



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of  
**Richard C. Lim**  
Director

Department of Business, Economic Development, and Tourism  
before the

**House Committee on Consumer Protection & Commerce**

Wednesday, January 25, 2012

2:00 PM

State Capitol, Conference Room 325

in consideration of

**HB 1881**  
**Relating to the Public Utilities Commission.**

Chair Herkes and Members of the House Committee on Consumer Protection & Commerce.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 1881 which requires that an economic impact analysis be submitted with any application to the Public Utilities Commission (PUC) that has a fiscal impact and requires the PUC to provide a final analysis with any decision and order.

Economic impact analysis provides a clear picture on both the positive and negative side of any given proposal, and will help the PUC to make appropriate decisions in the best interest of consumers.

By conducting economic impact analysis, the project applicants will have a clear understanding on the benefit and costs of the project to all the parties involved in the economy, whether they are stakeholders or not.

DBEDT proposes that the following indicators be included in §269-B (page 4) for the economic impact analysis:

- a. Impact on the state tax revenues;
- b. Impact on Gross Domestic Product or total business sales;
- c. Impact on household income;
- d. Impact on employment;
- e. Impact analysis for the entire period of the proposed changes and 10-20 years after any project or adjustment takes place;
- f. The direct, indirect, and "induced" impacts; and
- g. Appropriate and generally accepted economic methodologies such as the Input-Output Model (I-O) and the Computable General Equilibrium (CGE) Model.

We also suggest that the Legislature include a revenue stream or financing mechanism (e.g., unexpended amounts currently in the PUC Special Fund that are returned to the General Fund) to carry out its intent.

Thank you for the opportunity to offer these comments.

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
JANUARY 25, 2012

**MEASURE:** H.B. No. 1881

**TITLE:** Relating to the Public Utilities Commission

Chair Herkes and Members of the Committee:

**DESCRIPTION:**

This measure proposes that an applicant for a project, rate change, or other proposal with a fiscal, rate, fare, charge, or schedule impact shall submit an economic impact analysis ("EIA"). Procedural steps and specific EIA content requirements are also outlined in the measure.

**POSITION:**

The Commission would like to submit comments on this measure. The Commission is concerned that the bill's economic impact requirement for an applicant for projects, rate changes, or other proposals will have unintended negative consequences for many of the small businesses under the Commission's jurisdiction.

**COMMENTS:**

The Commission supports the concept of integrating an economic impact analysis in its review of an application, and currently does consider economic impact when appropriate. While it is often important and appropriate to consider this kind of analysis, there will be many instances in which being required to provide an EIA would be onerous and unnecessary, especially for small businesses with limited resources when filing straightforward applications before the Commission and where the burden to develop a defensible record is the responsibility of the applicant.

H.B. No. 1881  
Page 2

The purpose and intent of this measure is not clear, therefore we look forward to working with the Committee to address these concerns should this legislation move forward.

Thank you for the opportunity to testify on this matter.

**HB 1881**

**RELATING TO THE PUBLIC UTILITIES COMMISSION**

**KEN HIRAKI  
VICE PRESIDENT-GOVERNMENT AFFAIRS**

**HAWAIIAN TELCOM**

**January 25, 2012**

Chair Herkes and members of the House Consumer Protection and Commerce Committee:

I am Ken Hiraki, testifying on behalf of Hawaiian Telcom on HB 1881, Relating to The Public Utilities Commission. Hawaiian Telcom does not support this measure and respectfully requests an exemption from the measure for telecommunications providers.

The purpose of this bill is to require that an economic impact analysis be submitted with any application to the Public Utilities Commission (PUC) that may have a fiscal, rate, fare, charge, or schedule impact. Passage of this measure will add an unnecessary, costly and time consuming regulatory requirement to an industry in which all retail services have already been declared fully competitive. The requirement for an economic impact analysis is completely at odds with the concept of a competitive market and will serve to only reinforce the perception that Hawaii has a negative regulatory environment.

