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LAWRENCE M. REIFURTH
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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009

MONDAY, FEBRUARY 23, 2009
2:15 P.M.

TESTIMONY OF CATHERINE P. AWAKUNI, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS TO THE HONORABLE ROBERT HERKES, CHAIR, AND
MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 0591 – RELATING TO PUBLIC UTILITIES.

DESCRIPTION:

This measure authorizes a preferential rate for electricity purchased by electric utilities from renewable energy producers that are associated with agricultural activities and offers incentives to encourage electric utility companies to exceed their renewable portfolio standards or to meet their renewable portfolio standards ahead of time.

POSITION:

The Division of Consumer Advocacy (“Consumer Advocate”) offers comments for the Committee’s consideration.

COMMENTS:

The measure amends the section of the renewable portfolio standard (“RPS”) law that provides electric utilities with incentives to exceed their RPS requirements or to meet their RPS requirements ahead of time. Three new incentives are described in the measure:

1. A preferential rate for the purchase of renewable electrical energy pursuant to section 269-27.2 from a renewable energy producer who is also associated with agricultural activities;
2. Renewable energy credit trading programs which establish a value for all of the attributes associated with renewable energy production; and
3. Credits for providing environmental services, such as improving air and water quality, enacting flood control measures, improving wildlife habitat areas, and carbon sequestration.

I'll discuss the questions and / or the concerns with each incentive in turn.

First, the section providing for a preferential rate for the purchase of renewable electrical energy from a renewable energy producer associated with agricultural activities is categorized as a utility incentive for meeting the RPS requirements, but the measure appears to intend to provide the renewable energy producer with a preferential (premium) rate. The Consumer Advocate will defer to the judgment of the Legislature, but must emphasize that other ratepayers, not the utilities, will subsidize the preferential rates provided to agricultural users.

The Hawaii Public Utilities Commission ("Commission") reviews purchased power agreements ("PPA") between electric utilities and independent power producers, including renewable energy power producers. At present, the law at Hawaii Revised Statutes section 269-27.2 may in some circumstances prohibit the provision of a premium price – one that exceeds 100 percent of the electric utility's avoided costs.

The second incentive mechanism permits the establishment of a renewable energy credit trading program. The Commission already has the authority to initiate such a program, so the provision appears to be unnecessary.

During the Commission's RPS docket, one party (out of five) supported the review of a renewable energy certificate ("RECs") system for the purpose of certifying renewable electricity under the RPS law and to facilitate RECs transactions. After discussion, the parties to the docket agreed that the RPS law does not list RECs as a form of renewable electrical energy by which an electric utility may meet the RPS, and the creation of a RECs system would present a number of implementation challenges and other issues. In addition, the parties agreed to further examine whether RECs or other mechanisms can be used to increase the value of renewable energy projects in Hawaii. The discussion of RECs continues in the Hawaii Clean Energy Initiative, where

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it was raised for consideration in the straw proposal prepared by the U.S. Department of Energy's consultant. A RECs system still needs additional vetting.

Finally, the last incentive will provide "credits" to electric utilities for providing "environmental services." It is unclear what kind(s) of credits are being suggested in the measure. Are these tax credits? Are they ratemaking incentives? The Consumer Advocate cautions that ratemaking incentives are borne by ratepayers, so if contemplated, appropriate consideration and analysis must be completed to ensure that ratepayers are not hit with unreasonable rate impacts.

Thank you for this opportunity to testify.



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Thank you for this opportunity to testify.

**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 23, 2009**

MEASURE: H.B. No. 591
TITLE: Relating to Public Utilities

Chair Herkes and Members of the Committee:

DESCRIPTION:

This bill amends chapter 269, Hawaii Revised Statutes ("HRS"), by including several incentives in section 269-94, HRS, the Public Utilities Commission ("Commission") may provide to encourage electric utility companies to either exceed, or meet ahead of, scheduled points in time for coming into compliance with their renewable portfolio standards ("RPS").

POSITION:

The Commission appreciates the intent of this bill, but has several comments and concerns as follows.

COMMENTS:

- Section 269-94, HRS, currently authorizes the Commission to grant waivers, extensions of time, and incentives for electric utility companies to meet their renewable portfolio standards.
- One incentive being proposed in this bill is that the Commission may provide as an incentive a preferential rate for electric utilities purchasing renewable electrical energy pursuant to section 269-27.2, HRS, from producers associated with agricultural activities.
- With respect to this proposed incentive, it is unclear as to what is meant by "associated with agricultural activities."
 - In addition, this Committee should be aware that any "preferential rate" that is higher than would otherwise normally be paid to energy producers will have to be borne by ratepayers.

- Moreover, Section 269-27.2, HRS, currently requires rates paid by a utility to a producer of non-fossil fuel generated electricity be no more than the utility's avoided cost. Since this is true for all renewable electricity producers, a preferential rate for producers associated with agricultural activities, as opposed to other producers, may be precluded by Section 269-27.2 if it is higher than the utility's avoided cost.
- The second incentive proposed in this bill authorizes the Commission to provide renewable energy credit ("REC") trading programs to encourage utilities to meet the RPS. The Commission notes that the possibility of REC trading programs is still being evaluated, but may not have the same influence on increasing renewable energy production in Hawaii as they might elsewhere, because of Hawaii's isolation and lack of interconnection with other utility systems.
- The third proposed incentive in this bill would provide "credits" for "environmental services". The Commission is unclear as to what the credits would consist of and how the Commission would administer such a program.

Thank you for the opportunity to testify.



