



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
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

THE TWENTY-SEVENTH LEGISLATURE
REGULAR SESSION OF 2014

MONDAY, MARCH 10, 2014
2:00 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER
AFFAIRS, TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE

SENATE BILL NO. 2948, SD1 - RELATING TO THE PUBLIC UTILITIES COMMISSION

DESCRIPTION:

This measure proposes to clarify the Public Utilities Commission's ("Commission") authority concerning standard administrative practices, including operational expenditures and the hiring of personnel.

POSITION:

The Division of Consumer Advocacy supports this measure.

COMMENTS:

Historically, the Commission has faced issues with respect to sufficient resources, both in terms of funds for operational requirements and the hiring and retention of personnel. This measure will facilitate the Commission's ability to efficiently

Senate Bill No. 2948, SD1
House Committee on Consumer Protection & Commerce
Monday, March 10, 2014, 2:00 p.m.
Page 2

address issues regarding operational expenditures and the hiring and retention of agency personnel. Given the requirements associated with various ongoing initiatives, such as renewable energy, energy efficiency, and liquefied natural gas, having a Commission that is able to access the necessary resources and hire the necessary personnel to analyze and support these initiatives is important.

Thank you for this opportunity to testify.

WRITTEN TESTIMONY

**TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
ON
SENATE BILL NO. 2948 S.D.1**

March 10, 2014

RELATING TO THE PUBLIC UTILITIES COMMISSION

Senate Bill No. 2948 S.D. 1 clarifies the Public Utilities Commission's authority concerning standard administrative practices, including operational expenditures and the hiring of personnel.

The Department of Budget and Finance (Department) recognizes the important mission that is mandated to the Public Utilities Commission (PUC) and its desire to have a certain degree of autonomy with regard to the administration of its operational expenditures and in the hiring and retention of its personnel. The Department has strong concerns however, with regard to the following specific areas:

- A precedent would be set for other boards and commissions to also request to delink from their administratively attached departments
- Duplicative accounting, fiscal, and human resources staff resources statewide that would be necessary to ensure compliance by the PUC and other attached agencies with pertinent State laws and regulations.
- No assurances of future equity and comparability between the PUC positions and in other similarly situated positions in the Department as well as other Executive branch agencies if autonomy is given over the human resource functions.

Thank you for the opportunity to provide testimony on this important measure.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAI'I AT MĀNOA

Hawaii Energy Policy Forum

Jeanne Schultz Afuvai, HI Inst. for Public Affairs
Joseph Boivin, Hawai'i Gas
Warren Bollmeier, HI Renewable Energy Alliance
Albert Chee, Chevron
Elizabeth Cole, The Kohala Center
Leslie Cole-Brooks, HI Solar Energy Assn
Kyle Datta, Ulupono Initiative
Laura Dierenfield, Queen Lili'uokalani Trust
Mitch Ewan, UH HI Natural Energy Institute
Jay Fidell, ThinkTech HI, Inc.
Carl Freedman, Haiku Design & Analysis
Sen. Mike Gabbard, HI State Senate
Dan Giovanni, Hawaiian Electric Company
Mark Glick, State Energy Office, DBEDT
Justin Gruenstein, City & Co. of Honolulu
Dale Hahn, Ofc of US Sen Brian Schatz
Michael Hamnett, Research Corp. of the UH
Robert Harris, Sierra Club
Rachel James, Ofc of US Rep. Tulsi Gabbard
Jim Kelly, Kaula'i Island Utility Cooperative
Darren Kimura, Energy Industries
Kelly King, Sustainable Biodiesel Alliance
Kal Kobayashi, Maui County Energy Ofc
Rep Chris Lee, HI House of Representatives
Gladys Marrone, Building Industry Assn of HI
Doug McLeod, Maui County
Stephen Meder, UH Facilities and Planning
Lauren Montez-Hernandez, Ofc of Sen Mazie Hirono
Hermima Morita, Public Utilities Commission
Sharon Moriwaki, UH So. Sci. Public Policy Ctr
Ron Nelson, U.S. Defense Energy Support Center
Tim O'Connell, U.S. Dept of Agriculture
Jeffrey Ono, Division of Consumer Advocacy, DCCA
Darren Pai, Hawaiian Electric Company
Wintehn KT Park, Ofc of US Rep. Colleen Hanabusa
Melissa Pavlicek, Hawaii Public Policy Advocates
Randy Perreira, HI Government Employees Assn
Rick Rocheleau, UH HI Natural Energy Institute
Will Rolston, Hawai'i County
Riley Saito, SunPower Systems Corp
Joelle Simonpietri, U.S. Pacific Com. Energy Ofc
H. Ray Starling, Hawai'i Energy
Ben Sullivan, Kaula'i County
Lance Tanaka, Hawaii Independent Energy, LLC
Maria Tome, Public Utilities Commission
Ah Linn Yamane, HI Government Employees Assn

Testimony of Sharon Moriwaki
Co-chair, Hawai'i Energy Policy Forum
Before the

House Committee on Consumer Protection and Commerce
Representative Angus L.K. McKelvey, Chair
Representative Derek S.K. Kawakami, Vice Chair

Monday, March 10, 2014 at 2:00 p.m. – House Conference Room 325

In Support SB 2948 SD1, Relating to the Public Utilities Commission

The Hawai'i Energy Policy Forum ("Forum") an organization created in 2002, and comprised of 46 representatives from Hawaii's electric utilities, oil and natural gas suppliers, environment and community groups, renewable energy industry, and federal, state and local government, including the neighbor islands. Our vision, mission, and comprehensive "10 Point Action Plan" serves as our guide in advancing Hawai'i's preferred energy goals.

We urge your committee to consider favorably and pass the following two bills that are important to the proper and adequate funding of the Public Utilities Commission ("PUC"), an agency critical to the long-term future of energy self-sufficiency of the State and, ultimately, the well-being of the State. More specifically:

SB2948 SD1, if passed, would provide the PUC Chair with more direct (but still limited) control over agency operational expenditures and retention of personnel.

The PUC is tasked with developing and implementing many technically complex policy matters that affect every one of Hawaii's people on a day-to-day basis. As you are aware, legislation leaves many of the most difficult, sensitive, and technical determinations to the PUC for ultimate resolution and implementation. To successfully fulfill these challenging duties the PUC must have the needed resources, including sufficient and capable staff.

Since its inception, one unanimous concern of the Forum members is the need to revitalize the Public Utilities Commission (PUC) and the Division of Consumer Advocacy (DCA). Revitalization of these important regulatory agencies is essential in order to implement progressive energy policies. In addition to regulating utility expenditures of approximately \$4 billion dollars annually, the PUC is tasked with developing and implementing many technically complex policy matters that affect every one of Hawaii's people on a day-to-day basis. As you are aware, legislation leaves many of the most difficult, sensitive and technical determinations to the PUC for ultimate resolution and implementation. To successfully fulfill these challenging duties the PUC must have the needed resources, including sufficient and capable staff.

The PUC faces exceptional challenges in recruiting and maintaining the specialized staff needed to provide the unique nexus of technical, economic, policy, and legal expertise necessary for enlightened energy regulation. The Forum has formally recognized this as the single most important need to ensure effective implementation of progressive energy policy. For these reasons the PUC Chair must be given the authority to manage the administrative functions efficiently, promptly and effectively to meet the needs of the agency and the public it serves.



COLLEGE OF SOCIAL SCIENCES

HAWAII ENERGY POLICY FORUM

UNIVERSITY OF HAWAI'I AT MĀNOA

Hawaii Energy Policy Forum

Jeanne Schultz Afuvai, HI Inst. for Public Affairs
Joseph Boivin, Hawai'i Gas
Warren Bollmeier, HI Renewable Energy Alliance
Albert Chee, Chevron
Elizabeth Cole, The Kohala Center
Leslie Cole-Brooks, HI Solar Energy Assn
Kyle Datta, Ulupono Initiative
Laura Dierenfield, Queen Lili'uokalani Trust
Mitch Ewan, UH HI Natural Energy Institute
Jay Fidell, ThinkTech HI, Inc.
Carl Freedman, Haiku Design & Analysis
Sen. Mike Gabbard, HI State Senate
Dan Giovanni, Hawaiian Electric Company
Mark Glick, State Energy Office, DBEDT
Justin Gruenstein, City & Co. of Honolulu
Dale Hahn, Ofc of US Sen Brian Schatz
Michael Hamnett, Research Corp. of the UH
Robert Harris, Sierra Club
Rachel James, Ofc of US Rep. Tulsi Gabbard
Jim Kelly, Kaua'i Island Utility Cooperative
Darren Kimura, Energy Industries
Kelly King, Sustainable Biodiesel Alliance
Kal Kobayashi, Maui County Energy Ofc
Rep Chris Lee, HI House of Representatives
Gladys Marrone, Building Industry Assn of HI
Doug McLeod, Maui County
Stephen Meder, UH Facilities and Planning
Lauren Montez-Hernandez, Ofc of Sen Mazie Hirono
Hermia Morita, Public Utilities Commission
Sharon Moriwaki, UH So. Sci. Public Policy Ctr
Ron Nelson, U.S. Defense Energy Support Center
Tim O'Connell, U.S. Dept of Agriculture
Jeffrey Ono, Division of Consumer Advocacy, DCCA
Darren Pai, Hawaiian Electric Company
Wintehn KT Park, Ofc of US Rep. Colleen Hanabusa
Melissa Pavlicek, Hawaii Public Policy Advocates
Randy Perreira, HI Government Employees Assn
Rick Rocheleau, UH HI Natural Energy Institute
Will Rolston, Hawai'i County
Riley Saito, SunPower Systems Corp
Joelle Simonpietri, U.S. Pacific Com. Energy Ofc
H. Ray Starling, Hawai'i Energy
Ben Sullivan, Kaua'i County
Lance Tanaka, Hawaii Independent Energy, LLC
Maria Tome, Public Utilities Commission
Ah Linn Yamane, HI Government Employees Assn

The PUC is funded through the Public Utilities Commission Special Fund (PUC Special Fund) which derives its revenues from fees that are ultimately charged to Hawaii's public utility customers. The Forum notes that the PUC Special Fund is paid for by utility customers for adequate regulation of public utilities. The clear priority in managing and allocating revenues from this fund should be adequate and effective funding of the PUC and DCA, the two agencies with the responsibility to ensure that utility expenditures and the resulting rates charged to utility customers are reasonable and in the public interest.

