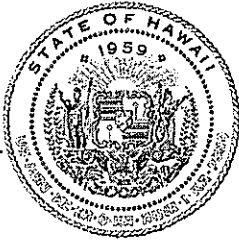


# HB 1405, HD2

RELATING TO THE PUBLIC UTILITIES  
COMMISSION.

Requires the Public Utilities Commission to include a summary of the power purchase agreements in effect during the fiscal year in its annual report to the Governor.

Effective July 1, 2050. (HB1405 HD2)



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

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

**MARY ALICE EVANS**  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
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Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of  
**Richard C. Lim**  
Director

Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**

Thursday, March 14, 2013  
3:20 p.m.  
State Capitol, Conference Room 225

in consideration of

**HB 1405, HD2 RELATING TO THE PUBLIC UTILITIES COMMISSION.**

Chair Gabbard, Vice Chair Ruderman, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports HB 1405, HD2 which would require the PUC to publish in its annual report a summary of power purchase agreements (PPAs), including pricing, in effect during the fiscal year.

We believe that the proposed measure would increase transparency in PPA contracts, rightly serving both independent power producers and ratepayers.

Thank you for the opportunity to offer these comments.

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
SENATE COMMITTEE ON ENERGY & ENVIRONMENT

MARCH 14, 2013

3:20 p.m.

**MEASURE:** H.B. No. 1405, H.D. 2

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

Chair Gabbard and Members of the Committee:

**DESCRIPTION:**

H.B. No. 1405, H.D. 2 requires the Public Utilities Commission ("Commission") to include as part of its Annual Report under Section 269-5, Hawaii Revised Statutes, "a summary of power purchase agreements, including pricing, in effect during the [reported] fiscal year."

**POSITION:**

The Commission supports H.B. No. 1405, H.D. 2 and requests the following amendment be included as a Part II to this measure to address the Public Benefit Fee ("PBF") and its utilization to support the increased adoption of clean energy technology in the State.

**COMMENTS:**

The Commission's records – including power purchase contracts and related information – are currently publicly available through its Document Management System ("DMS").<sup>1</sup> However, this measure will bring consistency to the reporting and formatting of information, and it will provide an easier way for the general public to locate and access power purchase contract information.

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<sup>1</sup>To access the Commission's publicly-accessible DMS database, please visit <http://dms.puc.hawaii.gov/dms/>.

To increase the adoption of clean energy technology through programs like on-bill financing or on-bill repayment, the Commission requests the Committee's consider including the following language to clarify and expand the use of the PBF as indicated.

Part II

SECTION 1. Section 269-121, Hawaii Revised Statutes, is amended to read as follows:

**"§269-121 Public benefits fee authorization.**

(a) The public utilities commission, by order or rule, may require that all or a portion of the moneys collected by Hawaii's electric utilities from its ratepayers through a demand-side management surcharge be transferred to a third-party administrator contracted by the public utilities commission. The moneys transferred shall be known as the public benefits fee.

(b) The public benefits fee shall be used to support ~~[energy efficiency]~~ clean energy technology, demand response technology, and energy use reduction and demand-side management infrastructure, programs, and services, subject to the review and approval of the public utilities commission. These moneys shall not be available to meet any current or past general obligations of the State; provided that the State may participate in any ~~[energy efficiency or]~~ clean energy technology, demand response technology, or energy use reduction and demand-side management infrastructure, programs, and services on the same basis as any other electric consumer. "Clean energy technology" shall

mean any commercially available technology that enables the State to meet the renewable portfolio standards, as provided for under section 269-92, or the energy efficiency portfolio standards, as provided for under section 269-96, and approved by the public utilities commission by rule or order.

(c) Nothing in this section shall create or be construed to cause the public benefits fee to be considered state or public moneys subject to appropriation by the legislature or be required to be deposited into the state treasury."

SECTION 2. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 3. This Part shall take effect upon its approval.

Thank you for the opportunity to testify on this measure.



## LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

### COMMITTEE ON ENERGY AND ENVIRONMENT

Senator Mike Gabbard, Chair

Senator Russell E. Ruderman, Vice Chair

DATE: Thursday, March 14, 2013

TIME: 3:20 p.m.

PLACE: Conference Room 225

re: HB 1405 HD2 RELATING TO THE PUBLIC UTILITIES COMMISSION **Support  
with Amendment**

Aloha Chair Gabbard, Vice Chair Ruderman and Members of the Committee

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for over four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

*Imagine walking into an auto dealership, and falling in love with a car. You ask:*

*How much does that car cost?*

*The salesman says:*

*"I can't tell you, but compared to your other choices, over the lifetime of the vehicle, based on my assumptions, you are getting a heck of a deal!"*

*Sounds kind of crazy, huh?*

*But that is the scam in the recent rise in electricity rates.*

*In 2011 HECO-HELCO-Aina Koa Pono (AKP) proposed a biofuel supply contract to the Public Utilities Commission. AKP didn't know what crop they were going to grow. HECO was unwilling to publicly say when the commencement date was. AKP planned to use non-commercialized experimental microwave technology. The proposal redacted (blacked out) AKPs management skills. And the price was secret.*

*It turned out that HECO/HELCO were asking O`ahu and Big Island residents to pay the highest rate for energy ever proposed in this state. HECO/HELCO wanted to give AKP a quarter of a billion dollars (\$250,000,000.00) over HELCO's avoided cost.*

*The reason that HECO wanted to keep the price secret was, so they claim, so that ratepayers would get the best deal. Some deal! It was more than any other biofuel supplier would get. It was a great deal for the politically connected AKP.*

*The PUC rejected the proposal contract.*

*Now HECO-HELCO-AKP have proposed a new and improved contract with a new and improved secret price. HECO has requested that the PUC keep the price confidential.*

*Well guess what? We live in a democracy.*

*Sure, while negotiations are going on, we think the prices should be made public. But, okay, we can live with secret prices during the regulatory phase. But once the Public Utilities Commission has approved the contract we should be able to see the prices we will pay, and to see if the PUC has protected our interests.*

*HB 1405 would have made the prices public after the contract was approved.*

*HB 1405 HD2 would only require the PUC to add a new piece of information to their seldom read annual report, namely "a summary of power purchase agreements, including pricing, in effect during the fiscal year."*

*Thus if in 2013 the PUC approves a biofuel contract, but it doesn't take affect until 2019, the PUC could file a half-dozen annual reports saying their is no ratepayer impact, and then in 2019 when the rates take off, the new PUC could say, it wasn't us.*

*On March 7, 2013 at an energy stakeholder meeting, the PUC Chair opened the meeting:*

*“As many of you know with our invitation you also received a survey, and here's what I learned from the survey. If you appear to be a practitioner before the PUC, the general thought was that we were making improvements, but lacked the resources.*

*On the other hand, those who were not regular practitioners before the PUC thought we were incompetent, a rubber stamp for HECO, didn't listen to the public, opaque, operating in a black box. So no doubt, the largest stakeholder group -- the one that the PUC decisions affect the most, the general public, or the ratepayer -- does not hold the agency in very high regard.*

*So as the PUC enters its 100th year of public service, it is a good time for re-examination of the PUC, and work towards a common understanding of its role and purpose. **And its extremely important to make the PUC's core values, transparent, and its work and its decisions understandable to the general public, and todays discussion is the first step in that direction.”***

*Letting the ratepayers know what they are paying for different energy sources would be a start.*

*Please require the PUC to post the full pricing scheme after the contract has been approved.*

*Mahalo*



**HB1405**

Submitted on: 3/12/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Cynthia Frith       | Hawaii Alliance     | Support                   | No                        |

Comments: I have long thought that energy prices were unusually high in HI and that the PUC was not being forthcoming with enough public information to satisfy the extreme consumer rates. After reading the testimony submitted by Henry Curtis on behalf of the "Life of the Land" organization, I believe HB 1405 is a step in the right direction for the beleaguered consumers of our state.

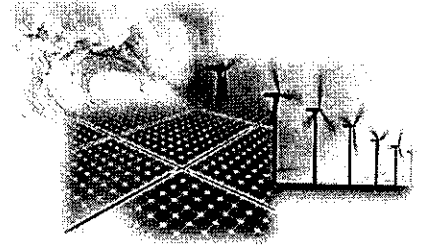
**HB1405**

Submitted on: 3/11/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Friends of Lana'i   | Friends of Lana'i   | Support                   | No                        |

Comments: Friends of Lana'i supports any legislation that forces the PUC to be more transparent. It's opacity is undemocratic, unnecessary and counter to the taxpayer's right to know. Please support this bill.



## SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

March 14, 2013, 3:20 P.M.

Room 225

(Testimony is 3 pages long)

### TESTIMONY IN SUPPORT OF HB 1405 HD1

Chair Gabbard, Vice-Chair Ruderman, and members of the Committee:

The Blue Planet Foundation **supports** HB 1405 HD2, to increase transparency in power purchase agreements ("PPAs"). However, we **request an amendment** to ensure that HB 1405 HD2 successfully yields transparency of the PPA terms that are critical to ratepayers, and to reduce the burden on the PUC and on ratepayers with respect to the summary of information described in the bill.

