

HB 590 HD1



**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
**SENATE COMMITTEES ON
ENERGY AND ENVIRONMENT**
and
TRANSPORTATION, INTERNATIONAL AND INTERGOVERNMENTAL AFFAIRS
Thursday, March 19, 2009
2:45 PM
State Capitol, Conference Room 225

in consideration of

HB 590 HD1
RELATING TO RENEWABLE ENERGY FACILITIES

Chairs Gabbard and English and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports
HB 590 HD1.

DBEDT supports expediting renewable energy projects and the use of renewable energy.
Installation of renewable energy technologies moves the State of Hawaii closer to our Hawaii
Clean Energy Initiative of 70 percent clean energy by 2030. Investors from across the county
have pointed to Hawaii's permitting regime as the main hindrance to investment in Hawaii.

DBEDT feels that this amendment to Chapter 201N preserves the authority and discretion
of State and County permitting agencies that are tasked with safeguarding the public trust, while
at the same time providing some certainty to investors that their permitting applications will be
processed in a timely manner.

Thank you for the opportunity to testify.

Castle & Cooke
Hawai'i

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Harry A. Saunders
President

March 18, 2009

The Honorable Mike Gabbard, Chair
and Members of the Energy and Environmental Committee
The Honorable J. Kalani English, Chair
and Members of the Transportation, International and
Intergovernmental Affairs Committee
Hawai'i House of Representatives
Hawai'i State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Gabbard, Chair English and Members of the Committees:

Subject: ***HB 590 HD 1 Relating to Renewable Energy Facilities***
Hearing 2:45 pm, March 19, 2009
State Capitol Conference Room 225

Castle & Cooke supports HB 590 HD 1 as it refines the language of Act 207 consistent with its intent to expedite and encourage efficiency in permit processing for large renewable energy facilities.

Fostering predictability and certainty in the permitting process for large renewable energy projects will facilitate the State's renewable energy objective of reducing our reliance of fossil fuels, and will assist the State in meeting our 2030 renewable energy mandates for the health and welfare of the residents of Hawai'i.

We offer for consideration a revision to HB 590 HD 1 to address an ambiguity in the original language of Act 207. The committee reports relating to Act 207 indicate its intent that the 18-month deadline for permits is an absolute one, after which permits are deemed approved. Unfortunately, use of the word "and" (instead of the word "or") in the last sentence of Section 201N-4(g) creates an ambiguity which could be interpreted to not require automatic approval after eighteen months in accordance with the intent of this section.

We therefore respectfully submit a revision to HB 590 HD 1 to address this ambiguity:

- Statute provides that "If a permitting agency fails to provide this report **and** if the permit has not been approved or denied within eighteen months following the approval of a completed permit plan application by the coordinator, the permit shall be deemed approved."

The Honorable Mike Gabbard, The Honorable J. Kalani English
and Members of the Committees
March 18, 2009
Page Two

- The word “and” should be changed to “or” to clarify this ambiguity. If agency files a report but does not approve or deny within 18 months, the permit should be deemed approved. Both conditions do not have to exist in order for deemed approval to occur. (See attached revision)
- This is consistent with the intent of this provision—see 2008 Conference Committee Report No. 146, paragraph (7): “Requiring permits that have not been approved or denied within eighteen months of the acceptance of the permit plan by the Coordinator to be automatically approved”

This revision to HB 590 HD 1 is incorporated into the marked draft of HB 590 HD 1 attached to this testimony.

On behalf of Castle & Cooke, I respectfully request your support for HB 590 HD 1 with our suggested revision. Mahalo and thank you for your consideration of our testimony. If you have any questions, please feel free to contact us:

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Sincerely,

CASTLE & COOKE HAWAI‘I



Harry A. Saunders
President

CASTLE & COOKE suggested revision March 18 2009

Report Title:

Renewable Energy Facility

Description:

Sets a time limit for the filing of the diligence report with the energy resources coordinator; allows the energy resources coordinator to deem a permit approved if no further action or processing is reported by the permitting agency within seventeen months of the completed application. (HB590 HD1)

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2009
STATE OF HAWAII

H.B. NO. 590
H.D. 1

A BILL FOR AN ACT

RELATING TO RENEWABLE ENERGY FACILITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 207, Session Laws of Hawaii 2008, established the renewable energy facility siting process to expedite the processing and approval or denial of any permit plan application for the siting, development, construction, and operation of a renewable energy facility.

