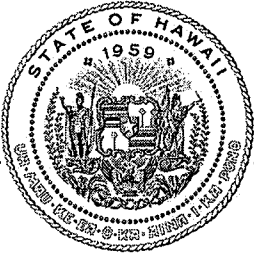


SB 367



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

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Statement of
RICHARD C. LIM
Interim Director

Department of Business, Economic Development, and Tourism
before the

SENATE COMMITTEE ON WAYS AND MEANS

Friday, February 25, 2011

9:00 AM

State Capitol, Conference Room 211

in consideration of
SB 367, SD2
RELATING TO ENERGY.

Chair Ige, Vice Chair Kidani, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports SB 367, SD2. DBEDT has worked closely with the Public Utilities Commission (PUC) and the Consumer Advocate to ensure that this bill gives the PUC the proper discretion and authority to consider if an interisland cable is in the best interest of the ratepayers including minimizing the risks to the ratepayers, and at the same time facilitating Hawaii's transformation to a clean energy economy.

SB 367, SD 2 provides the following:

- Establishes a regulatory structure for the implementation of an inter-island high voltage electric transmission cable system ("Cable System") and for the construction of on-island transmission infrastructure;
- Establishes the regulatory process and requirements for the selection and certification of a transmission cable company, and the construction of the undersea cable and the associated on-island infrastructure that would minimize the risks to the ratepayers; and

- Establishes the regulatory procedure and approval process for recovery of the project costs including the cost of the cable and the on-island infrastructure.

Thank you for the opportunity to provide these comments.

**WRITTEN TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEE ON WAYS AND MEANS**

FEBRUARY 25, 2011

MEASURE: S.B. No. 367 SD2
TITLE: Relating to Energy.

Chair Ige and Members of the Committee:

DESCRIPTION:

This bill:

- Establishes a regulatory structure for the installation and implementation of an inter-island high voltage electric transmission cable system ("Inter-Island Cable System") and for the construction of on-island transmission infrastructure;
- Allows for the utility company to collect surcharges from its ratepayers to recover the costs of the cable installation on behalf of the cable company;
- Exempts the surcharges from being counted as gross income, adjusted gross income, or taxable income for tax purposes;
- Provides for the eventual acquisition of the cable system by the utility company from the cable company;
- Allows the utility company to recover the costs of acquiring the cable system and developing the on island infrastructure through an automatic rate adjustment clause and then through its rates; and
- Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed.

POSITION:

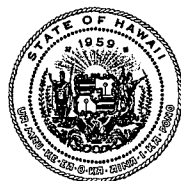
The Commission defers to the Legislature on whether to facilitate the development of the Inter-Island Cable System by establishing a special regulatory structure and cost-recovery mechanism for such a system as provided under this bill.

COMMENTS:

At the hearing on the previous version of the bill, the Commission expressed its concerns,¹ and most of those concerns were addressed in the current draft to the extent that they possibly could be. However, the Commission is still concerned that a certain amount of the potential risk to ratepayers, which may be unavoidable, will continue to exist if a project of this magnitude goes forward.

Thank you for the opportunity to testify.

¹ PUC Testimony on SB 367 SD1 to Senate Joint Committees on Energy and the Environment and Commerce and Consumer Protection on February 10, 2011.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
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KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

FRIDAY, FEBRUARY 25, 2011
9:00 A.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS, TO THE HONORABLE DAVID Y. IGE, CHAIR, AND
MEMBERS OF THE COMMITTEE

SENATE BILL NO. 367, SD2 – RELATING TO ENERGY.

DESCRIPTION:

This measure proposes to establish new sections in Hawaii Revised Statutes ("HRS") § 269 that would facilitate the Commission's ability to authorize a cable utility company to operate as a regulated utility as well as provisions associated with the recovery of the costs that will be incurred for the cable that will connect the electrical systems on different islands.

POSITION:

The Division of Consumer Advocacy ("Consumer Advocate") supports this measure.

COMMENTS:

This proposed measure would facilitate a particular ownership model for the envisioned cable that would be necessary to connect electrical systems on different islands. It also makes provisions for the recovery of costs for the cable and related infrastructure from ratepayers.

Senate Bill No. 367, SD2
Senate Committee on Ways and Means
Friday, February 25, 2011, 9:00 a.m.
Page 2

The Consumer Advocate supports SB 367, SD 2 and its goal of using wind for electricity generation. The Consumer Advocate will continue to work with DBEDT and HECO concerning the need for any amendments to this bill.

The Consumer Advocate suggests the following amendments to the bill:

- Page 8, line 16 through Page 9, line 4 should be moved to the body of the bill. It does not seem appropriate as a definition.
- Page 21, section 269-F(d)(1), the sentence should read, "The commission-approved rate of return, as set in the electric utility company's last rate case, . . ." The commas appear to have been inadvertently deleted in this version.
- Page 22, lines 3 and 4, section 269-F(e), proposes the phrase, "less accumulated depreciation and associated unamortized deferred income taxes." The Consumer Advocate suggests changing this to "less offsets such as accumulated depreciation and associated unamortized deferred income taxes." There may be other offsets that the commission should take into account such as federal funds. This paragraph should not be limited to only those items as offsets.

Thank you for this opportunity to provide comments.



SB 367 SD2
RELATING TO ENERGY
Senate Committee on Ways and Means

February 25, 2011

9:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB 367 SD2. This bill establishes a regulatory scheme for the installation of an interisland power cable.

This issue is of particular concern to OHA and our beneficiaries because any interisland power cable in the state would lie across submerged ceded lands. Undersea power cables that would connect O'ahu to Lāna'i and Moloka'i are currently being planned. However, establishing the regulatory scheme for an interisland power cable – as proposed in SB367 SD2 – at this point appears presumptuous when the environmental impact analysis of these projects are still at a preliminary stage. This bill in many ways validates the criticisms of our Moloka'i and Lāna'i beneficiaries that the approval and development of these projects are foregone conclusions.

Many of our beneficiaries on Moloka'i and Lāna'i are greatly concerned about the potential impacts these projects will have on their communities and feel that they are not being told the full details of how these projects will be implemented.

Mahalo nui loa for the opportunity to testify.

**Testimony before the Senate Committee on
Ways and Means**

**By Robbie Alm
Executive Vice President
Hawaiian Electric Company**

February 25, 2011

**Senate Bill 367, SD 2
Relating to Renewable Energy**

Chair Ige, Vice Chair Kidani, and Members of the Committee:

I am testifying today on behalf of Hawaiian Electric Company in support of SB 367, SD 2. The bill establishes a regulatory structure under which the Public Utilities Commission (PUC) could oversee certification of an independent transmission utility to commercially develop, finance and construct an undersea energy transmission cable system to transmit clean, renewable energy between the Hawaiian islands. We believe that SB 367, SD 2 provides a strong public policy foundation and regulatory structure to protect the public interest with the ultimate goal of interconnecting the separate island grids.

Background

Under the State's Renewable Portfolio Standard (RPS) law, Hawaiian Electric Company is mandated to generate 25% of our electricity from renewable resources by the year 2020 and 40% by 2030. This is a very aggressive goal, but one which we are determined to meet. There is no single "silver bullet" of renewable energy that will help us achieve this goal: it will take all forms, including wind, solar, hydro, wave energy, geothermal, biofuels and eventually we hope ocean thermal energy conversion (OTEC) to get us to the target.

Part of our challenge is geographic: the demand for electricity is greatest on Oahu, but the greatest renewable resources are on the neighbor islands where demand is far lower. With partners, we are doing as much as we can on Oahu, including more waste-to-energy (H-POWER and others on the drawing boards); wind farms at Kahuku and above the North Shore and perhaps

elsewhere; utility scale solar farms at Kalaeloa and Mililani, plus solar on customers' rooftops. Oahu has no geothermal potential and no rivers strong enough to provide hydropower. So even with doing as much as we can, this island's renewable resources are not sufficient to meet the demand created by all who live and work here.

For the past two years, the State of Hawaii, U. S. Department of Energy, and Hawaiian Electric have been exploring the feasibility of an inter-island undersea electrical cable system that would be able to transmit wind generated energy from Lanai and Molokai, which has some of the best wind in the world, to Oahu. It is estimated that the electricity from 400 megawatts (MW) of wind power from those islands would provide about 20% of Oahu's energy. (It would actually displace about 35% of Oahu's oil use for electricity production, providing a very substantial hedge against fluctuating oil prices.)

By providing a statewide electrical grid and a way to move renewable energy from where it is abundant to where it is needed, the inter-island cable will help our State achieve a clean energy future and enable us to reach the State goal of 70% clean energy by 2030.

Bill description

Under the proposed bill, the bulk of the risk and responsibility for permitting, designing, engineering, financing, constructing and commissioning the cable would be assumed by a private developer who would be selected through a competitive request for proposal (RFP) process supervised and approved by the PUC. This would allow the cable system to be developed at a lower cost to electric customers than if Hawaiian Electric or the State were to develop it, given Hawaiian Electric's financial rating and the State's strained budget.

This approach was essentially successfully used for the Trans Bay Project to bring 400 MW of power to San Francisco from a generating facility across the bay in Pittsburg, California.

The structure proposed in the bill establishes a certification process, by which the PUC would certify and regulate a cable developer selected through competitive bidding as a public utility. During certification, public hearings would be conducted on each island potentially to be connected by a cable system to invite public comment and input. Once certified, a cable developer would be regulated as a transmission utility by the PUC and subject to PUC utility rules, regulations and processes.

As part of certification, the PUC would set a fair rate of return on investment to the transmission utility, taking into account the risks assumed by the developer. Upon commercial operation, the transmission utility would be able to recover its cable development and construction costs through a PUC-approved surcharge.

Hawaiian Electric would collect the surcharge payment from electric customers on behalf of the transmission utility, just as Hawaiian Electric now collects the PUC fee and public benefits fund surcharges, with no mark up or profit to Hawaiian Electric.

The completed undersea cable system would be owned and operated by the transmission utility, unless Hawaiian Electric exercises an option to purchase it, subject to PUC approval.

The bill also allows for Hawaiian Electric to recover its prudently incurred capital costs to construct the Oahu infrastructure needed to connect to the cable system and distribute electricity brought via undersea cable to Oahu.

Rationale for regulatory structure

The proposed structure would allow the cable developer to finance the project on better terms -- that is, at lower cost -- which ultimately would benefit all electricity customers, in effect all residents and businesses on Oahu.

At the same time, this bill still ensures that regulatory oversight is required for all key decisions.

Hawaiian Electric is regulated by the PUC. We cannot collect any monies from our customers via a surcharge or adjustment clause unless it is first

reviewed and approved by the PUC. In addition, the Consumer Advocate would also be a party to any request for approval of use of a surcharge or automatic adjustment clause. Both the PUC and the Consumer Advocate would need to determine whether the proposal is just, reasonable and in the public interest.

The proposed legislation creates a regulatory structure wherein the cable developer would also be under the purview of the PUC and subject to regulation. Choosing the appropriate cable developer for the project would be subject to an RFP process with oversight from the Commission.

There is an option for the electric utility to purchase the underwater cable system at some future time. Such transfer would still require approval of the PUC and review by the Consumer Advocate. The potential to sell the cable system after construction is complete and it is in routine operation could make the project more attractive to developers whose core business is construction and thus may invite more and better bidders. However, once construction is complete and routine operations and maintenance are underway, the cable might be more efficiently operated by Hawaiian Electric, which is already experienced in operating all other electric transmission on Oahu. Again, that will be a matter for the PUC to decide.

The proposed legislation also allows the electric utility to recover any prudently incurred costs should it be determined, with PUC approval, that it is not necessary to complete the on-island infrastructure.

Perhaps it is worth also being clear about what this bill does not do. It would not approve or make the decision to proceed with the project. It would not remove any responsibility for parties to consult the impacted communities, prepare fully accepted EIS documents, or gain any of the other permits and approvals needed.

It does establish a framework for the PUC to control the process and make the decisions that it does not today have the explicit power to make, as this sort of project has never happened before.

Obviously, the project has three major parts -- one or more wind farms on neighbor islands, the cable system and the Oahu upgrades. Failing any one, the others are not needed or do not make sense. And this bill specifically establishes the PUC as the government authority to make sure that the wind farms are coming, and that the upgrades are coming, BEFORE committing to allow the cable. Failing this, no one really has the power today to protect the public interest by ensuring that no part goes forward if all parts do not go forward. The approval of the PPAs will govern the utilities and wind farm developers, certification and approval of the transmission utility will govern the cable developer.

