

Honolulu, Hawaii

Feb 12, 2010

RE: H.B. No. 2971
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Energy & Environmental Protection, to which was referred H.B. No. 2971 entitled:

"A BILL FOR AN ACT RELATING TO RENEWABLE ENERGY FACILITY SITING PROCESS,"

begs leave to report as follows:

The purpose of this bill is to require the Energy Resources Coordinator to include representatives from the island where a proposed renewable energy facility will be located in determining the terms and conditions of its permit plan and permits and community benefits agreements.

The Sierra Club-Hawaii Chapter, Blue Planet Foundation, and a concerned individual testified in support of this bill. The Department of Business, Economic Development, and Tourism opposed this measure. Lanaians for Sensible Growth and a concerned individual provided comments.

Your Committee finds that community benefits agreements are used by many communities in the nation and the world to ensure that communities that are affected by a substantial development project share in long term and sustainable benefits of such a project. Numerous such community benefits agreements and the definition and framework for negotiations are cited in Patricia Salkin & Amy Lavine, *Negotiating for Social Justice and the Promise of Community Benefits Agreements: Case Studies of Current and Developing Agreements*, 17 Albany Law School Journal of



Affordable Housing 113 (Fall 2007/Spring 2008), and Julian Gross, *Community Benefits Agreements: Definitions, Values, and Legal Enforceability*, 17 *Journal of Affordable Housing & Community Economic Development Law* 35 (2008), attesting to the benefit of such agreements to the community where the development will be located.

And secondly, your committee recognizes that negotiations for a community benefits agreement are a separate and distinct process from the government's role in the review and issuance of permits.

Accordingly, your Committee has amended this bill by:

- (1) Clarifying that the community benefits agreement negotiation should not replace the requirement for the community's involvement in determining the terms and conditions for the permit plans and permits;
- (2) Requiring the Energy Resources Coordinator to convene an applicant for a permit to develop a renewable energy facility and community stakeholders of the location where the facility will be located, to negotiate community benefits agreements when the proposed facility will export a majority of the electricity generated offshore; and
- (3) Inserting a findings and purpose section to that effect.

Your Committee has also made technical, nonsubstantive amendments for style, clarity, and consistency.

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. 2971, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2971, H.D. 1, and be referred to the Committee on Finance.



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

Hermina Morita

HERMINA MORITA, Chair



State of Hawaii
House of Representatives
The Twenty-fifth Legislature

HSR 339-10

Record of Votes of the Committee on Energy & Environmental Protection

Bill/Resolution No.: HB 2971	Committee Referral: EEP, FIN	Date: 29-2010 DE 2/2/2010		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EEP Members	Ayes	Ayes (WR)	Nays	Excused
1. MORITA, Hermina M. (C)	✓			
2. COFFMAN, Denny (VC)	✓			
3. CABANILLA, Rida	✓			
4. CHANG, Jerry L.				✓
5. CHONG, Pono				✓
6. HAR, Sharon E.	✓			
7. HERKES, Robert N.				✓
8. ITO, Ken	✓			
9. LEE, Chris	✓			
10. LUKE, Sylvia				✓
11. SAGUM, Roland D., III				✓
12. CHING, Corinne W.L.	✓			
13. THIELEN, Cynthia	✓			
TOTAL (13)	8	0	0	5
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: <u>Denny Coffman</u>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				