



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

NEIL ABERCROMBIE
GOVERNOR

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Statement of
RICHARD C. LIM
Interim Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Tuesday, February 1, 2011
8:00 AM
State Capitol, Conference Room 325

in consideration of
HB 981
RELATING TO RENEWABLE ENERGY.

Chair Morita, Vice Chair Coffman, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 981 but has several concerns with its execution. The bill as written would require the energy resources coordinator to do the following:

1. Monitor the parties to a community benefit agreement to ensure compliance;
2. Receive complaints from the parties to the agreement of another party's non-compliance with the agreement;
3. If the energy resources coordinator determines a party is not in compliance with the agreement, enforce the community benefit agreement and fine a non-complying party;
4. Establish fines and penalties for noncompliance based on administrative rules adopted to chapter 91, Hawaii Revised Statutes;
5. Work with community representatives to determine the terms and conditions of the HRS 201N permit plan and any permit that is part of the plan; and

6. Facilitate community benefit discussions between the renewable energy developer and community stakeholder groups where the project is proposed, if the purpose of the project is to export a majority of the energy it generates.

DBEDT supports the concept that renewable energy projects that harvest resources from one island for the benefit of another should give some benefits to the impacted island communities. Many of the community benefits may be included in the power purchase agreement that is negotiated between the electrical utility and the renewable energy developer. It will be up to the utility and the developer to monitor and enforce these community benefits. Some of the permits for a renewable energy project may also have community benefits. DBEDT however, feels that HRS 201N is not the appropriate mechanism to enforce permit conditions that result in community benefits. Under HRS 201N, DBEDT is responsible for the development of a permit plan for the facilitation of permitting process. The individual permitting agencies still retain the responsibility to monitor and enforce any permit conditions that result from a permit that is part of the permitting plan. Therefore, the agencies that grant the individual permits should be required to monitor and enforce any permit conditions that result in a community benefit for the islands that export renewable energy for the benefit of another island.

DBEDT recommends Section 2 of HB 981 “201N- Failure to comply; penalty; and enforcement.” be removed for the following reasons:

1. It is the jurisdiction of the permitting agencies to establish the permitting requirements that result in a community benefit;
2. Monitoring permitting requirements is the jurisdiction of the permitting agencies;
3. DBEDT does not have ability to establish requirements, monitor community benefits, enforce conditions, or hear complaints about permit conditions for permits it does not issue;

4. Establishing fines and penalties for failure to meet permit conditions is the jurisdiction of the individual permitting agencies; and
5. DBEDT does not have the jurisdiction to establish, execute or collect fines and penalties for failure to meet permit conditions for permits it does not issue.

DBEDT also feels that Section 3 of HB 981, amendments to HRS 201N-3 is unclear. The amendment requires DBEDT to work with “representatives from the island where the development of the renewable energy is proposed”. While DBEDT supports the intent of working with the community leaders to develop a community benefit package, the phrase “representative from the island” is vague and ambiguous and will likely lead to confusion and delays in the development process. DBEDT suggests the amended language should read “and elected representatives from the island where development of a renewable energy facility is being proposed, to include state legislators, county council members, and Office of Hawaiian Affairs trustees.”

Thank you for the opportunity to provide these comments.



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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Hermina M. Morita, Chair

Rep. Denny Coffman, Vice Chair

Tuesday, February 01, 2011

8:00 a.m.

Conference Room 325

re: HB 981 **Community Benefits**

COMMENTS

Aloha Chair Morita, Vice Chair Coffman and Members of the Committee

My name is Henry Curtis and I am the Executive Director of Life of the Land, 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.

The first line of HB 981 states: "The legislature finds that many of Hawaii's most desirable renewable energy resources, such as wind, may be found on one island."

All islands have wind, solar, wave and thermal energy.

Life of the Land has determined that O`ahu has at least five times the renewable energy resources needed to generate all of our electricity from renewable energy resources. After adjusting by the availability factor to produce baseload equivalence, theoretically O`ahu can generate in excess of 5000 MW of electricity from renewable energy resources: solar (2100), wind (100), wave (1000), and OTEC (1200), while displacing energy demand through Sea Water Air Conditioning (50). Granted there are areas that one would not build renewable energy systems due to cultural, environmental, and geographic restrictions.

Mahalo,
Henry Curtis



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HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 1, 2011, 8:00 A.M.
(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 981 WITH PROPOSED AMENDMENT

Aloha Chair Morita and Members of the Committee:

The Sierra Club of Hawai'i supports HB 981, which tasks the renewable energy coordinator with assisting in negotiating community benefit agreements. We suggest an amendment, however, to ensure that State is not perceived to have a conflict of interest.

Overwhelming evidence shows that low-income communities and minority populations bear disproportionate environmental burdens in our society. These neighborhoods are repeatedly chosen as sites for massive, polluting industrial facilities and landfills.

The conversion to clean energy should benefit these vulnerable communities. Reducing the impacts of climate change -- such as increased heat waves, floods, drought, and air pollution -- which in turn will impact health and economic prosperity, is critical to ensure healthy communities for everyone.

But as we make the conversion to clean energy, we need to ensure the communities that bear the burden of siting larger facilities also obtain the direct benefits of *both* a vibrant economy and healthy environment. The assistance of the renewable energy coordinator can aid in this process by setting the framework for a well-reasoned community benefit agreement.

In many circumstances, however, it may be possible that the State may be seen as a proponent of the proposed project. The coordinator is charged with assisting in the permit plan process, giving technical assistance and ensuring timely review of the plans. When the coordinator is charged with facilitating the renewable energy project, it may be difficult for the community to perceive the coordinator or the State as being neutral."

We encourage an amendment to HB 981 to give the coordinator the authority to hire an objective facilitator to serve in a mediator role.

(b) The coordinator may facilitate discussions between an applicant seeking to develop a renewable energy facility and stakeholder groups from the island where development of the facility is being proposed, for the purpose of negotiating a community benefits agreement if the proposed renewable energy facility is to export a majority of the electricity that it generates. Where it appears the State may not be perceived as an independent facilitator of negotiations, the State may hire a third-party facilitator to act in the State's place of mediating reasonable negotiations between the applicant(s) and community stakeholder groups.

We believe a third-party facilitator -- such as a professional mediator or retired judge -- could bring trust, objectiveness, and help facilitate in-depth discussions that lead to positive solutions.

Mahalo for the opportunity to testify.