

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



SCOTT T. MURAKAMI
DIRECTOR

ANNE EUSTAQUIO
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
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February 3, 2020

The Honorable Nicole Lowen, Chair
Committee on Energy and Environmental Protection
House of Representatives
State Capitol, Room 425
Honolulu, Hawaii 96813

Dear Chair Lowen:

Subject: House Bill (HB) 2454 Relating to Critical Electrical Infrastructure

I am Manuel P. Neves, Chair of the Hawaii State Fire Council (SFC) and Fire Chief of the Honolulu Fire Department (HFD). The SFC and the HFD support HB 2454, which establishes the offense of criminal trespass on critical electrical infrastructure.

The HFD has responded to a number of incidents involving trespassing into critical electrical infrastructure facilities which have resulted in serious injury and, at least in one case, a fatality. The SFC believes HB 2454 will improve deterrence to similar incidents in the future and help protect Hawaii's critical electrical infrastructure.

Public safety and property protection are priorities of the SFC and the HFD, and HB 2454 helps to fulfill this objective.

The SFC and the HFD urge your committee's support on the passage of HB 2454.

Should you have questions, please contact SFC Administrative Specialist Lloyd Rogers at 723-7176 or lrogers@honolulu.gov.

Sincerely,

MANUEL P. NEVES
Chair

MPN/LR:gl



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2020**

ON THE FOLLOWING MEASURE:

H.B. NO. 2454, RELATING TO CRITICAL ELECTRICAL INFRASTRUCTURE.

BEFORE THE:

HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

DATE: Tuesday, February 4, 2020 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Clare E. Connors, Attorney General, or
Kory W. Young, Deputy Attorney General

Chair Lowen and Members of the Committee:

The Department of the Attorney General supports the bill, but would recommend the following amendments.

H.B. No. 2454 seeks to ensure the security of Hawaii's critical electrical infrastructure by making trespassing onto certain properties a class C felony.

The Department recommends the following wording for subsection (1) of the offense on page 12, line 13, through page 3, line 2:

- (1) A person commits the offense of criminal trespass on critical electrical infrastructure when:
- (a) The person intentionally enters or remains unlawfully on property of a critical electrical infrastructure with intent to commit therein a crime against a person or against property rights, and the property is fenced or enclosed in a manner designed to exclude intruders with posted warning signs; or
 - (b) The person intentionally, knowingly, or recklessly enters or remains unlawfully on property that belongs to a critical electrical infrastructure company.

The proposed changes would make the conduct prohibited by the bill clear, while eliminating the phrase “in the course of committing the offense.” As defined in the bill, “in the course of committing the offense” may result in a lack of clarity when presenting these cases at trial, as certain acts are likely to constitute both the offense itself, and fall within the definition of “in the course of committing the offense.”

The Department would also recommend that the bill be amended to add an additional subsection:

“(4) Entering or remaining unlawfully on the premises of a critical electrical infrastructure shall constitute prima facie evidence of a person’s intention to commit thereupon a crime against a person or against property rights.”

Creating this presumption would greatly increase the efficacy of the bill, and better address the concerns articulated in section 1. Without this presumption, the State may not be able to prove beyond a reasonable doubt, that trespassers who are caught within a critical electrical infrastructure, intended to commit a crime against a person or property rights, unless the crime has already occurred.

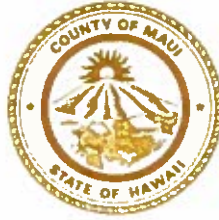
In instances where the trespasser had an innocent reason for entering or remaining upon the premises of the critical electrical infrastructure, the trespasser could present testimony and/or evidence to rebut the presumption. In these cases, the bill could provide that persons determined to have been trespassing on the premises of a critical electrical infrastructure, but who were found not have the intent to commit a crime thereupon, would be guilty of a misdemeanor.

Thank you for the opportunity to provide comments on the bill.

MICHAEL P. VICTORINO
Mayor

DAVID C. THYNE
Fire Chief

BRADFORD K. VENTURA
Deputy Fire Chief



DEPARTMENT OF FIRE & PUBLIC SAFETY
COUNTY OF MAUI
200 DAIRY ROAD
KAHULUI, HI 96732

January 31, 2020

The Honorable Nicole Lowen, Chair
Committee on Energy and Environmental Protection
House of Representatives
State Capitol, Room 425
Honolulu, HI 96813

Dear Chair Lowen,

SUBJECT: House Bill (HB) 2454 Relating to Critical Electrical Infrastructure

I am David C. Thyne, member of the Hawaii State Fire Council (SFC) and Fire Chief of the Maui Fire Department (MFD). The SFC and MFD support HB 2454, which establishes the offense of criminal trespass on critical electrical infrastructure.

The Honolulu Fire Department (HFD) has responded to a number of incidents involving trespassing into critical electrical infrastructure facilities which have resulted in serious injury and at least in one case, a fatality. The SFC believes HB 2454 will improve deterrence to similar incidents in the future and help protect Hawaii's critical electrical infrastructure.

Public safety and property protection are priorities of the SFC and MFD, and HB 2454 helps fulfill this objective.

The SFC and MFD urge your committee's support on the passage of HB 2454. Should you have any questions, please contact SFC Administrative Specialist Lloyd Rogers at (808) 723-7176 or lrogers@honolulu.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Thyne".

DAVID C. THYNE
Fire Chief



KAUA'I FIRE DEPARTMENT
THE COUNTY OF KAUA'I

DEREK S. K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

ROBERT F. WESTERMAN
FIRE CHIEF

Testimony of Robert F. Westerman
Fire Chief, Kaua'i Fire Department

Before the
Committee on Energy and Environmental Protection
February 4, 2020; 8:30 am
Conference Room 325

In consideration of
House Bill 2454
Relating to Critical Electrical Infrastructure

Honorable Chair Lowen, Vice Chair Wildberger, and Members of the Committee:

The State Fire Council (SFC) and the Kaua'i Fire Department (KFD) **support** HB 2454, which establishes the offense of criminal trespass on critical electrical infrastructure.

The Honolulu Fire Department has responded to a number of incidents involving trespassing into critical electrical infrastructure facilities which have resulted in serious injury and at least in one case, a fatality. The SFC believes HB 2454 will improve deterrence to similar incidents in the future and help protect Hawaii's critical electrical infrastructure.

Public safety and property protection are priorities of the SFC and the KFD, and HB 2454 helps fulfill this objective.

The SFC and the KFD urge your committee's support on the passage of HB 2454.

Should you have questions, please contact KFD Fire Prevention Captain Darryl Date at 241-4982 or ddate@kauai.gov.

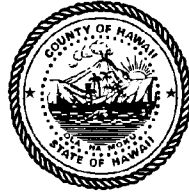
Sincerely,

Robert F. Westerman
Fire Chief

RFW/DD:st



Harry Kim
Mayor



Darren J. Rosario
Fire Chief

Lance S. Uchida
Deputy Fire Chief

County of Hawai'i
HAWAI'I FIRE DEPARTMENT
25 Aupuni Street • Suite 2501 • Hilo, Hawai'i 96720
(808) 932-2900 • Fax (808) 932-2928

February 3, 2020

The Nicole Lowen, Chair
Committee on Energy and Environmental Protection
House of Representatives
State Capitol, Room 425
Honolulu, Hawai'i 96813

Dear Chair Lowen:

**Subject: H.B. 2454, RELATING TO CRITICAL ELECTRICAL
INFRASTRUCTURE**
Hearing Date: Tuesday, February 4, 2020
Time/Place of Hearing: 8:30 a.m., Conference Room 325

I am Darren J. Rosario, Vice Chairman of the Hawai'i State Fire Council (SFC) and Fire Chief of the Hawai'i Fire Department of the County of Hawai'i (HCFD). The SFC and the HCFD support HB 1756, which establishes the offense of criminal trespass on critical electrical infrastructure.

Over the course of my career with the Hawai'i Fire Department, I have responded to incidents at the Puna Geothermal Venture power plant location due to illegal trespassing and vandalism.

On behalf of the Hawai'i Fire Department, I support the written testimony being submitted by State Fire Council Chair Manuel Neves in its entirety.

The SFC and the HCFD respectfully request your passage of HB 2454.

Please do not hesitate to call me at 932-2903 or darren.rosario@hawaiicounty.gov should you have any questions. Thank you for the opportunity to provide testimony in support.

Respectfully,

A handwritten signature in black ink, appearing to read "Darren".

DARREN J. ROSARIO
Fire Chief





**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
ENERGY & ENVIRONMENTAL PROTECTION**

H.B. 2454

Relating to Critical Electrical Infrastructure

Tuesday, February 4, 2020
8:30 a.m., Agenda Item #8
State Capitol, Conference Room 325

Cary Okimoto
Security Supervisor
Hawaiian Electric Company, Inc.

Chair Lowen, Vice Chair Wildberger, and Members of the Committee,

My name is Cary Okimoto and I am testifying on behalf of Hawaiian Electric Company, Inc. (Hawaiian Electric) in **support of H.B. 2454**, Relating to Critical Electrical Infrastructure. The purpose for this bill is to protect the public and electric utility employees from the serious dangers associated with compromised electrical infrastructure and to ensure the resilience of the electric grid that residents, businesses and others rely on for the delivery of safe, clean and reliable electricity.

Under the current law, existing trespass laws do not provide a proportionate level of protection for such a critical and essential resource. Currently, if an individual is convicted of Criminal Trespass in the First Degree (708-813), he or she may receive up to a year in jail and/or pay a fine of up to \$1,000, which is not enough of a deterrent. Hawaiian Electric's secured facilities, many of which are high-voltage and dangerous environments, are compromised on a regular basis, and while we have implemented tools to deter such activity, including but not limited to, securing our facilities with fencing and installing cameras and signage, these tools are not sufficient in deterring

trespassing of our critical facilities. Hawaiian Electric believes with increased penalties – it would be a stronger deterrent to those who unlawfully access Hawaiian Electric properties and intentionally or knowingly commit acts of vandalism or theft in pursuit of personal gain or benefit. The impact and duration of a major electrical outage caused by those individuals could last for days or even months. The outages caused by trespassers result in immeasurable costs to our State’s residents, businesses and military partners.

Accordingly, Hawaiian Electric strongly supports H.B. 2454. Thank you for this opportunity to testify.