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TESTIMONY

House Committee on Consumer Protection and Commerce

RE: HB 591 RELATING TO PUBLIC UTILITIES

Chair Herkes and Members of the Committees:

My name is Warren Watanabe and I am a Field Representative of HFBF and the Executive Director of Maui County Farm Bureau. Hawaii Farm Bureau Federation is Hawaii's general agriculture advocacy organization. We represent farmers and ranchers across the State. HFBF is in **strong support** of HB 591 authorizing a preferential rate for electricity purchased by electric utilities from renewable energy producers associated with agricultural activities.

Hawaii was a world leader in renewable energy production up to the 1980s. Other countries came to Hawaii to see how it was done. Rural areas of Hawaii obtained most of their energy from agriculture ...the sugarcane companies not only produced energy to meet their own needs but to provide for the community as well. This provides the model we need to increase our level of energy self sufficiency. Our farms and ranches all need energy ...whether it be to run refrigeration to cool their produce or processing plants as many of our ranches look to vertically integrate to process their own beef. The excess energy could be sold to the utility as in the sugarcane model.

By producing their own energy, our farms and ranches would reduce the loading on the utility company. The proposed preferential rate would incentivize our farms and ranches to move in this direction. Kahua Ranch on the Big Island is an example. It utilizes various forms of energy production ..solar, wind, PV to provide for its operations as well as for the residences on the ranch. They are a true model of self sufficiency.

Agriculture does not just happen. It happens because there are farmers and ranchers. Farmers and ranchers must be viable to remain in business. This bill provides a means to increase their viability by increasing their revenue base. Opponents may say that it favors one industry over another. Article XI Section 3 of our State Constitution recognizes the importance of agriculture to the State of Hawaii. This provides the framework for supporting and cultivating the industry to provide our daily food and fiber not only for today but for future generations. When planes stop flying or ships stop coming to the islands, it is too late to say "We must support ag". Whenever, there is a strike or other catastrophic emergency, there are loud outcries about the need for self sufficiency. It cannot happen over night We need your strong support of measures such as this today to ensure that agriculture is strong and viable to meet everyone's needs tomorrow.

We have come before you on other matters relating to the Public Utilities Commission. In all of the other hearings, we have been told that if we desire a position by the PUC, it should be stated in law. Another question may be about the measure's impact on the consumer ...after all, the ratepayers will need to pay for the difference in price. When oil prices rise to levels about \$150 everyone wishes there was more local production. This investment provides one of the means to increase **both energy and food self sufficiency**.

The intent of this measure is to help agricultural operations. It is important that entities must be involved directly in the production of crops or livestock. We request consideration of the word "engaged" in place of "associated" in describing the qualifying entity. The word "engaged" more clearly describes the relationship that is required. We have met with personnel from Hawaiian Electric Company and expect to continue working with them to make this measure practical and meeting the intent of promoting commercial agricultural viability.

We respectfully **request your strong support of this measure , with the forementioned amendment, to increase our level of energy and food self sufficiency** and to support the long term future of a strong and viable agricultural industry. Thank you for this opportunity to provide comments on this matter.

TESTIMONY

RE: HB 591 RELATING TO PUBLIC UTILITIES

Chair Herkes and Members of the Committee:

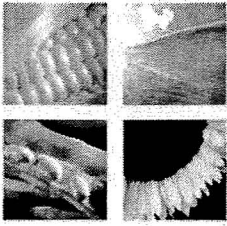
My name is Richard Ha, owner and proprietor of Hamakua Springs. Our farm is located in Pepeekeo on the Big Island of Hawaii's Hamakua coast, grows award-winning tomatoes, bananas, lettuce and cucumbers that are available throughout Hawaii in major supermarket chains. I am in strong support of HB591, which provides an incentive to agricultural producers to not only produce their own energy but to sell them to the local utility.

Information about our farm can be found at my website, <http://hahaha.typepad.com/> While I majored in finance, I have always had an entrepreneurial heart and know that agriculture in Hawaii must evolve if we are to provide for ourselves. I have watched the economy go through its' down cycle and it is obvious to me that as farmers and ranchers, largely dependent upon energy for our various operations, our long term success is dependent upon us taking control of this situation. We must reduce our dependence on imported fossil fuels and instead, not only produce energy on our farms. The excess could be sold to the local utilities and thereby help with our bottom line. By producing our own energy, I see us containing our input costs and thereby protecting our farms and ranches for future generations.

There is an old irrigation flume that goes through my property and I have plans to install a hydroelectric unit to help power my vegetable operations as well as even the cars for my employees. If I have extra, I hope to sell it to the utility. This bill will help improve the bottomline for my business plan.

I apologize for not making it to this hearing but I am in a meeting with Costco to secure a marketing agreement important for our future.

I respectfully ask your strong support for this measure. It is an investment by everyone in Hawaii to support agriculture and to increase our energy self sufficiency. Thank you very much. If there are questions, please contact me at 9594176.



Hawaii Crop Improvement Association

Growing the Future of Worldwide Agriculture in Hawaii

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Testimony By: Alicia Maluaifiti
HB 591, Relating to Public Utilities
House CPC Committee
Monday, Feb. 23, 2009
Room 325, 2:15 pm

Position: Strong Support

Chair Herkes and Members of the House CPC Committee:

My name is Alicia Maluaifiti, Executive Director of the Hawaii Crop Improvement Association. The Hawaii Crop Improvement Association (HCIA) is a nonprofit trade association representing the agricultural seed industry in Hawaii. Now the state's largest agricultural commodity, the seed industry contributes to the economic health and diversity of the islands by providing high quality jobs in rural communities, keeping important agricultural lands in agricultural use, and serving as responsible stewards of Hawaii's natural resources.

This bill provides support to those agricultural-related businesses that are innovative in its approach to link agriculture production and renewable energy production. It is one of the many policy and incentive support needed to wean Hawaii away from fossil fuel consumption, and it adds to the stability of agriculture in Hawaii.

We urge your support of this bill. Thank you for the opportunity to testify.