

STAND. COM. REP. NO.

21604

Honolulu, Hawaii

FEB 28 2014

RE: S.B. No. 451

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 Commerce and Consumer Protection and Ways and Means, to which was referred S.B. No. 451 entitled:

"A BILL FOR AN ACT RELATING TO THE PUBLIC UTILITIES COMMISSION,"

beg leave to report as follows:

The purpose and intent of this measure is to repeal the exclusion of owners or operators of aerial transportation enterprises from the definition of a public utility.

Your Committees did not receive any testimony on this measure.

Prior to the hearing on this measure, your Committees posted and made available for public review a proposed S.D. 1, which amends this measure by deleting its contents and replacing it with language that:

- (1) Specifies that the Public Utilities Commission is an autonomous agency of the State to be transferred from the Department of Budget and Finance and assigned, for administrative purposes only, to the Department of Commerce and Consumer Affairs;
- (2) Increases the compensation of the Chair and Commissioners of the Public Utilities Commission;



- (3) Clarifies the Public Utilities Commission's authority concerning standard administrative practices, including operational expenditures and the hiring of personnel;
- (4) Enables the Chair of the Public Utilities Commission to appoint and employ an Executive Officer to assist with managing the operations of the Commission;
- (5) Specifies that the Executive Director of the Division of Consumer Advocacy shall be the Consumer Advocate in hearings before the Public Utilities Commission; and
- (6) Appropriates funds for the hiring of the Executive Officer within the Public Utilities Commission.

Your Committees received testimony in support of the proposed S.D. 1 from the Office of the Governor; Department of Budget and Finance; Department of Commerce and Consumer Affairs; Public Utilities Commission; Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs; County of Maui, Office of the Mayor; Hawaii Renewable Energy Alliance; Hawai'i Energy Policy Forum; Hawaii Solar Energy Association; Kauai Chamber of Commerce; Life of the Land; Ulupono Initiative; and Puna Pono Alliance. Your Committees received testimony in opposition to the proposed S.D. 1 from Common Cause Hawaii and League of Women Voters of Hawaii.

Your Committees find that the Public Utilities Commission has historically faced challenges in obtaining sufficient resources, in terms of funds for operational requirements and the hiring and retention of personnel. Given the requirements associated with various ongoing initiatives, including renewable energy, energy efficiency, and liquefied natural gas, having a Commission that is able to access needed resources and hire necessary personnel to analyze and support these initiatives is essential.

Your Committees further find that attaching agencies to state departments for administrative purposes is a reflection of the strategic nature and purpose of that agency within the entire department. The statutory responsibility of the Public Utilities Commission, which is currently administratively attached to the Department of Budget and Finance, requires a unique organizational structure and specialized staff and should therefore be administratively attached to a department whose own operational functions more closely align with the operational mission and



strategic focus of the Commission. Because the mission of the Department of Commerce and Consumer Affairs is more closely aligned with the mission of the Public Utilities Commission, attaching the Commission to the Department of Commerce and Consumer Affairs for administrative purposes will assist the Commission in obtaining sufficient resources to fulfill the Commission's ever-expanding role in utility policymaking and regulation.

Your Committees additionally find that the proposed S.D. 1 ensures that the Public Utilities Commission is able to request consultation and support from the Department of Commerce and Consumer Affairs, while ensuring the administrative autonomy of the Commission. For the Commission to function effectively, it must have clear authority to manage its own day-to-day operations and functions, without undue interference. The proposed S.D. 1 will help avoid future ambiguity regarding the Commission's autonomy and ability to hire appropriate personnel and make necessary expenditures, thereby enabling the Commission to carry out its various regulatory responsibilities within a legislatively approved budget.

Your Committees also find that the creation of an Executive Officer, as described in the proposed S.D. 1, would be invaluable to the Public Utilities Commission. An Executive Officer would allow the Chairperson of the Commission to focus on the responsibilities of deliberating and making decisions on docketed matters, rather than on overseeing the Commission's day-to-day operational matters. This additional management position is also needed in light of the increasing size and complexity of the Commission's workload.

Your Committees further find that for all practical purposes, the Executive Director of the Division of Consumer Advocacy has been delegated the role of Consumer Advocate in Commission proceedings and acts on behalf of the Director of Commerce and Consumer Affairs. This represents a logical delegation of responsibilities by the Director of Commerce and Consumer Affairs, given the specialized expertise and knowledge required to represent consumers in matters of utilities regulation. The proposed S.D. 1 therefore adopts what is and has been common practice for the Consumer Advocate. Designating the Consumer Advocate Executive Director as the Consumer Advocate also creates an organizational structure and firewall that will allow the Commission to be administratively attached to the Department of



Commerce and Consumer Affairs without creating conflicts of interest with the Division of Consumer Advocacy.

Your Committees conclude that the proposed S.D. 1 will enable the Public Utilities Commission to carry out its various regulatory responsibilities in a more efficient manner. However, your Committees understand that additional discussion is needed and request the Chairperson of the Public Utilities Commission and the Director of Commerce and Consumer Affairs to continue their dialogue to ensure a smooth transition of the Public Utilities Commission, including defining any services mutually agreed to be provided to the Public Utilities Commission by the Department of Commerce and Consumer Affairs, and any additional enabling legislation that should be considered by the legislature.

Your Committees have amended this measure by adopting the proposed S.D. 1 and further amending the proposed S.D. 1 by:

- (1) Amending the compensation of the Chairperson and Commissioners of the Commission to an unspecified percent;
- (2) Clarifying provisions relating to the creation of the Executive Officer position;
- (3) Specifying that the appropriation in this measure is to assist with the transition of the Public Utilities Commission and to enable the Chairperson of the Commission to appoint and employ an Executive Officer;
- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

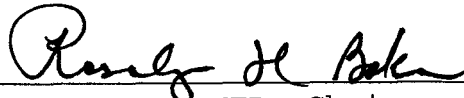
As affirmed by the records of votes of the members of your Committees on Commerce and Consumer Protection and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 451, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 451, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committees on Commerce and
Consumer Protection and Ways
and Means,



DAVID Y. IGE, Chair

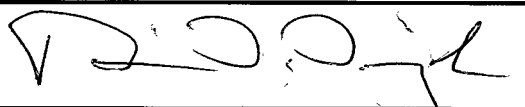


ROSALYN H. BAKER, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

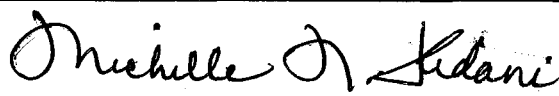
Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB451	CPN/WAM	2/26/14		
<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
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
NISHIHARA, Clarence K.	✓			
WAKAI, Glenn	✓			
SLOM, Sam		✓		
TOTAL	4	1	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

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 451	CPN/WAM	2-26-14		
<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
IGE, David Y. (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
DELA CRUZ, Donovan M.				✓
ENGLISH, J. Kalani				✓
ESPERO, Will	✓			
KAHELE, Gilbert	✓			
KEITH-AGARAN, Gilbert S.C.	✓			
KOUCHI, Ronald D.	✓			
RUDERMAN, Russell E.	✓			
THIELEN, Laura H.	✓			
TOKUDA, Jill N.	✓			
SLOM, Sam		✓		
	10	1	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes