



Written Comments

**HB1504, HD1
RELATING TO ENERGY**

Comments by the Legislative Reference Bureau
Charlotte A. Carter-Yamauchi, Acting Director

Presented to the House Committee on Consumer Protection and Commerce

Wednesday, February 18, 2015, 3:00 p.m.
Conference Room 325

Chair McKelvey and Members of the Committee:

Good afternoon Chair McKelvey and members of the Committee, my name is Charlotte Carter-Yamauchi and I am the Acting Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on H.B. No. 1504, H.D. 1, Relating to Energy.

The general purpose of this bill is to require the Bureau to conduct a study to assess and compare Hawaii's for-profit energy utilities with specific publicly owned energy utilities in the United States. The bill also appropriates funds to conduct the study and mandates that the Bureau submit its findings to the Legislature no later than twenty days prior to the convening of the 2016 Regular Session.

The specific purpose of the bill is to require the Bureau to examine the energy utilities in: Kauai, Hawaii; Boulder, Colorado; Sacramento, California; Long Island, New York; and any other energy utility the Bureau deems appropriate, to:

- (1) Compare the different organizational models of publicly-owned energy utilities with that of the electric utilities of Hawaiian Electric Industries, Inc., with respect to elements that include but are not limited to: ownership structure, relation to ratepayers, operating and rate costs to taxpayers or ratepayers, energy generation sources, and incentives to achieve renewable energy goals; and
- (2) Review the process by which any of these foregoing energy utilities converted to a municipally-owned or cooperative organizational structure and to the extent possible, assess the benefits and problems associated with the conversion, including an analysis of related procedural and legal issues.

Honorable Angus L. K. McKelvey
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The Legislative Reference Bureau takes no position on this measure, but believes that the services requested under this measure, as currently drafted, are manageable and that the Bureau will be able to provide the services in the time allotted; provided that the Bureau's interim workload is not adversely impacted by too many other studies or additional responsibilities, such as conducting, writing, or finalizing other reports, drafting legislation, or both, for other state agencies, task forces, or working groups that may be requested or required under other legislative measures.

Thank you again for this opportunity to provide written comments.



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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Wednesday, February 18, 2015
3:00 p.m.
State Capitol, Conference Room 325

in consideration of
HB 1504, HD1
RELATING TO ENERGY.

Chair McKelvey, Vice Chair Woodsen, and Members of the Committee.

The Department of Business, Economic Development & Tourism (DBEDT) respectfully offers comments on HB 1504, HD1 which directs the Legislative Reference Bureau to conduct a study to compare the pros and cons of Hawaii's current for-profit utility models with a public utility model.

Given that the PUC will be reviewing whether or not the acquisition of HECO by NextEra will be in the public's interest, any report effectively looking at alternatives to such a merger should be coordinated with the PUC process.

It may also be appropriate to introduce into SECTION 2 language which acknowledges any difference in compliance requirements imposed on those utilities either through legislation or regulation. Transparency of any structural differences that may affect costs of environmental compliance are crucial in making an equitable comparison of various structures for publically-owned and for-profit utilities. For example, structural differences in utility model design may result in variations in cost and performance for qualifying sources for renewable energy and Renewable Energy Credits (RECs) and fulfillment of portfolio standards.

Thank you for the opportunity to offer these comments regarding HB 1504, HD1.



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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
CONSUMER PROTECTION AND COMMERCE
February 18, 2015; 3:00 P.M.

HOUSE BILL 1504
RELATING TO ENERGY

Chair McKelvey, Vice-Chair Woodson, and members of the committee, thank you for the opportunity to submit testimony on HB1504.

The State Procurement Office (SPO) understands the intent of this bill, but opposes Section 2(b) wherein an exemption from the Hawaii Public Procurement Code (HRS 103D) would be granted to the Legislative Reference Bureau for any contracts for services in support of the energy utilities study specified in the bill.

The Code is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one transaction or entity should be exempt from compliance with HRS chapter 103D conveys a sense of disproportionate equality in the law's application.

Exemptions to the code mean that all procurements made with taxpayer monies within Section 2(b) of this Act, will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, the Legislative Reference Bureau can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means the Bureau is not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these

different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments.”

When public bodies, are removed from the state’s procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and more costly for the state and vendors.

As such, the SPO opposes the exemption from HRS 103D proposed in Section 2(b) of this Act and suggests the following amendment:

“(b) The legislative reference bureau may contract with another entity for services that may be required pursuant to this Act. Any contract for services executed pursuant to this Act shall be [~~exempt from~~] compliant with chapter 103D, Hawaii Revised Statutes.”

Thank you.