



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

In reply, please refer to:
File:

COMMITTEE ON WAYS AND MEANS

H.B. 2862, H.D. 2, S.D.1, Relating to Wind Energy

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

March 28, 2008
9:30 am

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.

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

LIFE OF THE LAND

Ua Mau Ke Ea O Ka 'Aina I Ka Pono

76 North King Street, Suite 203, Honolulu, Hawai'i 96817
Phone: (808) 533-3454 * E-Mail: henry.lifeoftheland@gmail.com

COMMITTEE ON WAYS AND MEANS

Chair: Senator Rosalyn H. Baker

Vice Chair: Senator Shan S. Tsutsui

Friday, March 28, 2008

9:30 a.m.

Conference Room 211

HB 2862 Relating to Wind Energy

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

Life of the Land is Hawai'i's own environmental and community action group advocating for the people and the 'aina since 1970. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and by promoting open government through research, education, advocacy, and litigation.

PLEASE HOLD THIS BILL

If nothing else, the State Legislature should be consistent. In this legislative session the Senate in investigating the Director of DBEDT about violating state law in awarding a hydrogen contract, and, at the same time, is proposing that he, and he alone, can decide all permit conditions for the largest, most massive energy project in state history, with no oversight from the public or the Legislature.

No one individual should be given that authority. Democracy survives through a system of checks and balances. Legislating autocracy is unacceptable.

HB 2862 was written by a billionaire to circumvent all meaningful public involvement. The bill is carefully worded to appear to create checks and balances, but they are artificial constructs drawn up to suppress public involvement.

Written into the bill are provisions to allow massive reservoir development on Maui or O`ahu to stabilize energy flow, again without any public involvement.

The Senate can not promote sustainability on the one hand, and gut public participation on the other hand.

The bill starts off with incorrect statements.

HB 2862: "The State has also committed to a renewable energy standard, where twenty per cent of electricity sold will be generated from renewable resources by the end of 2020 and has sought to encourage private sector development of renewable energy projects."

LOL Analysis: State Definition of renewable energy: renewable energy, energy efficiency, some petroleum fuels (example, on-site heat recovered from boiling oil), coal and gas when mixed with biomass to make ethanol, gasoline when used to make biodiesel.

HB 2862: "However, renewable energy projects are often complex, large-scale undertakings requiring a number of permits. The process for obtaining the necessary permits for renewable energy projects and developments and the process for meeting state, county, and federal regulations has for decades been described as overly time-consuming, cumbersome, onerous, and costly."

LOL Analysis: The onerous state regulatory process is considerably easier than the time it takes to negotiate with the electric utility.

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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. ... Provide that a hearing required for a particular permit shall be held on the islands where the proposed activity shall occur."

LOL Analysis: Nothing in the bill requires a public hearing. A mandated public hearing is a necessary trigger for a contested case hearing. If a contested case hearing is somehow held, it will not be by the agency with responsibility for a given policy area, but by DBEDT, the agency trying to ram the project through. Finally, there are no rules or regulations for the contested case hearing.

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LOL Analysis: All state agencies must let DBEDT make all the decisions

HB 2862: DBEDT shall "Adopt and implement needed streamlining measures identified by the interagency group, in consultation with members of the public"

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HB 2862: "Incorporate, where possible, rebuttable presumptions based upon requirements met for permits issued previously under the consolidated permit application, review, and approval process."

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LOL Analysis: Liberally construed for developers, onerous for the public.

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consistency review required for activity within the coastal zone (section 205A-3); (3) From the department of health: (A) Water quality certification for discharge into navigable waters (part III of chapter 342D); and (B) Storm water discharge permit (part III of chapter 22 342D); (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 190D-21), (D) Incidental taking of a threatened or endangered species license (section 195D-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); and (F) Subdivision, grubbing, grading, and building permits and (7) From the city and county of Honolulu: (A) Development plan and zoning requirements ... 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."

LOL Analysis: DBEDT shall usurp all county and state agencies, but any permit that somehow was forgotten about remains with the agency that currently has jurisdiction.

Please hold the bill,

Mahalo,

**Henry Curtis
Executive Director**



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Mililani, Hawai'i 96789-8900
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Testimony by Castle & Cooke Hawaii
Before the Committee on Ways and Means

March 28, 2008
9:30 am
Room 211

HB 2862, HD2, SD1 Relating to Wind Energy

Chair Baker, Vice Chair Tsutsui and members of the committees:

On behalf of Castle & Cooke Hawaii, thank you for considering my testimony.

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, SD1 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, HD2, SD1 for the approval of permits for an interisland wind energy and undersea cable project. We feel that a consolidated process would encourage collaborate and focused efforts between state, county, private sector, and public review/input to get to the desired outcome of implementing renewable energy programs. The sooner we can decrease our use of fossil fuel, the better. We envision a consolidated process with specific datelines that can simultaneously address all environmental, cultural/social, and economical issues rather than in a lineal or independent method.

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, 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, SD1, 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, SD1, 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 and urgency with respect to the government permitting process. HB 2862 establishes a needed consolidated process for the approval of permits for an interisland wind energy and undersea cable project. **Ten years is too long to be mired in redundant permitting process, which currently does not have explicit timetables.** Our commitment is towards sustainability, on reducing our dependence on fossil fuel, and on diversifying our operations to allow us to continue our legacy in Hawaii.

