

# OFFICE OF INFORMATION PRACTICES

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To: House Committee on Energy and Environmental Protection

From: Paul T. Tsukiyama, Director

Date: February 5, 2007, 8:30 a.m.  
State Capitol, Room 312

Re: Testimony on H.B. 3069  
Relating to Energy Resources

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Thank you for the opportunity to submit testimony on H.B. 3069.

The Office of Information Practices ("OIP") takes no position on the substance of this bill. OIP seeks clarification of proposed section 196- (bill page 9 line 5 to page 11 line 2). It appears that this section is intended to ensure that the agency keeps confidential any information received that could properly be withheld from disclosure under the Uniform Information Practices Act ("UIPA"), chapter 92F, HRS. The UIPA protects (among other things) confidential business information, which would typically include non-public financial information that would allow a competitor to determine a business's overhead or profitability. However, as drafted the section could be read to make confidential any information that the submitter marked confidential, regardless of whether it would actually fall within an exception to disclosure under the UIPA. OIP recommends that this Committee clarify that the agency is required to keep confidential only the information that could properly be withheld under the UIPA.

OIP recommends that beginning at page 9, line 9, the bill should read, “All ~~[confidential]~~ information received by the director [shall be afforded all the protections available pursuant to chapter 486J] that is exempt from public disclosure under section 92F-13, ~~[, and]~~ shall be afforded all the protections available pursuant to chapter 486J and shall be held in confidence by the director . . . .” Beginning at page 9, line 19, the bill should read, “. . . information received by the director to the extent it is exempt from public disclosure under section 92F-13, and, . . . .” Beginning at page 10, line 9, the bill should read, “. . . specific information that ~~[is]~~ it considers confidential, provided that the information specified shall only be kept confidential as provided for in this section if it is exempt from public disclosure under section 92F-13;” Beginning at page 10, line 11, the bill should read, “. . . with respect to ~~[the confidential]~~ information that is exempt from public disclosure under section 92F-13 that the director obtains, . . . .”

Thank you for the opportunity to testify.



**DEPARTMENT OF BUSINESS,  
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Statement of  
**THEODORE E. LIU**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**  
Tuesday, February 5, 2008  
8:30 am.  
State Capitol, Conference Room 312

in consideration of

**HB 3069**  
**RELATING TO ENERGY RESOURCES.**

Chair Morita, Vice Chair Carroll, and Members of the  
Committee.

The Department of Business, Economic Development, and  
Tourism (DBEDT) strongly supports HB 3069, an Administration  
bill, which comprehensively addresses deficiencies in Hawaii's  
energy resources coordination statutes and provides policy  
guidance needed to provide adequate detail on the nature and  
relationship of the energy data analyses functions required of  
the State's Energy Program. We are grateful that this bill is  
being heard by your committee.

In 2006 and 2007, the Legislature passed and Governor Lingle  
signed into law energy statutes that fundamentally changed how  
Hawaii consumes energy, by accelerating the production of  
renewable and alternative energy, increasing energy efficiency,

developing and adopting new technologies and ensuring the State's energy security.

As State Energy Resources Coordinator (ERC), the DBEDT Director is tasked with implementing these statutes, as well as preserving and protecting the state's energy security. While the Consumer Advocate represents the consumer's of energy in the state, the ERC represents the State and its broader, strategic energy policy perspectives to coordinate and manage statewide energy resource development. The ERC has historically been clearly mandated to carefully consider and analyze the status of Hawaii's energy systems as an advocate for the State, because a technically informed energy industry also uses analytic arguments and rigorous "due process" channels to resist certain policy-making and implementation.

These energy initiatives and activities involve actions by and affect all energy industry sectors, and consumers, and require coordinated actions by state agencies - administrative and regulatory. In order to accomplish the State's energy goals, the ERC needs the technical capability and capacity to quantitatively and qualitatively evaluate, analyze, develop, and coordinate implementation of private and public sector energy planning efforts, and recommend market-based policies to develop Hawaii's energy systems and resources in all sectors.

The proposed amendments to Chapter 196, HRS, will reflect these energy security-related analytic functional requirements and responsibilities of DBEDT/State ERC, made operational by the

State Energy Program. The proposed amendments would add appropriate detail to the distinctive differences between DBEDT/ERC (Chapter 196, HRS) roles and responsibilities relating to energy data analytic functions, and those of other agencies; e.g., the functions of the Public Utilities Commission now contained in Chapter 486JA, HRS, which are consistent, complementary, and non-redundant.

The Legislature, in Act 182, Session Laws of Hawaii 2007, explicitly acknowledged the difference between DBEDT's energy analysis role and the PUC's role to conduct analysis with a fundamental focus on petroleum prices and petroleum industry profits. Chapter 486J-5.3, HRS, provides policy direction to DBEDT to conduct energy analytic functions that are distinctively different than those done by the PUC, and specifically recognizes that the use and analysis of energy and fuels data functions remain critical to virtually all of DBEDT's interrelated statutory energy program functional requirements, while directing DBEDT to use this data "to effectuate the purposes of Chapters 125C, 196, and other relevant laws."

Just as DBEDT and the PUC have distinctive energy-related missions and functions, the types of energy data collected and statistical analysis they are required to conduct are distinctive as well, and both agencies require appropriate and definitive policy guidance for these functions.

At least fifteen (15) other states and territories have established programs for energy data and information reporting by

industry (AK, CA, CO, DC, FL, GM, IA, LA, NE, NJ, ND, NM, ME, MN, and MT). These programs add significant value to consumer knowledge, competitive pricing, and provide data, analyses, and information for informed policy and regulatory decisions, energy emergency planning, and assessments of renewable energy, energy efficiency, and fossil fuels in all sectors; i.e., planning and preserving energy security, particularly critical due to the state's extreme over-dependence on oil.

In summary, the proposed amendments offer a comprehensive, integrated approach needed to address deficiencies in Hawaii's energy resources coordination statutes to:

1. Update key definitions to account for transition issues related to biofuels and other alternate fuels, and the proliferation of new categories and specifications of petroleum fuels;
2. Address increasing unique economic/energy systems risks corresponding to transition issues/trends as a result of the increase in the variety of fuels and fuel production feedstocks being directly imported into the state and the new, fuel- and feedstock-specific infrastructure requirements associated with such transitional issues and trends;
3. Establish definitive policy guidance needed on the nature and relationship of energy data analyses to the State's energy program, and to clearly delineate distinctive analytic roles and responsibilities of State agencies conducting energy data functions, particularly in regards to DBEDT and the PUC; and,

4. Provide the basis for a robust, systematic State energy analytic capacity and capability, which is essential to support the ERC's role.

Thank you for the opportunity to offer these comments.