The Forum also notes that adequate and efficient funding of the PUC and DCA is clearly cost effective for the State of Hawaii. It simply does not make sense to hobble the effectiveness of agencies tasked with oversight and gatekeeping responsibilities over expenditures of \$4 billion annually. The adage "penny-wise and pound-foolish" applies here, except with a lot more zeroes and several commas.

SB 2948 SD1 would remove a hindrance in the effective funding and management of the PUC.

Based on the foregoing, the Hawaii Energy Policy Forum strongly supports SB2948 SD1 and respectfully urges your passage of this Bill.

The Forum therefore SUPPORTS SB 2948 SD1.

Thank you for the opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organizations



Directors

Jody Allione
Silver Ridge

Joe Boivin
Hawaii Gas

Kelly King
Pacific Biodiesel

Warren S. Bollmeier II
WSB-Hawaii

TESTIMONY OF WARREN BOLLMEIER ON BEHALF OF THE
HAWAII RENEWABLE ENERGY ALLIANCE BEFORE THE
HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

SB 2948 SD1, RELATING TO THE PUBLIC UTILITY COMMISSION

March 10, 2014

Chair McElvey, Vice-Chair Kawakami, and members of the Committee, I am Warren Bollmeier, testifying on behalf of the Hawaii Renewable Energy Alliance (“HREA”). HREA is an industry-based, nonprofit corporation in Hawaii established in 1995. Our mission is to support, through education and advocacy, the use of renewables for a sustainable, energy-efficient, environmentally-friendly, economically- sound future for Hawaii. One of our goals is to support appropriate policy changes in state and local government, the Public Utilities Commission and the electric utilities to encourage increased use of renewables in Hawaii.

The purpose of SB 2948 SD1 is to clarify the authority of the chairperson of the public utilities commission concerning operational expenditures and the hiring and retention of agency personnel

HREA **strongly supports** this measure as it will allow the Commission to be more efficient and effective in its operation.

.
Mahalo for this opportunity to testify.



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

MARCH 10, 2014
2:00 p.m.

MEASURE: S.B. No. 2948, S.D. 1
TITLE: Relating to the Public Utilities Commission

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure proposes to clarify the authority of the Chairperson of the Public Utilities Commission (“Commission”) concerning the hiring of personnel and operational expenditures. The bill contains an effective date of July 1, 2050.

POSITION:

The Commission requests that the Legislature advance language similar to S.B. No. 451, S.D. 1 in place of this bill, and a proposed House Draft with preferred language is provided for the Committee’s consideration. The Commission also offers the following comments for the Committee’s consideration.

COMMENTS:

The Commission appreciates the Legislature’s recognition of the major transition that the Commission is currently undergoing due to increased workload complexity and added mandated programs, particularly in the area of energy regulation. To fulfill its increased responsibilities, recent discussions between key legislators and the administration have resulted in a proposed move or transfer of the Commission from being administratively attached to the Department of Budget and Finance (“BUF”) to the Department of Commerce and Consumer Affairs. In support of such a transition, the Director of BUF stated:

Attaching agencies to departments for administrative purposes is more than a matter of assigning paper-pushing duties. Where an agency is attached – even if for administrative purposes – reflects upon the strategic nature and purpose of that agency within the entire organization. Also, it must be recognized that administering departments have varying capabilities and functional philosophies that are, first and foremost, driven by that department’s primary function within the state organization. Having the Public Utilities Commission (PUC) situated in [BUF] although statutorily stated for administrative purposes – means that the PUC is subject to some level of administrative direction largely

driven by matters and issues that are foremost related to financial management of the state, departments, or operations of [BUF].¹

As mentioned earlier, the attached proposed House Draft reflects the most recent discussions between the Commission and affected agencies held in order to accomplish the legislative intent of making the Commission a semi-autonomous agency.

Thank you for the opportunity to testify on this measure.

¹Testimony of Kalbert K. Young, Director, Department of Budget and Finance of the State of Hawaii to the Senate Committees on Commerce and Consumer Protection and Ways and Means on Senate Bill No. 451, Proposed S.D. 1, Relating to the Public Utilities Commission, February 26, 2014.