On behalf of Castle & Cooke, I ask for your support for the intent of HB 2862, HD2, SD1 in the original form of HB 2862. Mahalo and thank you for your time.

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

Harry Saunders
President, Castle & Cooke Hawaii
aktsukamoto@castlecooke.com
548-4811

Tim Hill
Executive Vice President, Castle & Cooke Lanai Renewable Energy Programs
thill@castlecooke.com
559-0286

Carleton Ching
Vice President, Castle & Cooke Hawaii, Community and Government Relations
cching@castlecooke.com
548-3776

testimony

From: Respiratory & Environmental Disabilities Assoc of HI [redahi@hawaii.rr.com]
Sent: Tuesday, March 25, 2008 4:18 PM
To: testimony
Subject: HB 2862, March 28, 2008, Conf Rm 211, 930A

COMMITTEE ON WAYS AND MEANS

Chair: Senator Rosalyn H. Baker

Vice Chair: Senator Shan S. Tsutsui

Friday, March 28, 2008

9:30 a.m.

Conference Room 211

HB 2862 Relating to Wind Energy

Aloha Chair Baker, Vice Chair Tsutsui and Members of the Committee:

PLEASE HOLD THIS BILL. My name is Bobby McClintock, RED AHI (Respiratory & Environmental Disabilities Assoc of HI). I cannot put it more succinctly than Life of the Land. Please read the following issued by them:

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LOL Analysis: DBEDT shall usurp all county and state agencies, but any permit that somehow was forgotten about remains with the agency that currently has jurisdiction.

**Please hold the bill,
Mahalo,
Henry Curtis
Executive Director**

[Handwritten mark]

Committee on Ways and Means
Chair Rosalyn Baker, Vice-Chairman Shan Tsutsui
Friday March 28, 2008
9:30 am Room 211
HB2862 Relating to Wind Energy

Aloha Chair Baker, and Vice-Chair Tsutsui and Members of the Committee,

I am upset to see this terrible bill get so far in our legislature.

First, there is no reason to rush this through for one project by one very rich and influential person, corporation.

Second putting this under the DBEDT makes no sense. DBEDT is all about tourism, and development for development's sake. A ground-breaking project of this magnitude at this point, environmental and community input.

There is a lot of expertise beyond the scope of DBEDT being cut out of the process. We here in Hawaii, make the wrong assumptions over and over again with the same results. We give our trust to someone with a lot of money, and then we abdicate responsibility for something that affects all of us, lacking any evidence they deserve that trust. As if being a billionaire by owning land has anything to do with developing Wind Power for a community.

It is very important to me that wind power happens here in the islands, and that it be done right. This bill seeks to put the responsibility for this project beyond the participation of the people, to give it away and hope for the best is my reading of the bill, and that has never worked.

The stated goal of the bill is to "improve" the permitting process. The permitting process was put in place for good reasons, to prevent one entity from having too much say over what happens to the land. Besides, the 2020 "commitment to alternate energy" doesn't mention wind power.

The language of this bill gives DBEDT total control of the process, with other agencies actually powerless. Fast tracking sets a precedent for any number of possibly unacceptable future projects. When the only people in the room are the ones earning money to get it done FAST, and not paid to be uphold other standards and values, bad decisions get approved.

Please, kill this bill. Someone needs to start over so we can have a well-planned and carefully executed alternative energy project. This is not the way to go about it.

Sincerely, Mary Barter 638-0283
59-529 Hoalike Rd. Haleiwa, 96712

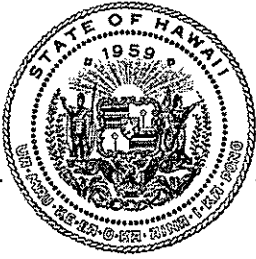
testimony

From: Casey McCarty [caseymccarty@yahoo.com]
Sent: Tuesday, March 25, 2008 8:48 AM
To: testimony
Subject: HB 2862 Relating to Wind Energy

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

Please do not pass this legislation. It simply puts too much power in the hands of too few people without proper checks, balances, advice and consent. I appreciate how difficult it is to get something done in a democracy but having a goal taken away in the last few moments because it doesn't really meet the needs of the people or the laws that govern them is, to me, far worse than not getting project started.

Casey McCarty
Big Island



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

LINDA LINGLE
GOVERNOR
THEODORE E. LIU
DIRECTOR
MARK K. ANDERSON
DEPUTY DIRECTOR

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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

Friday, March 28, 2008

9:30 AM

State Capitol, Conference Room 211

in consideration of

HB 2862 HD2 SD1
RELATING TO WIND ENERGY.

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

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 SD1 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. These include review of the project permit application for completeness, monitoring of the applicant's

work undertaken to ensure compliance with the terms of the permits, and conduct of contested case hearings.

DBEDT prefers HB 2505 HD2 SD1, consistent with the Executive Supplemental Budget, that will establish a renewable energy facilitator position to assist project developers. 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.

Thank you for the opportunity to offer these comments.