

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2526

S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committees on Energy and Environment and Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 2526 entitled:

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

beg leave to report as follows:

The purpose of this measure is to provide a setback when wind energy facilities are being located in agricultural districts.

Testimony in support of the measure was submitted by one organization, and one individual supports the intent. Two organizations submitted comments. Testimony in opposition was submitted by one state agency, one county agency, and eleven individuals. Written testimony presented to the Committees may be reviewed on the Legislature's website.

Your Committees appreciate the wide-ranging participation in the hearing on this measure. Your Committees recognize that this measure is a work in progress, and that there are many considerations to weigh. Many of the testifiers shared their personal experiences with a wind farm being proposed near Kahuku, Oahu, and your Committees understand the concerns and opposition to wind machines being placed too close to residences. Testifiers who toured a model wind farm on Maui described the flickering shadows caused by blades spinning in front of the sun and the noise of whirring and whistling, which can be heard even half a mile away. Your Committees have received additional information from out-of-state individuals who assert that a minimum one



thousand feet may not be sufficient to abate the wind machines' noise particularly during night hours.

Your Committees acknowledge that each county presently regulates and sets standards for the development of wind energy facilities within their respective jurisdictions. Under the City and County of Honolulu's Land Use Ordinances, a wind machine is required to be set back from the property line a minimum distance equal to the height of the system. The height of a wind machine is usually five hundred feet or less. The City and County of Honolulu require a Conditional Use Permit (minor) for wind machines in agricultural districts, which does not require a public hearing. The City and County of Honolulu testified that, "[t]he counties can develop their own appropriate regulations. As you may know, 'wind machines' are a regulated use under the City's Land Use Ordinance . . . , which provides development standards for their use. Wind machines with a rated capacity of more than one megawatt in agriculturally zoned districts require a Conditional Use Permit (CUP), allowing the department to investigate the merits of the specific wind machine placement against existing land use conditions, including effects to adjacent uses. Through a CUP, negative impacts on residences and other uses can be mitigated."

The Legislature has historically reserved the right to regulate the use of agricultural lands. Renewable energy resources were added by the Legislature as a permissible use on agricultural lands in an effort to decrease Hawaii's dependence on fossil fuels. The development of wind energy facilities on agricultural lands is increasing throughout the State, and your Committees find that there is a need to establish a statewide standard to ensure that these facilities remain compatible with agricultural practices. Your Committees further find that a minimum one thousand feet setback for wind generators with a rated capacity of one megawatt or more from the nearest off-site residence is reasonable to maintain the compatibility of wind energy and agricultural practices. This measure does not interfere with the counties existing authority to require further setbacks based upon case-by-case investigations.

Your Committees have amended this measure by:

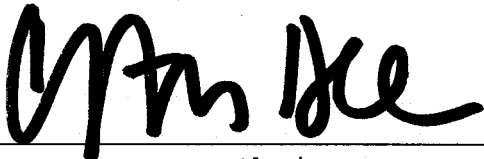
- (1) Changing the effective date to July 1, 2050 for the purpose of facilitating further discussion; and



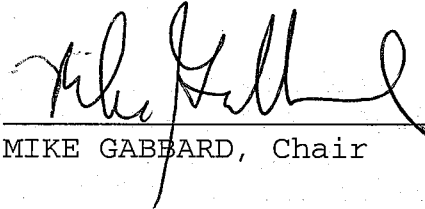
- (2) Making technical, nonsubstantive amendments for the purpose of style.

As affirmed by the records of votes of the members of your Committees on Energy and Environment and Water, Land, Agriculture, and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2526, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2526, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Energy and Environment and Water, Land, Agriculture, and Hawaiian Affairs,



CLAYTON HEE, Chair



MIKE GABBARD, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL

Bill / Resolution No.:* SB 2526	Committee Referral: ENE/WTL	Date: 2/18/10
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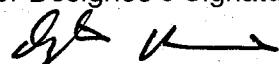
The committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)				✓
BUNDA, Robert				✓
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.	✓			
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred				✓
TOTAL	4	0	0	3

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes