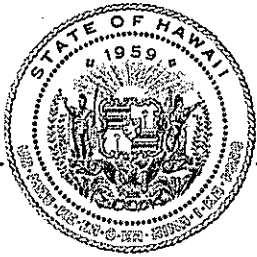


SB 367,

SD1



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
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Statement of
RICHARD C. LIM
Interim Director
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEES ON ENERGY AND ENVIRONMENT
AND
COMMERCE AND CONSUMER PROTECTION**
Thursday, February 10, 2011
3:10 PM
State Capitol, Conference Room 225

in consideration of
SB 367, SD1
RELATING TO ENERGY.

Chair Gabbard, Chair Baker, Vice Chair English, Vice Chair Taniguchi, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 367, SD1 but has concerns with the section of the bill related to Hawaiian Electric's recovery of capital costs. DBEDT recommends the following changes to Section 269-F.

Subsection (a), DBEDT recommends amending the section to read "provided such acquisition is approved by the commission."

Subsection (d)(i), DBEDT recommends rewriting the section to read " The electric utility company's net investment in the high-voltage electric transmission cable system from the acquisition date of the high voltage electric transmission system, and in the on-island

transmission infrastructure is completed and available for service, shall be based on the allowed rate of return as set in the utility company's last rate case.

Subsection (f) allows Hawaiian Electric to recover its grid upgrade expenditures if the expenditures are found to be "necessary or appropriate". These terms are unclear and are not traditionally used in rate recovery proceedings. These terms need to be defined and should address who determines if the upgrades are necessary and appropriate.

Subsection (g) DBEDT recommends amending the section to read "... the electric utility company may be allowed to recover all reasonable costs prudently incurred during predevelopment and development periods, subject to commission approval."

DBEDT also recommends amending the definition of "Request for Proposal" to include new renewable generation and high-voltage transmission.

Thank you for the opportunity to provide these comments.

TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
SENATE COMMITTEES ON ENERGY AND ENVIRONMENT AND
COMMERCE AND CONSUMER PROTECTION

FEBRUARY 10, 2011

MEASURE: S.B. No. 367 SD1
TITLE: Relating to Energy.

Chairs Gabbard and Baker and Members of the Committees:

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, but provides comments and questions for the Committees to consider, primarily involving the allocation of various risks in the development of the Inter-Island Cable System.

COMMENTS:

This bill is substantially similar to HB 1176 HD1.

Definitions:

The definition of "Cable purchase contract" provides: "Cable purchase contract" means a contract to purchase a high-voltage electric transmission cable system after a specified period of commercial operations, pursuant to an option to purchase a power purchase agreement containing the option to purchase."

The highlighted portion appears to contain errors, and should probably read like the definition of the same term in HB 1176 HD1 as follows: "...in accordance with an option to purchase acquired pursuant to a Request For Proposal, or included in a power purchase agreement".

§269-B Certification.

This portion of the bill requires that an Inter-Island Cable System company be certified as a public utility and be issued a Certificate of Public Convenience and Necessity (or "CPCN") under Chapter 269, HRS, by the Commission, and provides for additional provisions in deciding on whether to issue a CPCN.

On page 11, line 20, the bill reads, "The fitness of the cable company shall be determined through a request for proposal;" This provision appears to be intended to mean that the cable company will be identified and selected through a "request for proposal process" and the cable company will by virtue of being selected through a request for proposal process be deemed or considered to be "fit" to serve as a public utility. If so, this provision should more clearly provide so, and you may wish to consider revising this sentence as follows: "The fitness of the cable company shall be determined through a request for proposal and if a cable company is selected through a request for proposal as defined in this Part, no additional finding of "fitness" or being "fit" shall be required for the issuance of a certificate of public convenience and necessity;"

On page 12, lines 2-3, the bill provides that the "commission shall allow for the use of commercially reasonable non-recourse project financing" in determining whether the cable company is financially fit. First, this provision may not be necessary if, under the previous provision in the bill, fitness is conclusively determined through a request for proposal. Second, although perhaps not unusual for developments of this magnitude, and could be required by developers, if non-recourse financing is expressly allowed as provided in this provision, only the cable company and the project itself will likely be liable for any debt incurred by the cable company for the Inter-island Cable System, which may increase the risk of default.

On page 12, lines 6-15, the bill provides that in determining whether the Inter-Island Cable System is or will be required by the present or future public convenience or necessity, the Commission shall determine whether the cable system would be a cost-effective means of either (A) interconnecting two or more electric utilities, OR, (B) helping one or more utility companies meet the applicable renewable portfolio standard. It is unclear if either of these determinations would by themselves be conclusive of determining the "present or future public

convenience or necessity," or if other considerations could still apply. If it is intended to be conclusive, you may wish to have this provision expressly provide that it is.

On page 13, lines 5-9, the bill provides that in determining the cable company's authorized rate of return, "the commission shall take into account the risks assumed by the certified cable company during predevelopment, development, and commercial operations periods..." Although it may be reasonable to take these factors into account in determining the appropriate rate of return, you should be aware that considering these factors will likely increase the cable company's authorized rate of return, and therefore amounts that ratepayers will be required to pay.

§269-C Transmission tariff.

We suggest that page 14, lines 3-4, be revised as follows to be consistent with other "approval" requirements in the bill: "The commission shall, by order, approve, disapprove, or approve subject to conditions, the tariff..."

§269-D Surcharge.

The bill (beginning on page 14, line 16) directs the Commission to establish a cable surcharge to allow recovery of the high-voltage electric transmission cable system. This cable surcharge, along with a collection fee to be charged by the electric utility, will be billed and collected by the electric utility from its ratepayers.

Subsection (c) of this provision provides: "Notwithstanding any requirements to the contrary, a high-voltage electric transmission cable system shall be deemed 'used or useful for public utility purposes' upon commencing commercial operations." Typically, "used or useful" requires the facility or equipment to be generating and transmitting electricity. Under the definition of "commercial operations" on page 8, lines 4-8 of the bill, unless the Commission adds "other criteria the commission determines as reasonable," the Inter-Island Cable System would be used and useful upon completion of acceptance testing, even if the contemplated renewable energy power plants are not generating and transmitting electricity. However, the definition of "commercial operations" gives the Commission the authority to include other criteria before the Inter-Island Cable System is deemed to be in "commercial operations."

§269-F Recovery of electric utility company capital costs.

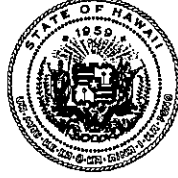
Subsection (f) of this section, on page 17, lines 14-22, provides that "if the on-island transmission infrastructure is found to be necessary or appropriate to facilitate achievement of the State's renewable portfolio standards...", then "no finding of used and useful for public utility purposes under section 269-16(b)3 shall be required for the electric utility to recover its revenue requirement under this section."

Subsection (g) of this section, on page 19, lines 1-9, allows the utility to recover all of its costs if the electric utility company decides to not complete the project (and the Commission approves that decision) or is precluded from completing construction of the on-island infrastructure.

Although these cost-recovery provisions may be necessary to enable the electric utility to invest in the necessary infrastructure, you should be aware that even if the Inter-Island Cable System is not completed, the electric utility will be allowed to recover its investment and costs from ratepayers.

The Inter-Island Cable System contemplated by this bill and the allocation of risks must be balanced against its potential benefits in helping the State achieve its clean energy objectives. The Commission defers to the Legislature's policy determinations posed by this bill, and hopes that the foregoing comments are helpful in your consideration of the proposed bill.

Thank you for the opportunity to testify.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

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KEALI'I S. LOPEZ
INTERIM DIRECTOR

EVERETT KANESHIGE
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON ENERGY AND ENVIRONMENT
AND COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2011

THURSDAY, FEBRUARY 10, 2011
3:10 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR,
DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND
CONSUMER AFFAIRS, TO THE HONORABLE MIKE GABBARD, CHAIR, THE
HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE COMMITTEES

SENATE BILL NO. 367, SD1 – 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") offers its comments on 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.

The Consumer Advocate notes that pursuant to current statutory language, a company that transmits electricity primarily or entirely from nonfossil fuel sources and transmits all of that power directly to a utility company shall not normally be deemed to be a utility company. Thus, the Consumer Advocate understands that this measure is viewed as necessary to facilitate a particular type of ownership structure for the cable that is necessary to connect different island systems and transmit energy that may be primarily or entirely generated using only nonfossil fuel sources.