Public energy utilities in Hawai'i are a regulated monopoly. Thus, utilities gain no competitive advantage from keeping their costs proprietary, and the public has an important interest in disclosure of those costs. As a result, there is no justifiable reason for the terms of PPAs to remain hidden from the rate-paying public. Indeed, increased market transparency will allow our energy market to operate more efficiently, leading to fairer opportunities for power producers, and leading to better rates for consumers. For this reason, Blue Planet supports HB 1405.

Presently, we understand that redacted versions of PPAs are eventually made available on the PUC's document management system. However, that system is difficult for members of the public to navigate, especially without the assistance of an attorney experienced in PUC matters.

The optimal solution to this problem would be to make un-redacted versions of PPAs easily accessible on the PUC website. HB 1405 HD2 is a compromise solution, insofar as it does not mandate disclosure of un-redacted PPAs, but does require the PUC to prepare a summary of PPAs in effect. In comparison, the original draft of HB 1405 required disclosure of the PPAs themselves.

Jeff Mikulina, executive director • [jeff@blueplanetfoundation.org](mailto:jeff@blueplanetfoundation.org)

55 Merchant Street 17<sup>th</sup> Floor • Honolulu, Hawai'i 96813 • 808-954-6142 • [blueplanetfoundation.org](http://blueplanetfoundation.org)

Blue Planet believes that the original draft of HB 1405 is a more optimal solution to PPA transparency. The compromise represented in HD 2 can be an effective solution, but only if the summary prepared by the PUC provides easy-to-access information for each PPA in effect, and includes all the terms that are important to ratepayers. Such terms can include terms that impact the pricing structure and variability, capacity, curtailment, and other details that impact ratepayer costs and renewable energy interconnection.

Thus, we request the following amendment, to (i) clarify that the PUC's summary shall contain all the terms critical to public disclosure of the energy contracts that impact ratepayers, (ii) ensure that the annual report is made easily accessible to the public, and (iii) reduce the burden on the PUC and ratepayers by specifying that the required report and register may be made available electronically:

**§269-5 Annual report and register of orders.** The public utilities commission shall prepare and present to the governor, through the director of finance, in the month of January in each year a report respecting its actions during the preceding fiscal year. This report shall include summary information and analytical, comparative, and trend data concerning major regulatory issues acted upon and pending before the commission; cases processed by the commission, including their dispositions; utility company operations, capital improvements, and rates; utility company performance in terms of efficiency and quality of services rendered; a summary of each power purchase agreements in effect during the preceding fiscal, including but not limited to, for each applicable power purchase agreement, pricing, a summary of all terms relevant to present and future energy, capacity, and other charges, all terms relevant to variable or tiered rates, all terms relevant to the length of the utility's obligations, all terms relevant to the utility's right to purchase energy infrastructure, and all terms relevant to curtailment of energy provided under each power purchase agreement; environmental matters having a significant impact upon public utilities; actions of the federal government affecting the regulation of public utilities in Hawaii; long and short-range plans and objectives of the commission; together with the commission's recommendations respecting legislation and other matters requiring executive and legislative consideration. Copies of the annual reports shall be furnished by the governor to the legislature. In addition, the commission shall establish and maintain a register of all its orders, ~~and~~ decisions, and reports prepared pursuant to this section,

which shall be open and readily available for public inspection on a publically accessible portion of the commission' website, and no order or decision of the commission shall take effect until it is filed and recorded in this register.

(material added to HD1 in underlining)

We believe that these amendments will improve the effectiveness of HB 1405 HD2 in accomplishing its intended outcome, and that the PUC will benefit from this legislative guidance on what the annual summary should include.

Thank you for this opportunity to testify.

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b>                               | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---|---------------------------|---------------------------|
| Mary A. Guinger     | Alternative Energy Committee of the Environmental | Comments Only             | Yes                       |

Comments: We are spending the public money. the public must know what is to be purchased and how much will it cost. This is needed to compare bids.



