

STAND. COM. REP. NO.

304

Honolulu, Hawaii
February 15, 2013

RE: H.B. No. 856
H.D. 2

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Sir:

Your Committee on Consumer Protection & Commerce, to which was referred H.B. No. 856, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO GREEN INFRASTRUCTURE,"

begs leave to report as follows:

The purpose of this measure is to establish a regulatory financing structure that authorizes the Public Utilities Commission (PUC) and the Department of Business, Economic Development, and Tourism (DBEDT) to provide low-interest loans for green infrastructure property.

The Office of the Governor; DBEDT; PUC; Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs; Department of Budget and Finance; Hawaiian Electric Company; Environmental Defense Fund; Maui Group Sierra Club; Ulupono Initiative; Blue Planet Foundation; Sierra Club Hawaii Chapter; Hawaii Regional Council of Carpenters; The Pacific Resource Partnership; Sunetric; and several individuals supported this measure. An individual opposed this measure. The State Procurement Office provided comments on this measure.

Your Committee has amended this measure by, among other things:

- (1) Adding definitions for "department" and "green infrastructure special fund" under the proposed part in chapter 196, Hawaii Revised Statutes (HRS), and adding

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definitions for "green infrastructure bond fund" and "green infrastructure special fund" under the proposed part in chapter 269, HRS;

- (2) Providing procedures and processes for the Hawaii Green Infrastructure Authority's loaning of funds, including the requirement of an order from the PUC;
- (3) Providing specific uses for funds to be appropriated out of the Hawaii Green Infrastructure Special Fund;
- (4) Exempting all Hawaii Green Infrastructure Authority employees, including the Hawaii Green Infrastructure Authority Director, from chapter 76, HRS;
- (5) Requiring the Hawaii Green Infrastructure Authority to submit a report to the legislature regarding the authority's activities in administering the Hawaii Green Infrastructure Loan Program;
- (6) Clarifying the terms of the financing order provided under chapter 279, HRS, including, among other things:
 - (A) Specifying terms related to the maximum term of green infrastructure bonds proposed to be issued;
 - (B) Providing procedures to be followed by the electric utilities in the event of non- or partial payment of green infrastructure fees; and
 - (C) Requiring a financing order to detail the distribution of the total amount collected by the electric utilities for amounts billed to customers;
- (7) Permitting the PUC to require in a financing order, procedures to be followed in the event of a default of an electric utility to which green infrastructure fees are remitted;
- (8) Providing procedures for the creation of a lien on green infrastructure property in the favor of bondholders and financing parties;
- (9) Providing protections for the electric utilities to ensure that reasonable costs incurred in the



implementation of green infrastructure fees are returned to the utilities;

- (10) Removing provisions relating to the creation of security interests over green infrastructure property, including the setting of lien priorities regarding green infrastructure fees and property and the rights of lien holders in foreclosure and bankruptcy;
- (11) Clarifying that the treatment of green infrastructure bonds, fees, and property are exempt from taxes under chapters 237, 239, and 240, HRS, as well as the public utility fee under section 269-30, HRS;
- (12) Establishing the Hawaii Green Infrastructure Bond Fund, into which all proceeds of the green infrastructure fees and any other proceeds of the green infrastructure property shall be paid, including provisions relating to annual audits, purpose, and administration;
- (13) Specifying that the reporting requirement of the PUC regarding the green infrastructure loan program include information on financing orders issued, adjustments made to the public benefits fee, and repayments or credits provided to customers pursuant to the issuance of green infrastructure bonds;
- (14) Appropriating funds from the Hawaii Green Infrastructure Special Fund and the Hawaii Green Infrastructure Bond Fund to effectuate the intent of the measure; and
- (15) Making technical, nonsubstantive amendments for the purpose of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Consumer Protection & Commerce that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 856, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 856, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Consumer
Protection & Commerce,



ANGUS L.K. MCKELVEY, Chair