The purpose of this Act is to further expedite the process and give the energy resources coordinator the necessary power and authority to expedite the development

of renewable energy facilities, while still protecting the public's health, safety, and welfare.

SECTION 2. Section 201N-4, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) Each appropriate state and county agency shall diligently endeavor to process and approve or deny any permit in the permit plan no later than twelve months after a completed permit plan application is approved by the coordinator. If a permit is not approved or denied within twelve months after approval of a completed permit plan application, the permitting agency, within thirty days following the end of the twelve-month period shall provide the coordinator with a report identifying diligent measures that are being taken by the agency to complete processing and take action as soon as practicable. If no further processing and action are reported by the permitting agency within five months, the coordinator may deem the permit approved. If a permitting agency fails to provide this report ~~and~~ or if the permit has not been approved or denied within eighteen months following the approval of a completed permit plan application by the coordinator, the permit shall be deemed approved."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect on January 1,
2020.

**DOWLING
COMPANY, INC**

March 19, 2009

Hearing on HB590, HD1, Relating to Renewable Energy Facilities
Before the Senate Committees on Energy and Environment
and Transportation, International and Intergovernmental Affairs
on Thursday, March 19, 2009 at 2:45 p.m. in Conference Room 225

Dear Chairs Gabbard and English and members of the Committee:

My name is Jennifer Stites and I am the Green Development Manager for Dowling Company, Inc. ("DCI"). DCI is a Maui-based real estate development company that is committed to sustainable development. As the land owner of 1800 acres in Makena, including the Maui Prince Hotel and Makena North and South Golf Courses, we have set the very ambitious goal of developing a net-zero energy community. Through energy reduction and renewable energy production on-site, we hope to develop a model sustainable community for Hawaii.

Therefore, we support HB590, HD1 because it will shorten the time within which a state or county agency may process and approve or deny any permit plan applicable for a renewable energy facility. **We would also propose that the bill be amended by adding LEED projects along with renewable energy facilities.** LEED projects are designed to be environmentally friendly. Specifically in the areas of: sustainable site; water; energy and atmosphere; indoor environmental quality; and materials and resources.

Thank you for the opportunity to testify in support of HB590, HD1.



SIERRA CLUB HAWAI'I CHAPTER

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SENATE COMMITTEE ON ENERGY AND ENVIRONMENT SENATE COMMITTEE ON TRANSPORTATION, INTERNATIONAL, AND INTERGOVERNMENTAL AFFAIRS

March 19, 2009, 2:45 P.M.
(Testimony is 2 pages long)

TESTIMONY IN OPPOSITION TO HB 590 AS WRITTEN

Aloha Chair Gabbard, Chair English, and Members of the Committees:

The Sierra Club, Hawai'i Chapter, with over 5500 dues paying members statewide, is opposed to the current version of HB 590, setting a limit on the permitting process for 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 the solution offered in this measure may be misguided.

It should be observed that 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.

Further, 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.

Should these Committees still wish to proceed with this proposal, we suggest an additional line requiring the renewable energy facilitator -- before the expiration of twelve months -- to notify the pertinent agency of the deadline and the requirement of an ongoing report. The renewable energy facilitator has the capacity to track and identify true renewable energy facilities. For example on pages 1-2, lines 16-18, and lines 1-4 could be amended to state:

If the coordinator has given at least thirty days written notice stating the permit plan application is subject to this section and a permit is not approved or denied within twelve months after approval of a completed permit plan application, the permitting agency, within thirty days following the twelve-month period, shall provide the coordinator with a report identifying diligent measures that are being taken by the agency to complete processing and action as soon as practicable.

This language reduces the possibility that an environmentally undesirable project is allowed to wrongly proceed because of an automatic approval provision.

Thank you for the opportunity to testify.