

STAND. COM. REP. NO.

209

Honolulu, Hawaii

FEB 19 2009

RE: S.B. No. 1065
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Energy and Environment and Economic Development and Technology, to which was referred S.B. No. 1065 entitled:

"A BILL FOR AN ACT RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY,"

beg leave to report as follows:

The purpose of this measure is to exempt the Natural Energy Laboratory of Hawaii Authority ("NELHA") from regulation by the Public Utilities Commission if sales of energy are made to users located on adjacent property that is leased from the State.

Testimony in support of this measure was submitted by NELHA. Comments were submitted by the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy (the "Consumer Advocate"). Copies of written testimony are available for review on the Legislature's website.

The Consumer Advocate indicated that while it may be reasonable to exclude NELHA from rate setting, commitment of funds, and other sections applicable to regulating an investor-owned utility, NELHA should be required to meet performance and safety standards required for transmission and distribution of energy if NELHA intends to transmit energy using the utility's grid.

Your Committees find that this measure would make it possible for NELHA to transmit power to adjoining state agencies, reducing



their cost of conducting the business of the State. Your Committees find that it would not be appropriate, however, for NELHA to be wholly excluded from regulation.

Your Committees have amended this measure to adopt the Consumer Advocate's recommendations, and by requiring NELHA to meet performance and safety standards required for transmission and distribution of energy if NELHA intends to transmit energy to adjacent users using the utility's grid.

As affirmed by the records of votes of the members of your Committees on Energy and Environment and Economic Development and Technology that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1065, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1065, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committees on Energy and
Environment and Economic
Development and Technology,



CAROL FUKUNAGA, Chair

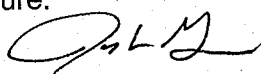


MIKE GABBARD, Chair



The Senate
 Twenty-Fifth Legislature
 State of Hawaii

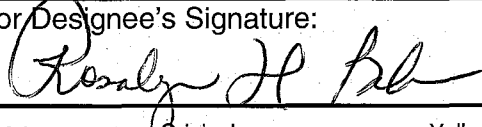
Record of Votes
Committee on Energy and Environment
ENE

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>SB 1065</i>	<i>ENE/EDT, CPN</i>			
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310	<input type="checkbox"/> Recommit 2313	
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	✓			
ENGLISH, J. Kalani (VC)				✓
GREEN, M.D., Josh	✓			
HOOSER, Gary L.	✓			
IHARA, Jr., Les				✓
KOKUBUN, Russell S.	✓			
HEMMINGS, Fred	✓			
TOTAL	<i>5</i>	<i>0</i>	<i>0</i>	<i>2</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted		<input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* SB 1065	Committee Referral: ENE/EDT, WAm	Date: 2-10-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
HEE, Clayton				✓
IGE, David Y.				✓
SLOM, Sam	✓			
TOTAL	3	-	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

Report Title:

NELHA; Renewable Energy

Description:

Exempts NELHA sales of electricity generated from renewable energy sources from certain regulations by the public utilities commission when those sales are made to users located on adjacent property that is leased from the State. (SD1)

A BILL FOR AN ACT

RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY.

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

1 SECTION 1. Chapter 227D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:
4 "§227D- Renewable energy sales; exemption. Sales or
5 provision of electricity generated using renewable energy as its
6 source by the authority in facilities located at its research
7 and technology park shall be exempt from regulation by the
8 public utilities commission; provided that all sales or
9 provisions of electricity are made directly to a user located
10 adjacent to the research and technology park on lands leased by
11 the user from the State; and provided further that,
12 notwithstanding the foregoing, if any sales or provision of
13 electricity utilizes the electric grid to transmit the energy to
14 users located adjacent to the research and technology park, then
15 the authority shall be subject to performance and safety
16 standards required for the transmission and distribution of
17 energy by the public utilities commission.

1 As used in this section, "renewable energy" shall have the
2 same meaning as in section 269-91."

3 SECTION 2. New statutory material is underscored.

4 SECTION 3. This Act shall take effect upon its approval.

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
FEBRUARY 27, 2009**

MEASURE: S.B. No. 1065 S.D.1

TITLE: Relating to the Natural Energy Laboratory of Hawaii Authority.

Chair Baker and Members of the Committee:

DESCRIPTION:

This bill proposes to amend chapter 227D, Hawaii Revised Statutes ("HRS"), to exempt the Natural Energy Laboratory of Hawaii Authority ("NELHA") from regulation by the Public Utilities Commission ("Commission") for direct sales or provision of electricity generated by NELHA with generating facilities at its research and technology park using renewable energy sources, to user facilities located adjacent to the research and technology park on lands leased by the user from the State. The bill also provides that if NELHA utilizes the electric grid in its provision of electricity, it shall be subject to performance and safety standards required for transmission and distribution of energy by the Commission.

