

HB 2642



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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2010

WEDNESDAY, FEBRUARY 3, 2010
2:00 P.M.

TESTIMONY OF DEAN NISHINA, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS TO THE HONORABLE REPRESENTATIVE ROBERT N. HERKES, CHAIR,
AND MEMBERS OF THE COMMITTEE

HOUSE BILL NO. 2642 RELATING TO UTILITIES REGULATION

DESCRIPTION:

This measure proposes to authorize sufficient funding for the operation and staffing of the Public Utilities Commission ("Commission") and the Division of Consumer Advocacy ("Consumer Advocate") in order to facilitate the agencies' ability to meet their expected objectives and to fulfill the intent of the reorganizations that were begun with Act 177 and Act 183 from the 2007 legislative session. In addition, the measure proposes to require that applicable state and/or county agencies should assist in carrying out the proposed measure.

POSITION:

The Consumer Advocate supports this measure.

COMMENTS:

This measure proposes to facilitate the efforts to ensure that the Commission and the Consumer Advocate are sufficiently funded and staffed to handle the normal ongoing workload that is associated with regulating various public utility industries, such as the electric, natural gas, telecommunications, water, and wastewater industries, as

well as the regulation of transportation companies, such as those engaged in intra-island shipping. It should be noted that the normal, ongoing workload generally consists of rate change requests, capital improvement project applications, and other matters. This normal, ongoing workload has been increased recently due to the Clean Energy Initiatives that the State is actively pursuing. These initiatives are resulting in dockets that are novel, complex and resource consuming.

In order to manage the workload, the Consumer Advocate has been considering and implementing various measures to meet the ongoing workload and the associated procedural deadlines that are established. One of these measures is evaluating the dockets to determine the general type of or specific applications in which the Consumer Advocate will not participate, such as requests filed by companies seeking certification of authority to provide telecommunications services in Hawaii and certain types of applications related to financing. The Consumer Advocate has also implemented other measures, including reducing the scope of analysis in order to minimize the time that might be required by available staff or consultants to complete the review of the application within the procedural deadlines.

Historically, the Commission and the Consumer Advocate have had difficulties finding and retaining individuals to fill available vacancies. These difficulties are more pronounced for the Consumer Advocate because of the expectations of analysts to provide written and oral testimonies before the Commission under the applicable deadlines. The Consumer Advocate had already implemented various measures meant to be short-term in nature in order to address the staffing deficiencies experienced, but with the additional budget cuts and elimination of vacant positions, the already difficult situation was made even more difficult, which required even more extreme measures. Such measures will adversely affect the effectiveness of the Consumer Advocate on both short- and long-term bases, but are necessary to meet the ongoing workload and procedural deadlines that are associated with the various dockets. The reorganizations that were the subject of Act 177 and 183 were envisioned to remove some of those difficulties.

Thus, the Consumer Advocate supports the proposed measure as the Consumer Advocate contends that both the Consumer Advocate and the Commission should be able to access sufficient resources to ensure efficient operations to handle the normal ongoing workload. While the Consumer Advocate understands the current situation with the State's budget crisis, the Consumer Advocate contends that if the Commission and the Consumer Advocate are not able to adequately fulfill their existing duties, this will have a much more adverse impact on consumers and businesses than the incremental resources needed by the agencies. The need for adequately staffed and funded operations of the two agencies is also highlighted by the ongoing efforts to implement measures related to the Clean Energy Initiative, since if the agencies are not able to meaningfully participate or timely meet applicable responsibilities, this will

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House Committee on Consumer Protection and Commerce

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adversely affect the State's ability to migrate towards weaning itself from its dependence on imported fossil fuels.

Thank you for this opportunity to testify.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAII AT MĀNOA