# Indigenous Consultants, LLC

Mililani B. Trask, Principal

P.O.Box 6377 ❖ Hilo, HI 96720

[Mililani.trask@gmail.com](mailto:Mililani.trask@gmail.com)



March 14, 2013

Re: HB 1405

Time: 3:20 pm

Place: CR 225

Committee: Energy



**IDG** | INNOVATIONS  
DEVELOPMENT  
GROUP

## Testimony in Support

Aloha Legislators,

The Indigenous Consultants (IC) is a Hawaii based, indigenous LLC owned and operated by Native Hawaiians. It was created to assist indigenous peoples in developing their renewable energy resources in ways that are: Culturally appropriate, environmentally green and sustainable, socially responsible and economically equitable and affordable. For several years the IC has worked with Innovations Development Group in New Zealand and indigenous Maori developing geothermal resources, which are trust assets of Maori Land Trusts. In addition, the IC has acted as a consultant to other indigenous people in Hawaii and Asia who are addressing development of their trust renewable energy resources in ways that; directly benefit their people, bring in revenues, create small business opportunities and ensure fair & affordable rates to consumers, including themselves and their communities.

The Innovations Development Group (IDG) is a Hawaii based renewable energy Development Corporation owned by Native Hawaiians. It was created to facilitate the development of renewable energy resources of native people, and in summer 2011 presented its development model to legislators of the Energy & Land Committees.

Innovations Development Group & Indigenous Consultants strongly support this measure because it brings transparency to the PUC process regarding Power Purchase Agreements (PPA's) with the HECO & Format energy monopolies that control energy in Hawaii & on Hawaii Island.

PPA's affect everyone in Hawaii. Every consumer of energy is a ratepayer & should know why they are being charged & how their rates are being calculated. Years ago, HECO Format decided that they would bill Hawaii ratepayers the cost of oil for energy derived from geothermal resources owned by the public & native Hawaiians. Today, 1 kwh of geo-electricity costs 9 cents to produce, but HECO & PGV charge ratepayers on Hawaii 43 cents per kwh. This egregious situation will continue for the coming 15 years

under the HECO/PGV monopoly. This private deal was hidden from the public & the State (including the State Legislature) by regulations that have cloaked the PPA's in secrecy. This has only benefitted the HECO & PGV monopoly interests.

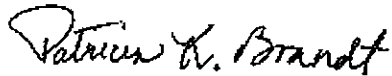
Please pass this badly needed measure,

Sincerely,

Handwritten signature of Mililani B. Trask in black ink.

Mililani B. Trask – Indigenous Consultants LLC

Sincerely,

Handwritten signature of Patricia K. Brandt in black ink.

Patricia K. Brandt  
CEO IDG Hawaii



**HB1405**

Submitted on: 3/11/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Kerri Marks         | Individual          | Support                   | No                        |

Comments: strongly support transparency in ALL contracts

**HB1405**

Submitted on: 3/12/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Patricia Blair      | Individual          | Oppose                    | No                        |

Comments: Effective July 1, 2050? You have got to be kidding! No secrets please. PUC should not be a rubber stamp for HECO! Rather a watch dog for the citizens of Hawaii.

**HB1405**

Submitted on: 3/12/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| tj simms     | Individual   | Comments Only      | No                 |

Comments: We don't approve of AKP decimating tens of thousands of acres of pristine land. We don't approve of HELLco rate hikes. What happened to transparency?

**HB1405**

Submitted on: 3/12/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| penny silva  | Individual   | Support            | No                 |

Comments:

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Chair Gabbard and Members of the Senate ENE Committee:

The Public Utilities Commission should be transparent and provide clear descriptions and explanations of actions it proposes to take or has taken in a timely manner in lay language. One should not need to be an engineer, technical specialist, or expert to understand what it is saying. The PUC exists, after all, to protect the public's interest, that is, the ratepayers' interest.

This notice to the public should be easily and prominently available on its website, not buried in an annual report that ratepayers do not read. It should also be posted in a timely manner, i.e., when it is made, not when it is effective, since effective dates are sometimes years in the future.

I am simply an ordinary ratepayer and voter.

Mahalo,  
amy kimura

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Shannon Rudolph     | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Graham Ellis        |                     | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| janice palma-glenie | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Lisa Kirbin         | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| gary popkin         | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Tia Kent            | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Tam Mui             | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Pua Kamaoa          | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| sue phalen          | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| sam cresanto        | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Suy Nathan          | Individual          | Support                   | No                        |

Comments:

**HB1405**

Submitted on: 3/13/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| April Lee           | Individual          | Support                   | No                        |

Comments: Mahalo Honorable Representative Lee. This is long passed due.



**HB1405**

Submitted on: 3/14/2013

Testimony for ENE on Mar 14, 2013 15:20PM in Conference Room 225

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| joy cash            | Individual          | Support                   | No                        |

Comments: