

**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
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Wednesday, February 13, 2008
2:00 PM
State Capitol, Conference Room 325

in consideration of

**HB 2863 HD1
RELATING TO RENEWABLE ENERGY.**

Chair Herkes, Vice Chair McKelvey, and members of the House Committee on
Consumer Protection and Commerce.

The Department of Business, Economic Development, and Tourism (DBEDT) supports
HB 2863 HD1 as it helps achieve the energy security and self-sufficiency goals of the Energy for
Tomorrow initiative launched in 2006. This measure requires the director of the Department of
Business, Economic Development and Tourism (DBEDT), as the Energy Resources Coordinator
(ERC), to establish the consolidated application, administer the siting process, determine permit
terms and conditions, and to approve permits that encompass a number of significant zoning
and/or permitting functions of State and county regulatory authorities for facilities that have the
capacity to produce at least two hundred megawatts of electricity from renewable energy.

It is clear that permitting is one of the major constraints to sizable renewable energy projects being implemented in Hawaii. On a regular basis, developers and investor tell us that the issue is not technology or capital, but the time that it takes projects to be completed in Hawaii that is the major deterrent to more renewable energy penetration on the island.

In order to make this measure capable of implementation and truly useful to large renewable energy projects, necessary and sufficient resources need to be provided. These resources include personnel and other costs related to a consolidated permit process. Without these resources, the intent and objective of this measure cannot be implemented. DBEDT is willing to work with the proponents of the measure on the details of such resource requirements.

Thank you for the opportunity to offer these comments.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE
FEBRUARY 13, 2008**

MEASURE: H.B. No. 2863 H.D. 1
TITLE: Relating to Renewable Energy.

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill establishes a renewable energy facility siting process to expedite the review and action upon state and county permits necessary for the siting, development, construction, and operation of a renewable energy facility. Included in the bill is an addition to Section 269-27.2(c), Hawaii Revised Statutes ("HRS") that requires the Public Utilities Commission ("Commission") to act on rate agreements for nonfossil fuel generated electricity between a renewable energy facility owner and a public utility within a prescribed time period of thirty (30) days.

POSITION:

The Commission respectfully submits the following comments on the proposed amendment to Section 269-27.2(c), HRS.

COMMENTS:

- **The bill proposes that the Commission approve, approve with modification, or reject any application for approval of a rate agreement for nonfossil fuel generated electricity between a renewable energy facility owner and a public utility, within thirty (30) days of receipt of the application. On occasions when a renewable energy facility owner and a public utility fail to reach such an agreement, and one of the parties requests the Commission to prescribe a just and reasonable rate, the Commission must prescribe the rate within thirty (30) days of receipt of the request.**
 - While the Commission supports an expedited renewable energy siting process, the Commission is concerned that this portion of the bill may not accomplish its intended purpose. Under § -11 of the bill, the power purchase agreement is subject to the applicable provisions of chapter 269,

HRS, but the rate agreement, which is included in the power purchase agreement, is subject to the modified review process set forth in § -16 of the bill. Having two different processes govern the same application is unlikely to result in the expedited process intended by the bill.

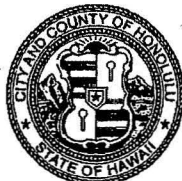
- In addition, the Commission may not be able to complete its review of the rate agreement or, if no rate agreement has been reached, establish a just and reasonable rate, within the thirty-day prescribed time period. The review process includes, among other things, a twenty (20) day intervention period; the filing of statements of position by the parties to the docket; review and analysis by Commission staff, and if necessary, requests for information by the parties or by Commission staff.
- The Commission therefore, recommends that if the Legislature does pass this bill, that it be amended to allow the Commission the authority to suspend the rate agreement portion of the application if additional time is required to complete its review of the application.
- **As a consequence of the Commission missing the thirty-day deadline when presented with a request to prescribe a just and reasonable rate, the bill requires that the last rate proposed by the renewable energy facility owner is deemed the rate prescribed and that rate becomes effective on the first day after the thirty-day period.**
 - The Commission is concerned that the language presents an unfair bias in favor of the renewable energy facility owner without due process. Such a bias may negatively impact electric ratepayers.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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MUFI HANNEMANN
MAYOR



HENRY ENG, FAICP
DIRECTOR

DAVID K. TANOUE
DEPUTY DIRECTOR

February 13, 2008

The Honorable Robert N. Herkes, Chair
and Members of the Committee on Consumer
Protection and Commerce
House of Representative
State Capitol
Honolulu, Hawaii 96813

Dear Chair Herkes, and Members:

**Subject: House Bill 2863, HD1
Relating to Renewable Energy**

The Department of Planning and Permitting **opposes** House Bill 2863, HD1, which along with other measures would expedite the issuance of county permits by essentially circumventing established county land use planning and zoning policies and permit procedures, local decision-making, and community input.

The expressed purpose and intent of this bill is to establish an expedited renewable energy facility siting process for both state and county permits is not necessarily needed. Furthermore, the renewable energy facilities that this bill seeks to facilitate will be located in separate counties for the production of energy which will serve first and foremost those individual communities. As such, there is no overriding state-wide imperative which justifies usurping existing local controls over the site selection of a proposed renewable energy facility. The site selections are and should remain local decisions subject to established county planning, land use, engineering and building requirements.

As examples of this process, just within the last year, we approved a new biodiesel fuel production facility at Barbers Point and a new wind machine farm in Kahuku. In both cases, the land use approvals were expeditiously and successfully processed in a matter of a few months. Another example is a photo-voltaic energy farm that is proposed for the Kapolei area. At most, it will require a minor conditional use permit (CUPm). Under the Honolulu county zoning requirements, the CUPm must be processed within 45 days. However, even that permit may not be necessary if the proposed utility installation is found to have little or no potential impacts on surrounding permitted uses.

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The Honorable Robert N. Herkes, Chair
and Members of the Committee on Consumer
Protection and Commerce
Re: House Bill 2863, HD1
February 13, 2008
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There does not appear to be any particular permit issuance problems which warrant the extraordinary measures that this bill proposes. However, if this measure is intended to address problems occurring in another county, with respect to land use and permitting for renewable energy facilities, then we respectfully object to any provision which unfairly paints all of the counties with a broad brush. We believe our existing land use and planning requirements can adequately accommodate important new technologies, and appropriately ensure compatibility with local long-range plans and land use policies. The existing regulations also provide for necessary input from affected host communities, and preserve the local decision-making authority.

In the Standing Committee Report No. 272-08, Chairs Ken Ito and Hermina Morita concurred with our objections, stating:

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.

Nevertheless, House Bill 2863, HD1 retains the same objectionable provisions as the original bill. We note that there are numerous alternative bills introduced this legislative session which appear to adequately address renewable energy facilities without trespassing on county prerogatives, and are worthy of further consideration.

Please file House Bill 2863, HD1.

Very truly yours,


Henry Eng, FAICP, Director
Department of Planning and Permitting

HE: jmf
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**TESTIMONY OF THE
COUNTY OF KAUA'I
PLANNING DEPARTMENT**

**TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE**

**TWENTY-FOURTH LEGISLATURE
REGULAR SESSION OF 2008**

February 13, 2008
2:00 p.m.

TESTIMONY ON HOUSE BILL NO. 2863 HD 1, RELATING TO RENEWABLE ENERGY

**TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE
COMMITTEE:**

We would first of all like to thank the House for acknowledging the importance of renewable energy throughout Hawai'i and for bringing aggressive measures to the table. In the case of HB 2683, however, the County of Kaua'i Planning Department feels the measures are too aggressive particularly by essentially removing the permit from the County's hands.

We echo the concerns brought up in the report by the Committees on Energy & Environmental Protection and Water, Land, Ocean Resources & Hawaiian Affairs, which found that "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."

We reiterate our earlier testimony to those committees that ,no particular land use, even those with the worthwhile goal of achieving energy independence and reducing our carbon footprint, should violate the principle of home rule by overriding a community's right to meaningfully participate in the public process or a municipalities right to set and institute their own their own land use and planning policies.

Energy generating facilities, even renewables, often have large impacts, as they must operate on an industrial scale. By there very nature their impact on the community must be carefully considered.

Please be assured that our Department is committed to the long term sustainability

and environmental quality of our island and the policy that brings this goal about for Kaua'i should be created by Kaua'i.

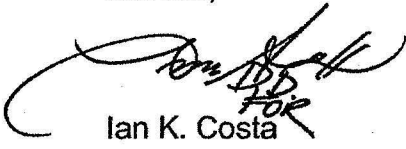
We have seen a number of applications for renewable projects on a variety of scales, from administratively permitted photovoltaic installations to wind farms and bio-fuel projects which ultimately require public hearings.

We also understand the urgency of the problem as it relates to climbing oil prices and climate change. As such we would support the establishment of a position such as that proposed by HB 2505. We would hope such a coordinator could work with existing County processes and help expedite the permitting process through its expertise. We would also support measures that allow our Department to prioritize renewable projects by waiving timelines required by HRS 91 for other projects not aimed at implementing state or county goals.