Under Chapter 269, Hawaii Revised Statutes, Hawaiian Telcom and other Local Exchange Carriers are already required to comply with numerous PUC requirements that do not apply to our competitors; wireless and cable and other operators that provide Voice over Internet Protocol (VoIP). Creating an additional regulatory requirement that applies to Local Exchange Carriers but not to these competitors is a step backward from the progress recently made in leveling the playing field in Hawaii's telecommunications industry.

Hawaiian Telcom appreciates the efforts of the 2009 Legislature when it took a bold step toward modernizing outdated state telecommunications laws by declaring local exchange telecommunications services fully competitive. If it is the desire of this committee to pass this measure, Hawaiian Telcom respectfully requests that telecommunications providers be exempt from this bill. Such an exemption will support and build upon the Legislature's previous efforts to help bring regulatory parity and fairer competition to the telecommunications marketplace.

Based on the aforementioned, Hawaiian Telcom requests an exemption from this measure for all telecommunications providers under the purview of the PUC, and respectfully requests your favorable consideration. Thank you for the opportunity to testify.

TESTIMONY BEFORE THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Wednesday, January 25, 2012  
2:00 p.m.

H.B. No. 1881  
RELATING TO THE PUBLIC UTILITIES COMMISSION

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

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

My name is Kevin Katsura, testifying on H.B. 1881 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).

H.B. 1881 proposes to maintain a transparent regulatory environment by, among other things, requiring the filing of an economic impact analysis with any application submitted to the Public Utilities Commission (Commission) "for a project, rate change or other proposal with a fiscal, rate, fare, charge, or schedule impact."

The Hawaiian Electric Companies support the intent of the legislation to allow for transparency and clarity in the regulatory process, so that consumers and investors are able to make informed decisions as needed. However, the Hawaiian Electric Companies oppose the bill's requirement for filing an economic impact analysis with applications to the Commission "for a project, rate change, or other proposal with a fiscal, rate, fare, charge, or schedule impact," as it would result in delaying Commission proceedings and increase the costs and resources needed to complete and process applications.

As broadly defined in the bill, an economic impact analysis would be required for essentially every application the Hawaiian Electric Companies file with the Commission. This would result in the need for additional resources by the Commission, the Consumer Advocate and the utilities, the costs of which would be ultimately borne by our customers. The requirement would also mean a longer regulatory process, which would increase delays for third parties who we may work with and may jeopardize projects (e.g., a renewable energy project being developed under a power purchase agreement with the utility).

Utilities already have the burden to demonstrate why a proposed project is reasonable for a variety of factors specific to the project. Moreover, the Commission regularly

requires utilities to provide supporting details and documentation to justify their requests, if not initially filed with the application. Also, the Consumer Advocate participates as a party to all utility dockets and reviews and evaluates the utilities' applications with the specific aim of protecting the interests of all consumers. In so doing, the Consumer Advocate regularly seeks additional information and analyses from utilities to assess the reasonableness of proposed projects and their impact to customers.

Therefore, a statutory mandate for the additional requirement of filing an "economic impact analysis" with applications is unnecessary, as the Commission already has the authority to require utilities to provide supporting details and documentation to demonstrate reasonableness of a project, including requiring economic impact analyses if needed. Finally, while the Hawaiian Electric Companies defer to the Commission with regard to the bill's requirement that final economic impact analyses be attached to Commission decisions and orders on such applications, we believe the bill's requirement could have significant budget impacts on the Commission in carrying out its regulatory duties and could delay the regulatory process.

Thank you for the opportunity to testify.

**Testimony for HB1881 on 1/25/2012 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Tuesday, January 24, 2012 10:47 PM  
**To:** CPCtestimony  
**Cc:** brian@hfbf.org  
**Attachments:** HB 1881 PUC Economic Analy~1.doc (54 KB)

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Testimony for CPC 1/25/2012 2:00:00 PM HB1881

Conference room: 325  
Testifier position: Support  
Testifier will be present: Yes  
Submitted by: Brian Miyamoto  
Organization: Hawaii Farm Bureau  
E-mail: brian@hfbf.org  
Submitted on: 1/24/2012

Comments:





**Hawaii Farm Bureau**  
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JANUARY 25, 2012

HEARING BEFORE THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

TESTIMONY ON HB 1881  
RELATING TO THE PUBLIC UTILITIES COMMISSION

Room 325  
2:00 PM

Chair Herkes, Vice Chair Yamane and Members of the Committees:

I am Brian Miyamoto, Chief Operating Officer and Government Affairs Liaison for the Hawaii Farm Bureau Federation (HFBF). Organized since 1948, the HFBF is comprised of 1,800 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF strongly supports HB 1881, which would require an economic analysis to accompany applications to the PUC that involve a fiscal impact.

In 2010, the PUC rendered a decision awarding an interim authority to Pasha for selected interisland cargo transportation. HFBF expressed serious concern upon discovering that Pasha had no intention, nor would it be required to provide all lines of service as done by the current interisland carrier. To date, the full impact of the decision has yet to occur as we understand that Pasha has not fully implemented their plans of interisland service.

Hawaii is a small state without significant cargo volumes that attract many options. Rail or truck, common transportation options to continental farmers do not exist in Hawaii. As an island state separated by water, affordable and reliable service is critical. Neighbor island farmers providing products to the population center on Oahu usually must bear the cost of transportation, reducing their competitiveness in the marketplace. Containing transportation costs is a primary goal to increasing farm and ranch viability which is also key to increasing Hawaii's self-sufficiency.

It is clear that high cost agricultural cargo rates are contained within a shipping company by more lucrative lines such as cars and large container cargo. While PUC rules require compensatory structures, Young Brothers has requested and been granted authority to have a discount program for the transport of local agricultural products within the islands. HFBF is well aware that this discount exists due to the existence of other lines of service and that those lines are subsidizing the agricultural rate. The 30% discount, which increases to 35% for container goods is significant. However, as a percent, it increases as cargo rates increase. A penny per pound increase can be very significant when shipping thousands of pounds on a small profit margin. Pasha's ability to select the more lucrative lines of service leaving the more costly refrigerated lines common to agriculture will have a negative impact on Hawaii agriculture. We have already seen a decline in transportation of neighbor island cargo to Oahu and farmers exiting multigenerational farms. While transportation cost was not the only reason, it was a significant factor in their decision to leave farming as a career.

During the Pasha proceedings, it was stated that impacts were "unknown". The probability of farmers having to pay the full rate is not an unknown. This measure would have required this data to be a part of the proceedings. These impacts need to be considered as part of good decisions.

The Water Carrier Act governing the PUC states that services must be provided without "unjust discrimination, undue preference or advantage or unfair or destructive competitive practices". An economic analysis will demonstrate whether these conditions are met.

HFBF respectfully requests your support of this important measure. It will provide additional guidance to ensure that State is provided with a reliable and affordable transportation system benefiting not only agriculture but the people of Hawaii.

I can be reached at (808) 848-2074 if you have any questions. Thank you for the opportunity to testify.

**DCA/DCCA Testimony for House Bill No. 1881 - CPC Hearing 1/25/12, 2 p.m.**

Irene.S.Kotaka@dcca.hawaii.gov [Irene.S.Kotaka@dcca.hawaii.gov]

**Sent:** Tuesday, January 24, 2012 4:59 PM

**To:** CPCtestimony

**Attachments:** HB1881\_CCA-DCA\_01-25-12\_CPC.pdf (73 KB)

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Testifier's name/position/title/organization: Jeffrey T. Ono, Executive Director, Division of Consumer Advocacy, Department of Commerce and Consumer Affairs  
Committee hearing bill: CPC  
Date and time of hearing: Wednesday, January 25, 2012 - 2 p.m.  
Measure Number: HB No. 1881

*(See attached file: HB1881\_CCA-DCA\_01-25-12\_CPC.pdf)*

Thank you!

Irene S. Kotaka  
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TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

WEDNESDAY, JANUARY 25, 2012  
2:00 P.M.

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

**HOUSE BILL NO. 1881 – RELATING TO THE PUBLIC UTILITIES COMMISSION.**

**DESCRIPTION:**

This measure proposes to amend Section 269, Hawaii Revised Statutes (“HRS”), to add the requirement that parties in proceedings before the Public Utilities Commission, or the “Commission”, must prepare an economic impact analysis and that the Commission must include an economic impact analysis in its decisions and orders.

**POSITION:**

The Division of Consumer Advocacy (“Consumer Advocate”) opposes this measure.

**COMMENTS:**

This measure seeks to establish the requirement that in any filing before the Commission that is for a project, rate change, or has a “fiscal, rate fare, charge, or schedule impact,” an economic impact analysis must be provided. It would also allow the following:

- Any party with an interest in the proceeding, to submit an economic impact analysis as part of a statement in opposition;
- At any time prior to the final determination by the Commission, a revised economic impact analysis or rebuttal of an economic impact analysis by another party with a reply statement of position; and
- Alternative proposals or economic impact analyses even after a deadline has passed upon a showing of good cause.

In its decision and order on the subject matter, the Commission would have to include a final economic impact analysis and summary of how the analysis was factored in the decision and order, as compared to other factors. The measure also offers examples of what would qualify as an economic impact analysis.

While the Consumer Advocate appreciates the intent of this bill, there may be unintended consequences if this measure is adopted that may be contrary to public policy and the public interest.

For example, based on the language in § 269-A (a), HRS, an economic impact analysis may be required for virtually every application and tariff that is filed with the Commission since most applications and tariffs would involve a project (e.g., capital improvement projects, software projects, etc.), rate change (e.g., tariff transmittals, general rate increases, etc.), or other proposals with fiscal, rate fare, charge of schedule impact, which would capture most other applications. While the Consumer Advocate already performs an economic impact analysis in most of the proceedings, a statutory requirement for an economic impact analysis in most dockets may delay the procedural schedule. Other sections in the proposed legislation would also extend the time necessary to complete the proceeding. For instance, if a revised economic impact analysis is allowed at any time prior to the Commission's final determination, that should automatically trigger an extension of the procedural schedule to allow other parties an opportunity to review and analyze the reasonableness of the revisions. If additional time were not allowed, the other parties' rights to due process may be adversely affected.

Furthermore, while the Consumer Advocate already conducts economic analyses, those economic analyses are generally designed to be appropriate to the filing. For instance, the amount of detail and analysis may be greater for more expensive and/or controversial projects, but reduced for smaller-scaled projects. It is unclear whether such flexibility would be allowed under the proposed legislation.

The Consumer Advocate notes that §269-B, HRS, offers the requirements of the economic impact analysis that must be submitted and conducted by the Commission. It should be noted that the proposed inclusion of consideration of indirect benefits, losses, or harms related to the proposal would likely add to both the time and resources required to consider such an analysis. Efforts to identify and quantify indirect benefits, losses, and harms have been attempted before and such efforts were time-consuming, contentious, and generally unproductive. Depending on the interest being advocated, each party will have its own definition of and means of quantifying indirect benefits, losses or harms.

Finally, it should be noted that requiring the Commission to specifically set forth an economic impact analysis and how it factored the results of that analysis in the final decision and order might otherwise lead to decisions that are dictated solely by economic analysis and not allow the consideration of public policy. If detailed, time-consuming, and/or costly economic impact analyses were conducted in a proceeding, there may already be a pre-disposition to rely on those analyses to support a decision rather allowing a full consideration of all factors, including those that may not be supported by economic impact analyses, especially if there is likelihood that an appeal may be filed that would require the record to support the reasonableness of any Commission decision.

Therefore, while the Consumer Advocate appreciates the general intent of the bill and, to some large degree, this bill would formally recognize that which is already done, this measure should be held.

Thank you for this opportunity to testify.