The Consumer Advocate also notes that the proposed measure may be somewhat premature as the proposed cable and power source that will deliver the energy to be transmitted over the cable are still subject to various permitting and other reviews before the Public Utilities Commission ("Commission") will be required to review the appropriate application(s) regarding the cable and Big Wind projects. That being said, the Consumer Advocate acknowledges that the proposed measure, if approved, would only facilitate the projects and does not represent a tacit or explicit approval of either project.

The Consumer Advocate has been working with the parties supporting this proposed measure and notes that some of their concerns with earlier versions of the bill have been addressed with certain modifications. There are, however, other comments that the Consumer Advocate offers for consideration.

- One concern relates to the potential trigger for when ratepayers will be asked to bear costs associated with the cable. Generally, a significant requirement that a utility company must meet before being able to recover costs associated with an investment is that it is "used and useful." As proposed in §269-D(c), page 15, lines 11 to 14, the language suggests that the cable will be used and useful "upon commencing commercial operations." As set forth in the definitions, "commercial operations" will commence after the cable system passes acceptance tests, not when energy is actually being delivered. Thus, ratepayers may be required to pay for the cable system even if the wind farm is not yet ready to transmit energy.
- Related to the concern articulated above, in the proposed §269-F(f), page 18, lines 14 to 22, it is proposed that "no finding of used and useful for public utility purposes" will be necessary for the utility to begin recovering costs associated with the on-island transmission infrastructure. Similar to the point raised above, ratepayers could be asked to pay for the infrastructure even if the cable and/or wind farm are not yet ready to

actually provide energy and/or contribute to the State's ability to meet the renewable portfolio standards.

- There are considerable risks associated with the proposed project and the Consumer Advocate understands that the proposal is to use the proposed request for proposal process to shift as much of those risks upon the developer of the cable in order to mitigate the possibility that ratepayers may be asked to bear costs associated with projects that might not materialize or where cost overruns may occur. The Consumer Advocate further understands that the current draft legislation does not reflect suggested language that expressly communicates the intent to mitigate risks to ratepayers in order to provide more flexibility in terms of how that might be done. The Consumer Advocate agrees that it may be less practical to make such protections part of a statute, but would like to stress that such measures need to carefully weigh the likely effect on the bids that will be received and the amount of risk that is shifted from the ratepayers to the cable developer.

The proposed projects potentially represent different things to Hawaii, such as a means by which to facilitate Hawaii's transition to clean energy and meet the renewable portfolio standards, among other things. The projects also represent potentially adverse impacts on Hawaii residents in terms of culture, lifestyle, financial health, etc. All of the relevant factors must be properly weighed in order to balance the policy of clean energy with the impact on Hawaii's residents.

The Consumer Advocate also has the following non-substantive comments to offer:

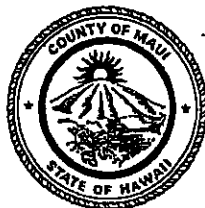
- On page 13, lines 19 and 20, the bill proposes:
"Prior to approving the application for certification, the Commission shall hold a public hearing on each island connected by the high-voltage electric transmission cable..." As the public hearing will be held prior to the request for proposal, the islands will not yet be connected by cable. The suggestion is that it should be re-worded to "the commission shall hold a public hearing on each island that will be connected" by the cable.
- On pages 15 and 16, in §269-E, subsections (b) and (c), the use of the word "disprove" is used following the words "review and approve." The Consumer Advocate recommends that, for each instance that "disprove" is used, the word "disapprove" should be used instead.

Senate Bill No. 367, SD1
Senate Committees on Energy and Environment
and Commerce and Consumer Protection
Thursday, February 10, 2011, 3:10 p.m.
Page 4

- On page 17, lines 17 to 19, the first sentence should read, "the allowed rate of return, as set in the electric utility company's last rate case, on the utility's net investment, as approved by the commission, in the high-voltage . . ."
- On page 18, lines 12 and 13, the language regarding the reductions to the electric utility net investment should be modified to recognize the possibility of other deductions. Thus, the language should read, ". . ., less offsets such as accumulated depreciation and associated unamortized deferred income taxes." This proposal would also allow the deduction of other items, such as capital goods excise tax credits as well as any Federal or State contributions, if any, when determining the net investment.

Thank you for this opportunity to testify.

ALAN M. ARAKAWA
MAYOR



KEITH A. REGAN
MANAGING DIRECTOR

OFFICE OF THE MAYOR

Ke'ena O Ka Meia

COUNTY OF MAUI - Kalana O Maui

February 8, 2011

Senator Mike Gabbard, Chair and Members
Senate Energy Committee
State Capitol, Room 201
Honolulu, Hawaii 96813

**Re: Opposing SB 367 SD1, Energy; Interisland High Voltage Electric
Transmission Cable System; Public Utility Commission; Tax Exemptions**

Aloha Senator Gabbard and Members:

The County of Maui supports the goals of the Hawaii Clean Energy Initiative ("HCEI"). We understand that to achieve HCEI goals it will be necessary to develop significant amounts of new renewable energy, and we understand there will be costs associated with implementing the HCEI.

What the County of Maui cannot support is the current language of SB 367 and its companion bill, HB 1176. These bills would unfairly burden all of the cable transmission system, despite the fact that no one can tell us where the cable will run, its overall cost or how it would interconnect with the grids on the islands of Maui, Molokai, and Lanai.

We hear suggestions the cost of the cable could approach one billion dollars (\$1,000,000,000). We need a clear, complete, accurate, detailed analysis for the cable system before we agree to finance it on the backs of the ratepayers. It is incorrect to make a legislative finding that a system will be "used and useful" when it has yet to be determined exactly where the cable will be "used".

This bill is premature without clear details of costs and route of the cable. Although Section 1 claims the "State...believes that an undersea cable is feasible and *desirable*" (emphasis added), we recently attended EIS-PN public scoping hearings on Maui, Molokai, and Lanai and heard many of our citizens strongly questioning the desirability of the proposal. We believe it is vital that we safeguard our community from being saddled, in advance, by costs associated with a project that has an indefinite cable route, unknown wind farm locations, unclear costs/benefits, and as-yet undetermined environmental impacts.

Testimony Opposing SB 367 SD1
February 8, 2011
Page 2

Please shelve this bill until specifics are known and may be properly evaluated.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Arakawa', with a long horizontal line extending to the right.

ALAN M. ARAKAWA
Mayor, County of Maui

**Testimony before the Senate Committees on
Energy & the Environment and
Commerce & Consumer Protection**

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

February 10, 2011

**Senate Bill 367, SD 1
Relating to Renewable Energy**

Chairs Gabbard and Baker, Vice Chairs English and Taniguchi, and Members of the Committees:

I am testifying today on behalf of Hawaiian Electric Company in support of SB 367, SD 1. 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 1 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.

Amendment to the bill

We ask your Committees to amend the bill before you in one place. Page 7, lines 14-18, should read as follows:

"Cable purchase contract' means a contract to purchase a high-voltage electric transmission cable system after a specified period of commercial operations in accordance with an option to purchase acquired pursuant to a request for proposal, or included in a power purchase agreement."

This language clarifies that Hawaiian Electric's option to purchase the cable would be acquired pursuant to an RFP or would be included in a power purchase agreement.

We urge the Committees to pass this bill with the suggested amendment. Thank you for the opportunity to testify.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Friends of Lanai
Organization: Friends of Lanai
Submitted on: 2/8/2011

Comments:

HB 1176 and its companion bill SB367 are absent any community consideration. HB1176 would authorize HECO to be absent any risk and any cost for the proposed interisland cable. As you can see in that legislation, all costs -- even costs incurred should the project not go to completion -- would be borne by the ratepayers in the form of higher costs, adjusted rates and surcharges.;

The economics of this proposed project do not work, and we encourage you to listen to all sides prior to coming to any decision.

This is not good legislation. It forces all the expenses on the ratepayers, including apparently those who live on either Moloka'i and Lana'i, neither of which island benefits at all from this cable -- or the industrial wind power plants that will supply O'ahu with 10% of its electricity.

Please do NOT support this legislation.

Mahalo for your consideration.
Friends of Lana'i

Isaac Davis Hall
Attorney at Law
2087 Wells Street
Wailuku, Maui, Hawaii 96793
Telephone: (808) 244-9017
Facsimile: (808) 244-6775
February 9, 2011

Via Email

Members of the Senate Committee on Energy and Environment
Members of the Senate Committee on Commerce and Consumer
Protection
Members of the House Committee on Energy & Environmental Protection
Members of the House Committee on Consumer Protection & Commerce

Re: SB 367: Hearing: 2/10/11 @ 3:10 pm
HB 1176: Hearing: 2/10/11 @ 10:00 am

Dear Senators and Representatives,

This testimony on Senate Bill 367 and House Bill 1176 is submitted on behalf of Friends of Lanai. We strongly oppose this Legislation for reasons including those that follow:

1. This is illegal special legislation modifying our public utilities law, Chapter 269 HRS, for the benefit of a single project, the Hawai'i Interisland Renewable Energy Program ("HIREP"). See *Sierra Club v. Department of Transportation of the State of Hawai'i* ("Sierra Club II") 120 Hawai'i 181, 202 P.3d 1226 (2009). For HIREP alone, this Bill strips generally applicable provisions from Chapter 269 intended to protect the public and ratepayers from the risks inherent in this project.

2. The transparent purpose of this Bill is to attract private investors as applicants for the Right of Entry from the federal government for the inter-island cable by eliminating all risks from this "investment" by requiring that all costs will be reimbursed by Hawai'i's public utility company through funds collected from the ratepayers, Hawai'i's citizens.

a. The ratepayers paying the bill for the interisland cable are never clearly identified. Are they Oahu ratepayers? Oahu and Maui County ratepayers? Or will ratepayers statewide be forced to pay for this project?

b. The Bill does not provide even an estimated cost for the undersea cable and additional infrastructure. Any Bill whose purpose it is to obligate Hawai'i's citizens to pay for a huge utility capital improvement project should, at a minimum, include an estimate of the costs that the Legislature is shifting to its citizens.

3. There are multiple proposed legislative findings in Section 1 of the Bill for which there is no factual or legal support, such as:

(1) Lanai or Molokai wind projects totaling four hundred megawatts of capacity have the potential to produce in the range of one thousand five hundred gigawatt hours of energy annually given the expected capacity factors for large scale wind farms on these islands;

(2) Technical implementation and routing studies have been conducted that show that it is feasible to connect renewable generation facilities on Lanai or Molokai to the Oahu load using undersea high-voltage transmission cables;

(3) The State, with the support and assistance of the federal government and Hawaiian Electric Company, has been exploring for several years the technical, engineering, economic, and financial feasibility of an interisland undersea electrical transmission cable system that would be capable of transmitting wind generated electric energy from Maui county to Oahu, and has concluded that an undersea cable system is both feasible and desirable; and

(4) It is expected that electric utility ratepayers may benefit if the electric utility company acquires the undersea high-voltage transmission cables at the commencement of commercial operations, or at some point in time after the commencement of commercial operations.

These Bills cannot be based upon "findings" for which there is no current support.

4. Those studies referenced in the paragraph above have, for the most part, been prepared outside of the environmental review process. Although paid for with taxpayers' funds, federal and state agencies have refused to allow public review and copying of these studies. Lacking this transparency, there has been no ability for the public to verify and/or dispute the contents of these studies.

5. A joint federal and state Environmental Impact Statement ("EIS") for HIREP has been initiated. Until an adequate EIS is completed for HIREP it cannot be known whether an interisland cable is "feasible

and necessary,” whether wind farms on Lanai and Molokai can produce “four hundred megawatts” of electricity and whether or not ratepayers will benefit in any way from this project. It is premature to make “legislative findings” on these subject matters without the benefit of a complete, adequate EIS.

6. SB367 and HB1176 and the actions authorized through these Bills constitute commitments to a particular alternative in violation of NEPA and HEPA. The alternative of wind farms on outer islands supplying electricity to Oahu via an interisland cable is one of several alternatives that are required to be studied in detail in the EIS before it any one alternative is selected or implemented.

7. The Public Utilities Commission cannot approve any cable certification application or grant any other discretionary approval related to this project unless and until the environmental review process is completed in compliance with state and federal law.

8. The Legislature should take no action on Bills of this nature until the full impacts of the project as a whole have been completely disclosed in adequate EISs.

Thank you for the opportunity to comment on SB367 and HB1176. Both Bills are against the public interest and should not be enacted.

Sincerely yours,

Isaac Hall

IH/gr
Cc: Clients

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225

Testifier position: oppose

Testifier will be present: No

Submitted by: Debbie Gowensmith

Organization: Hawai'i Community Stewardship Network

Address: 1149 Bethel Street, Ste. 415 Honolulu, HI

Phone: 808-626-5490

E-mail: debbie@hcsnetwork.org

Submitted on: 2/9/2011

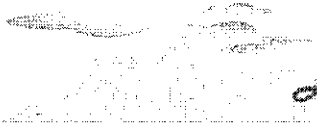
Comments:

The Hawai'i Community Stewardship Network empowers communities to improve their quality of life through caring for their natural heritage. We are distressed that SB367 moves a project forward that has been hotly contested by community members on Lana'i and Moloka'i.

Current law provides for a process, which is currently underway, through which the communities affected by the Wind Power project are making themselves heard. This current process includes an EIS--a critical step, especially considering the placement of the interisland cable through the Humpback Whale National Marine Sanctuary. The Legislature does NOT need to preempt this process through this legislation.

Please hold the bill.

Mahalo for your consideration.
Debbie Gowensmith, Director



Hawaii's Thousand Friends

25 Malania Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0602 E-mail: hf@lava.net

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

SB 367 SD1
RELATING TO ENERGY

Committee chair and members;

Hawaii's Thousand Friends, a statewide non-profit water and land use planning organization, opposes SB 367 SD1 that establishes the regulatory scheme for the installation and implementation of an interisland high voltage electric transmission cable system and for the construction of on-island transmission infrastructure. Allows the utility company to collect surcharges from ratepayers, recover costs of acquiring the cable system and developing the on island infrastructure.

1. This legislation is premature. The Programmatic Environmental Impact Statement (PEIS) process has just begun and will not be completed by April 2012.
2. A project-specific EIS that includes each project component (wind farms, undersea cable, and Oahu grid upgrades including costs) will be needed and will be coordinated with the PEIS.
3. Projects of the magnitude proposed in SB 367 SD1 must be considered comprehensively including the electric utility company's revenue requirements and how those requirements will be met. *In other words who will pay for what and how much?*
4. SB 367 SD1 absolves HECO of any financial responsibility before the environmental review process has even begun, cable costs have been determined, and on land infrastructure needs evaluated.

Without rational or information such as would be found in the PEIS and/or an EIS SB 367 SD1 places all the financial burden of the undersea cable and on land infrastructure on the backs of all rate payers in the state of Hawai'i. This is not fair, it is not right and the bill must be held in committee.



NATIVE HAWAIIAN LEGAL CORPORATION

Serving Hawai'i since 1974

1164 Bishop Street, Suite 1205 • Honolulu, Hawaii 96813 • Phone (808) 521-2302 • Fax (808) 537-4268

February 10, 2011

Via Email and Fax

Members of the Senate Committee on Energy and Environment
Members of the Senate Committee on Commerce and Consumer Protection
Members of the House Committee on Energy & Environmental Protection
Members of the House Committee on Consumer Protection & Commerce

Re: HB 1176: Hearing: 2/10/11 @ 10:00 a.m.
SB 367: Hearing: 2/10/11 @ 3:00 p.m.

Dear Senators and Representatives,

The Native Hawaiian Legal Corporation opposes Senate Bill 367 and House Bill 1176, concerning a renewable energy inter-island cable, given the status of pertinent environmental impact studies and the absence of a rigorous feasibility analysis.

NHLC represents Lanai residents who will be affected by the inter-island wind project enabled by these bills. These bills make legislative findings about the feasibility and desirability of an undersea cable system designed to transmit wind-generated electric energy from Maui County to Oahu.

The proposed legislative findings about the project's desirability are premature. Scoping for a joint state-federal environmental impact statement (EIS) about this project is still on-going. During scoping, the state and federal agencies considering this project are required to identify issues that warrant further study. That means as of today, we have not even identified all potential impacts that must be considered in an EIS.

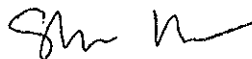
The EIS preparation notice anticipates, based on just preliminary assessments, that the project will significantly impact Native Hawaiian cultural resources and practices. The EIS, according to the preparation notice, will fully evaluate these anticipated significant impacts. During scoping meetings on the EIS, the rural communities of Lanai and Molokai testified about the impacts of this project on cultural resources and their way of life. A draft of the EIS will not be available until October 2011, months after this legislative session is over. NHLC opposes decision-making about the desirability of this project until an adequate study of cultural impacts has been done.

Services made possible with major funding from the Office of Hawaiian Affairs.

The EIS is designed to provide decision-makers with all the pertinent information **before** a course of action is selected. The Hawai'i Supreme Court has consistently held that proper procedures must be completed **prior** to decision-making. Deciding now that the inter-island cable system is desirable would render the EIS, and all consultations conducted in furtherance of the study, as nothing more than a post-hoc rationalization. The desirability of this project cannot and should not be decided by the Legislature until the EIS is complete.

Further, NHLC asks for a full and fair opportunity to examine and debate the feasibility analysis that supports these bills. Before sacrificing our cultural heritage and colonizing the rural communities of Lanai and Molokai for Oahu's benefit, the Legislature should first ask whether this project makes sense. Our firm has vindicated the rights of Native Hawaiian communities whose well-being is threatened by projects purportedly designed to end our state's dependence on foreign oil. For decades, we represented Native Hawaiians who faced the loss of significant cultural resources and practices due to geothermal development. Then, as now, there was no clear basis for the State's decision to choose one source of renewable energy over another. Today we ask, as you should also ask, that the State and Federal agencies involved in this project provide full disclosure as to the analysis done to evaluate the costs and benefits of this project, the risks of this technology, why the State has chosen to invest in this technology over others, and the alternatives considered. The relative impact on the environment and cultural resources of these various technologies and methods of producing alternative energy must be part of the decision-making process. We do not object to the laudable goal of energy independence and sustainability. We do however object to using such lofty principles to justify projects that will not best serve these ends and destroy Native Hawaiian communities in the process.

Sincerely,



Moses Haia
Sharla Manley
Camille Kalama
Staff Attorneys
NATIVE HAWAIIAN LEGAL CORPORATION

HAWAII RENEWABLE ENERGY ALLIANCE

46-040 Konane Place #3816, Kaneohe, HI 96744 – Telephone/FAX: 247-7753 – Email: wsb@lava.net

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Vice-President
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Warren S. Bollmeier II
WSB-Hawaii

Cully Judd
Inter Island Solar Supply

John Crouch
SPSI, LLC

Herbert M. (Monty) Richards
Kahua Ranch Ltd.

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE SENATE COMMITTEES ON ENERGY AND ENVIRONMENT, AND COMMERCE AND CONSUMER PROTECTION

HB 367 SD1 RELATING TO ENERGY

February 10, 2011

Chairs Gabbard and Baker, Vice-Chairs English and Taniguchi and members of the Committees I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (HREA). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically-sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of SB 367SD1 is to establish the regulatory structure under which inter-island undersea energy transmission cables could be commercially developed, financed, and constructed. HREA **supports the intent of this bill** and offer the following comments and recommendations:

- (1) Observation. The proposed approach assumes the interisland renewable energy cable system is **feasible** and **desirable**. To us that means three things: the cable is technically feasible, economically viable and there is community support. At the present time, we don't see that all three elements are met. And thus the bill, as written, appears to be premature.
- (2) Can We Please Do IRP. Ideally, through careful, thoughtful planning, we should determine the need for the cable in IRP with due **consideration to alternative approaches**. We note projects that have come on-line in the past 20 years have had impacts, generally related these key issues: (i) integration on the utility grids and attendant negotiations with the utility, (ii) island-specific land-use and permitting, and (iii) overall energy, economic and environmental goals. However, the cable project would affect more than one island, and thus raises questions about what is **akamai** and what is **pono**. We should do this in IRP.
- (3) Other the Other Hand. The legislature is now being asked to pass judgment on an element of the **Energy Agreement** which was crafted elsewhere. We believe the legislature could conduct its own due diligence, for example, a **series of hearings** could be held on each of the affected islands. If so, an **Independent Facilitator** should be hired to conduct the hearings, and be provided with the metrics and criteria for making a determination, and subsequently recommendations to the legislature.

Thank you for this opportunity to testify.



LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Brian T. Taniguchi, Vice Chair

Thursday, February 10, 2011

3:10 p.m.

Conference Room 225

SB 367 SD1 re inter-island electric transmission cable

OPPOSE

Aloha Chairs Gabbard and Baker and Members of the Committees,

Life of the Land is Hawai'i's own community action group advocating for the people and the land since 1970. Our mission is to preserve and protect the life of the land by promoting sustainable land use and energy policies and to promote open government through research, education, advocacy, and when necessary, litigation.

Life of the Land opposes House Bill 1176 HD 1 and Senate Bill 367 SD 1, concerning a high-voltage inter-island electric transmission cable. We firmly believe that decision-making should occur after the completion of environmental and cultural impact statements; after alternatives have been evaluated; and after studies justifying positions are in the public domain. We further hope that the Hawai'i Supreme Court's reasoning in the Superferry case is understood by all.

The Hawaii Supreme Court ruled against the Superferry on the basis of Article XI, section 5 of the Hawai'i State Constitution.

Article XI, section 5 states: "The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof."

The Hawaii Supreme Court ruled that Act 2 created a class that was "logically and factually limited to a 'class of one' ", that is, it was not reasonably probable that other members could enter the class in the future, the class was illusory"

Some in the Legislature apparently want to see if the Hawaii Supreme Court really meant what it stated, and are working on these bills which are focused on one class.

The one class are two wind companies that responded to a HECO request for proposals for renewable energy for O`ahu. The two companies submitted bids for off-island energy. The wind companies felt that competition meant there would be a winner and a loser, so they signed a deal with each other, thus establishing a class of one.

The Hawaii Public Utilities Commission forbid intervention by third parties and ruled that everything was okay.

The cable may go from O`ahu to Moloka`i to Lana`i. The cable will benefit a class of one (the monopoly consisting of FirstWind & Castle and Cooke) and the second segment of the cable will benefit just one company within the monopoly.

DBEDT has published a joint Federal/State Environmental Impact Statement Preparation Notice (EISPN).

The federal requirements for EISs are spelled out through the National Environmental Policy Act (NEPA) which requires an Environmental Impact Statement (EIS) for projects with significant impacts. Agencies are required to conduct a "hard look" at alternatives.

The Council on Environmental Quality (CEQ) oversees NEPA and has published the "Forty Most Asked Questions" regarding NEPA.

"In determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant. ...An alternative that is outside the legal

jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable. A potential conflict with local or federal law does not necessarily render an alternative unreasonable, although such conflicts must be considered. ...Alternatives that are outside the scope of what Congress has approved or funded must still be evaluated in the EIS if they are reasonable."

The EIS Preparation Notice listed two options: two wind farms with joint planning and two wind farms without joint planning. Although the public has come up with numerous reasonable alternatives, and asked to see the reports underlying the EISPN, they have been told, wait for the Draft EIS.

Even the Electric Power Research Institute (EPRI), the national electric utility think tank, was able to come up with a reasonable alternative.

HB 1176 HD 1 states: "Technical implementation and routing studies have been conducted that show that it is feasible to connect renewable generation facilities on Lanai or Molokai to the Oahu load using undersea high-voltage transmission cables. ...economic analyses have shown that harnessing the wind resources for the islands appears to be a relatively cost-effective means for helping to meet Hawaii's energy policy objectives."

These studies are not publicly available and are not part of the EIS.

There is no doubt that this cable bill is being designed for a class of one, a wind monopoly. HB 1176 HD 1 and SB 367 SD 1 are examples of special legislation aimed at benefitting a specific class of 1.

Henry Curtis

Executive Director

COMMITTEE ON ENERGY AND ENVIRONMENT
Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

DATE: Thursday, February 10, 2011

TIME: 3:10 PM

PLACE: Conference Room 225
State Capitol
415 South Beretania Street

I strongly oppose this bill for the following reasons:

1. The language of this bill is unnecessarily vague and should require much greater specificity from Hawaiian Electric and DBEDT prior to legislative approval:
"Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission cable system and for the construction or 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. Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed."

There are no answers in this legislation to the following critical questions:

1. "Surcharges from its ratepayers" – will that be for all HECO/MECO ratepayers, including Lana'i and Moloka'i residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
2. "Allows the utility to recover the costs of acquiring the cable system..." What costs? All the costs? Research and development costs? What exactly is meant by cable "system"? What is an "automatic rate adjustment" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?
3. From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by the utility.

The legislation proposed is vague and dangerous to the residents of Hawaii. In this case a "regulatory scheme" appears to be just that: an underhanded and secret plot: it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers.

Please do not pass this bill.

Mahalo,

Signed:

Warren Osako

P.O. Box 630340

Lanai City, HI 96763

gabbard1 - Carlton

From: Robin [rkaye@mdi.net]
Sent: Monday, February 07, 2011 5:03 PM
To: ENETestimony
Subject: SB367

For SB367:

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

RE: SB367

DATE: Thursday, February 10, 2011
TIME: 3:10 PM.
PLACE: Conference Room 225
State Capitol
415 South Beretania Street

I strongly **OPPOSE** this bill for the following reasons:

- The language of this bill is unnecessarily vague and should require much greater specificity from Hawaiian Electric and DBEDT prior to legislative approval:
“Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission 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. Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed.”

There are no answers in this legislation to the following critical questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lānaʻi and Molokaʻi residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
- “Allows the utility to recover the costs of acquiring the cable system...” What costs? ALL the costs? Research and development costs? What exactly is meant by cable “system”? What is an "automatic rate adjustment" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?
- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

The legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a “regulatory scheme” appears to be just that: an underhanded and secret plot; it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers.

Please do NOT pass this bill.

Mahalo,

Robin Kaye

Robin Kaye

rkaye@mdi.net

P.O. Box 631313

Lanai City, HI 96763

808-565-6276 (h)

808-559-6124 (m)

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER
PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

SB367

DATE: Thursday, February 10, 2011

TIME: 3:10 PM.

PLACE: Conference Room 225
State Capitol
415 South Beretania Street

Dear legislators,

Please make this bill WAY more specific so it answers these questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lāna'i and Moloka'i residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
- What are the projected costs, including proposed rate charges, surcharges and rate adjustment charges?
- From what source should the utility recover the costs of predevelopment and development in the event that the system is not completed?

Mahalo, [

Cory Harden
PO Box 10265
Hilo, Hawai'i 96721
mh@interpac.net
808-968-8965

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB 367

DATE: Thursday, February 10, 2011
TIME: 3:10 PM.
PLACE: Conference Room 225
State Capitol
415 South Beretania Street

I strongly **OPPOSE** this bill for the following reasons: the language of this bill should be very clear detailing the specificity from Hawaiian Electric and DBEDT prior to any consideration of approval

“Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission 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. Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed.”

There are no answers in this legislation to the following critical questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lāna‘i and Moloka‘i residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
- “Allows the utility to recover the costs of acquiring the cable system...” What costs? ALL the costs? Research and development costs? What exactly is meant by cable “system”? **BE SPECIFIC!** What is an "automatic rate adjustment" clause? How much

will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?

- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

The legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a "regulatory scheme" appears to be just that: an continued underhanded and secret plot; it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers. I live on Lana`i and we, the people of Lana`i, pay more for our electricity along with Moloka`i than any other island. Shame on you! What happened to protecting all citizens of Hawaii?

Please do NOT pass this bill.

Mahalo,

Laura Novell
POB 630698
Lana`i City, HI 96763
kauail@aol.com

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

DATE: Thursday, February 10, 2011

TIME: 3:10 PM.

PLACE: Conference Room 225
State Capitol
415 South Beretania Street

Dear Senators,

I strongly **OPPOSE** this bill. As an environmental science teacher I am fully aware of the need to reduce Hawaii's dependence on fossil fuel. However, this bill will place an extraordinary burden on taxpayers and energy rate payers, yet it will not effectively solve our energy problems. The solution is not to place all eggs in one basket, as Hawaii did in the 1950s when we made our state 90% dependent on oil. This bill, which gives no clear indication of the cost to Hawaii citizens, is solely designed for the profit of a one or two companies: Castle & Cooke and First Wind. Developing massive wind power plants on Lana'i and/or Molokai, and putting an undersea cable to send that energy to Oahu, is extremely misguided.

The solution to our energy needs I believe you must strive for is this: subsidizing and developing diverse energy sources on ALL islands which requires ALL energy users: first, reduce over-consumption of energy (from any source); and second, get energy from the best combination at their location of solar, wind, geothermal and wave energy - not from a single source that turns vanishing rural resources into industrial wastelands. Tax payers should pay for, and can afford, this option, and it will help us meet the laudable goals of the state initiative to become energy self-sufficient in a timely manner. At the very least - allow the public to vote on whether or not we want to pay an unknown amount for an undersea cable!

Please oppose this bill, do your research (the assumption that wind is the magic bullet of clean energy is erroneous), educate the public honestly about their options, and change the paradigm of "big business" managing energy at the expense of citizens.

Thank you for your consideration,

Lisa Galloway, Science Teacher
Lana'i High School
PO Box 630630
Lana'i City, HI 96763

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

DATE: Thursday, February 10, 2011

TIME: 3:10 PM.

PLACE: Conference Room 225
State Capitol
415 South Beretania Street

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Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission 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. Allows the utility to recover

the costs of predevelopment and development in the event that the system is not completed. □

There are no answers in this legislation to the following critical questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lana`i and Moloka'i residents **who will receive none of the electricity** generated by the proposed industrial wind power plants on their islands?
- Allows the utility to recover the costs of acquiring the cable system..." **What costs?** ALL the costs? Research and development costs? What exactly is meant by cable "system"? What is an "**automatic rate adjustment**" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?
- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

The legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a *regulatory scheme* appears to be just that: an **underhanded and secret plot**; it leaves too many questions unanswered, and places a corporate financial balancing act **solely on the backs of ratepayers.**

I strongly urge you to have a conscience and see what this bill is really about - an underhanded, hidden attempt by HECO to avoid any and all risk and/or costs of the 'Big Wind' project's interisland cable. I implore you: **DO NOT pass this bill.**

Thank you for the opportunity to offer my testimony.

Beverly R. Zigmond, D.N., CSAC

PO Box 631067

Lana`i City, Hawaii 96763

808.565.6633

Domestic Violence Hurts Everyone -
Together We Can Stop It!

TO: Committee on Energy and Environment
Senator Mike Gabbard, Chairman
Senator J. Kalani English, Vice Chair

Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

DATE: Thursday, February 10, 2011

TIME: 3:10 p.m.

PLACE: Conference Room 225

State Capitol

415 South Beretania Street

FROM:

Mike Bond

CEO

Bond Investment Group/ Bond Energy

Dear Chairs, Vice Chairs and Senators,

I am a former CEO of an international energy company and advisor to over 70 of the world's largest energy and energy investment companies. Having been in the business for nearly 40 years, I find this proposed bill is one of the biggest scams, the biggest robberies of taxpayer dollars, that I have ever seen. It rivals the kind of foolishness I used to see in the former countries of the Soviet Union, where the desires and needs of the citizens had no relevance to those who planned disastrous large-scale energy projects like this.

As a long-time resident of Molokai I think it very unlikely that the citizens of this island will allow any placement of cables or turbines on Molokai. You will face huge opposition on Lanai. This project is not financially feasible and will be a huge money-loser for which the Hawaiin people will be stuck with the bill. As a former energy company CEO, I would have shot it down instantly. It will be an economic train wreck, and will cost the citizens of Hawaii an enormous amount of money.

I very strongly oppose this idiotic project and strongly protest that my taxpayer dollars and the time of my elected officials are being wasted on its consideration. It will not work. It will be very bad for Hawaii, and will give us a black eye in world financial markets. If it is passed, I plan to work against it on every level, from the public media to international investment banks.

PLEASE DO NOT PASS THIS RIDICULOUS BILL!

Mike Bond
P.O. Box 511
Kaunakakai, HI 96748

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

DATE: Thursday, February 10, 2011

TIME: 3:10 PM.

PLACE: Conference Room 225
State Capitol
415 South Beretania Street

I strongly **OPPOSE** this bill for the following reasons:

- The language of this bill is unnecessarily vague and should require much greater specificity from Hawaiian Electric and DBEDT prior to legislative approval:
“Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission 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. Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed.”

There are no answers in this legislation to the following critical questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lānaʻi and Moloka'i residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
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- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

The legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a “regulatory scheme” appears to be just that: an underhanded and secret plot; it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers.

Please do NOT pass this bill.

Maggie Daub
Box 630991
Lanai, HI 96763

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

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Please do NOT pass this bill.

Mahalo,

Uilani Stokes
4289 Hakuaina Rd
Anahola, Hi 96703
Po Box 105
Anahola, Hi 96703
Oobieoobs@hotmail.com

Honorable Senators,

I am writing in regards to SB 367 Relating to Energy. I oppose this bill, unless two provisions are met:

1. A full EIS (Environmental Impact Statement) is required. We have seen already (notably with the Superferry fiasco) that short-circuiting the EIS process is a false economy that can lead to failure of major projects; and
2. Residential users of electricity on the islands of Lanai and Molokai have their electricity 100% subsidized, even if their residences cannot be grid-tied to the wind-power sources being built to feed the undersea cable to Oahu. This is the least we can do to mitigate the impact this project will have on their home islands.

Aloha and Regards,
Mike

Michael J DeWeert
926A Kaipii Street
Kailua, HI 96734

Testimony for SB367

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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There are no answers in this legislation to the following critical questions:

"Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lānaʻi and Molokaʻi residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?

“Allows the utility to recover the costs of acquiring the cable system...” What costs? ALL the costs? Research and development costs? What exactly is meant by cable “system”? What is an "automatic rate adjustment" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges? From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

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Five years ago, in the Congressional Record of May 26, 2005, U.S. Senator Lamar Alexander gathered these *facts*: (the complete report can be found on the website).

- *These giant windmills are being built primarily because of a huge federal taxpayer subsidy...*
- *Once those tax credits expire, ...rate-taxpayers would likely have to pick up most of the tab for the higher cost of the power*
- *These windmills may be huge, but they don't produce much power.*
- *They only work when the wind blows the right speed (<20 to 40 percent of the time), and customers need their electricity almost all the time..*
- *Since windy ridgetops are not usually where the largest number of people live, windmills are likely to be built away from population centers and therefore require the building of miles of new transmission lines through neighborhoods and communities. So these oversized windmills produce a puny amount of unreliable power in a way that costs more than coal or nuclear power, requires new transmission lines, must be subsidized by massive federal tax breaks, and in my view destroys the landscape.*
- *Wind doesn't fit the bill; it is a high-cost, unreliable supply of energy.*

Please do NOT pass this bill.

Na ke Akua Malama,

Christine Costales

“The wicked man does deceptive work, But he who sows righteousness will have a sure reward”.....Proverbs 11:18

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Karen Chun
Organization: Individual
Submitted on: 2/9/2011

Comments:

I formerly worked as a Senior Resources Planning Engineer for Western Area Power. Although I understand the reasons given for the undersea cable and Lana'i-Moloka'i windfarms, my experience with planning for an even larger interconnected grid of different power generators leads me to think that you folks are being "TAKEN";.

I am a proponent of wind energy but this project is a rip-off of the rate-payers.

Wind energy is nonfirm. Thus when they claim these projects will offset 15-25% of O'ahu's power needs they are being disingenuous. They will still need spinning reserves equal to the peak load on Oahu.

Meanwhile these industrial installations will be pouring money into the pockets of their private owners while the ratepayers pick up all the costs and risks.

This is a give-away to corporations who are looting the Hawaii residents and using them as "cash cows"; while not delivering much benefit.

A better use of this \$billion (or estimated more) would be to put solar on every roof...thus offsetting fossil fuel use and PUTTING THE PROFIT INTO RESIDENT'S POCKETS instead of an offshore corporation's.

Whoever told you "it will take 30 years"; to do this has absolutely not one ounce of truth in them.

This alternate use of the \$billion would have the additional benefit of generating thousands of jobs...unlike the windfarms which will only generate a handful of jobs suitable for local residents.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: SAMUEL B. DIMAYA JR
Organization: Individual
Submitted on: 2/9/2011

Comments:
I strongly oppose HB1176 and SB367.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: ROHANA TP DIMAYA
Submitted on: 2/9/2011

Comments:
I strongly oppose HB1176 and SB367.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: DAJIA M DIMAYA
Submitted on: 2/9/2011

Comments:
I strongly oppose HB1176 & SB367

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: ROSELINE C. DIMAYA
Organization: Individual

Submitted on: 2/9/2011

Comments:
I strongly oppose HB1176 & SB367

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Andrea I. Jepson
Organization: Individual
Submitted on: 2/9/2011

Comments:

It appears that while it is not certain who will be responsible for this cable, the responsibility for paying for it is going to fall squarely on the rate payers. the ultimate owner who could make millions from the cable will bear no responsibility for paying for it.

This bill is highly flawed. As is the idea of using Lanai as a power plant for Oahu.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Haaheo Kahoohalahala
Organization: Individual
Submitted on: 2/9/2011

Comments:

I highly oppose this bill because it allows utility companies such as HECO to forbear any and all responsibility for the uncertain future of the wind farm projects on both Lana'i and Moloka'i. Rate payers should not be totally responsible for the financial risks of utility companies. Furthermore, I cannot support a bill that fast tracks projects before a full Environmental Impact Statement(s) is complete.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Kealakaa Quitevis
Organization: Individual
Address: Lanai Avenue Lanai City, HI
Submitted on: 2/9/2011

Comments:

I strongly oppose HB1176 & SB367

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225

Testifier position: oppose

Testifier will be present: No

Submitted by: B.A. McClintock

Organization: Respiratory & Environmental Disabilities Assoc of HI

Address: Disabled-email only Honolulu, HI

Submitted on: 2/8/2011

Comments:

I am opposed to both SB 367 SD1 and HB 1176 HD1. These two bills are clearly a waste of taxpayers money. Oahu has enough of it's own wind, sun and other alternative, renewable energy. Wind turbines are already presenting health problems in communities across our nation. This is a sign that this technology is already obsolete. If something will not last that long then why are we even considering it? Please OPPOSE these bills. Thank you for your time.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225

Testifier position: oppose

Testifier will be present: No

Submitted by: Mary A. Guinger

Organization: Individual

Submitted on: 2/8/2011

Comments:

I am against this bill because the people of Molokai don't want this. HIREP refuses to answer the community questions. Impact to the islands and the ocean are yet to be decide. PEIS as well as an EIS needs to be completed. Liability of risk needed to assigned. Explorations of community owned alternative energy sources need to be considered.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225

Testifier position: oppose

Testifier will be present: No

Submitted by: james berlin

Organization: Individual

Submitted on: 2/8/2011

Comments:

I strongly support the position expressed by Life of the Land director Henry Curtis

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Roselani Kahoohalahala
Organization: Individual
Address: Lanai City, HI
Submitted on: 2/8/2011

Comments:

Please do not support this legislation! It forces all the expenses on the ratepayers, benefits a single company (HECO) and makes no effort (save for suggesting that the PUC convene one meeting on Lana'i and one on Moloka'i) at incorporating community concerns. And, all this is being proposed to take effect BEFORE the EIS is completed.

Mahalo

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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NOTICE OF HEARING

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Please do NOT pass this bill.
Mahalo, Christine Mumford

COMMITTEE ON ENERGY AND ENVIRONMENT

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Senator J. Kalani English, Vice Chair

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Please do NOT pass this bill.

Mahalo,
Kaulana Kaho'ohalahala

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

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Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

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TIME:3:10 PM.

PLACE:Conference Room 225

State Capitol

415 South Beretania Street

While we can appreciate the need for the State of Hawaii to develop alternative sources of electrical power, we believe this bill is very pre-mature. we therefore oppose its passage from committee, approval by the legislature, and/or approval by the Governor.

Lānaʻi and Molokaʻi are very windy islands, in certain places, about 1/3 of the time. Oahu is also a windy island. The natural venturis around Wahiawa and offshore between Koko Head and Diamond Head are ideal for wind generation. To my knowledge, these areas have not been explored as alternatives to installing an extremely expensive undersea cable from Molokaʻi/Lānaʻi to Oahu. The North Shore of Oahu did experiment with wind mills in the 1980s and they have not been explored further.

In fact, for the \$1b minimum expenditure of a cable a 400MW wind farm could be built on Oahu.

Being a resident of Lānaʻi, we find it very interesting that our island is considered a source for power before all alternatives are explored and implemented on the island the power would be used.

From a business standpoint, we can appreciate that Castle & Cooke Resorts would like to provide that power. But why would the residents of Oahu be willing to pay \$1-3b for a cable from Lānaʻi & Molokaʻi when local resources have not been completely exhausted for that power.

Why should the Lānaʻi & Molokaʻi residents need to look at, hear, and/or be subject to wind mills from which they will receive extremely limited benefits.

Please kill this bill in committee.

If you feel compelled to pass the bill out of committee please take Lānaʻi and Molokaʻi out of the bill. A bill of this nature should include linking all islands. The Big Island has

a source of geo-thermal power that should last another 5,000-10,000 years and provide 24-7 power that cannot be provided by solar or wind. Re-explore some of the plans that were done by the Big Island administration in the early 80s.

Also, the fact that you can pass a bill does not mean that it is economically feasible for anyone in Hawaii. What is the cost to the ratepayers across the State? A rate increase on Oahu doesn't mean that other islands will not be affected.

Finally, as you deliberate on this bill, remember, with passage, you will be changing and affecting the lifestyle that we on Lāna'i have grown to love and appreciate. A lifestyle that was promoted by Castle & Cooke Resorts and is now being compromised for their business endeavors. It will destroy the rustic, untouched nature of Garden of the Gods, Polihua Beach and the a'ina between. It will be an eye and ear sore for generations to come and will be a benefit for power only until the next, better technology comes along.