Hawai'i Energy Policy Forum

Ms. Stephanie Ackerman, The Gas Co.
Mr. Robbie Alm, HECO
Ms. Amy Asselbaye, Office of US Rep. Neil Abercrombie
Ms. Madeleine Austin, World Business Academy
Mr. Warren Bollmeyer, Hawai'i Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Ms. Elizabeth Cole, The Kohala Center
Mr. Kyle Datta, New Energy Partners
Ms. Laura Dierenfield, People's Advocacy for Trails Hawai'i (PATH)
Mr. Mark Duda, HI Solar Energy Asst.
Sen. Kalani English, Hawai'i State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman, Haiku Design & Analysis
Sen. Mike Gabbard, Hawai'i State Senate
Mr. Mark Glick, OHA
Dr. Michael Hannett, RCUH
Dr. Robert Harris, Sierra Club
Mr. William Kancko, Hawai'i Institute for Public Affairs
Mr. Darren Kimura, Energy Industries Holdings
Ms. Kelly King, Sustainable Biodiesel Alliance
Mr. Mike Kitamura, Office of US Senator Daniel K. Akaka
Mr. Kal Kobayashi & Victor Reyes, Maui County Energy Office
Mr. Laurence Lau, State of Hawai'i DOH
Mr. Allyn Lee, C&C of Honolulu Dept. of Design & Construction
Dr. Stephen Meder, UH Center of Smart Building & Community Design
Dr. Sharon Miyashiro, UH College of Social Sciences Public Policy Center
Rep. Hermina Morita, Hawai'i State House of Representatives
Mr. Dean Nishina, Div of Consumer Advocacy
Mr. Tim O'Connell, USDA-Rural Development
Ms. Melissa Pavlicek, Hawai'i Public Policy Advocates
Mr. Ted Peck, State of Hawai'i DBEDT Strategic Industries Division
Mr. Randy Pereira, Hawai'i State AFL-CIO
Dr. Rick Rocheleau, UH HNEI
Mr. William Rolston, Hawai'i County Dept. of Research & Development
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KIUC
Mr. Riley Saito, PowerLight Corporation
Mr. Glenn Sato, Kaua'i County Office of Economic Development
Mr. Bill Short, BIA of Hawai'i
Ms. Joelle Simonpietri, Simonpietri Enterprises LLC
Mr. H. Ray Starling, Hawai'i Energy Group LLC
Mr. Lance Tanaka, Tesoro Hawai'i Corp.
Dr. Don Thomas, UH Center for the Study of Active Volcanoes
Ms. Maria Tome, State of Hawai'i DBEDT Energy Office
Mr. Murray Towill, Hawai'i Hotel Association
Mr. Joshua Wisch, Office US Representative Mazie Hirono
Mr. Alan Yamamoto, Office US Senator Daniel Inoué

Testimony of Carl Freedman, Chair
Regulatory Reform Working Group
Hawai'i Energy Policy Forum

House Committee on Consumer Protection and Commerce
Representative Robert N. Herkes, Chair
Representative Glenn Wakai, Vice Chair

Wednesday, February 3, 2010
2:00 p.m. Conference Room 325

IN SUPPORT OF HB 2642– Relating to Utilities Regulation

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum (“Forum”). The Forum is comprised of 47 representatives from Hawaii’s electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive “10 Point Action Plan,” which serves as a framework and guide for meeting our preferred energy vision and goals.

HB 2642 would implement the reorganizations of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) that were approved by the Legislature in 2007 in Acts 177 and 183. The Forum wholeheartedly agrees with 2007 Legislature’s findings that the reorganizations of these agencies “are essential for providing sufficient regulation of Hawaii’s public utilities; controlling utility costs for Hawaii’s people, businesses, and governmental agencies; and successfully implementing meaningful energy policy reform in Hawaii.”

HB2642 is a cost saving measure. It would reduce the annual utility expenditures of State government by several times as much as the annual cost of fully funding the reorganization of the PUC and DCA. These agencies regulate over \$3 billion of annual telecommunications and electricity utility bills paid by Hawaii’s people, businesses and government agencies. The Forum estimates that fully funding the reorganizations would ultimately result in savings of at least \$100 million annually due to increased regulatory efficiency and consumer protection, bolstered utility industry financial health and prudent allocation of utility investments and expenditures. Funding for the PUC and DCA, including funding of the reorganizations reestablished by this bill, derives from revenues collected by the PUC from users of utility services, not from state general funds.

Sufficient utility regulation and consumer protection are especially essential in the next several years as Hawaii prepares to invest billions of dollars in new utility and private sector infrastructure associated with a transition from over-dependence on fossil fuels to increased reliance on efficiency and renewable energy resources.

Based on the foregoing, the Forum supports HB2642 and respectfully urges passage of the bill.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations.

TESTIMONY BEFORE THE
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Wednesday, February 3, 2010
2:00 p.m.
Conference Room 325, State Capitol

H.B. NO. 2642
RELATING TO UTILITIES REGULATION

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

Chair Herkes, Vice-Chair Wakai, and Members of the Committee:

My name is Kevin Katsura providing written testimony in support of H.B. No. 2642 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

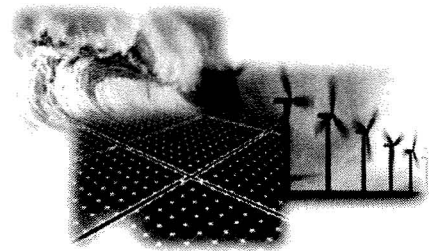
The Hawaiian Electric Companies strongly support this bill, which authorizes funding for the operation and staffing of the Public Utilities Commission (PUC) and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (Consumer Advocate).