S.B. NO. 2948/S.B. NO. 451
[PUC Proposed H.D. 1]

A BILL FOR AN ACT

RELATING TO THE PUBLIC UTILITIES COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the public utilities
2 commission is undergoing a major transition due to increased
3 work complexity and program responsibilities, particularly in
4 the area of energy regulation. To ensure that the mission of
5 the public utilities commission is adequately supported, the
6 commission should be transferred from an administratively
7 attached agency of the department of budget and finance to an
8 administratively attached agency of the department of commerce
9 and consumer affairs, which can provide the commission with the
10 additional administrative support and resources it needs.

11 The legislature further finds that the duties and workload
12 of the chair and commissioners have significantly increased in
13 recent years in a rapidly changing regulatory environment. The
14 legislature finds an increase in compensation will ensure that
15 the salaries of the chair and commissioners remain competitive
16 with other states' public utilities commissions.

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 The legislature additionally finds that the chair of the
2 commission is in need of an executive officer to assist with
3 managing the operations of the commission. Hiring of an
4 executive officer to oversee the management and recruitment of
5 personnel, budget planning and implementation, strategic
6 planning and implementation, procurement and contract
7 administration, and implementation of administrative programs
8 and projects will enable the chair of the commission to focus on
9 the growing number and increasingly technical complexity of
10 issues brought before the commission. Also, to further support
11 the commission in achieving its transition to a semi-autonomous
12 agency, this measure renames the commission's chief
13 administrator as the commission's fiscal officer and it further
14 enables the commission to establish a personnel officer
15 position.

16 The legislature also finds that the division of consumer
17 advocacy of the department of commerce and consumer affairs
18 protects and advances the interests of Hawaii's consumers of
19 regulated public utilities. The executive director and staff
20 members of the division of consumer advocacy attend public
21 hearings held by the public utilities commission to get input
22 from the public, which helps them to better understand the

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 consumer's perspective on utility services and rates. Because
2 this understanding is an integral part of the division's work,
3 the legislature concludes that the executive director of the
4 division of consumer advocacy, rather than the director of
5 commerce and consumer affairs, should be the consumer advocate
6 in hearings before the public utilities commission.

7 The purpose of this Act is to adequately support the
8 mission of the public utilities commission, ensure the efficient
9 operation of the public utilities commission, and ensure
10 important decisions relating to public utilities continue to be
11 made in the public interest by:

- 12 (1) Specifying that the public utilities commission is a
13 semi-autonomous agency of the State to be transferred
14 from the department of budget and finance and
15 assigned, for administrative purposes only, to the
16 department of commerce and consumer affairs;
- 17 (2) Increasing the compensation of the chair and
18 commissioners of the public utilities commission;
- 19 (3) Clarifying the public utilities commission's authority
20 concerning standard administrative practices,
21 including operational expenditures and the hiring of
22 personnel, notwithstanding section 26-35;

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

- 1 (4) Enabling the chair of the public utilities commission
2 to appoint, employ, and dismiss an executive officer
3 to assist with managing the operations of the
4 commission;
- 5 (5) Amending the position of commission chief
6 administrator under section 269-3 to be retitled as
7 the commission's fiscal officer to support the
8 administrative activities of the commission;
- 9 (6) Enabling the chair of the public utilities commission
10 to appoint, employ, and dismiss a personnel officer to
11 further support the administrative activities of the
12 commission;
- 13 (7) Specifying that the executive director of the division
14 of consumer advocacy, rather than the director of
15 commerce and consumer affairs, shall be the consumer
16 advocate in hearings before the public utilities
17 commission; and
- 18 (8) Appropriating funds to assist with the transition of
19 the public utilities commission and for the hiring of
20 an executive officer and a personnel officer within
21 the public utilities commission.

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 SECTION 2. Section 26-8, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) The [~~employees~~] employees' retirement system as
4 constituted by chapter 88 is placed within the department of
5 budget and finance for administrative purposes. The functions,
6 duties, and powers, subject to the administrative control of the
7 director of finance, and the composition of the board of
8 trustees of the employees retirement system shall be as
9 heretofore provided by law.

10 [~~The public utilities commission is placed within the~~
11 ~~department of budget and finance for administrative purposes~~
12 ~~only.~~]"

13 SECTION 3. Section 26-9, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) The board of acupuncture, board of public
16 accountancy, board of barbering and cosmetology, boxing
17 commission, board of chiropractic examiners, contractors license
18 board, board of dental examiners, board of electricians and
19 plumbers, elevator mechanics licensing board, board of
20 professional engineers, architects, surveyors, and landscape
21 architects, board of massage therapy, Hawaii medical board,
22 motor vehicle industry licensing board, motor vehicle repair

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 industry board, board of naturopathic medicine, board of
2 nursing, board of examiners in optometry, pest control board,
3 board of pharmacy, board of physical therapy, board of
4 psychology, board of private detectives and guards, real estate
5 commission, board of veterinary examiners, board of speech
6 pathology and audiology, and any board, commission, program, or
7 entity created pursuant to or specified by statute in
8 furtherance of the purpose of this section including but not
9 limited to section 26H-4, or chapters 484, 514A, 514B, and 514E
10 shall be placed within the department of commerce and consumer
11 affairs for administrative purposes.

12 The public utilities commission shall be a semi-autonomous
13 agency of the State that shall be assigned, for administrative
14 purposes only, to the department of commerce and consumer
15 affairs."

16 SECTION 4. Section 269-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§269-2 Public utilities commission; number, appointment**
19 **of commissioners, qualifications; compensation; persons having**
20 **interest in public utilities[-]; semi-autonomous agency;**

21 **authority.** (a) There shall be a public utilities commission of
22 three members, to be called commissioners, and who shall be

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 appointed in the manner prescribed in section 26-34, except as
2 otherwise provided in this section. All members shall be
3 appointed for terms of six years each, except that the terms of
4 the members first appointed shall be for two, four, and six
5 years, respectively, as designated by the governor at the time
6 of appointment. The governor shall designate a member to be
7 chairperson of the commission. Each member shall hold office
8 until the member's successor is appointed and qualified.

9 Section 26-34 shall not apply insofar as it relates to the
10 number of terms and consecutive number of years a member can
11 serve on the commission; provided that no member shall serve
12 more than twelve consecutive years.

13 In appointing commissioners, the governor shall select
14 persons who have had experience in accounting, business,
15 engineering, government, finance, law, or other similar fields.
16 The commissioners shall devote full time to their duties as
17 members of the commission and no commissioner shall hold any
18 other public office or other employment during the
19 commissioner's term of office. No person owning any stock or
20 bonds of any public utility corporation, or having any interest
21 in, or deriving any remuneration from, any public utility shall
22 be appointed a commissioner.

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 (b) Effective July 1, [~~2005~~⁷] 2014, the chairperson of the
2 commission shall be paid a salary set at [~~eighty-seven~~]
3 _____ per cent of the salary of the director of human
4 resources development, and each of the other commissioners shall
5 be paid a salary equal to [~~ninety-five~~] _____ per cent of
6 the chairperson's salary. The commissioners shall be exempt
7 from chapters 76 and 89 but shall be members of the state
8 employees retirement system and shall be eligible to receive the
9 benefits of any state or federal employee benefit program
10 generally applicable to officers and employees of the State,
11 including those under chapter 87A.

12 (c) The commission [~~is placed within the department of~~
13 ~~budget and finance for administrative purposes.~~] shall be a
14 semi-autonomous agency of the State and shall be assigned, for
15 administrative purposes only, to the department of commerce and
16 consumer affairs. The department of commerce and consumer
17 affairs shall not direct or exert authority over the day to day
18 operations or functions of the commission, except with respect
19 to administrative support services provided to the commission
20 pursuant to this chapter.

21 (d) Notwithstanding section 26-35(a)(5) to the contrary,
22 the commission's operational expenditures, such as the purchase

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 of supplies, equipment, furniture, dues and subscriptions,
2 travel, consultant services, and staff training shall be
3 determined by the chairperson and may be delegated to the
4 executive officer appointed and employed pursuant to section
5 269-3; provided that such expenditures shall be subject to all
6 applicable procurement laws and procedures.

7 (e) Notwithstanding section 26-35(a)(6) to the contrary,
8 the utilization, allocation, renovation, or other use of space
9 or spaces to be occupied by the commission shall be determined
10 by the chairperson and may be delegated to the executive officer
11 appointed and employed pursuant to section 269-3.

12 (f) With respect to determinations made under subsection
13 (d) or subsection (e) by the chairperson or the executive
14 officer as delegated by the chairperson, the director of
15 commerce and consumer affairs may review such decisions for
16 completeness and for compliance and conformance with applicable
17 administrative processes and procedures of the department of
18 commerce and consumer affairs."

19 SECTION 5. Section 269-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 **"§269-3 Employment of assistants.** (a) The chairperson of
22 the public utilities commission may appoint and employ

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 professional staff and other assistants for the public utilities
2 commission as the chairperson finds necessary for the
3 performance of the commission's functions and define their
4 powers and duties. Notwithstanding section 26-35(a)(4) to the
5 contrary and subject to applicable personnel laws, the
6 employment, appointment, applicable salary schedules, promotion,
7 transfer, demotion, discharge, and job descriptions of all
8 officers and employees of or under the jurisdiction of the
9 commission shall be determined by the chairperson and may be
10 delegated to the executive officer appointed and employed
11 pursuant to this subsection; provided that determinations
12 concerning personnel matters made by the chairperson or the
13 executive officer, as delegated by the chairperson, may be
14 reviewed for completeness and for compliance and conformance
15 with applicable administrative processes and procedures of the
16 department of commerce and consumer affairs. The chairperson
17 may appoint and, at pleasure, dismiss a fiscal officer, a
18 personnel officer, and attorneys as may be necessary, and who
19 shall be exempt from chapter 76. The chairperson may also
20 appoint other staff with or without regard to chapter 76.

21 (b) The chairperson of the commission shall appoint,
22 employ, and dismiss, at pleasure, an executive officer who shall

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 be responsible for managing the operations of the commission.
2 The responsibilities of the executive officer shall include
3 management and recruitment of personnel, budget planning and
4 implementation, strategic planning and implementation,
5 procurement and contract administration, and implementation of
6 administrative programs and projects. The executive officer
7 shall be exempt from chapter 76.

8 ~~[(b)]~~ (c) Notwithstanding section 91-13, the commission
9 may consult with its assistants appointed under authority of
10 this section in any contested case or agency hearing concerning
11 any issue of facts. Neither the commission nor any of its
12 assistants shall in such proceeding consult with any other
13 person or party except upon notice and an opportunity for all
14 parties to participate, save to the extent required for the
15 disposition of ex parte matters authorized by law."

16 SECTION 6. Section 269-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§269-5 Annual report and register of orders.** The public
19 utilities commission shall prepare and present to the governor~~[7~~
20 ~~through the director of finance,~~] in the month of January in
21 each year a report respecting its actions during the preceding
22 fiscal year. This report shall include summary information and

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 analytical, comparative, and trend data concerning major
2 regulatory issues acted upon and pending before the commission;
3 cases processed by the commission, including their dispositions;
4 utility company operations, capital improvements, and rates;
5 utility company performance in terms of efficiency and quality
6 of services rendered; financing orders issued, adjustments made
7 to the public benefits fee, and repayments or credits provided
8 to electric utility customers pursuant to part X or chapter 196,
9 part IV; a summary of power purchase agreements, including
10 pricing, in effect during the fiscal year; environmental matters
11 having a significant impact upon public utilities; actions of
12 the federal government affecting the regulation of public
13 utilities in Hawaii; long and short-range plans and objectives
14 of the commission; together with the commission's
15 recommendations respecting legislation and other matters
16 requiring executive and legislative consideration. Copies of
17 the annual reports shall be furnished by the governor to the
18 legislature. In addition, the commission shall establish and
19 maintain a register of all its orders and decisions, which shall
20 be open and readily available for public inspection, and no
21 order or decision of the commission shall take effect until it
22 is filed and recorded in this register."

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 SECTION 7. Section 269-33, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read:

3 "(a) There is established in the state treasury a public
4 utilities commission special fund to be administered by the
5 public utilities commission. The proceeds of the fund shall be
6 used by the public utilities commission and the division of
7 consumer advocacy of the department of commerce and consumer
8 affairs for all expenses incurred in the administration of
9 chapters 269, 271, 271G, 269E, and 486J, and administrative
10 supporting costs incurred by the department of commerce and
11 consumer affairs to which the public utilities commission is
12 administratively attached; provided that the expenditures of the
13 public utilities commission shall be in accordance with
14 legislative appropriations. On a quarterly basis, an amount not
15 exceeding thirty per cent of the proceeds remaining in the fund
16 after the deduction for central service expenses, pursuant to
17 section 36-27, shall be allocated by the public utilities
18 commission to the division of consumer advocacy and deposited in
19 the compliance resolution fund established pursuant to section
20 26-9(o); provided that all moneys allocated by the public
21 utilities commission from the fund to the division of consumer

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 advocacy shall be in accordance with legislative
2 appropriations."

3 SECTION 8. Section 269-51, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§269-51 Consumer advocate; [~~director of commerce and~~**
6 **~~consumer affairs.~~] executive director of the division of**
7 **consumer advocacy of the department of commerce and consumer**
8 **affairs.** The [~~director~~] executive director of the division of
9 consumer advocacy of the department of commerce and consumer
10 affairs shall be the consumer advocate in hearings before the
11 public utilities commission. The consumer advocate shall
12 represent, protect, and advance the interests of all consumers,
13 including small businesses, of utility services. The consumer
14 advocate shall not receive any salary in addition to the salary
15 received as [~~director~~] executive director of the division of
16 consumer advocacy of the department of commerce and consumer
17 affairs.

18 The responsibility for advocating the interests of the
19 consumer of utility services shall be separate and distinct from
20 the responsibilities of the public utilities commission and
21 those assistants employed by the commission. As consumer
22 advocate, the [~~director~~] executive director of the division of

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 consumer advocacy of the department of commerce and consumer
2 affairs shall have full rights to participate as a party in
3 interest in all proceedings before the public utilities
4 commission."

5 SECTION 9. Section 269-52, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§269-52 Division of consumer advocacy; personnel.** There
8 shall be a division of consumer advocacy within the department
9 of commerce and consumer affairs [~~to provide administrative~~
10 ~~support to the director of commerce and consumer affairs acting~~
11 ~~in the capacity of consumer advocate. The director may employ~~
12 ~~and at pleasure dismiss an executive administrator, who shall be~~
13 ~~exempt from chapter 76, may define the executive administrator's~~
14 ~~powers and duties, and fix the executive administrator's~~
15 ~~compensation]~~. The division of consumer advocacy shall be under
16 the supervision and control of an executive director who shall
17 be known as the consumer advocate. The director of commerce and
18 consumer affairs shall appoint the executive director, who shall
19 be exempt from chapter 76, and fix the executive director's
20 compensation. The [director] executive director shall be
21 responsible for the performance of the duties imposed upon the
22 division and, as the consumer advocate, may employ engineers,

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 accountants, investigators, clerks, and stenographers as may be
2 necessary for the performance of the consumer advocate's
3 functions, in accordance with chapter 76; provided that:

- 4 (1) The [~~director~~] executive director may employ up to ten
5 utility analysts exempt from chapter 76; and
6 (2) Each analyst shall possess at least the minimum
7 qualifications required of comparable experts in the
8 relevant industry."

9 SECTION 10. Section 269-53, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§269-53 Legal counsel.** The [~~director~~] executive director
12 may appoint or retain, without regard to chapter 76, attorneys
13 to provide legal services for the division of consumer advocacy.
14 Nothing in this section precludes the [~~director~~] executive
15 director of the division of consumer advocacy of the department
16 of commerce and consumer affairs from requesting and securing
17 legal services from the attorney general and the department of
18 the attorney general."

19 SECTION 11. There is appropriated out of the public
20 utilities commission special fund established pursuant to
21 section 269-33 the sum of \$ _____ or so much thereof as may
22 be necessary for fiscal year 2014-2015 to effectuate the

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 transfer of the public utilities commission from the department
2 of budget and finance to the department of commerce and consumer
3 affairs, to enable the chairperson of the public utilities
4 commission to appoint and employ an executive officer who shall
5 be responsible for managing the operations of the public
6 utilities commission, and to enable the chairperson of the
7 public utilities commission to appoint and employ a personnel
8 officer to support the administrative activities of the
9 commission.

10 The sum appropriated shall be expended by the public
11 utilities commission for the purposes of this Act.

12 SECTION 12. (a) No later than July 1, 2015, all rights,
13 powers, functions, and duties of the department of budget and
14 finance as they relate to the public utilities commission are
15 transferred to the department of commerce and consumer affairs.

16 (b) All officers and employees whose functions are
17 transferred by this Act shall be transferred with their
18 functions and shall continue to perform their regular duties
19 upon their transfer, subject to the state personnel laws and
20 this Act.

21 No officer or employee of the State having tenure shall
22 suffer any loss of salary, seniority, prior service credit,

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 vacation, sick leave, or other employee benefit or privilege as
2 a consequence of this Act, and such officer or employee may be
3 transferred or appointed to a civil service position without the
4 necessity of examination; provided that the officer or employee
5 possesses the minimum qualifications for the position to which
6 transferred or appointed; and provided that subsequent changes
7 in status may be made pursuant to applicable civil service and
8 compensation laws.

9 An officer or employee of the State who does not have
10 tenure and who may be transferred or appointed to a civil
11 service position as a consequence of this Act shall become a
12 civil service employee without the loss of salary, seniority,
13 prior service credit, vacation, sick leave, or other employee
14 benefits or privileges and without the necessity of examination;
15 provided that such officer or employee possesses the minimum
16 qualifications for the position to which transferred or
17 appointed.

18 If an office or position held by an officer or employee
19 having tenure is abolished, the officer or employee shall not
20 thereby be separated from public employment, but shall remain in
21 the employment of the State with the same pay and classification
22 and shall be transferred to some other office or position for

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 which the officer or employee is eligible under the personnel
2 laws of the State as determined by the head of the department or
3 the governor.

4 SECTION 13. All commissioners serving on the public
5 utilities commission on the date prior to the effective date of
6 this Act shall continue as members of the public utilities
7 commission and their terms shall be unaffected by this Act.

8 SECTION 14. All appropriations, records, equipment,
9 machines, files, supplies, contracts, books, papers, documents,
10 maps, and other personal property heretofore made, used,
11 acquired, or held by the department of budget and finance
12 relating to the functions transferred to the department of
13 commerce and consumer affairs shall be transferred with the
14 functions to which they relate.

15 SECTION 15. All rules, policies, procedures, guidelines,
16 general orders, and other material adopted or developed by the
17 public utilities commission as an administratively attached
18 agency of the department of budget and finance, to implement
19 chapters 269, 269E, 271, 271G, 486H, and 486J, Hawaii Revised
20 Statutes, that are reenacted or made applicable to the public
21 utilities commission as an administratively attached agency of
22 the department of commerce and consumer affairs by this Act

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 shall remain in full force and effect until amended or repealed
2 by the public utilities commission pursuant to chapter 91,
3 Hawaii Revised Statutes. In the interim, every reference to the
4 department of budget and finance or director of finance in those
5 rules, policies, procedures, guidelines, and other material is
6 amended to refer to the department of commerce and consumer
7 affairs or director of commerce and consumer affairs, as
8 appropriate.

9 SECTION 16. All deeds, leases, contracts, loans,
10 agreements, permits, or other documents executed or entered into
11 by or on behalf of the public utilities commission transferred
12 or placed for administrative purposes within the department of
13 commerce and consumer affairs shall remain in full force and
14 effect.

15 SECTION 17. All relocation cost or expenses associated
16 with transferring the public utilities commission to the
17 department of commerce and consumer affairs shall be borne by
18 the appropriations allocation to the public utilities commission
19 or the department of commerce and consumer affairs with no
20 liabilities or liens arising from such relocation activity
21 accruing to the department of budget and finance.

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

1 SECTION 18. There shall be a transition period to
2 facilitate the transfer of the public utilities commission from
3 the department of budget and finance to the department of
4 commerce and consumer affairs. The year following July 1, 2014,
5 shall serve as a transition period, in which the state agencies
6 affected by this Act shall assist the chairperson in
7 implementing the transfer under this Act. Once the transfer is
8 completed, the department of commerce and consumer affairs shall
9 provide public notice that the transfer is completed in a
10 printed publication or electronic format that is accessible
11 statewide.

12 SECTION 19. The provisions of this Act are to be liberally
13 construed to effectuate its purpose.

14 SECTION 20. All Acts passed by the legislature during the
15 regular session of 2014, whether enacted before or after the
16 effective date of this Act, shall be amended to conform to this
17 Act unless such acts specifically provide that this Act is being
18 amended.

19 SECTION 21. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 22. This Act shall take effect on July 1, 2050.

S.B. NO. 2948/S.B. NO. 451

[PUC Proposed H.D. 1]

Report Title:

Public Utilities Commission; Transfer of Attached Agency; Compensation; Personnel; Authority; Expenditures; Division of Consumer Advocacy; Appropriation

Description:

Specifies that the public utilities commission is a semi-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. Increases the compensation of the chair and commissioners of the public utilities commission. Clarifies the public utilities commission's authority concerning standard administrative practices, including operational expenditures and the hiring of personnel. Enables the chair of the public utilities commission to appoint, employ, and dismiss an executive officer and personnel officer to assist with managing the operations of the commission. Retitles the public utilities commission's chief administrator position as fiscal officer. Specifies that the executive director of the division of consumer advocacy shall be the consumer advocate in hearings before the public utilities commission. Appropriates funds for the transfer of the public utilities commission and for the hiring of an executive officer and personnel officer within the public utilities commission. Effective 07/01/2050. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

LATE



LIFE OF THE LAND

P.O. Box 37158, Honolulu, Hawai`i 96837-0158
Phone: 927-0709; E: henry.lifeoftheland@gmail.com

COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Derek S.K. Kawakami, Vice Chair

Monday, March 10, 2014

2:00 PM

Conference Room 325

SB 2682 SD1 Financial Disclosure

SB 2948 SD1 PUC Budget and Personnel

SUPPORT

SUPPORT

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

To handle the vast and complex world of energy policy the Public Utilities Commission (PUC) must have the resources to handle the job. They must be able to hire professionals with specialized expertise.

In order for the public to accept that the PUC is working in the public interest, there must be accountability and transparency.

SB 2948 gives the PUC the authority and the flexibility needed to do their job.

SB 2682 increases the public trust in the regulatory decision making process.

Please pass both bills.

Mahalo.

SB 2948 SD1: *“Hawaii is modernizing its entire energy system at an unprecedented pace. The public utilities commission often finds itself on the cutting edge in terms of addressing technical and regulatory issues related to the State's energy transition. Therefore, the State must continue to invest in the public utilities commission staff to manage the growing number, and increasingly technical complexity, of issues brought before the commission to ensure these important decisions are made in the public interest.*

The legislature additionally finds that emphasis must be placed on the quality, rather than the quantity, of professional staff of the public utilities commission, as well as the creation of a competitive salary structure to attract and retain a highly competent staff.

The purpose of this Act is to clarify the authority of the chairperson of the public utilities commission concerning operational expenditures and the hiring and retention of agency personnel.”

The Hawaii State Ethics Commission testified in favor of SB 2682

“Currently, almost 1,800 state employees and members of state boards and commissions are required to file annual financial disclosure statements with the Commission. Of those, approximately 180 employees’ disclosures are deemed to be public records, which the Commission makes available through its website. The other approximately 1,600 employees’ disclosures are, by law, confidential and available only to the Commission.

Because of the sheer volume of filings, the Commission’s finite resources, and the Commission’s limited knowledge about the employees, their official duties, and their financial interests, the Commission’s ability to identify potential conflicts of interest is very limited and, frankly, except in rare circumstances, unlikely.

For that reason, the Commission generally supports more public disclosure.

Members of the public, especially those who are involved with and may be impacted by the board or commission member’s action, are best able to identify and raise concerns about possible conflicts of interest.”