

SB 2439

Measure Title: RELATING TO THE PUBLIC UTILITIES COMMISSION.

Report Title: Public Utilities Commission; Commissioners; Staff; Appropriation

Description: Increases the membership of the public utilities commission from three to five; temporarily creates two subject matter panels within the public utilities commission; authorizes the employment of an executive officer; provides for transition to five-member composition; requires report to the legislature on panel structure; makes appropriation from the public utilities commission special fund.

Companion:

Package: None

Current Referral: CPN, WAM

Introducer(s): BAKER, CHUN OAKLAND, ENGLISH, ESPERO, FUKUNAGA, GALUTERIA, GREEN, IGE, IHARA, KIDANI, TSUTSUI, Dela Cruz, Kouchi

<u>Sort by Date</u>		Status Text
1/20/2012	S	Introduced.
1/23/2012	S	Passed First Reading.
1/23/2012	S	Referred to CPN, WAM.
1/25/2012	S	The committee(s) on CPN has scheduled a public hearing on 01-31-12 9:00AM in conference room 229.

TESTIMONY OF HERMINA MORITA
CHAIR, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON COMMERCE & CONSUMER PROTECTION
JANUARY 31, 2012

MEASURE: S.B. No. 2439

TITLE: Relating to the Public Utilities Commission

Chair Baker and Members of the Committee:

DESCRIPTION:

This measure proposes to restructure the Commission by 1) increasing the number of commissioners to five from three, 2) imposing residency and professional requirements on Commission appointments and composition, 3) dividing the Commission into two subject matter panels that each could take official action without full Commission approval, 4) providing for an executive officer in the Commission to oversee staffing issues, and 5) setting out transition requirements for the governor and others to follow in restructuring the Commission. This measure also appropriates funding from the public utilities commission special fund for salary expenses of two added commissioners for FY2012-2013.

POSITION:

The Commission believes this bill is unnecessary if the Commission's reorganization plan, which was approved by the Legislature in Act 177, SLH 2007, is followed through on. Furthermore, in this Legislative session alone there are numerous bills aimed at removing certain sectors from the Commission's jurisdiction, as well as adding further responsibilities, thus altering the Commission's ability to carry out its current statutory responsibilities if adopted. Therefore, it would be important to clarify the Legislature's purpose and priority policy directives for the Commission, and, if necessary, reorganize it to meet those objectives. The Commission offers the following comments for your consideration.

COMMENTS:

The Commission is concerned about the potential effect of this measure on the Commission's ability to function in light of the uncertainty from all of the Legislature's proposed changes to the Commission's organization and responsibilities without a clear purpose and objectives for these changes.

In recent years the Commission has improved speed, efficiency, and overall quality with which it performs its statutory responsibilities. A second, significant reorganization of the structure of the Commission at this time impedes that progress. In each of the Auditor reports this measure cites, adequate staffing and resources to support Commission operations were identified over the decades as the principal concern for PUC's operational inefficiencies. The Commission's 2007 reorganization plan adopted by the Legislature in Act 177, SLH 2007, and bolstered by Act 130, SLH 2010, focused on improving staffing and resources. This included key positions that would enhance the technical wherewithal of the Commission and complement existing staff positions to improve workflow effectiveness. Act 164, SLH 2011, authorized and funded all the positions as outlined in the Commission's 2007 reorganization plan. However, a key component to the reorganization plan, the relocation of the Commission's entire Oahu office, was not approved. The relocation of the Commission's office is necessary to accommodate all existing and newly created reorganization positions and to meet the Commission's specific needs for a hearing room and adequate document storage space. Presently, there is no sufficient State owned space available that meets the Commission's Oahu office space requirement. Therefore, due to lack of adequate space, the Commission prioritized and focused on four (4) key reorganization positions to recruit for, i.e., Information Technology Specialist, Engineer, Compliance and Consumer Affairs Chief and Legal Assistant, while backfilling existing positions. This, unfortunately, resulted in the Commission having to refrain from recruiting for seventeen (17) funded positions. Given this office space situation, the Commission is concerned the addition of two more commissioners, and the need for corresponding support staff, may detract from the hiring of key positions that have been long identified as critical and may inadvertently derail the efficiencies and operations the Commission is striving for. Other concerns are as follows:

- o The measure only appropriates an amount to cover the salary expenses of two new commissioners, but does not make any provisions for either the new executive officer position or the additional staff that would be required to support two new commissioners. Given that the Commissioners are full-time State employees, the Committee may want to carefully evaluate the need for an executive officer position which is usually contemplated for

part-time, volunteer boards and commissions. Currently, the Chair of the Commission has administrative oversight with the day-to-day management of staff delegated to section heads (Legal, Audit, Policy & Research, Engineering, Compliance & Enforcement and Administration). As the Commission is a creature of statute and an extension of the Legislature, careful consideration must be given to the powers and duties of an executive officer who is not subject to an appointment and confirmation process.

- o There is no provision in the measure for the travel and related lodging expenses that two neighbor island commissioners would incur in performing their duties. Only salaries are provided for in the \$700,000 appropriated in this measure.

In addition, the Commission is concerned that significant restructuring of the Commission is premature at this time, given the number of bills introduced increasing or decreasing the role and functions of the Commission. In addition to three bills being heard by this committee today, the Commission has identified at least ten (10) different existing legislative proposals that would significantly redefine the role and/or organization of the Commission¹. Some of these measures propose major changes, such as the transferring of entire regulatory divisions to or from the Commission's purview. For example, H.B. 2524 and S.B. 2786 both intend to transfer the regulation of telecommunications in the State from the Commission to the Department of Commerce and Consumer Affairs, while in contrast H.B. 2085 and S.B. 2189 both would add cable services regulation to the Commission's responsibilities.

- o This bill provides that the number of commissioners will be increased from three to five commissioners and the bill states, "At all times, the commission shall include at least two commissioners representing the

¹A few of the existing measures aimed at altering the operations of the Commission include H.B. 1742, H.B. 1882 and S.B. 2439, H.B. 2043 (relating to renewable energy), H.B. 2085 and S.B. 2189 (relating to cable service), H.B. 2377 (relating to renewable energy), H.B. 2524 and S.B. 2786 (relating to the regulation of telecommunications and cable television services), H.B. 2525 and S.B. 2787 (relating to electricity), S.B. 99, S.B. 2427, and S.B. 2613 (relating to electric utilities). Those measures not indicated otherwise are titled as relating to the public utilities commission.

counties of Hawaii, Kauai, and Maui.” As the Commission is a creation of statute, it defers to the Legislature as to how the Commission should be comprised and constituted. However, should this measure move forward, residency requirements should be clearly established, as the word “**representing**” is vague and ambiguous. Given the specialized nature and statutory experience required to serve as commissioner, this measure’s residency, professional, and compositional requirements may further reduce the pool of qualified applicants.

- To reiterate an earlier point, there is no provision in this measure to support the travel and related lodging expenses that would be incurred by neighbor island commissioners in performing their duties. Only salaries are provided for in the \$700,000 appropriation in the measure.
- It appears that the two panel structure replicates the Intermediate Court of Appeals, and the Commission has concerns about how a two panel structure that gives each panel the power to operate autonomously and independently of the other would affect Commission staffing and resources efficiencies. The staff works across regulated sectors and workload priorities are defined through statutory deadlines and policy mandates.

Thank you for the opportunity to testify on this matter.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
ON
SENATE BILL NO. 2439

January 31, 2012

RELATING TO THE PUBLIC UTILITIES COMMISSION

Senate Bill No. 2439 would increase the membership of the public utilities commission (PUC) from three to five, create two subject matter panels within the public utilities commission, and authorize the appointment of an executive officer. The bill would also require a report to the legislature on the new panel structure and make an appropriation from the public utilities commission special fund for personnel costs related to this bill.

The Administration supports the intent of this bill. The PUC is instrumental in supporting Hawaii's energy policies as they pertain to energy independence and sustainability, and the provisions in this bill are in line with the Administration's "New Day Initiatives" to transform government operations into a more efficient and effective operation. However, in light of the restructuring process currently underway within the PUC, the provisions of the bill are not a priority at this time. The Administration would welcome the opportunity to revisit this concept in the future and looks forward to working with the Legislature on this matter.

Thank you for the opportunity to provide testimony on this measure.

1/29/2012

Senator Baker, Chair
Senator Taniguchi, Vice Chair
Committee Commerce and Consumer Protection

January 29, 2012

Winton Schoneman
Bubbies Homemade Ice Cream and Desserts Franchisee

RE Senate Bill 2439 Relating to The Public Utilities Commission

Aloha members of the Committee, I am writing in support of and to ask that you consider amending SB 2439 to specifically designate one of the five members of the committee to be a qualified consumer advocate. There are many forces at work when it comes to our utilities, especially when they are virtually a monopoly. Often, we the public, believe that our interests are not looked after. Designating a Public Utility Consumer Advocate would go a long way towards improvement.

Thank you for your consideration.

Sincerely,

Winton Schoneman