



HOUSE COMMITTEE ON FINANCE
The Honorable Sylvia Luke, Chair
The Honorable Ty J.K. Cullen, Vice Chair

S.B. No. 382, S.D. 2, H.D. 1, Relating to the Public Utilities Commission

Hearing: Friday, March 31, 2017, 2:00 p.m.

The Office of the Auditor has **no position** regarding S.B. No. 382, S.D. 2, H.D. 1, which, among other things, directs the Auditor to perform “a management audit to evaluate the efficiency and effectiveness of the Public Utilities Commission and aid in the commission's transition to a better functioning entity.” **However, we have concerns about our ability to conduct the management audit required in the bill.**

Specifically, Section 2 of the bill requires us to evaluate, as part of the audit, the following:

- (1) The appropriateness and applicability of current utility legislation;
- (2) Adequacy of current Public Utilities Commission (“PUC”) policies, rules, and procedures, including the commission's current strategic plan;
- (3) Management of the PUC in terms of providing technical and analytical staff support in case management and enforcement of the public utilities commission's rules; and
- (4) The effectiveness of the PUC in addressing telecommunications, energy, and other utility issues.

The areas that we are to specifically examine are beyond our expertise and, generally, outside the scope of a management audit. We suggest that the state energy office may be the more suitable agency to review the appropriateness of utility regulation and adequacy of PUC policies, rules, and procedures. Similarly, given our understanding of the state energy office’s resources, that agency seems to be better equipped to assess the PUC’s management of its technical and analytical staff and the PUC’s effectiveness in addressing issues involving regulated industries.

If the legislature intends that we conduct the audit, **we request an appropriation of not less than \$150,000** for us to retain a consultant who is versed in regulatory matters to assist us in assessing the PUC’s operations. We also are concerned that we may not be able to produce this report before the 2018 session, given that we must first procure the services of the consultant.

Thank you for considering our testimony related to the audit requested in S.B. No. 382, S.D. 2, H.D. 1.

TESTIMONY OF RANDY IWASE
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
FINANCE

March 31, 2017
2:00 p.m.

MEASURE: S.B. No. 382, S.D. 2, H.D. 1

TITLE: RELATING TO THE PUBLIC UTILITIES COMMISSION

Chair Luke and Members of the Committee:

DESCRIPTION:

This measure requires the State Auditor (“Auditor”) to conduct a management audit to evaluate the efficiency and effectiveness of the Public Utilities Commission (“Commission”).

POSITION:

In a previous hearing the Commission testified in support of S.C.R. No. 132, which similarly requested the Auditor to conduct a comprehensive management audit of the Commission. For the purpose of consistency, the Commission does not object to this measure as amended by the previous committee, which has limited the scope of S.B. 382 to a management audit of the Commission.

Thank you for the opportunity to testify on this measure.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association

March 31, 2017

**S.B. 382, S.D. 2, H.D. 1 - RELATING TO THE PUBLIC
UTILITIES COMMISSION**

The Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO supports the purpose and intent of S.B. 382, S.D. 2, H.D. 1, which requests a management audit of the Public Utilities Commission (PUC).

The PUC has a vital role in overseeing all of our state's public utilities, including electric, telephone, gas, sewer and more, each of which provides critical services that are essential to the public interest. Since there have been serious concerns raised in past management audits of the PUC, the timing of this requested audit is appropriate. A management audit would ensure the PUC, which receives State funding, operates responsibly and effectively.

Thank you for the opportunity to testify in support of S.B. 382, S.D. 2, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



Email: communications@ulupono.com

HOUSE COMMITTEE ON FINANCE
Friday, March 31, 2017 — 2:00 p.m. — Room 308

**Ulupono Initiative Supports with Comments SB 382 SD 2 HD 1 with Amendments,
Relating to the Public Utilities Commission**

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

My name is Kyle Datta and I am General 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. Ulupono believes 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 supports with comments SB 382 SD 2 HD 1, which updates the Public Utilities Commission structure and operations.

Ulupono supports the overall intent of this bill, which is to improve Public Utility Commission effectiveness and transparency. While we understand that a management audit can reveal opportunities for improvement, there are specific actions that were in SB 382 SD 2 that can be taken now.

In particular, we support the restoring the sections from the SD 2 version of the bill that allow for video conferencing, require ethics disclosures by commissioners, provide absolute clarity regarding the appointment process for new commissioners, require all new commissioners to receive training in public utility regulation, and allow for per diem expenses for neighbor island commissioners. All of these provisions improve the transparency and the representativeness of this important regulatory body.

Ulupono applauds the legislature for taking on Public Utilities Commission reform. Thank you for this opportunity to testify.

Respectfully,

Kyle Datta
General Partner

Investing in a Sustainable Hawai'i

Testimony of Hermina M. Morita
House Committee on Finance
Senate Bill 382, SD2, HD1 - Relating to the Public Utilities Commission
Friday, March 31, 2017, 2:00 p.m. Agenda #1

Aloha Chair Luke and Members of the Committee:

Thank you for the opportunity to submit testimony on an important piece of legislation affecting the Public Utilities Commission (PUC) whose decisions affects every person and business throughout the State of Hawaii and also has a huge effect on Hawaii's business climate. I strongly support a management audit of the PUC as it is essential that the structure and operations of the PUC be updated to enable the commission to operate more efficiently and effectively, consistent with best practices.