While we are not qualified to address the amount of funding required to fund all positions included in the reorganization approved by Act 177, Session Laws of Hawaii 2007, we can endorse the need for additional resources within the PUC and the Consumer Advocate.

From the Hawaiian Electric Companies' perspective, the workload of the PUC has never been greater, and our look at the future suggests the situation which presently exists is not a temporary one. The PUC's work in the electric utility sector includes general rate cases, project applications, and dockets initiated by the Commission in response to legislative action or external events. Each of these requires extensive review, and timely action beneficial to all involved. The Consumer Advocate is automatically a party to every docket involving the electric utility.

In addition, the PUC and the Consumer Advocate bear statutory responsibilities in the regulation of telecommunications, water and wastewater utilities, and water and motor carriers.

For these reasons, we support H.B. No. 2642 and request its passage. Thank you for the opportunity to testify.



HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

February 3, 2010, 2:00 P.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 2642

Chair Herkes and members of the Committee:

The Blue Planet Foundation strongly supports House Bill 2642, a measure to ensure proper funding for the Public Utilities Commission (PUC) to complete their essential work, including funding to implement the reorganization approved by Act 177 (2007), including the reinstating and funding of the nine positions removed by Act 162 (2009).

This measure is critically important to Hawaii's clean energy future. The PUC is charged with developing and enforcing policies that govern the lifeblood of Hawaii's economy: electricity. They need to be properly funded to successfully navigate the multi-billion dollar transition to a clean energy future. The full amount of revenue generated in the special fund should be dedicated to the public utilities commission.

<u>Funds</u>	<u>FY 2008</u>	<u>FY 2009</u>
PUC special fund revenue	\$ 17,443,000	\$ 17,617,000
PUC budget	\$ 7,719,000	\$ 8,279,000
Transfers to general fund	\$ 9,724,000	\$ 9,339,000

Currently, the PUC is funded through the PUC special fund which collects funding from various sources, most significantly an annual fee of one-half of one per cent of the gross income of the public utility's previous year's business. Over half of the revenue in this special fund—which receives about \$17.5 million annually—is diverted to the state's general fund, however. For fiscal year 2009, of the \$17.6 million in revenue generated, \$8.3 million was expended by the PUC while \$9.3 was diverted to the state general fund. The PUC is currently deliberating

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dockets that will fundamentally reshape Hawaii's electric utility sector. Smart grid, utility decoupling, feed-in tariffs for clean energy, integrated resource planning—these dockets require thorough deliberation, research, and expert input. The PUC must have the talent and resources to adequately investigate and develop the right policies for Hawaii's 21st century electricity industry. The total funding available to them through their revenues should be available for their work.

The public utilities commission needs funding to navigate the multi-billion dollar transition to Hawaii's clean energy economy. Please forward HB 2642.

Thank you for the opportunity to testify.



February 3, 2010

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
CONSUMER PROTECTION & COMMERCE
ON HB 2642 RELATING TO UTILITIES REGULATION**

Thank you Chair Herkes and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) with over 400 transportation related members throughout the state of Hawaii.

Hawaii Transportation Association supports this bill.

The Public Utilities Commission is charged with the regulation of various industries who pay a fee to support the regulatory activities.

Although the collections are adequate to maintain the regulatory function, the PUC is limited as to the amount they may expend. This hamstrings the Commission.

The worse part of it is the "excess" lapses into the General Fund. The PUC fee is statutorily payed by certain industries for a service. That money belongs to the PUC and/or those industries.

Any excess should be remitted back, or credited, to the industries in some manner, or at the very least, NOT handed off to the General Fund.

Thank you.



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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Robert N. Herkes, Chair
Rep. Glenn Wakai, Vice Chair

DATE: Wednesday, February 3, 2010
TIME: 2:00 p.m.
PLACE: Conference Room 325

Re: HB 2642: RELATING TO UTILITIES REGULATION

SUPPORT

Aloha Chair Herkes and Members of the Committees

Description: HB 2642 Appropriates moneys for the reorganization of the PUC and the division of consumer advocacy.

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

Life of the Land's Position: Hawaii is undergoing a vast energy transformation. It is critical that we move forward in a way that is both successful and cost-effective. The Public Utilities Commission must be funded so that they can make timely and well-informed decisions. Please pass this bill.

Mahalo

Henry Curtis
Executive Director

WRITTEN ONLY

HB 2642

RELATING TO UTILITIES REGULATION

**KENNETH HIRAKI
VP-GOVERNMENT AFFAIRS**

HAWAIIAN TELCOM

February 3, 2010

Chair Herkes and members of the House Consumer Protection Committee:

Hawaiian Telcom supports this bill, which provides necessary funding for the operation and staffing of the Public Utilities Commission and for the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs.

Thank you for the opportunity to provide written testimony.