

HB 1384, HD2

RE: RELATING TO ENERGY

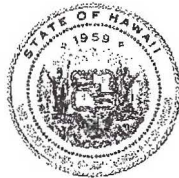
TESTIMONY

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lieutenant Governor

LUIS P. SALAVERIA  
Director

MARY ALICE EVANS  
Deputy Director



**LAND USE COMMISSION**  
Department of Business, Economic Development & Tourism  
State of Hawai'i

DANIEL E. ORODENKER  
Executive Officer

Bert K. Saruwatari  
Planner

SCOTT A.K. DERRICKSON AICP  
Planner

RILEY K. HAKODA  
Chief Clerk/Planner

FRED A. TALON  
Drafting Technician

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Statement of  
**Daniel E. Orodener**  
**Executive Officer**  
Land Use Commission

Before the  
**Senate Committee on Transportation and Energy**  
**Senate Committee on Economic Development, Environment, and Technology**  
**and**  
**Senate Committee on Commerce, Consumer Protection, and Health**  
March 22, 2016  
3:30 PM  
State Capitol, Conference Room 229

In consideration of  
**HB 1384 HD2**  
**RELATING TO ENERGY**

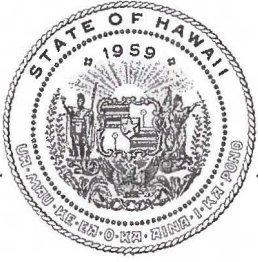
Chairs Inouye, Wakai, and Baker; Vice Chairs Gabbard, Slom, and Kidani; and members of the Committee on Transportation and Energy; Committee on Economic Development, Environment, and Technology; and, Committee on Commerce, Consumer Protection, and Health:

The Land Use Commission (LUC) has concerns with HB 1384 HD2 as currently written which would require a review by the LUC for any wind turbine projects over 100 kilowatts capacity submitted under Chapter 201N, Hawai'i Revised Statutes (HRS) in the voluntary Renewable Energy Facility Siting Process as a permit plan application.

Currently, there are minimal conditions under which the LUC would review and regulate wind energy facilities under Chapter 205, HRS. Wind projects on State Conservation District lands would be regulated by the Department of Land and Natural Resources. Wind projects within the State Urban District would be regulated by ordinances within the relevant county. While wind energy facilities are considered a permissible use within the State Agricultural District under Sections 205-2(d)(4) and 205-4.5(15), HRS, they would also be regulated by ordinances within the relevant county. The only condition under which the LUC, in conjunction with the relevant county, would review and regulate such uses would be within the State Rural District, where a State Special Permit may be required.

The LUC would defer to the State Energy Coordinator and the State Office of Planning (OP) whose agencies generally review such projects for compliance with applicable statutes and rules.

Thank you for the opportunity to testify on this matter.



**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

DAVID Y. IGE  
GOVERNOR

LUIS P. SALAVERIA  
DIRECTOR

MARY ALICE EVANS  
DEPUTY DIRECTOR

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Statement of  
**LUIS P. SALAVERIA**  
Director  
Department of Business, Economic Development, and Tourism  
before the  
**SENATE COMMITTEES ON  
TRANSPORTATION AND ENERGY**  
And  
**ECONOMIC DEVELOPMENT, ENVIRONMENT, AND TECHNOLOGY**  
And  
**COMMERCE, CONSUMER PROTECTION, AND HEALTH**

Tuesday, March 22, 2016  
3:30 p.m.  
State Capitol, Conference Room 229

in consideration of  
**HB 1384, HD2**  
**RELATING TO ENERGY.**

Chairs Inouye, Wakai, and Baker, Vice Chairs Gabbard, Slom, and Kidani, and Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) offers comments on HB 1384, HD2, which requires additional Land Use Commission (LUC) review for permit plan applications for wind turbines with over 100 kilowatt capacity and located within  $\frac{3}{4}$  of a mile of residential, school, hospital, or business property lines. This measure also requires the LUC, in coordination with the Energy Resources Coordinator, to review the permit plan application for any wind turbine subject to H.R.S. §201N. HD2 changes the effective date of this measure to July 1, 2030, to facilitate further discussion, and makes technical, non-substantive amendments for the purposes of clarity, consistency, and style.

Consistent with our State energy policy directive of balancing technical, economic, environmental, and cultural considerations, DBEDT recognizes that the proximity of utility scale wind turbines to populated areas is a key consideration. However, addressing this issue through the voluntary Renewable Energy Facility Siting Process under H.R.S. §201N will have minimal

effect, since H.R.S. §201N is only applicable to only those projects that choose to opt into the program. Furthermore, DBEDT's Report to the 2015 Legislature on H.R.S. §201N concluded that the Renewable Energy Facility Siting Process is no longer relevant to fulfilling Hawaii's Clean Energy Initiative goals and should be ultimately repealed.<sup>1</sup>

DBEDT also notes that it currently lacks the necessary expertise and staffing to assess the potential impacts of wind turbines on the community. Should this measure move forward, then DBEDT would respectfully request additional resources beyond its current budget to implement this measure.

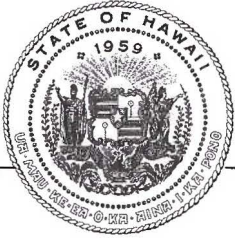
DBEDT defers to the LUC, the State Office of Planning, and other appropriate agencies regarding the provisions of this measure impacting the permitting of wind turbines.

Thank you for the opportunity to offer these comments regarding HB 1384, HD2.

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<sup>1</sup> *Renewable Energy Facilitation Activities & the Renewable Energy Facility Siting Process*, Periodic Report to the Legislature, In Accordance with Act 208, Session Laws of Hawaii, 2008 (December 2014).





**OFFICE OF PLANNING  
STATE OF HAWAII**

DAVID Y. IGE  
GOVERNOR

LEO R. ASUNCION  
DIRECTOR  
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Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEES ON TRANSPORTATION AND ENERGY;  
ECONOMIC DEVELOPMENT, ENVIRONMENT, AND TECHNOLOGY; AND  
COMMERCE, CONSUMER PROTECTION, AND HEALTH**  
Tuesday, March 22, 2016  
3:30 PM  
State Capitol, Conference Room 229

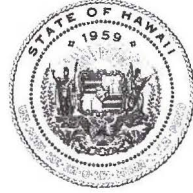
in consideration of  
**HB 1384, HD 2**  
**RELATING TO ENERGY.**

Chairs Inouye, Wakai, and Baker, Vice Chairs Gabbard, Slom, and Kidani, and Members of the Senate Committees on Transportation and Energy; Economic Development, Environment, and Technology; and Commerce, Consumer Protection, and Health.

The Office of Planning opposes HB 1384, HD 2 which requires additional Land Use Commission (LUC) review for permit plan applications for wind turbines over 100 kilowatt capacity and located within three-quarter mile of residential, school, hospital, or business property lines.

HB 1384, HD 2 essentially sets up a new permit review process for the LUC to administer along with the State Energy Coordinator. Such separate review specifically for wind turbine projects may not be needed or is not appropriate depending on the State Land Use District affected. In the Conservation District, the Board of Land and Natural Resources would review the project under its Conservation District Rules. The counties, and not the LUC, have regulatory jurisdiction over wind turbine uses within the Urban, Agricultural and Rural Districts.

Thank you for the opportunity to testify on this measure.



DAVID Y. IGE  
GOVERNOR  
  
SHAN S. TSUTSUI  
LT. GOVERNOR

STATE OF HAWAII  
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DIRECTOR  
  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON TRANSPORTATION AND ENERGY,  
ECONOMIC DEVELOPMENT, ENVIRONMENT, AND TECHNOLOGY,  
AND COMMERCE, CONSUMER PROTECTION, AND HEALTH

THE TWENTY-EIGHTH LEGISLATURE  
REGULAR SESSION OF 2016

TUESDAY, MARCH 22, 2016  
3:30 P.M.

TESTIMONY OF JEFFREY T. ONO, EXECUTIVE DIRECTOR, DIVISION OF  
CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER  
AFFAIRS, TO THE HONORABLE LORRAINE R. INOUE, CHAIR, GLENN WAKAI,  
CHAIR, AND ROSALYN H. BAKER, CHAIR  
AND MEMBERS OF THE COMMITTEES

HOUSE BILL NO. 1384, H.D. 2 - RELATING TO ENERGY

DESCRIPTION:

This measure proposes to require additional Land Use Commission review for permit plan applications for wind turbines with over 100 kilowatt capacity and located within three-quarters of a mile of residential, school, hospital, or business property lines.

POSITION:

The Division of Consumer Advocacy offers comments to this bill.

House Bill No. 1384, H.D. 2

Senate Committee on Transportation and Energy

Senate Committee on Economic Development, Environment, and Technology

Senate Committee on Commerce, Consumer Protection, and Health

Tuesday, March 22, 2016, 3:30 p.m.

Page 2

COMMENTS:

The Consumer Advocate questions whether this bill may create the unintended consequence of pushing wind farms to the neighbor islands where there is less population density compared to Oahu. By creating a buffer zone of three-quarters of a mile that will trigger an additional Land Use Commission review may result in fewer wind projects being proposed and developed on Oahu with a greater push toward projects proposed on the neighbor islands where it may be easier for developers to find sites that fall outside the three-quarters of a mile buffer zone. It is also not clear what other possible impacts this bill would have on renewable energy development generally in the State by adding additional regulatory steps to the development of wind energy projects alone.

The Consumer Advocate also questions whether the three-quarters of a mile buffer zone, if approved, is an appropriate general standard to trigger additional review of wind projects over 100 kilowatt capacity regardless of the size of the wind turbine. First, it is not clear whether the proposed three-quarters of a mile distance is appropriate or represents an accepted practice for wind development that should be adopted by the State. Second, the Consumer Advocate questions whether the three-quarters of a mile buffer should apply equally to all wind turbines when the impacts of wind turbines of varying size may not be equal. The largest on-land wind turbines are approximately 440 feet from the base to the tip of the blade at its apex. The Hawi wind farm on Hawaii Island, for example, uses wind turbines that are significantly shorter at approximately 220 feet. Thus, the basis for creating a "one size fits all" buffer is not clear.

Thank you for this opportunity to testify.





Email: [communications@ulupono.com](mailto:communications@ulupono.com)

SENATE COMMITTEES ON TRANSPORTATION & ENERGY, ECONOMIC DEVELOPMENT,  
ENVIRONMENT, & TECHNOLOGY, AND COMMERCE, CONSUMER PROTECTION, & HEALTH  
Tuesday, March 22, 2016 — 3:30 p.m. — Room 229

**Ulupono Initiative Strongly Opposes HB 1384 HD 2, Relating to Energy**

Dear Chair Inouye, Vice Chair Gabbard, Chair Wakai, Vice Chair Slom, Chair Baker, Vice Chair Kidani, and Members of the Committees:

My name is Murray Clay and I am Managing Partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and reduce waste. We believe that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

**Ulupono strongly opposes HB 1384 HD 2**, which requires additional Land Use Commission (LUC) review for wind turbine projects, because it hinders our goal of increasing the production of clean, renewable energy in Hawai'i.

Most of Hawai'i's energy production is due to imported fossil fuels. Meanwhile, we are blessed that we have locations capable of producing wind power. Additional reviews for wind turbines would unnecessarily delay and increase costs for renewable energy projects, which are ultimately passed along to the ratepayer. We believe wind turbines are a safe, environmental, and economical method to reduce our imported fossil fuel usage and make Hawai'i more energy self-sufficient. Therefore, this bill, if passed, would hurt our ability to produce clean renewable wind power and further keep us locked into imported fossil fuels.

As Hawai'i's energy issues become more complex and challenging, we hope these committees' would consider policies that support renewable energy production.

Thank you for this opportunity to testify.

Respectfully,

Murray Clay  
Managing Partner

*Investing in a Sustainable Hawai'i*

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TESTIMONY OF TAWHIRI POWER LLC  
ON HB 1384, HD 2  
BEFORE THE SENATE COMMITTEE ON TRANSPORTATION AND ENERGY;  
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, ENVIRONMENT,  
AND TECHNOLOGY; AND  
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TUESDAY, MARCH 21, 2016 AT 3:30 p.m.

TO THE HONORABLE CHAIRS INOUYE, WAKAI, AND BAKER, AND  
MEMBERS OF THE COMMITTEES:

Tawhiri Power LLC (“TPL”)<sup>1</sup> is an advent supporter of renewable energy, especially wind energy, in Hawaii. Therefore, TPL opposes HB1384, HD2 because it makes the siting of wind energy projects in Hawaii more difficult by making wind developers have to overcome yet another review process; this time from the land use commission. One of the unintended consequences of this additional review will result in the prolonging of Hawaii’s dependency on foreign oil and high electricity rates.

This bill, if passed, should be amended to exempt developers that had leases or fee lands for possible wind development prior to July 1, 2015.

Thank you for the opportunity to testify.

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<sup>1</sup> TPL is an Independent Power Producer (“IPP”) that owns and operates Pakini Nui Wind Farm located in the South Point Area on the Island of Hawaii. The Pakini Nui plant generates renewable energy that is sold to the Hawaii Electric Light Company, Inc. pursuant to a Power Purchase Agreement.



**Testimony to the Senate Committee on Transportation & Energy, Committee on Economic Development, Environment, & Technology, and Committee on Commerce, Consumer Protection, & Health  
Tuesday, March 22, 2016 at 3:30 P.M.  
Conference Room 229, State Capitol**

**RE: HOUSE BILL 1384 HD 2 RELATING TO ENERGY**

Chairs Inouye, Wakai, and Baker, Vice Chairs Gabbard, Slom, and Kidani, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") **opposes** HB 1384 HD 2, which requires additional Land Use Commission review for permit plan applications for wind turbines with over 100 kilowatt capacity and located within three-quarters of a mile of residential, school, hospital, or business property lines.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The bill proposes to amend chapter 201N HRS which deals with renewable energy facilities. Chapter 201N-5 and 201N-6 HRS already provides that when the coordinator accepts a permit plan application for a renewable energy facility that requires state or county permits, the coordinator shall facilitate the timely processing of the permit plan with the state or county agency or agencies responsible for approving, monitoring, and enforcing the terms and conditions of the permit in accordance with the permit plan.

As proposed the bill would add the Land Use Commission as another layer of government approvals. It would appear redundant and unnecessary considering any wind turbine facility would trigger approvals from a state or county entity as a part of the land use entitle process. We see no benefit in adding the LUC to this approval process especially if the State is serious in moving toward more sustainable energy sources.

We appreciate the opportunity to express our opposition of H.B. 1384 HD 2.



**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, March 18, 2016 3:05 PM  
**To:** TRE Testimony  
**Cc:** blee@ulupono.com  
**Subject:** \*Submitted testimony for HB1384 on Mar 22, 2016 15:30PM\*

**HB1384**

Submitted on: 3/18/2016

Testimony for TRE/EET/CPH on Mar 22, 2016 15:30PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brandon Lee	Ulupono Initiative	Oppose	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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