

Honolulu, Hawaii

FEB 14 2014

RE: S.B. No. 2663  
S.D. 1

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

Madam:

Your Committees on Water and Land and Energy and Environment,  
to which was referred S.B. No. 2663 entitled:

"A BILL FOR AN ACT RELATING TO NATURAL RESOURCES,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the use of an area or site within the conservation district for geothermal resources development to be governed by the Board of Land and Natural Resources (BLNR);
- (2) Authorize the counties to issue geothermal resource permits to allow geothermal resources development in an agricultural, rural, or urban district, even if the development is not considered a permissible use under the applicable county zoning ordinances or general plan, under certain conditions;
- (3) Clarify the permitting procedures for regulators and renewable energy developers considering geothermal resources development;
- (4) Include developers of geothermal resources under the definition of "renewable energy producer" in chapter 171, Hawaii Revised Statutes (HRS), to authorize the BLNR to lease or renew leases of public lands to



geothermal resources developers without public auction, under certain conditions;

- (5) Reserve mineral rights for all minerals in, on, or under reserved lands to the State;
- (6) Require any renewable energy producer proposing to undertake mining operations to submit an application to the BLNR for a mining lease on state lands and set requirements for the BLNR to grant such an application;
- (7) Increase the maximum amount of fines for violations of chapter 182, HRS, or any rule adopted pursuant thereto;
- (8) Authorize the BLNR to set, charge, and collect administrative fines or bring legal action to recover administrative fines, fees, and costs or payment for damages resulting from a violation of chapter 182, HRS, or any rule adopted pursuant thereto; and
- (9) Require all penalties, fees, and costs established and collected by the Department of Land and Natural Resources to be deposited into the special land and development fund.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources; Department of Business, Economic Development, and Tourism; Indigenous Consultants LLC; Innovations Development Group; Hu'ena Power; Waimanalo Hawaiian Homes Association; Kapolei Community Development Corporation; and two individuals. Your Committees received testimony in opposition to this measure from Life of the Land, Puna Pono Alliance, and numerous individuals. Your Committees received comments on this measure from the Office of Hawaiian Affairs.

Your Committees find that geothermal energy development and production is overseen by a variety of agencies. Most of these agencies are without sufficient resources and wherewithal to enforce proper oversight. This array of competing jurisdictional purviews is a hodgepodge and does not serve the interests of the counties, the State, or the public. The State has preempted much of the County of Hawaii's previous control over when, where, and how geothermal development might take place.



Your Committees believe that current law on geothermal development is in conflict. Act 97, Session Laws of Hawaii 2012 (Act 97), severely restricted geothermal development mainly by repealing county authority over geothermal development. Yet, current law in section 46-19, Hawaii Revised Statutes, provides for the development of alternative energy resources. That section states, "*Each of the counties may participate in the development of alternative energy resources defined as geothermal, solar, wind, ocean power, biomass and solid wastes in joint venture with an end user or public utility pursuant to a plan for the direct utilization of the energy sources by an end user or public utility; provided that should a joint-venture partner not be available the counties may proceed with the development of alternate energy resources for their own consumption or for the furtherance of a plan for direct utilization by an end user or public utility.*" (emphasis added)

Also, in the same year Act 97 was enacted, Act 193, Session Laws of Hawaii 2012, amended section 226-18, Hawaii Revised Statutes, relating to energy objectives of the Hawaii State Planning Act to read, "*To further achieve the energy objectives, it shall be the policy of this State to . . . [p]romote the development of indigenous geothermal energy resources that are located on public trust land as an affordable and reliable source of firm power for Hawaii.*" (emphasis added)

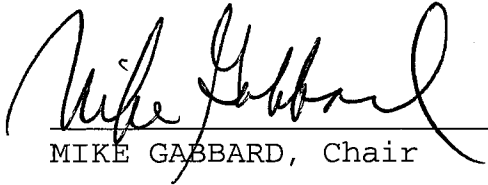
Finally, your Committees believe that purchasing fossil fuel from out-of-state is not pono and costs the State dearly. The monies could be better spent to improve the quality of life in Hawaii.

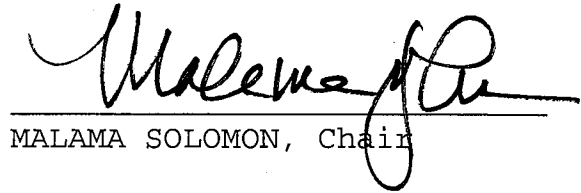
Your Committees has amended this measure by inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the records of votes of the members of your Committees on Water and Land and Energy and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2663, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2663, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on  
behalf of the members of the  
Committees on Water and Land  
and Energy and Environment,

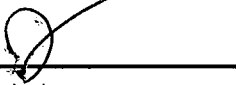
  
MIKE GABBARD, Chair

  
MALAMA SOLOMON, Chair



The Senate  
 Twenty-Seventh Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Water and Land**  
**WTL**

Bill / Resolution No.:* <b>SB 2063</b>	Committee Referral: <b>WTL/ENE, WAM</b>	Date: <b>2/12/14</b>		
<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	<del>✓</del>	✓		
RUDERMAN, Russell E.		✓		
SHIMABUKURO, Maile S.L.		✓		
TANIGUCHI, Brian	✓			<del>✓</del>
THIELEN, Laura H.		✓		
SLOM, Sam				✓
<b>TOTAL</b>	<b>4</b>	<b>4</b>		<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: _____ 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes

