cooke is doing, our record of delivering on our commitments, and why Castle & Cooke supports believes that consolidation, as set forth in HB 2862, HD2 is essential to our efforts and to the success of the State's renewable energy mandate.

Castle & Cooke Renewable Energy Programs

Castle & Cooke is committed to supporting Hawaii's energy independence by developing alternative energy resources on the island of Lanai while preserving unique environmental, cultural and historic resources found on the island.

In her State of the State address, Governor Lingle challenged all of us to move Hawaii away from oil dependence and to do so "more rapidly than some would like and others believe possible." We share this view that the time for action is now.

At Castle & Cooke, we have already initiated projects to reduce reliance on fossil fuels and to transform Lanai into a showcase for renewable and green energy.

Our projects include:

- **Solar:** Awaiting permit approval to create largest solar farm in Hawaii
 - Converts 10 acres of "grade D" ag land to 1.5 MW solar farm
 - Can supply up to 10% of Lanai's annual electricity needs
- **Wind:** Examining economic, cultural and environmental feasibility
 - Goal is 300-400 MW wind farm from towers spaced across 10,000 acres in northern Lanai
 - Could supply up to 15% of Oahu's peak power needs
- **Bio-Fuels:** Exploring feasibility of growing crops for fuel
 - Test crops of jatropha
 - Working with UH College of Tropical Agriculture and HARC (with Dole Food Company)

The investments we are prepared to make reflect our commitment to Hawaii:

- Close to \$1 billion for solar and wind energy projects
- The State is pursuing an important agenda for energy independence and other needs while struggling with a potential budget shortfall of \$350 million. Castle & Cooke is committed to renewable energy, and we're ready to make it happen in Hawaii.
- Our goal is to make Lanai powered by 100% renewable energy

In opening remarks, House Speaker Calvin Say noted that, "If we could just produce half of Hawaii's energy, we could add at least \$2 billion to the state's

economy. And the money stays here.” Castle & Cooke’s renewable energy projects are a big step toward that vision.

We foresee additional benefits for the people of Lanai and Hawaii. We believe our projects will help stabilize energy costs and thus stabilize the cost of living in our state. We also believe that they will provide new job opportunities for residents. And we know that they will help us utilize our bountiful natural resources. All of which means, these projects are instrumental in building a truly sustainable Hawaii.

Senate President Colleen Hanabusa said that when it comes to sustainability, we all play for the same team. Castle & Cooke is a committed part of that team.

Castle & Cooke: Part of Hawaii’s Past, Part of Hawaii’s Future

Castle & Cooke has been a business leader in Hawaii for 150 years, and we plan to be here for the next 150 years. We like to say that we are “Investing in Hawaii...Creating communities...Delivering dreams.”

You may know Castle & Cooke as a leading agriculture and land development company. We’re also a diversified firm with the commitment and resources to deliver solutions. Look at our track record:

- **Mililani: We promised a diverse, master-planned community for Hawaii families, and we delivered:**
 - Home to over 50,000 people in more than 16,000 homes.
 - Mililani is the only Hawaii community to be designated an All-America City.
 - In 2005, *Money* magazine called Mililani one of the best places to live in the United States.
 - Started in 1968, we will complete Mililani on the first quarter of 2008; a 40 year commitment of providing homes for Hawaii Families
- **Our total investment is in the order of \$3.85 billion in infrastructure and vertical construction; an average of \$96 million each year for the past 40 years.**

We see renewable energy as essential for Hawaii’s future, and our commitment to that future comes directly from our owner, Mr. David Murdock, who has committed resources to make it happen. We believe renewable energy projects

make the best use of our Lanai lands, and can provide positive results for the future of Hawaii.

Renewable energy is essential to that future. We are prepared to invest close to \$1 billion of our resources in renewable energy. That's our commitment. We will deliver.

Castle & Cooke supports HB 2862, HD2, but believes that a consolidated process, as set forth in the original HB 2862, rather than a coordinated process, as set forth in HB 2862, HD2, for the approval of permits for an interisland wind energy and undersea cable project that will foster the type of large scale renewable energy projects this state needs to meet both the State's 20 percent by 2020 mandate, as well as the new Clean Energy Initiative of goal 70 percent renewable energy by 2030.

Castle & Cooke is uniquely situated to build an unprecedented renewable energy project on Lanai. A 400 mega watt wind farm, as currently planned by Castle & Cooke:

- 1) has the potential to supply more than one million mega watt hours of electricity a year – about 15% of Oahu's annual power needs;
- 2) could offset emissions equivalent to 220,000 cars per year; and
- 3) reduce oil imports to Hawaii by 3 million barrels per year.

Obviously, the advantages to the State of Hawaii are tremendous. Moreover, the potential of this project is magnified because Castle & Cooke owns 98 percent of the island, and has a very motivated owner, who is not asking for any state financial assistance. The combination of these factors is unique and opportune, but we must expedite the process while being good stewards of our resources, environment and culture.

Castle & Cooke's plans to build a wind farm on Lanai, which can provide Oahu with 15 percent of its electricity needs is unprecedented. Although there have been attempts in the past to bring renewable energy from one island to another, like bringing abundant geothermal energy from the Big Island to serve the critical need on Oahu, technical logistics have prevented developers from actual implementation. In comparison, proven technology exist now, by which up to 400 mega watts of energy can be safely transmitted undersea for over 100 miles, way more then the distance between Lanai and Oahu. The time to take action is this renewable energy project is now.

So far, the process of establishing large scale renewable projects in Hawaii has averaged ten years, many of which were bogged down in redundant and time consuming permitting processes. This type of unpredictable and drawn out permitting process is injurious to further investment by private industry into the large scale renewable energy projects Hawaii needs to secure its energy future and meets its renewable goals

Castle & Cooke is committed to investing over close to \$1 billion to create a wind farm on Lanai that could produce 15 percent of Oahu's electricity needs, and reduce our State's dependency on imported oil. As a developer committed to Hawaii's future, what Castle & Cooke is looking to the Legislature for is some predictability with respect to the government permitting process. **Ten years is too long to be mired in redundant permitting process, which currently does not have explicit timetables.** HB 2862 establishes a needed consolidated process for the approval of permits for an interisland wind energy and undersea cable project.

On behalf of Castle & Cooke, I ask for your support for the intent of HB 2862, HD2, in the original form of HB 2862. Mahalo and thank you for your time.

If you have any questions, please feel free to contact:

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D. NOELANI KALIPI
DIRECTOR, GOVERNMENT & COMMUNITY RELATIONS
UPC WIND MANAGEMENT, LLC

TESTIMONY ON H.B. 2862, HD2
BEFORE THE
HAWAII SENATE
COMMITTEES ON
ENERGY AND ENVIRONMENT
AND
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING
ON
TUESDAY, March 18, 2008
3:00 P.M. CONFERENCE ROOM 414

My name is D. Noelani Kalipi and I am the Director of Government & Community Relations for UPC Wind Management, LLC. UPC Wind Management, LLC is a wholly-owned subsidiary of UPC Wind Partners, LLC and provides administrative services to UPC Hawaii Wind, a partnership between UPC Wind Partners and Makani Nui Associates. An affiliate of UPC Hawaii Wind developed, constructed and owns and operates Hawaii's largest utility-scale wind farm, Kaheawa Wind Power, a 30MW facility located on the island of Maui. UPC Hawaii Wind is actively working to decrease Hawaii's reliance on fossil fuels for its electricity needs and has been working to develop additional wind generation facilities on the islands of Oahu, Kauai, Maui, and Molokai. **UPC Hawaii Wind supports the passage of HB 2862, HD2 as drafted.**

UPC Hawaii Wind initially opposed HB 2862 as introduced because it included (1) language that made the bill exclusive to a wind farm on Lanai and (2) attempted to consolidate the extensive permitting process for a project of this magnitude by eliminating jurisdiction from those agencies with extensive expertise in issues that require examination (e.g. conservation, incidental take, archaeological and cultural impact) and, in the name of expediency, placed all of that review under the Department of Business, Economic Development, and Tourism.

In its current form, HB 2862, HD2, is applicable to all islands and includes a streamlined and coordinated, but not consolidated, process. In hearings before other Committees

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reviewing this measure, individuals have testified that the coordinated approach should be applicable to all renewable energy projects in Hawaii. We support those efforts and believe a streamlined, coordinated process for all renewable energy projects would be an important step forward in Hawaii's efforts to decrease its reliance on fossil fuels for electricity generation needs.

The principals of UPC Hawaii Wind constructed Hawaii's largest wind farm, Kaheawa Wind Power (30 MW), on state conservation lands. We are well-aware of how time-consuming and complicated it can be to permit a wind farm in Hawaii. At one time during the construction and development of our project, we were working with close to 30 different government agencies to obtain the necessary permits and approvals that were required to construct the wind farm. This is the process that we believe should be better coordinated so that permits can be considered concurrently, where appropriate, and reviews can be conducted jointly. HB 2862, HD2 begins to address the coordination which would streamline what is currently a lengthy, repetitive and often redundant permitting process.

We are proud of our demonstrated record, which includes the precedent of being the first operating wind farm in the United States to establish a Habitat Conservation Plan, which required joint jurisdiction between the State of Hawaii's Division of Forestry and Wildlife and the U.S. Department of Fish and Wildlife. We believe the community, public, and government review is critical to the success of a wind project in Hawaii. There must be transparency as well as an opportunity for public input in the process.

UPC Hawaii Wind supports streamlining the permitting process in terms of eliminating unnecessary duplication in the permitting process, concurrent review of permits, where applicable, and better communication and coordination among agencies with jurisdiction. UPC Hawaii Wind feels strongly, however, that jurisdiction in the permitting process needs to remain with state agencies and counties that have the expertise, personnel, and resources to provide the appropriate review of any proposed wind farm in Hawaii, particularly one that would involve an undersea cable.

Instead of transferring jurisdiction from other state agencies to DBEDT, we support the establishment of a renewable energy facilitator within DBEDT that is charged with coordinating the permitting process with the wind developer and the state, federal, and county governments to ensure timely, yet proper, review of the proposed project. Similarly, the review or acceptance of any Environmental Impact Statements or Environmental Assessments should remain with state agencies with appropriate jurisdiction in this coordinated process. We support the proposed statutory deadline for the process and believe 24 months is a reasonable time to move a project through its required review.

We stand at the brink of change in Hawaii, where, after many years of ideas and dreams, we finally have reliable technology to harness our natural resources in a manner that can truly provide us with a measure of sustainability. We must be careful as we move forward that we do so in a culturally and environmentally appropriate manner. A

streamlined and coordinated permit process that applies to renewable energy projects on every island ensures such success in the State of Hawaii.

For these reasons, we respectfully ask your favorable passage of HB 2862, HD2 as drafted. Thank you for this opportunity to testify.

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Sunpower

Herbert M. (Monty) Richards
Kahua Ranch Ltd.

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII
RENEWABLE ENERGY ALLIANCE BEFORE THE
SENATE COMMITTEES ON ENERGY AND ENVIRONMENT, AND
COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

HB 2862 HD2, RELATING TO WIND ENERGY

March 18, 2008

Chairs Menor and Kokubun, Vice-Chairs Hooser and Ige and members of the Committees I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is a nonprofit corporation in Hawaii, established in 1995 by a group of individuals and organizations concerned about the energy future of Hawaii. HREA's mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of HREA's goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of HB 2862 HD2 is to establish a consolidated process for the approval of permits for an interisland wind energy and undersea cable project. HREA **opposes** this bill for the following reasons:

1. Too Specific an Endeavor. We do not believe it is appropriate for a bill such as this to be designed to help one specific technology, such as wind, or one specific project;
2. Competitive Bidding Framework. The proposal in HB 2862 HD2 is tantamount to the state supporting a "sole-source" bid, whereas the utilities are now required to bid out projects competitively when new generation is needed;
3. Role of the Project Coordinator. The bill as written includes establishing a project coordinator at DBEDT, but it is implied this coordinator would be assist a number of projects. However, the overall bill implies support to one wind project. We do not believe this is appropriate; and
4. Better Approach. HREA recommends HB 2863 as a better vehicle for coordination of the permitting process for all renewable energy facilities.

Thank you for this opportunity to testify.

LIFE OF THE LAND

Ua Mau Ke Ea O Ka 'Aina I Ka Pono

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Committee on Energy and Environment

Chair: Senator Ron Menor

Vice Chair: Senator Gary L. Hooser

Committee on Water and Land

Chair: Senator Clayton Hee

Vice Chair: Senator Russell S. Kokubun

Committee on Intergovernmental and Military Affairs

Chair: Senator Lorraine R. Inouye

Vice Chair: Senator Shan S. Tsutsui

Committee on Commerce, Consumer Protection, and Affordable Housing

Chair: Russell S. Kokubun

Vice Chair: Senator David Y. Ige

Tuesday, March 18, 2008

HB 2862 HD2 (3:00 pm)

HB 2863 HD2 (2:45 pm)

Room: 414

PLEASE HOLD

PLEASE HOLD

Aloha Chairs Menor, Hee, Inouye, Kokubun and Members of the Committees

HB 2862 and HB 2863 are very similar in many ways. They both seek to blame government rather than the fossil fuel industry for delaying the move towards renewables. They both seek to streamline the permitting process. And they were both concocted by Billionaire David Murdoch.

The idea of building 300-400 MW wind farm on Molokai (UPC Wind), Lanai (Castle & Cooke), or a combination system on Maui, Lanai and Molokai (United Power) and shipping the energy to O`ahu makes some sense. The 3 projects listed above might be worthwhile.

It certainly isn't because O`ahu lacks renewable energy resources. The Electric Power Research Institute (EPRI), the trade organization and research arm of U.S. Independently Owned Utilities (IOUs), including HECO, ascertained in 2004 that O`ahu could get all of its electricity from wave energy. Wave energy can be fairly accurately predicted 72 hours in advance, and the systems could get net power out of swells of just 8 inches.

Alternatively, all of O`ahu's energy could come from Ocean Thermal Energy Conversion (OTEC) on offshore barges.

Wind and solar can and should be part of the mix. In some parts of the country it takes under a year to approve the Power Purchase Agreement between the Independent Power Producer (IPP) and the utility. In Hawai'i it can take 5-10 years. This is done before the permitting stage.

Both bills streamline the process. HB 2862 appears to not trample on other state and county agencies, and the right of the public to be informed and to participate. HB 2863 eliminates all pretences that people matter. It promotes rubber stamping large well funded projects that have at least a green veneer.

Both bills carry hidden possibilities.

HB 2862 is for wind and supporting facilities. Ancillary facilities can include devices meant to smooth the variability. These devices include HECO's electric shock absorber, flywheels, hydro pumped storage, or gas turbines.

Alternately, a Big Island wind farm could be connected to O`ahu, with the idea that once it is built, a subsequent geothermal power plant could also use the transmission line. Puna Geothermal Ventures is owned by an foreign entity with HEI's former CEO on its Board of Directors.

HB 2862 HD2 transfers a lot of functions to DBEDT, an agency that is friendly to business and far less friendly to non-business interests.

"The department of business, economic development, and tourism shall be charged with the responsibility over the permitting process." (page 3)

"The department shall serve as the lead agency for the project permit application and review process established pursuant to section" (page 8)

"The project permit application, review, and approval process shall not affect or invalidate the jurisdiction or authority of any agency under existing law" (page 11)

"Where the contested case provisions under chapter 91 apply to anyone or more of the permits to be issued by the department or any agency for the purposes of the project, the department or agency, if there is a contested case involving any of the permits, may be required to conduct only one contested case hearing on the permit or permits within its jurisdiction." (page 12)

"To the fullest extent possible, this cooperation shall include among other things joint environmental impact statements with concurrent public review and processing at both levels of government." (page 13)

"Streamlining activities. In administering the project permit application, review, and approval process, the department shall: ... (2) Adopt and implement needed streamlining measures

identified by the interagency group, in consultation with members of the public” (page 14)

“ Incorporate, where possible, rebuttable presumptions based upon requirements met for permits issued previously under the consolidated permit application, review, and approval process.” (page 15)

“all procedures for public information and review under chapter 91 shall be preserved” (page 16)

“Applicable permits to be included in the project permit application process. (a) The project permit application process shall include but not be limited to the following permits: (1) From the land use commission: Any district boundary amendment involving land areas greater than fifteen acres (section 205-4);

From the department of health: (A) Water quality certification for discharge into navigable waters (part III of chapter 3420); and (B) Storm water discharge permit (part III of chapter 3420) ;

(4) From the department of land and natural resources: (A) Conservation district use permit (section 183C-6) ; (B) Ocean dredging, filling, or construction permit (section 183C-6); (C) Ocean lease, right-of-entry, or revocable permit for activity on state-owned lands, including submerged lands and sub-surface marine waters (section 1900-21); (d) Incidental taking of a threatened or endangered species license (section 1950-4); (E) Stream channel alteration permit (section 174C-71) ; (F) Well construction and pump installation permit (section 174C-84); (G) Historic property, aviation artifact, or burial site review (section 6E-42); (H) Burial sites and human remains discovery (section 6E-43.6); (I) Historic site review (section 6E-8);

(5) From the public utilities commission: (A) Power purchase agreement (section 269-27.2); and (B) High voltage transmission line development (chapter 269);

(6) From the county of Maui: (A) Community plan and zoning requirements) ; (B) Special use permit) ; (C) Special management area use permit (D) Shoreline setback variance ((E) Planned development approval (F) Subdivision, grubbing, grading, and building

(7) From the city and county of Honolulu: (A) Development plan and zoning requirements” (pages 16-18)

“Nothing in this section shall be construed to relieve an applicant from the laws, ordinances, and rules of any agency whose functions are not transferred by this section to the department for the purposes of the project.” (pages 18-19)

But what about the laws, ordinances, and rules of any agency whose functions ARE transferred by this section. This section is less than clear on the rights of the public for the vast bulk of permits which are transferred.

HB 2863 was written so that Castle & Cooke can ram through the largest, most complex energy

project in state history (300-400MW interisland energy project). DBEDT could approve the project, overriding all state and county agencies, and they could do this before any public comments are received. The state approval process could be exempt from sunshine, public hearings and contested case hearings.

The bill stated: (1) "DBEDT's energy resources] coordinator, on behalf of the relevant state agencies, shall approve the permits" (2) "Nothing in this chapter or chapter 343 shall prohibit the review and processing by the coordinator of applications for permits for a renewable energy facility concurrently with the preparation and processing by the applicant of an environmental impact statement for the facility. To accomplish the concurrent review, the coordinator may consent to the receipt and review of portions of a draft of an environmental impact statement before its completion."

"§ -16 Superiority of chapter over conflicting state or county law. The provisions of this chapter shall supersede any conflicting state or county law."

To prevent another Superferry debacle, where one company legislation is passed, the bill was amended to cover all renewable energy projects.

HECO's biofuel proponents see this as an opportunity to avoid having to have a public discussion on their proposals, so they are backing the bill.

Projects should be judged on their merit, not their backers ability to bend the rules.

Sustainability can not be and must not be achieved through silencing all those with divergent viewpoints.

Henry Curtis
Executive Director

testimony

From: Sally Kaye [skaye@runbox.com]
Sent: Monday, March 17, 2008 9:25 AM
To: testimony
Subject: RE: HB 2862 HD2, to Committees on energy/environment and commerce, consumer protection and affordable housing; hearing 3/18/08 at 3 p.m.

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Ron Menor, Chair; Senator Gary L. Hooser, Vice Chair

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND AFFORDABLE HOUSING

Senator Russell S. Kokubun, Chair; Senator David Y. Ige, Vice Chair

All efforts by government and private entities to reduce reliance on imported fossil fuels and encourage the expeditious development, production and delivery of renewable energy to all residents in our islands should be supported.

However, I **OPPOSE HB 2862 HD 2** for the following reasons:

- The measure as currently written only applies to wind energy, and only to wind energy that would benefit primarily the island of Oahu; it is unclear why the cooperative and collaborative provisions espoused by this bill should not apply equally to the development of *all* sources of renewable energy, and to and from *all* Islands.
- No mention is made of the energy needs of “any island in the State of Hawaii” (formerly “Lanai” in HB2862) *from* which the energy is harvested, either by sharing the renewable energy harvested or the profits derived therefrom. If local communities will be tasked with hosting renewable energy facilities, in this case massive wind turbines, community energy needs and energy costs should be considered first.
- A comparison of HB 2862 to HB 2862 HD 2 reveals the following drafting ambiguities:
 - 1) Provisions in HB 2862 that granted DBEDT authority to administer a “**consolidated** permit application,” have been deleted in the current draft and replaced with “**project.**” (See Section 2, § -3, 3(a), 3(b)(7), § -4, 4(a), 4(c)(1), (2), (3)(A), (4), (7), and §-6.) However, a “**consolidated**” permitting process is still referred to in 2 in § -4 (c)(4), §-6 (6) and in §-8 of HB 2862 HD2.
 - 2) Similarly, where “**approval**” has been deleted from HB 2862 HD 2 in § -3(a) and (b), suggesting that DBEDT’s role as lead agency would be now primarily limited to “establish[ing] and administer[ing] the project permit application and review process,” language granting DBEDT “**approval**” authority is retained in § -4 (c)(3) (A), 4(c)(5), §-6 (6) and §-8.
 - 3) Language “transferring” many permitting and oversight functions from several statutorily responsible state and county agencies under current law to the DBEDT, pursuant to HB 2962, §- 9, has been deleted. If this is an effort to restore “jurisdiction” to community/agency review processes, references to “transferring” permitting functions nonetheless remains in §-7 (2) and §-9 (b).

- 4) Although 24 months is stated as a cut-off date for permitting denial or approval under § -3(d), no agency is delegated enforcement responsibility nor is there a penalty provision for failing to meet this deadline.

Thank you for this opportunity to testify to your Committees.

Sally Kaye
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