Hawaii's electricity system is in the midst of a systemic overhaul in a need to upgrade and modernize the most important public infrastructure on our islands, the electrical grid. The cost to upgrade and impact on the electricity customer will not be insignificant. The Hawaiian Electric Companies' Power System Improvement Plan indicate that the net present value of the revenue requirements in the 2045 scenarios (meeting the 100% state mandated renewable portfolio standard) range from **\$24.9 billion to \$26.5 billion**. The costs of **grid modernization**, ending fossil fuel use, and aggressive deployment of low-cost intermittent renewables will move customer bills higher in the near term, therefore, a well-resourced and knowledgeable PUC and Division of Consumer Advocacy to lead and navigate through this transition and transformation is critical to ensure prudent investments to mitigate cost impacts and performance during this disruptive period.

Efforts to restructure and modernize the PUC is not a new issue. In 1975 the Legislative Auditor conducted a management audit of the public utilities program. Given the workload and complexity of issues before the PUC, in 1976 the PUC statutes were given a major overhaul, moving from a 5-member, part-time representative based PUC to a 3-member, full-time expert based PUC.

In a 2004 Management Audit, the Legislative Auditor reported, in part, the following:

We found that the commission and the division did not have strategic plans to guide their respective agencies. More importantly, neither agency had a vision of Hawaii's utility regulatory future and its role in that process. Without a vision and corresponding plans to achieve it, the commission and the division trudge through daily operational work mired in process and individual case details. Core deficiencies result from a lack of vision and plans.

In 1975 and 1989, we conducted management audits of the commission and found planning and organization deficiencies. Since that time—nearly 30 and 15 years ago—neither agency has planned strategies to correct the deficiencies and many of the same serious problems persist.

My predecessor, and during my tenure at the PUC, we both continued to address many issues pointed out in the 2003 Hawaii Energy Policy Forum's Hawaii Energy Utility Regulation and Taxation Report and the 2004 Management Audit by the Legislative Auditor. Now, more than 10 years later, I believe an audit is due to gauge any improvement and the progress made or not. I believe a management audit will also help to better define roles and responsibilities touched on in Section 4 and staff resources and responsibilities in Section 5 in earlier Senate drafts of the bill.

While the management audit is critical, I believe there are some other immediate issues covered in the Senate drafts that should be considered for two reasons (1) to give guidance to the Auditor of the Legislature's expectations for the PUC while conducting the management audit (guiding principles of the PUC in the Senate draft) and (2) the need to broaden the pool so not to exclude potential neighbor island residents as potential candidates for Commissioner.

Guiding principles for the PUC - While many may mistakenly view the PUC as a part of the executive branch, the PUC is a creature of the legislative branch, formed by statute and granted its powers and authority by the legislature over 100 years ago. Clearly stated guiding principles help to articulate the legislature's expectations of the PUC - as an agency and secondly, to guide the conduct of each individual commissioner and the PUC's staff. Now more than ever, each commissioner and each professional staff member must be fully qualified and engaged. To be blunt, the PUC cannot be a parking lot for individuals seeking to pad their state retirement or as patronage positions. There is too much important work to be done on many, very complex issues to keep essential services affordable, reliant and resilient as technological advancements in all regulated sectors are causing major disruption at a very fast pace and costly infrastructure upgrades must be made and new business models considered.

In 2010, regulatory expert Scott Hempling wrote an essay to Governors and Legislators on appointing excellent regulators (link to the essay: <http://www.scotthemplinglaw.com/essays/letter-to-governors>). The following paragraph captures the ten-dimensional job of a regulator, its complexity and the changing role of the PUC:

. . . Utility regulation used to be straightforward. Utilities built infrastructure, sold products and services, proposed rate increases. Commissions approved projects and set rates. Their central aim was to protect customers from monopoly abuse—in the form of imprudent investments, inefficient operations, and undue discrimination against choiceless customers—while setting rates that gave investors a fair shot at a reasonable return.

Today's regulators do much more: They make markets, design programs, administer investment funds, incubate renewable energy industries, disseminate broadband, promote energy efficiency, protect critical infrastructure, and resolve stakeholder differences. They even act as political shields for governors and legislators paralyzed by the complexity of it all.

With all these demands, what does it take to excel at regulation? On a personal level, what must regulators be, and what must they do, to be effective? . . .

The pool of potential candidate for PUC commissioner needs to be expanded and broadened to allow for neighbor island candidates to be considered and the inclusion of economist as a qualifying profession. To ensure neighbor island participation some quick fixes are hearing attendance by teleconference or video conferencing and providing for per diem and travel expenses when in-person attendance is more beneficial. It should be noted that the PUC has neighbor island offices in which a neighbor island appointee can work from, therefore, some cost estimations provided by those opposed to the original bill may be overestimated.

As a former neighbor island commissioner who has spent tens of thousands of dollars in airfare, ground travel and accommodations in order to do my job on the island of Oahu while away from my home on Kauai, I strongly support the per diem allowance. As an island state, if it is the intent of the legislature to appoint the most qualified candidates statewide and to accomplish geographic, expertise and even gender diversity, a per diem allowance will help to mitigate the unfair financial burden placed on a neighbor island appointee to obtain the aforementioned objectives above.

The issue of appointing fully qualified commission-leaders and having a fully resourced and accountable PUC are critical to the success of Hawaii's clean energy future and in having well-

reasoned and timely decisions for other regulated sectors. More importantly, a well-functioning PUC is critical to Hawaii's economic viability, environmental sustainability and our quality of life. Legislators need to be assured that the important responsibilities and tasks delegated to the PUC can be accomplished with a clear understanding of the interplay between the roles and responsibilities of the commissioners, its staff, the regulated entities and the ratepayer/consumer. Furthermore, professionalism, trust and adequate resourcing are prerequisites to gain the public's confidence in the many critical decisions made by the PUC affecting essential services for Hawaii's residents and businesses. An audit and transparency are important tools to that endeavor.

Thank you for the opportunity to comment.

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