POSITION:

The Commission appreciates the intent of this bill, but has questions and concerns about the provision imposing Commission performance and safety standards where NELHA uses the electric utility's grid to distribute electricity since interconnecting with the electrical utility will trigger Commission oversight by virtue of its regulation of the electric utility and, therefore, this provision would not be necessary.

COMMENTS:

- In other words, if NEHLA **does** connect to the electrical grid as an electricity generator, it will require some form of interconnection arrangement or agreement with the electric utility, which would then invoke certain regulatory requirements involving interconnection standards and related issues. Therefore, the added provision requiring regulatory performance and safety standards if NELHA connects to the grid is not necessary.
- If NELHA does **not** connect to the electric utility's existing grid, it would be better to either allow full regulation as currently authorized by law or provide for complete exemption from regulation as provided in this bill. Requiring the Commission to exercise less than its full complement of authority and regulatory power to regulate what may otherwise amount to a public utility, would make it difficult to implement regulatory requirements in practice.
- If the Legislature chooses to exempt NELHA from Commission jurisdiction under HRS Chapter 269, such an exemption provision should also be included within the definition of public utility under section 269-1, HRS.

Thank you for the opportunity to testify and provide comments and recommendations on this bill.



NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

An Attached Agency of the Department of Business, Economic Development & Tourism, State of Hawaii



Statement of
RON BAIRD
CHIEF EXECUTIVE OFFICER
Natural Energy Laboratory of Hawaii Authority
before the
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Friday, February 27, 2009
9:30 a.m.
State Capitol, Conference Room 229

in consideration of
SB 1065 SD1
RELATING TO THE NATURAL ENERGY LABORATORY OF HAWAII AUTHORITY

Chair Baker, Vice-Chair Ige, and members of the Senate Committee on Commerce and Consumer Protection, I am Ron Baird, Chief Executive Officer of the Natural Energy Laboratory of Hawaii Authority, located in Kailua-Kona.

NELHA is the leader in stimulating the development of alternative energy in Hawai'i. There are currently four alternative energy projects underway; solar thermal, solar concentrating, wind energy, and biofuels from algae. In the past year, the companies pursuing these projects have spent over \$17 million in capital dollars and created 25 new, permanent, high technology jobs in addition to numerous construction jobs. We are presently trying to encourage a renewable waste-to-energy plant to locate at NELHA. It would represent a capital investment of between \$100 and \$150 million, create 29 full-time jobs, produce 6 to 8 megawatts of electrical power and perhaps 140,000 to 190,000 barrels of biodiesel or biojet on an annual basis.

NELHA itself has a request for proposal in the issuance process for private industry to come and build a scale-up OTEC plant, using the \$19.9 million 55" pump system the state built originally for that purpose.

NELHA also had filed a RFP for the construction and operation of a 1 to 3 megawatt photovoltaic array. This unit, if successfully built by private enterprise, would, we believe, significantly reduce the cost of electricity to run the many pumps NELHA operates to bring seawater to its tenants.

About 60% to 70% of the cost of delivering that lifeblood water --- thousands of gallons per minute -- to the tenants is electricity. The phenomenal increase in oil prices last spring and summer not only pointed out the state's vulnerability to fuel prices but also NELHA's. In the first quarter, we exceeded our budgeted amount for electricity. Based on tenant projection of water needs, both seawater and fresh water over the next biennium and being sharply aware of

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the possibility of energy prices rising during that time period, we budgeted for an increase in energy expenses of \$659,190 in the next fiscal year and \$2,041,529 in the second year of the biennium.

The simple fact is, however, most of the tenants are aquaculturalists – farmers – and the cost of this raw material – seawater – is a major item for many of them. Unless some means is found to reduce the cost of production of seawater.....and labor already has been over reduced and maintenance is under budgeted.....these important contributors to the Hawai'ian economy will be slowly lost. Reducing electricity costs through the stimulation of development and sale of alternative energy from NELHA is the most practicable and cost effective manner to achieve this goal.

This Senate Bill 1065 would also make it possible for NELHA to transmit power to adjoining state agencies, reducing their cost of conducting the business of the state.

NELHA supports the passage of this Bill into an Act as NELHA believes its passage and implementation will render the organization more efficient and cost-effective and enable it to better serve its tenants and the state.

Thank you very much for your consideration of my testimony and if you have any questions, I would be happy to take and answer them now to the best of my ability. Thank you again for your time.