

Honolulu, Hawaii

MAR 23 2012

RE: H.B. No. 1033
H.D. 1
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Energy and Environment, to which was referred H.B. No. 1033, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC FINANCE,"

begs leave to report as follows:

The purpose and intent of this measure is to establish the Clean Economy Bank of the State of Hawaii to, among other things:

- (1) Enable the State, along with other participating states, territories, and municipalities, to leverage aligned resources and collective influence to build a national clean economy that creates jobs, reduces carbon emissions, and ensures the nation's energy security;
- (2) Support clean economic development within the State and other participating entities; and
- (3) Lessen the burden on the State and other participating entities to finance qualified renewable energy and other related purposes.

Specifically, this measure, among other things, establishes:

- (1) The Board of Directors of the Clean Economy Bank consisting of seven members, including the Governor, who shall serve as Chairperson, and six appointed members;



- (2) An Advisory Board of Directors to enlist the help of private enterprise and to encourage active exercise of the purposes for which the bank is established; and
- (3) A Clean Economy Practitioners Advisory Board that includes:
 - (A) Representatives of the financial, business, non-profit, and public labor sectors;
 - (B) At least two members who are officers of banks or credit unions incorporated in the State; and
 - (C) At least four members who are non-residents of the State.

Prior to holding a public hearing on this measure, a proposed S.D. 1 was prepared and made available for public review. While the purpose and intent of the proposed S.D. 1 is similar to this measure, the proposed S.D. 1 amends this measure by:

- (1) Amending the membership of the Board of Directors of the Clean Economy Bank by:
 - (A) Removing the Governor from the membership and requiring the seven members to be appointed by the Governor and subject to the advice and consent of the Senate, pursuant to section 26-34, Hawaii Revised Statutes;
 - (B) Including representatives of the financial, business, labor union, and nonprofit sectors; and
 - (C) Including at least three members who are current or former officers of banks or credit unions incorporated in Hawaii;
- (2) Eliminating the Advisory Board of Directors;
- (3) Amending the Clean Economy Practitioners Advisory Board by:
 - (A) Renaming it as the Advisory Council of Clean Economy Practitioners;



- (B) Requiring the membership of the council to include representatives from the business, energy, environmental, and scientific sectors;
 - (C) Eliminating the requirement that the membership of the council include at least two members who are officers of banks or credit unions incorporated in the State and at least four members who are not residents of the State; and
 - (D) Requiring the council to meet quarterly, rather than biannually, with the management officers of the bank;
- (4) Eliminating the requirement that the Public Utilities Commission assess an unspecified charge on electric utility services to be used to capitalize the bank;
 - (5) Authorizing the Clean Economy Bank to make, purchase, guarantee, or hold loans to agencies or instrumentalities of the State of Hawaii and of the counties in the State;
 - (6) Establishing a list of priorities for loans and other forms of financing support for qualifying clean economy projects made by the bank; and
 - (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee received testimony in support of the proposed S.D. 1 from Rebuild the Dream, Sonoma County Water Agency, Hawaii Laborers-Employers Cooperation and Education Trust, Clean Economy Development Center, Blue Planet Foundation, IMUAlliance, Coalition for Green Capital, Energy Programs Consortium, Hawaiian Electric Vehicle Network, Pacific Biodiesel, Inc., Greater Yuma Economic Development Corporation, a legislator from the Oregon State House of Representatives, and ten individuals. Your Committee received testimony in opposition to the proposed S.D. 1 from the Department of Budget and Finance and Hawaii Bankers Association. Your Committee received comments on the proposed S.D. 1 from the Department of Commerce and Consumer Affairs and Office of Information Practices.



Your Committee finds that Hawaii is a global leader in clean energy innovation. Entrepreneurs within Hawaii have developed innovative clean energy technology and brought these technologies to market within our State and around the world. Moreover, Hawaii is blessed with an abundance of renewable energy: heat from the sun and Earth's core never cease and winds from the northeast blow more or less constantly.

Your Committee also finds that green companies that grow our economy and create jobs face difficulties in raising capital. Lenders turn down would-be borrowers who fail to meet traditional lending criteria. Failing to obtain capital for start-up costs, these would-be innovators never get the opportunity to create green companies to help our ailing economy and ensure our energy independence.

Your Committee notes that approximately \$2,600,000,000 in qualified energy conservation bonds from the American Recovery and Reinvestment Act of 2009 remain unused. These bonds enable states and municipalities to finance clean economy projects at extraordinarily low rates. Most of the remaining bonds were allocated to municipalities in amounts too small for those municipalities to benefit from the low interest rate and economies of scale. Your Committee finds that a clean economy bank could help to pool these bond allocations among municipalities and states across the nation. Aggregating these bonds and aligning them for specific projects would enable states and municipalities to collaboratively raise more capital than either the states or municipalities could have leveraged individually.

Your Committee has amended the proposed S.D. 1 by:

- (1) Eliminating the requirement that qualifying clean economy projects be capable of being carried out within an unspecified number of years of the commencement of operation of the bank;
- (2) Authorizing the Board of Directors of the Clean Economy Bank to establish subsidiaries of the bank and serve as the board of those subsidiaries or appoint other individuals with appropriate experience to serve on the board for those subsidiaries;
- (3) Eliminating the requirement that the Department of Budget and Finance deposit monies from the general fund



into the Hawaii first fund to capitalize the Clean Economy Bank;

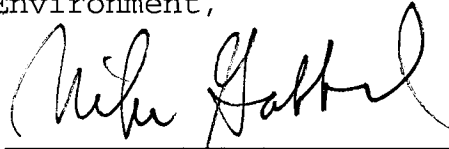
- (4) Clarifying that the bank may raise capital through issuing its own tax credit bond offerings, such as qualified energy conservation bonds and similar instruments;
- (5) Authorizing one or more of the subsidiaries of the Clean Economy Bank, rather than the bank itself, to seek to qualify as a community development financial institution;
- (6) Inserting into the list of priorities for the bank's approval for loans or financial support, qualifying clean economy projects outside of Hawaii entered into by states, territories, and municipalities that have met the participation criteria established by the board;
- (7) Reducing the frequency of the examination of the Clean Economy Bank by the Department of Commerce and Consumer Affairs, from no less than once per calendar quarter to no less than once per calendar year;
- (8) Requiring the Clean Economy Bank to submit quarterly reports to the Department of Commerce and Consumer Affairs;
- (9) Clarifying that the annual report on the examination of the Clean Economy Bank shall be a public record subject to disclosure pursuant to chapter 92F, Hawaii Revised Statutes, unless nondisclosure is required by federal or state law;
- (10) Eliminating the requirement that the State guarantee all deposits in the Clean Economy Bank;
- (11) Eliminating the confidentiality requirement for internal or interagency memoranda or letters that would not be available by law to a party other than in litigation with the Clean Economy Bank;
- (12) Authorizing the Clean Economy Bank to enter into agreements with any entity authorized to issue bonds to pool allocations for the issuance of bonds;



- (13) Authorizing the total pool of allocations to exceed the state ceiling; provided that the entity with which the Clean Economy Bank enters into an agreement is authorized to issue bonds in accordance with the laws of any state of the United States of America; provided further that the State's allocation to the pool does not exceed the state ceiling, as defined in section 39C-1, Hawaii Revised Statutes; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy and Environment that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1033, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1033, H.D. 1, S.D. 1, and be referred to the Committees on Commerce and Consumer Protection and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Energy and
Environment,

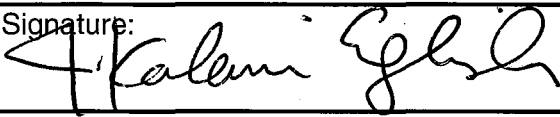


MIKE GABBARD, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Energy and Environment
ENE

Bill / Resolution No.:* HB 1033 HD1	Committee Referral: ENE, CPN/WAM	Date: 20 March 2012		
<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				✓
IHARA, Jr., Les		✓		
SLOM, Sam			✓	Ⓢ
TOTAL	2	1	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">  </div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes