

STAND. COM. REP. NO.

701

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 245

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Energy & Environmental Protection, to which was referred H.B. No. 245 entitled:

"A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITIES,"

begs leave to report as follows:

The purpose of this bill is to support large renewable energy facility development in Hawaii by statutorily concluding that the siting, development, construction, and operation of a renewable energy facility (REF) are compatible with the:

- (1) Purposes, standards, and permissible uses of lands within conservation and agricultural districts; and
- (2) Objectives, policies, and guidelines of the special management area and applicable county general plans and zoning ordinances.

Prior to the hearing, your Committee circulated a proposed H.D. 1 for consideration and receipt of testimony. As proposed the H.D. 1 continues the efforts of the original bill but with additional protections. As amended, the purpose of this bill is to support renewable energy facility development in Hawaii by statutorily concluding that the siting, development, construction, and operation of a renewable energy facility (REF) may be compatible with the:

HB245 HD1 HSCR EEP HMS 2009-2481



- (1) Purposes, standards, and permissible uses of lands within conservation and agricultural districts; and
- (2) Objectives, policies, and guidelines of the special management area and applicable county general plans and zoning ordinances.

Further, this bill specifically provides that the siting of REFs is not exempt from the permit and approval processes of Hawaii's:

- (1) State Land Use Laws (Chapter 205, Hawaii Revised Statutes (HRS));
- (2) Coastal Zone Management Law (Chapter 205A, HRS); and
- (3) Environmental Impacts Law (Chapter 343, HRS).

In addition, this bill specifies that it does not expand the permissibility of solar facilities on agricultural land beyond what is already provided under the land use districting and classification statute, section 205-2, HRS.

The Department of Business, Economic Development, and Tourism (DBEDT), Dowling Company, Inc., and SunPower Systems Corporation testified in support of the proposed draft of this bill. The Department of Land and Natural Resources, Department of Agriculture, and Castle and Cooke Hawaii supported the proposed draft of this bill with amendments. The Office of Planning of DBEDT submitted comments on the proposed draft of this measure.

Hawaii is an island state that is almost entirely reliant on imported oil for its energy needs. Our island state is in the unique position of having some of the most plentiful sources of renewable energy anywhere in the world, including wind, solar, and ocean energy. Developing and increasing Hawaii's use of renewable energy will help increase Hawaii's energy independence, as well as work toward improving the environmental conditions of Hawaii.

Your Committee finds that the energy security, environmental benefits, increased food self-sufficiency, and stimulus to the state's economy that can be derived from producing energy from renewable resources provide a sound foundation to support the siting of REFs in conservation and agricultural districts and special management areas. With their collateral benefits, REFs on lands within these districts and areas are compatible with the



state's energy goals, while proper oversight and supervision of these activities will continue to protect the public health, safety, and welfare of Hawaii's people.

After further consideration, your Committee has amended this bill by adopting the language contained in the proposed H.D. 1 and making the following additional amendments:

- (1) Expanding the underlying purpose of this measure to include the protection of agricultural resources and activities;
- (2) Authorizing (rather than declaring its compatibility with applicable policies, standards, and objectives) the siting of REFs within conservation and agricultural districts and special management areas;
- (3) Deleting the specific reference to the prohibition against the development of a solar facility in the agricultural district, unless it is a permitted use;
- (4) Providing that the siting of REFs is also not exempt from the limitation, priority, permit, or approval processes of Chapter 183C, HRS, (relating to conservation districts);
- (5) Specifically providing that permitting or approving agencies are not prevented from imposing reasonable and appropriate restrictions on the type of siting of REFs to protect agricultural resources and activities, the environment, the health, safety, and welfare of the public;
- (6) Requiring all permitting or approving agencies to adopt procedures relating to:
 - (A) The types of permissible and the location of REFs in conservation and agricultural districts and special management areas;
 - (B) Mitigation measures to protect agricultural resources and activities, the environment, and health, safety, and welfare of the public; and
 - (C) The authority of the Energy Resources Coordinator to prioritize REF applications as they relate to



state, county, and federal permits; provided that the priority does not mitigate the effect of any laws regulating REFs;

- (7) Restricting renewable energy facilities to those facilities allowed under Chapter 205, HRS (the state land use district law), to wit: wind energy, bio-fuel processing, agricultural-energy, and solar energy facilities;
- (8) Changing its effective date to July 1, 2020, to encourage further discussion; and
- (9) Making technical, nonsubstantive amendments for consistency, style, and clarity.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 245, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 245, H.D. 1.

Respectfully submitted on
behalf of the members of the
Committee on Energy &
Environmental Protection,

Hermina Morita

HERMINA MORITA, Chair