Respectfully submitted,

John Schaumburg

and

Donna Mae Kaoupiki Schaumburg

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: george Peabody
Organization: Individual
Submitted on: 2/9/2011

Comments:

<http://www.MolokaiAdvertiserNews.com> editor since 1984 is opposed to SB 367 SD1 and HB 1176 HD1, You people growing your population without bounds on Oahu gotta solve your problems without taking from Molokai and other outerislands. WTF, leave us alone. Read Molokai Advertiser-News weekly MANonline <http://www.MolokaiAdvertiserNews.com>

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
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COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

Re: SB367

LEGISLATIVE FINDINGS:

- P. 1: It is abundantly clear that this is a **special interest** measure, designed to ultimately benefit one corporate entity, the Hawaiian Electric Companies, both by avoiding any financial risk during the proposed cable production and the potential to own it after production, and one renewable industry: wind. Lip service is paid to “solar, ocean wave, geothermal and bio-based fuels” but no steps are identified to develop and/or make use of them.
- P. 1: It is disingenuous to rely on the RPS standards of §269-92 as “**required.**” The statute is riddled with exemptions, potential waivers, and ways to avoid penalties should the utility fail to meet set standards.
- P. 2: To place a “hedge” bet on rising oil prices to support a rush to a single renewable for an (unidentified) “near” term solution is nonsensical and fear-mongering; why all of a sudden is the legislature picking a favorite in wind while discounting other renewables?
- P. 2: This measure acknowledges that “no one single resource” is the sole solution, and then does just that: it picks wind.
- P.2: The reference to “electric utility **companies**” is deceitful: HECO and MECO may be considered separate entities as a legal fiction but HECO owns MECO and therefore there is only one “company” that would benefit from this measure.
- P. 2-3: This measure states that “Estimates of **solar** and wind generation potential in the State of Hawaii exceed the total electricity demand of **all the islands,**” yet every proposed statutory provision that follows focuses on wind and targets Oahu’s power needs exclusively; wind alone does NOT have the capacity to supply the demand referenced, at best it would provide 10% of Oahu’s needs at a cost to rate and taxpayers of over three billion dollars.
- P.3: This measure acknowledges that electrical services on all islands save Kauai are HECO controlled and notes that the systems are not “interconnected.” No reason is provided why they should be, aside from solely benefitting Oahu.
- P. 3: To state that “wind power is a **commercially proven** source” is misleading. The technology may have been around for centuries and available to sell, but if it were commercially “viable” it would not need tax grants or government incentives to succeed.
- P. 3: The reference to “Lanai and Molokai” exclusively is revealing and further supports the special interest nature of this Bill; the estimation of a set production of “1,500 gigawatt hours of

energy annually” is based on an unidentified “expected capacity” factor and is therefore unreliable.

- P. 3: To state that “strategies to link Oahu’s demand to on-island wind and solar resources and **fixed-price wind** resources” are being pursued begs the questions of how solar is being pursued and over what time frame; reliance on unidentified technical implementation and routing studies to connect “renewable generation facilities “on Lanai **or** Molokai” confirms that this Bill is designed to take resources from those islands only; that the sole beneficiaries will be HECO and Oahu, at the expense of Lana`i and Moloka`i; and that the “resources” referenced really means only wind; there are no solar facilities on either island available to be transmitted to Oahu or anywhere.
- P. 4: To state that there “are **plans to consider** the use” of an undersea cable to link the systems on Maui and the Big Island “to the electric utility system on Oahu” renders the proposed legislation premature and piecemeal at best. Rather than undertaking a state-wide analysis of a state-wide issue to find a state-wide solution, this Bill would burden the tax and ratepayers with the financial burden of underwriting one solution, that benefits one island, and “kicks the can” down the road for the rest of the state.
- P. 4: To then acknowledge that “several years” worth of studying validates the “feasibility” and “desirability” of taking wind from “Maui county to Oahu” simply re-confirms that this piece of proposed legislation has one special interest: HECO’s ability to experiment while being assured of full financial recovery from its own ratepayers by taking wind from “Lanai” **or** “Molokai” and sending it to Oahu.
- P.4-5: To say that “economic analyses” prove that “harnessing wind resources **for the islands appears to be** relatively cost effective” is a stunning statement for what it lacks. The economic analyses remain unidentified, and it “**appears**” to be cost effective “**relative**” to what? This legislation is designed only to facilitate moving power from Lana`i **or** Moloka`i and sending it to Oahu. Such a move certainly is not “cost effective” for Lana`i or Moloka`i due to the irrevocable and significant loss of our land and resources should industrial power plants be built on either island; and without them there is no need for a cable. To say the cost is “**expected** to be at or below the cost of **other** commercially available large scale renewable resources” is clearly speculative: again, “cost effective” compared to what? What “other” renewables? And what, exactly, is meant by “near” and “longer” term?
- P. 5: The people of Lana`i and Moloka`i will demand far more than a hearing if this scheme proceeds. Testimony at the recent HIREP scoping meetings confirms that “comments” and “input” from residents on Maui, Lana`i and Moloka`i were uniform: “**Not on our islands.**” So I trust the members of these Committees will be searching for alternatives to meeting the RPS contained in § 269.
- P. 6: How, exactly, is it “expected that [] ratepayers **may** benefit” if HECO ultimately owns the cable at some unidentified “point in time” after operations commence? This is completely indecipherable and insupportable.
- P. 6: Relying on unidentified “successful” cable projects “in New York, California, and around the world” is meaningless. We are not New York, the San Francisco cable is in an inland harbor not in the open ocean, and what may have been “commercially reasonable” for past projects elsewhere is irrelevant for purposes of analyzing what is “commercially reasonable” for Hawaii going forward. Such a statement is therefore irrelevant.

- P. 6: And how does it follow that concern for HECO's "credit quality" requires the comprehensive overhaul of §§ 269, 235, 239 and 240?

STATUTORY PROVISIONS:

- Pp. 7 through 28: Although much of the language is tortured and contradictory, the import of this measure is clear:
 - 1) HECO will select an as-yet unidentified cable company through an unidentified RFP process;
 - 2) The cable company will be insulated from financial risk from the selection period to the unidentified point in time where HECO purchases it through a "cable purchase contract" by favorable means such as "non-recourse project financing;"
 - 3) HECO will be insulated throughout by means such as "surcharge mechanisms;" its "revenue requirement" (including an allowed rate of return) will be protected through means such as "automatic adjustment clauses"; and should HECO elect "not to complete the on-island transmission infrastructure" it may nonetheless recover "all reasonable" pre-development and development costs;
 - 4) "Delivery of electric power **to the public**" means the people on Oahu, not the public;
 - 5) And there is **NO** requirement that on-island transmission infrastructure even be needed, as evidenced by the **removal** of a requirement that a "finding of used or useful under §269-16" be obtained before HECO may recover its revenue requirement. In its place is ambiguous language that if on-island infrastructure "is found to be necessary or appropriate" in a "proceeding" HECO may recover.

This special interest legislation was not written in the last week. Some entity has been drafting this for a very long time, and it is very disturbing that the public has been given one week to digest and analyze such a lengthy, complex, and potentially damaging piece of legislation. It is vague, ambiguous by its terms, and is quite clearly not in the best interests of Hawaii's rate or taxpayers. This Bill should be permanently filed.

For the above reasons, I strongly **OPPOSE** SB 367.

Thank you for this opportunity to testify to your Committees.

Sally Kaye
P.O. Box 631313
511 Ilima Avenue
Lanai City, HI 96763
808-565-6276

Testimony For SB367

DATE: Thursday, February 10, 2011
TIME: 3:10 PM.
PLACE: Conference Room 225
State Capitol
415 South Beretania Street

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING RE: SB367

Position: Strongly Oppose

Aloha Chair Gabbard, Baker and Fellow Committee Members:

Mahalo, for allowing me the opportunity to testify on SB367. My name is Adolph Helm a Molokai resident and homesteader. I was actively involved in the Molokai Homesteaders successful initiative to intervene and stop a proposal to develop a large scale industrial wind farm on the Hawaiian Homestead lands of Mo'omomi and Anahaki. The outcome resulted in the Hawaiian Homes Commission approving a new Land Use Designation and policy that protects the area in perpetuity from any type of commercial and industrialize development. I feel the socio, economic, environmental and cultural impacts far out weigh the benefits of the Neighbor Island Wind and Cable Project. Recently the state held an EIS Scoping meeting on Molokai regarding the Neighbor Island Wind and Cable Project. Everyone who testified was in opposition to this project including myself and I strongly oppose SB367 as well.

The language of this bill is unnecessarily vague and should require much greater specificity from Hawaiian Electric and DBEDT prior to legislative approval. There are to answers in this measure that answers the following questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lāna'i and Moloka'i residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
- "Allows the utility to recover the costs of acquiring the cable system..." What costs? ALL the costs? Research and development costs? What exactly is meant by cable "system"? What is an "automatic rate adjustment" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?
- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

In addition the legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a "regulatory scheme" appears to be just that: an underhanded and secret plot; it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers. SB367 is like putting the cart before the horse and doesn't hold the utility and the state accountable. Please do not pass this bill.

Yours truly,

Adolph Helm

Fairfax A. Reilly
468 Ahakea Street
P. O. Box 630111
Lanai City, HI 96763

February 9, 2011

Re: SB367 SD1: Oppose

Senator Mike Gabbard, Chair Senate Committee on Energy and Environment
Senator Rosalyn Baker, Chair Senate Committee on Commerce and Consumer Protection

Thank you for hearing the amended bill SB367 SD1.

As a resident of Lana'i for thirty-two years I oppose the intent of SD1.

1. Presumption of the options: On Saturday, February 5, 2011 the U. S. Department of Energy and the Hawai'i Department of Business, Economic Development and Tourism completed the first Scoping Meetings preliminary to the final draft of the Programmatic Environmental Impact Statement required by law. The final draft will not be completed until late 2011. The inter-island cable option may not be selected as the best management practice solution to achieving the goals of the Hawai'i Clean Energy Initiative. Maui News issue of Sunday, February 6, 2011 portrayed multiple concerns regarding the structure of the PEIS and issues specific to Lana'i. I believe a thorough hearing of SB 367 SD1 facilitates the public's full understanding of the legal provisions being proposed. Passing SB 367 SD1 during the current session would foreclose the discussion.
2. Require full transparency of beneficiaries: Please ensure that a report detailing the funding for the inter-island cable project and the various options for generating electrical energy through renewable sources is presented to the public. According to my understanding of the SD1 language, taxpayers and electric power ratepayers connected to the public utility will be charged the entire cost of the multi-billion dollar projects through surcharges permitted by law. In addition the public utility and the shareholders are guaranteed a favorable return while assuming little or no risk as described in current filings before the Security and Exchange Commission.
3. Scrutinize the best options: My view is the options of the proposed inter-island cable options and various wind power industrial complexes along with other renewable source projects may not be the best practice most beneficial use of taxpayer and ratepayer dollars. The entire grid cost must be in the many billions. The savings to ratepayers derived from reducing the purchase of a quantity of oil will be transferred to the utility by the legal surcharge. In addition the utility and shareholders acquire the assets as a "gift" from the taxpayers and ratepayers. Please show how this language is beneficial to subscribers of the utility services.

4. Bond and Compensation Funds: Please consider requiring from the utility and developers of these projects the establishment of several funds to ensure:
 - a) Claims by injured parties: I believe that a compensation fund similar to the one established after the BP oil disaster to permit injured parties to collect damage for losses of tangible and intangible uses must be created in advance of any potential spills, damage or losses to the taxpayers and residents.
 - b) Restoration Funds: Please consider requiring from the utility and developers the establishment of funds to restore the lands and resources to original natural conditions when the projects are terminated due to obsolescence or change in market pricing.
 - c) Other mechanisms to permit claims: Legal language should fully support a clear process at reasonable cost to claimants for any other claims. Such a procedure should permit the average person to reduce costs of filing for such losses and establish a mechanism for timely resolution.
 - d) No cost to taxpayer/ratepayer: The above funds should not be created nor funded at taxpayer/ratepayer expense.

My point is that the language proposed seems to ensure that taxpayers and ratepayers will fund all costs to all parties while providing the shareholders with tangible and intangible assets with undetermined clearly delineated benefits to the citizens.

Aloha,

Fairfax A. Reilly

COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair
Senator J. Kalani English, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair

NOTICE OF HEARING

RE: SB367

DATE: Thursday, February 10, 2011
TIME: 3:10 PM.
PLACE: Conference Room 225
State Capitol
415 South Beretania Street

I strongly OPPOSE this bill for the following reasons:

- The language of this bill is unclear and should require much greater specificity from Hawaiian Electric and DBEDT prior to legislative approval:

“Establishes a regulatory scheme for the installation and implementation of an interisland high voltage electric transmission 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. Allows the utility to recover the costs of predevelopment and development in the event that the system is not completed.”

There are no answers in this legislation to the following critical questions:

- "Surcharges from its ratepayers" -- will that be for all HECO/MECO ratepayers, including Lānaʻi and Molokaʻi residents who will receive none of the electricity generated by the proposed industrial wind power plants on their islands?
- "Allows the utility to recover the costs of acquiring the cable system..." What costs? ALL the costs? Research and development costs? What exactly is meant by cable "system"? What is an "automatic rate adjustment" clause? How much will that be, and to whom will it be applied? What are the projected numbers for these costs, including proposed rate charges, surcharges and rate adjustment charges?
- From what source should the utility "recover the costs of predevelopment and development in the event that the system is not completed? Why should ratepayers and/or taxpayers pay for a bad business decision by this utility?

Furthermore, SB 367 and its companion bill HB1176 ignore any community consideration. It forces the entire cost of the proposed project onto ratepayers and relieves HECO of any risks. The bill also does not define what ratepayers will be responsible for costs – will ratepayers on the islands of Lānaʻi and Molokaʻi suffer from increased electrical rates after relinquishing, for example, ¼ of Lānaʻi in exchange for only twenty jobs and no renewable energy for Lānaʻi residents? Is it worth the permanent degradation of our natural and cultural resources? I think not.

The legislation proposed is opaque and dangerous to the residents of Hawaii. In this case a "regulatory scheme" appears to be just that: an underhanded and secret plot; it leaves too many questions unanswered, and places a corporate financial balancing act solely on the backs of ratepayers.

Please do NOT pass this bill.

Mahalo,

Anela Evans

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Dorothy I. Cornell
Organization: Individual
Submitted on: 2/9/2011

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225
Testifier position: oppose
Testifier will be present: No
Submitted by: Elena Bryant
Organization: Individual
Submitted on: 2/9/2011

Comments:

The current form of this bill is inadequate because both the language and consequences of this bill are ambiguous. Greater clarification of this bill is required prior to legislative approval.

Testimony Opposing

SB367 SD1
HB 1176 HD1

My name is Glenn Ioane Teves. I'm a resident of Molokai and a Hoolehua Homesteader and also a farmer. I'm also a County Extension Agent with the University of Hawaii College of Tropical Agriculture and Human Resources.

I'm opposed to a cable between our islands to carry electricity to Honolulu.

This scenario is likened to building a toxic waste dump on a native American reservation. Oahu wants us to construct these monstrosities that will destroy our skyline when it should be their responsibility. Generating electricity to an energy-greedy Honolulu should be the responsibility of Oahu residents. By spreading out windmills throughout Oahu, this can easily be accomplished, and Kahuku is a good start. Other ideal areas for windmills include Kaneohe Marine Corps Air Station and most of the golf courses on Oahu. The Koolau range presents many idea areas for windmills, as well as Barber's Point.

High wind areas are dangerous for these windmills because they have not been tested in areas of Hawaii with high gusts. Areas of Molokai have recorded gusts exceeding 55 miles per hour. The salt air on Molokai is an ongoing problem each winter when the large waves arrive. Due to the topography and shape of the island, corrosion is an ongoing problem and farmers know most about this and experience this on their farm equipment.

We've seen on Molokai what can happen when projects are not well tested, researched, and evaluated. A few decades ago, Molokai Electric embarked on a bio-mass project to burn wood to generate electricity. There were all kinds of problem with this pie-in-the-sky project, and it failed miserably, and the residents had to pay for the mistake, and no matter how much we conserved electricity, when the demand went down, the price went up. We're probably still paying for Molokai Electric's mistake, but the take home message here is don't experiment on us! Do your experiments on your island! Changing the whole structure of Hawaiian Electric and how develop their portfolio of electricity generation options and also their pricing options is a start.

More focus should be put on conservation and lifestyle changes. When the sun goes down, its time to go to bed, and when the sun comes up, its time to wake up and get some work done. A project like this will change Molokai forever and will not be of our making. A larger wharf and wider roads are the makings of rampant development, and one in which we'll have no control over.

Testimony for ENE/CPN 2/10/2011 3:10:00 PM SB367

Conference room: 225

Testifier position: oppose

Testifier will be present: No

Submitted by: Paul Berry

Organization: Individual

Submitted on: 2/9/2011