

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 2658
S.D. 2

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committee on Water and Land, to which was referred S.B. No. 2658, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SOLAR ENERGY,"

begs leave to report as follows:

The purpose and intent of this measure is to enable the complementary uses of utility scale solar energy generation and local food production on agricultural land with an overall productivity rating of class B or C, by:

- (1) Requiring that solar facilities on agricultural lands with an overall productivity rating of class B or C occupy up to thirty, rather than ten, percent of the acreage of the parcel or two or more adjacent parcels having met the applicable county requirements for the joint development or joint lot use of those parcels; provided that the area occupied by the solar facilities in excess of twenty acres shall only be made available for agricultural activities compatible with the solar energy facilities at a lease rate that is at least fifty percent below fair market rent for comparable properties; and
- (2) Requiring that solar energy facilities be removed from the land within twelve months when the facilities are no longer in operation.



Your Committee received testimony in support of this measure from the Department of Business, Economic Development, and Tourism; Department of Agriculture; Blue Planet Foundation; First Wind Solar Group; and two individuals. Your Committee received comments on this measure from the Office of Planning and Land Use Commission.

Your Committee finds that the State's energy policy seeks to make the best use of Hawaii's land and resources by balancing technical, economic, environmental, and cultural considerations. This measure supports the advancement of renewable energy development that simultaneously benefits and encourages on-site agricultural activities.

Your Committee further finds that solar energy is currently a bright spot in Hawaii's progress toward energy independence. Increasing the amounts of affordable renewable solar energy will power our lifestyles and economy. The dual use of the agricultural lands as provided in this measure, which may include the growing of crops or grazing of livestock, provides increased value from land. Further, energy generation can improve the viability of land for agriculture by providing infrastructure and subsidizing land costs for complementary agricultural uses.

Your Committee's utmost concern is to preserve the agricultural use of prime agricultural land. As this measure proposes the first actual combined use of agriculture and solar energy, your Committee requests the Land Use Commission to build in adequate conditions into the special use permit to ensure that agricultural activities are genuinely compatible with solar energy operations, as well as to protect against agricultural land being used as a "gentleman's farm". The testimony on this measure was unclear as to what happens to the solar facility if a sheep farmer, for example, goes out of business in two years after the special use permit is issued. Thus, your Committee believes that this measure needs to be revisited after adequate time has elapsed to evaluate its efficacy.

Your Committee has amended this measure by:

- (1) Amending sections 205-2(d)(6)(B) and 205-4.5(a)(20), Hawaii Revised Statutes, to require a special use permit for the placement of solar energy facilities on class B or C agricultural lands;



- (2) Deleting language in section 205-2(d)(6)(B), Hawaii Revised Statutes, that would have increased the maximum portion of land that could be occupied by a solar energy facility placed on class B or C agricultural lands and deleting references to adjacent parcels and joint development;
- (3) Amending sections 205-2(d)(6)(B) and 205-4.5(a)(20), Hawaii Revised Statutes, to require the entire area, rather than an area in excess of twenty acres, occupied by a solar energy facility to be made available for compatible agricultural activities and to define "agricultural activities";
- (4) Amending section 205-4.5(a)(20), Hawaii Revised Statutes, by deleting the cap on the portion of land that can be occupied by a solar energy facility placed on class B agricultural lands and deleting references to adjacent parcels and joint development;
- (5) Adding a sunset date of July 1, 2020, to allow the Legislature to review the efficacy of the combined use of agriculture and solar energy on agricultural lands proposed by this measure; and
- (6) Making technical, nonsubstantive amendments for purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2658, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2658, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


MALAMA SOLOMON, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB2658 SDI	Committee Referral: ENE/AGL, WTL	Date: 02/27/14		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SOLOMON, Malama (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
DELA CRUZ, Donovan M.	✓			
IHARA, Jr., Les		✓		
RUDERMAN, Russell E.		✓		✓
SHIMABUKURO, Maile S.L.	✓			
TANIGUCHI, Brian	✓			
THIELEN, Laura H.		✓		
SLOM, Sam	✓			
TOTAL	6	3	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes