

SB 1045

Measure Title: RELATING TO ELECTRIC COOPERATIVES.

Report Title: Electric Cooperatives; Waiver; Exemption; Public Utilities Commission; Division of Consumer Advocacy

Description: Directs the Public Utilities Commission and the Division of Consumer Advocacy to specifically consider the ownership structure and interests of an electric cooperative; and authorizes the Public Utilities Commission to waive or exempt an electric cooperative operating in the State from compliance with the provisions of chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

Companion: HB815

Package: Gov

Current Referral: CPN

Introducer(s): KIM (Introduced by request of another party)

<u>Sort by</u> <u>Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/24/2013	S	Referred to CPN.
1/29/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-14-13 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
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KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE
ON COMMERCE AND CONSUMER PROTECTION

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2013

THURSDAY, FEBRUARY 14, 2013
9:00 A.M.

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

SENATE BILL NO. 1045 - RELATING TO ELECTRIC COOPERATIVES

DESCRIPTION:

This measure proposes to direct the Public Utilities Commission ("PUC") and the Division of Consumer Advocacy ("DCA") to specifically consider the ownership structure and interests of an electric cooperative; and authorizes the PUC to waive or exempt an electric cooperative operating in the State from compliance with the provisions of Chapter 269, Hawaii Revised Statutes, as well as any other applicable charters, franchises, rules, decisions, orders, or any other laws.

POSITION:

The Division of Consumer Advocacy (Consumer Advocate) supports S.B. No. 1045.

Senate Bill No. 1045
Senate Committee on Commerce and Consumer Protection
Thursday, February 14, 2013, 9:00 a.m.
Page 2

COMMENTS:

Electric utility cooperatives are required to act in the best interest of their member/owners. Unlike investor owner utilities (IOU), cooperatives are not profit-driven.

In various dockets involving Kauai Island Utility Cooperative (KIUC), the Consumer Advocate took the position that the Consumer Advocate would apply the same level of scrutiny to KIUC, in spite of its cooperative ownership model, because Hawaii Revised Statutes Chapter 269, did not provide for any exceptions for electric utility cooperatives. S.B. No. 1045 would provide the necessary exception, but at the same time provide adequate protection to the cooperative's member/owners by requiring the cooperative to apply for a waiver or exemption to the Public Utilities Commission.

Thank you for this opportunity to testify.

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

FEBRUARY 14, 2013
9:00 a.m.

MEASURE: S.B. No. 1045

TITLE: Relating to Electric Cooperatives

Chair Baker and Members of the Committee:

DESCRIPTION:

This bill would direct both the Public Utilities Commission ("Commission") and the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate") to take into consideration the ownership structure and interests of electric utility cooperatives ("Cooperative") when dealing with relevant matters. Further, the Commission is authorized to waive or exempt Cooperatives from having to comply with certain regulatory laws when such compliance is determined by the Commission to be unjust, unreasonable, or not in the public interest.

POSITION:

The Commission strongly supports this measure and would also like to offer the following comments for the Committee's consideration.

COMMENTS:

Chapter 269, Hawaii Revised Statutes, is structured to provide regulatory oversight of investor-owned electric utilities. Cooperatives are member-owned and operate on a not-for-profit basis. Therefore, the Commission believes it would be appropriate to review laws and administrative rules for their applicability to the Cooperative model.

An application for a waiver or exemption must go through a proceeding, which includes the Consumer Advocate as a party, and may, at the discretion of the Commission, include other qualified interveners or participants. The Commission believes this is a safeguard to protect the Cooperative member/ratepayer's and the public interest.

There were concerns raised at an earlier hearing on how such a waiver or exemption would impact statewide energy policy mandates, like the State's Renewable Portfolio Standards and Energy Efficiency Portfolio Standards. It is not the intent of the Commission to utilize its discretionary authority to usurp statewide policies but to apply its discretionary authority judiciously where, for example, existing laws such as methodologies in the regulation of utility rates or ratemaking procedures may not directly apply to the Cooperative structure. The Commission would be happy to work with the Legislature to further clarify the intent of this measure, if necessary.

Thank you for the opportunity to testify on this measure.

COUNTY COUNCIL

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Nadine K. Nakamura, Vice Chair
Tim Bynum
Gary L. Hooser
Ross Kagawa
Mel Rapozo
JoAnn A. Yukimura



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Council Services Division
4396 Rice Street, Suite 209
Lihue, Kauai, Hawaii 96766

February 4, 2013

TESTIMONY OF JAY FURFARO
COUNCIL CHAIR, KAUAI COUNTY COUNCIL
ON

S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection

February 14, 2013

9:00 a.m.

Conference Room 229

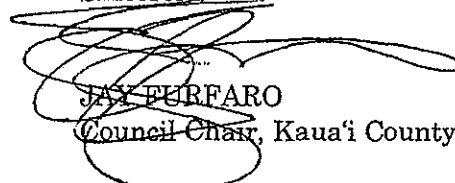
Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, Relating to Electric Cooperatives. My testimony is submitted in my capacity as Council Chair of the Kauai County Council.

I am in full support of S.B. No. 1045, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kauai Island Utility Cooperative (KIUC) here on Kauai based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawaii Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawaii and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

For the reasons stated above, I am in strong support of S.B. No. 1045 and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,



JAY FURFARO
Council Chair, Kauai County Council

AN EQUAL OPPORTUNITY EMPLOYER

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February 4, 2013

TESTIMONY OF NADINE K. NAKAMURA
VICE CHAIR, KAUAI COUNTY COUNCIL
ON

S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection

February 14, 2013

9:00 a.m.

Conference Room 229

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, Relating to Electric Cooperatives. My testimony is submitted in my capacity as Vice Chair of the Kaua'i County Council.

I am in full support of S.B. No. 1045, which provides for the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA) to specifically consider and evaluate Kaua'i Island Utility Cooperative (KIUC) here on Kaua'i based on KIUC's not-for-profit ownership structure instead of an investor-owned structure. Hawai'i Revised Statutes (HRS) Chapter 269 was enacted well before any electric cooperatives existed in Hawai'i and this Bill will provide the PUC with statutory power to waive or exempt KIUC from any statute or other requirements upon finding that such requirements are unjust, unreasonable or not in the public's best interest. This Bill will support both KIUC and the State's renewable energy initiatives by streamlining the regulatory process for electric cooperatives, reduce cost of regulatory oversight of electric cooperatives and its members, and avoid duplication of compliance efforts required by Federal and State Agencies. This legislation was a collaborative effort by KIUC, the PUC, and the DCA to support the State's energy goals by easing the regulatory burden while still ensuring that regulatory oversight and consumer safeguards are intact.

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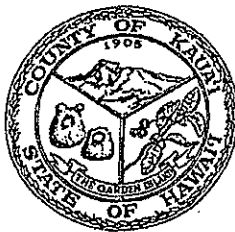
Sincerely,

NADINE K. NAKAMURA

Vice Chair, Kaua'i County Council

COUNTY COUNCIL

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February 4, 2013

**TESTIMONY OF GARY L. HOOSER
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON**

S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection

February 14, 2013

9:00 a.m.

Conference Room 229

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, Relating to Electric Cooperatives. My testimony is submitted in my capacity as an individual Councilmember of the Kauai County Council.

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For the reasons stated above, I am in strong support of S.B. No. 1045 and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

GARY L. HOOSER

Councilmember, Kauai County Council

COUNTY COUNCIL

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February 4, 2013

TESTIMONY OF ROSS KAGAWA
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection
February 14, 2013
9:00 a.m.
Conference Room 229

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

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Sincerely,



ROSS KAGAWA

Councilmember, Kaua'i County Council

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February 4, 2013

TESTIMONY OF MEL RAPOZO
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON
S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection
February 14, 2013
9:00 a.m.
Conference Room 229

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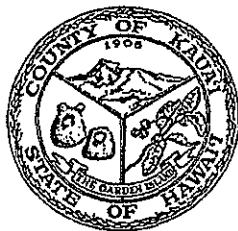
Sincerely,

