

STATE OF HAWAII
DEPARTMENT OF DEFENSE

TESTIMONY ON HOUSE BILL 3070
A BILL RELATING TO ENERGY EMERGENCY PREPAREDNESS

PRESENTATION TO THE
COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

BY

MAJOR GENERAL ROBERT G. F. LEE
DIRECTOR OF CIVIL DEFENSE

February 13, 2008

Chair Herkes and Committee Members:

I am Major General Bob Lee, Director of Civil Defense, State Department of Defense. I am testifying in support of House Bill 3070.

While we have benefited from the cooperation of the energy sector throughout the State in terms of disaster preparedness, critical infrastructure protection planning, and disaster response, the proposed bill provides the Department of Business, Economic Development, and Tourism the authority to require energy companies to report critical emergency preparedness information. This information will enhance the State's ability to prepare effective energy preparedness and contingency plans.

Thank you for the opportunity to provide testimony on behalf of an important emergency preparedness initiative.

OFFICE OF INFORMATION PRACTICES

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To: House Committee on Consumer Protection & Commerce

From: Paul T. Tsukiyama, Director

Date: February 13, 2007, 2:00 p.m.
State Capitol, Room 325

Re: Testimony on H.B. 3070
Relating to Energy Emergency Preparedness

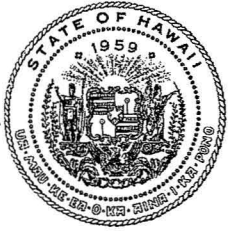
Thank you for the opportunity to submit testimony on H.B. 3070.

The Office of Information Practices ("OIP") takes no position on the substance of this bill. OIP seeks clarification of proposed section 125C-D (bill pages 15-17). It appears that these sections are 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 sections could be read to make confidential any information that the submitter marks 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 only to keep confidential the information that could properly be withheld under the UIPA.

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For proposed section 125C-D, OIP recommends that beginning at page 15, line 7, the bill should read, "All ~~{confidential}~~ information received by the director that is exempt from public disclosure under section 92F-13~~[, and]~~ shall be held in confidence by the director" Beginning at page 15, line 16, 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 16, line 6, 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 16, line 7, 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,
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 & COMMERCE

Wednesday, February 13, 2008

2:00 pm.

State Capitol, Conference Room 325

in consideration of

HB 3070

RELATING TO ENERGY EMERGENCY PREPAREDNESS.

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

The Department of Business, Economic Development, and
Tourism (DBEDT) strongly supports HB 3070, an administration
bill, which comprehensively addresses deficiencies in Hawaii's
Energy Emergency Preparedness (EEP) program. We are grateful
that this bill is being heard by your committee.

One of the principal missions of DBEDT as the State's Energy
Resources Coordinator (ERC) is the administration,
implementation, monitoring, and sustained operation of the State
of Hawaii Emergency Support Function #12 (Energy). This function
requires DBEDT during any energy emergency to gather and provide
information to the Governor, other State agencies (including the
Department of Defense), the Counties, and the Legislature as
rapidly as possible to support statewide emergency management.
As currently written, the governing statutes that support this

function, primarily in Chapter 125C, Hawaii Revised Statutes, do not allow DBEDT to develop a complete picture of the State's energy situation in an emergency. For example, current provisions of Chapter 125C, HRS, require only importers of fuel to provide emergency data reports, and then only for supply and demand information. Current provisions of Chapter 125C, HRS, also do not require energy companies to report to DBEDT critical emergency preparedness information regarding storage, transport, inventory, supply, demand, production and capacities, and other aspects of energy systems and markets which are essential to the State's federally-mandated emergency management role, irrespective of these companies' import status.

DBEDT cannot predict when a natural disaster, terrorist attack, or any other state energy emergency, disruption, or shortage will occur. Nor can it adequately meet its statutorily-defined roles and responsibilities to prepare for, respond to, and support the recovery from all possible energy emergencies, irrespective of their cause, with the current deficient laws governing energy emergency planning.

Chapter 125C's outdated limitations of data collection authority and lack of accommodation of changed energy markets, and changes of fuel products and specifications preclude the Governor's and the ERC's ability to adequately ascertain the severity and impacts of an energy emergency or fuel shortage in a

timely fashion, and, therefore, to determine what response measures may be necessary.

HB 3070 attempts to correct these deficiencies by bringing into alignment the statutory language in Chapter 125C with the State's energy data needs in an emergency. To ensure the readiness and robustness of the State's EEP program, vital and necessary information from other non-importing distributors, wholesalers, retailers, and other major energy companies, and other more extensive and detailed types of data and information on all aspects of the state's energy systems and market are essential for effective energy emergency situational analyses and reporting, coordination and management of near- and longer-term energy emergency response and vulnerability mitigation initiatives, preparedness and exercise functions, maintaining current energy emergency plans, and energy security policy planning and analysis.

The State of Hawaii Energy Emergency Preparedness Plan is the foundation for the State's EEP program. The State of Hawaii Energy Emergency Preparedness Plan was prepared in compliance with several key Federal statutes and Acts. These key statutes and Acts include: Homeland Security Presidential Directive-7, which defines energy facilities, both public and privately owned as part of the nation's "critical infrastructure and key resources"; The Homeland Security Act which has embedded requirements of the State of Hawaii and its response agencies to

engage in adequate preparedness and response planning; and the Homeland Security Presidential Directive-5. The Homeland Security Presidential Directive-5 establishes the National Response Plan, and requires compliance with the National Incident Management System, to include compatible integration strategies with State Emergency Plans.

The information required in HB 3070 are needed to support the Shortage Management Center planning function and the preparation of supplemental status reports that support the ESF-12 situational reports as described in The State of Hawaii Energy Emergency Preparedness Plan. The preparation of this plan was done with input and review by members of both the Hawaii State Energy Council and the Governor's Energy Emergency Preparedness Advisory Committee, whose members include State agencies, the counties, military units, the Public Utilities Commission, FEMA, Hawaii's refineries, private utilities, and other energy suppliers, producers, transporters, distributors, and storers.

Protecting the confidentiality of the data has also been raised as a concern. DBEDT has been receiving and handling proprietary data (relating to profitability and trade secrets) and sensitive data (relating to critical infrastructure and vulnerabilities of facilities to vandalism and attack from terrorists) from petroleum companies since the 1980's. To the best of my knowledge, DBEDT has not received a single complaint about mishandling this confidential data.

DBEDT has coordinated with these organizations during past energy emergencies, and has at times received critical data from them on a voluntary basis, but the current statutory limits on the type of data available to the ERC in an emergency brings with it higher risks and does not ensure that the ERC has the resources necessary to fulfill its energy emergency preparedness roles and support statewide emergency response while being reliant on the goodwill of the members of these two voluntary bodies for critical energy data. For energy emergency planning and management to preserve the State's energy security, the State should have the authority to fulfill its legal obligations and provide the necessary critical information to key decision-making stakeholders in times of emergency.

Thank you for the opportunity to offer these comments.



**TESTIMONY BEFORE THE HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE**

**HOUSE BILL 3070
BY
STEVEN GOLDEN**

WEDNESDAY, FEBRUARY 13, 2008

Chair Herkes and members of the Committees:

I am Steve Golden, Vice President of External Affairs for The Gas Company. Thank you for the opportunity to provide testimony on House Bill 3070, relating to energy emergency preparedness.

The Gas Company finds that this bill would duplicate what is already in place, requiring that the same information being provided to one State agency be provided to another state agency. As a regulated public utility and a business subject to the Petroleum Industry Monitoring, Analysis and Reporting (PIMAR) Program, we are currently providing numerous reports to the State Public Utilities Commission (PUC) including weekly reports on fuel imports, sales and inventories. Providing similar information to the Department of Business Economic Development & Tourism (DBED&T) is duplicative and will further drive up the costs of providing gas service to our customers.

Although the stated intent of this bill is to provide emergency management, preparedness and planning by the State, the bill provides that the Director of DBED&T has full discretion and authority to require a broad scope of information pertaining to our business at anytime. These powers go beyond emergency preparedness and are overly broad.

The Gas Company continues to support and looks forward to its continued participation in the successful cooperative efforts of both the private and public sector in their joint emergency planning, preparation and response through the State Civil Defense. The Gas Company is a member of both the State's Energy Council and the Governor's Energy Emergency Planning Advisory Committee. For many years, the Energy Council and its members have worked cooperatively to successfully address energy emergencies.

Lastly, as a private business we are concerned that the proposed confidentiality provisions are not adequate to either protect or secure confidential information, as too many people will have, or could secure, access to such information.

We believe that the information that is already being provided should be used and that the private sector not be asked to provide the information again, merely for the convenience of individual State agencies. Greater effort needs to be taken to eliminate overlapping efforts at planning, preparation and implementation of services to assist in minimizing the cost of doing business in the state.

For the forgoing reasons The Gas Company respectfully requests that H.B. 3070 be held.

Testimony before the
House Committee on
Consumer Protection and Commerce

H.B. 3070 – Relating to Energy Emergency Preparedness

Wednesday, February 13, 2008
2:00 pm, Conference Room 325

By Dean Mizumura
Superintendent, Operations Planning
Hawaiian Electric Company, Inc.

Chair Herkes, Vice Chair McKelvey and Members of the
Committee:

My name is Dean Mizumura and I am testifying on behalf of
Hawaiian Electric Company, Inc. and its subsidiaries, Maui
Electric Company, Ltd. and Hawaii Electric Light Company.

This measure grants authority to the director of DBED&T to
acquire, use and analyze information on Hawaii's energy
resources, systems and markets to respond to and recover from an
emergency. This would require information from a broad array of
both private and public sector sources.

Hawaiian Electric appreciates and recognizes the importance
of being prepared to respond to emergency situations and the need
for close coordination with state and county agencies. However,
we have very strong reservations regarding the information that is
being requested. Not all is relevant to the stated purpose of this
measure. This request for information goes beyond what would be
required to manage an energy emergency. It involves detailed
operational information on command and control centers and load
control schemes that is of little or no use for the evaluation of

energy shortages. In addition, this is highly sensitive information. It involves the data we use to monitor and control generation and transmission of electricity within our grid. Security is essential to prevent cyber-terrorism, and the more broadly this information is shared the greater the risk of misuse.

During emergency situations, we work closely with state and county agencies such as State Civil Defense and the City and County Department of Emergency Management to ensure that everyone is informed of what the Companies are doing and to respond to questions or inquires they may have. In fact HPD and HFD both assign personnel to be present at HECO's dispatch center to stay abreast of a developing situation. In addition, HECO personnel are assigned as liaison to state and city civil defense centers whenever our incident command team is activated. We will continue to give attention to these working relationships and are always open to suggestions in improving the communications between key state and city agencies.

Some of the requested utility information is currently available to DBED&T through the Public Utilities Commission. Accordingly, this measure may be duplicative of communications channels already established. Furthermore, energy, fuel, cost and generation capacity information is provided to the Public Utilities Commission, and we believe that information may be shared with DBED&T in the event of an emergency.

The proposed measure provides the Director of DBED&T with full discretion and authority to require any information pertaining to the utility at any time and within a prescribed time frame as determined by the Director. This appears to be much broader authority than required for emergency purposes. We have concerns that this broad requirement could result in an administrative burden for the utilities, duplicate efforts already in place with the PUC,

and add little if any value to the state's ability to respond to an emergency.

Hawaiian Electric Company, Inc., Maui Electric Company and Hawaii Electric Light Company are active participants in the Energy Council which is lead by DBED&T to address energy shortages or emergencies and where time is of the essence. The Energy Council is one of the emergency support functions, ESF-12, under the State Civil Defense umbrella. This proactive relationship has been in place for many years. It functions very effectively and addresses the needs that are identified in this bill. Thus, there is no need to overlay another process at this time.

We respectfully recommend that H.B. 3070 be deferred for further consideration and discussion of its relationship to existing information channels, reporting obligations, and security sensitivities. In the alternative, we recommend that specific sections and language pertaining to utilities from the proposed measure be deleted as the information requested is overbroad and irrelevant to the purpose of this bill.

Thank you for the opportunity to provide testimony on this matter.



Western States Petroleum Association

February 13, 2008

2:00 p.m.

House Consumer Protection & Commerce

Room 325

Re: HB 3070 Relating to Energy Emergency Preparedness

Western States Petroleum Association is a non-profit trade association representing a broad spectrum of petroleum companies in Hawaii and five other western states. We are testifying with respect to HB 3070.

Petroleum companies in Hawaii and elsewhere in the U.S. are required to provide an enormous amount of information – some of it proprietary and competitively sensitive – to a long list of state and federal agencies. For example, these companies provide more than 42 separate reports containing large amounts of information to the U.S. Energy Information Administration on a weekly, monthly and annual basis.

In Hawaii, the petroleum industry is required to comply with the Petroleum Industry Monitoring and Reporting Act, submitting volumes of information on at least 23 different aspects of their business activities, to the Public Utilities Commission. Providing this information on weekly and monthly reports consumes a considerable amount of time and resources.

The PUC has the authority to review the information and provide comments, conclusions and analysis, while preserving the confidentiality of competitively sensitive and proprietary information. We are concerned that additional reporting requirements will not enhance the state's ability to gather information, but it will create additional burdens on the industry and expose potentially sensitive information to additional agencies that would be required to maintain that information's confidentiality.

The purpose of requiring additional disclosure of competitively sensitive industry information is ostensibly to address emergency preparedness. However, in testimony before the House Energy and Environmental Protection Committee, DBEDT Director Liu stated that the purpose of the measure, at least in part, is to address potential market conditions such as the state's temporary limited availability of asphalt. We believe this kind of information is already disclosed in a variety of ways to government authorities and no additional laws are required.

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Petroleum companies are understandably concerned that competitively sensitive information be treated as such and that WSPA members want to ensure that the state's reporting requirements do not result in disclosure of competitively sensitive information that could lead to market distortions and negatively impact the companies and consumers.

Thank you for the opportunity to testify.