Again in understanding the urgency of the situation and the need for aggressive measures, if the situation truly demands a state office to handle and permit renewable energy projects, then the permitting and enforcement should be solely a state process and renewable projects should be exempt from even having to obtain a County Permit.

We look forward to continued efforts to work with the Legislature to promote renewable energy and plan the long term sustainability of our Islands.

Mahalo,

A handwritten signature in black ink, appearing to read "Ian K. Costa". The signature is stylized and includes some additional markings below the name, possibly initials or a date.

Ian K. Costa
Director, Planning Department



Testimony by Castle & Cooke Hawaii

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Before the Committee on Consumer Protection & Commerce

February 13, 2008

2:00 pm

Room 325

HB 2863, HD1 Relating to Renewable Energy

Chair Herkes, Vice Chair McKelvey and members of the committee:

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 HB 2863, HD1, that establishes an inter-island renewable energy facility siting process.

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 we believe that HB 2863, HD1, is essential to our efforts and to the success of the State's renewable energy mandate.

We recognize that there were some concerns raised about this bill during an earlier hearing, and we suggest the following:

Concern 1: The authority delegated to the Department of Health by the Environmental Protection Agency for air and water permits cannot be waived without significant statutory change.

Suggestion 1: Insert language indicating that the coordinator does not have the authority to issue permits that are governed by federal EPA regulations.

Concern 2: The time constraints on the Public Utilities Commission (PUC) are unreasonable.

Suggestion 2: Insert language allowing the PUC to take additional time to make their decision, should requests for additional information arise.

Concern 3: There is a lack of a statewide imperative justifying these measures.

Suggestion 3: While we believe that the statewide imperative already exists, adding a purpose section detailing Hawaii's energy security vulnerability and the critical need for renewable energy projects to attain the goals of twenty percent renewable energy by 2020 and the recent announced ambitious Federal Department of Energy goal of seventy percent renewable by 2030 should address the concern.

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 to be planted as part of solar program
 - 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 investing more than \$765 million 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 2863, HD1, because the legislation establishes a facility siting process 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 70 percent renewable energy by 2030 goal.

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.

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 2863, HD1, provides a renewable energy siting process that expedites review and action on permits that are critical to any large renewable energy project.

On behalf of Castle & Cooke, I ask for your support for HB 2863, HD1. Mahalo and thank you for your consideration of our testimony.

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

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HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 13th, 2008, 2:00 P.M.

(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO HB 2863

Chair Herkes and members of the Committee:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, opposes HB 2863, establishing an expedited process for certain renewable energy projects. While we greatly appreciate the intent behind the measure—ostensibly to expedite the development of renewable energy sources in Hawai'i—we fear that faulty decision making may result if agencies and commissions are forced to expedite energy permits at the expense of reduced public input and deliberation. The State or our environment will be liable if a critical environmental issue—say a habitat conservation plan for an endangered bird—delays a project.

First, it has been our experience in tracking clean energy developments in Hawai'i that the environmental disclosure and permitting hurdles are lower on the list than obstacles such as financing, land acquisition, and interconnection agreements with the electric utility. In fact, interconnection agreements seem to be the biggest roadblock. For example, consider the Maui windfarm at Kaheawa Pastures. At the public hearing on the conservation district use permit—the main environmental approval that was needed—33 individuals and organizations testified and all were in support. The interconnection agreement with Maui Electric, however, took years to negotiate, with much frustration on the part of the wind developer.

Second, our existing permitting process protects the environment and the public's right to provide input in the decision making. This usually makes for better siting and development decisions. Given that many of our indigenous energy resources will be harnessed in remote or ecologically sensitive areas, proper permitting and analysis are crucial. Again in the Kaheawa Pastures case, through the existing permitting process an agreement was reached to protect the Nene and other species. But expediting permitting of new renewable energy facilities—particularly those that are located in wild areas—may cause important resource protection measures to be overlooked.

Third, some of the “renewable energy facilities” contemplated in HB 2863 may be truly fossil fuel facilities in disguise. A recent proposal to produce biofuel by Kauai Ethanol LLC sought a covered source air permit to burn imported coal at the facility to convert molasses to ethanol.

Again, we greatly appreciate the intent behind HB 2863, but the measure may create unintended consequences while not fully addressing the underlying problems of financing, land acquisition and utility interconnection agreements. We would fully support a measure to provide a renewable energy facilities coordinator at DBEDT (an ombudsman of sorts) to help shepherd projects, priority processing of renewable energy permits, and any other measures to cut bureaucracy—as long as the existing public input and environmental protection processes remain intact.

Thank you for the opportunity to testify.