MEL RAPOZO

Councilmember, Kaua'i County Council

COUNTY COUNCIL

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February 4, 2013

TESTIMONY OF TIM BYNUM
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON

S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection
February 14, 2013
9:00 a.m.
Conference Room 229

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

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For the reasons stated above, I am in strong support of S.B. No. 1045 and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,

TIM BYNUM

Councilmember, Kaua'i County Council

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February 4, 2013

TESTIMONY OF JOANN A. YUKIMURA
COUNCILMEMBER, KAUAI COUNTY COUNCIL
ON

S.B. NO. 1045, RELATING TO ELECTRIC COOPERATIVES
Senate Committee on Commerce and Consumer Protection
February 14, 2013
9:00 a.m.
Conference Room 229

Dear Chair Baker and Members of the Senate Committee on Commerce and Consumer Protection:

Thank you for this opportunity to submit testimony in strong support of S.B. No. 1045, Relating to Electric Cooperatives. My testimony is submitted in my capacity as an individual Councilmember of the Kaua'i County Council.

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For the reasons stated above, I am in strong support of S.B. No. 1045 and ask for your favorable support. Again, thank you for this opportunity to submit testimony.

Sincerely,


JOANN A. YUKIMURA

Councilmember, Kaua'i County Council

AN EQUAL OPPORTUNITY EMPLOYER

Testimony Before the Senate Committee on
Commerce and Consumer Protection

By Michael Yamane, P.E.
Chief of Operations
Kauai Island Utility Cooperative
4463 Pahee Street, Suite 1, Lihue, Hawaii, 96766-2000

Thursday, February 14, 2013, 9:00 a.m.
Conference Room #229

Senate Bill No. 1045 – Relating to the Public Utilities Commission

To the Honorable Rosalyn H. Baker, Chair; Brickwood Galuteria, Vice-Chair,
and Members of the Committee:

Thank you for the opportunity to testify on this measure. I am Michael Yamane, Chief of Operations at Kauai Island Utility Cooperative ("KIUC"). I am here today to testify in strong support of Senate Bill ("SB") No. 1045.

As you know, KIUC is a member-owned electric cooperative. This means that KIUC is essentially owned by the very customers it serves. Every customer of KIUC has the right to be member/owner of the cooperative, and currently over 99.5% of KIUC's customers are members of the cooperative. Electric cooperatives are not-for-profit, are owned by the very customers that they serve, and are member-run. KIUC has 9 Board of Directors who are elected by its membership (i.e., the customers that it serves) through a democratic process.

Without the need for profits and shareholder dividends, cooperatives utilize what would normally be profits (cooperatives call them "margins") and invest them back for the benefit of the cooperative – by either funding new capital projects and initiatives, by allocating margins to the cooperative's members as capital credit contributions, and, eventually, by making patronage capital refunds to its members; and otherwise generally using the monies collected for the general welfare of the cooperative members. In fact, in KIUC's first ten years as a cooperative, KIUC has returned over \$20 million in patronage capital refunds back to its members. These are all monies that would not have been returned back to KIUC's customers, and would have instead gone to shareholders, if KIUC was instead an investor-owned utility.

The above underscores that, as a cooperative, KIUC is inherently structured and committed to do what is in the overall best interests of its members – with one of those commitments being to reduce the island's dependency on imported fossil fuels. This has been formalized in KIUC's Strategic Plan, which calls for 50% renewable generation by 2023.

Senate Bill No. 1045 will authorize and direct the Hawaii Public Utilities Commission is to specifically consider the ownership structure and interests of not-for-profit, consumer-owned electric cooperatives, and to take actions consistent with how best to regulate and oversee an electric cooperative. Specifically, this measure, if adopted, will provide the Commission with the appropriate flexibility and discretion to establish, streamline and ease the regulatory process and burden for an electric cooperative in the State to the extent it deems reasonable and in the public interest, while still ensuring adequate regulatory oversight and consumer safeguards as necessary or appropriate.

Thank you again for the opportunity to inform you of KIUC's position on this matter.

SB1045

Submitted By	Organization	Testifier Position	Present at Hearing
Ed Wagner	Individual	Support	No
Troy Abraham	Individual	Support	No