We urge the Committee to pass this bill. Thank you for the opportunity to testify.

From: Sally Kaye [skaye@runbox.com]
Sent: Wednesday, February 23, 2011 12:31 PM
To: WAM Testimony
Subject: SB 367 s.d.2, hearing 2/25 9:00 a.m. Room 211

COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair
Senator Michelle Kidani, Vice Chair

Hearing 2/25/11, 9:00 a.m., Room 211

Re: SB367 S.D.2

This bill is badly drafted, ill-conceived, and extremely premature.

After finding that "Hawaii has an abundance of natural, renewable energy sources from wind, solar, ocean and wave, geothermal and bio-based fuels," this measure forsakes all other renewable resources in a race to wind, without explanation or citation to studies supporting this conclusion. If this technology were indeed "relatively cost-effective" it would not need tax grants or government incentives to survive.

It is premised on the existence of one or more industrial power plants on Lana`i and/or Moloka`i, the impacts of which have not even begun to be identified and which are subject to significant opposition on both islands, as well as on Maui Island. Further, it addresses a very specific component of Big Wind, a cable, a component for which not a single environmental impact has yet been examined.

Without industrial power sites on our islands, measures that protect HECO's "credit quality" are unwarranted at this time, and do not require a comprehensive overhaul of HRS §§ 269, 235, 239 and 240.

This bill insulates potential cable developers by allowing "non-recourse project financing;" current estimates of private equity invested by developers can be as low as 10%.

This bill additionally burdens Hawaii taxpayers and rate payers and insulates the HECO corporation and its shareholders by:

- Favorable means such as "surcharge mechanisms;"
- Allowing HECO's "revenue requirement" (including an allowed rate of return) to be protected through means such as "automatic adjustment clauses;"
- Allowing HECO to elect "not to complete the on-island transmission infrastructure" while nonetheless recovering "all reasonable" pre-development and development costs from ratepayers.

It is abundantly clear that this is a **special interest** measure, designed to ultimately benefit one corporate entity, both by avoiding or shifting financial risk during the proposed cable production period and the potential to own it after production. Rather than undertaking a state-wide analysis of a state-wide issue to find a state-wide solution, this premature measure would burden the tax and ratepayers with the financial costs of underwriting one solution, that benefits one island, and "kicks the can" down the road for the rest of the state.

I trust the members of this Committee will deny passage of this bill while searching for alternatives to meeting the RPS contained in § 269 that consider Hawaii's taxpayers and ratepayers over corporate interests.

Submitted by: Sally Kaye, 511 Ilima Ave., P.O. Box 631313, Lana`i City, Hawai`i, 808-565-6276.

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Senator David Y. Ige, Chair
Senator Michelle Kidani, Vice Chair

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And Committee Members

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Submitted by: Sally Kaye, 511 Ilima Ave., P.O. Box 631313, Lana'i City, Hawai'i, 808-565-6276.

TO: Senator David Ige ✓
Senator Michele Kidani
Senator Suzanne Chun-Oakland
Senator J. Kalani English

Sent via fax

FROM: Beverly Zigmond
DATE: February 23, 2011
RE: Senate Bill 367

Senators,

I strongly urge you to OPPOSE SB367, written by and for the special interests of one company, namely HECO. This bill would allow HECO to pass on ALL costs and ALL risks from an interisland cable to the state's ratepayers.

At the recent EIS scoping meetings, DBEDT and DOE clearly stated that with the Programmatic EIS, there was no place for comments or questions on specific projects, such as the cable, until the Programmatic EIS was completed. Yet **this bill fast-tracks the establishment of a regulatory scheme for an undersea cable BEFORE any of the cable's impacts have been examined with its EIS. This bill is extremely premature and is special legislation for one company (HECO).** Does this sound like the Superferry?

We, the people of Hawaii, deserve better than this. Are you representing the citizens of this state or do you represent only special interests?

Thank you for listening to my concerns. I trust your conscience will guide you.



Beverly Zigmond, D.N.E. CSAC
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Lana'i City, Hawaii 96763
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