



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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Testimony of SCOTT J. GLENN, Chief Energy Officer

before the
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Wednesday, February 23, 2022

2:00 PM

State Capitol, Conference Room 325 & Videoconference

COMMENTS HB 2042, HD1 RELATING TO SOLAR ENERGY

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments on HB 2042, HD1 which permits the governing body of a county to create, by ordinance, a process for the recordation and enforcement of solar easements; allows counties to require individuals claiming a solar right to record that right by filing a declaration with the county clerk; permits the governing body of a county to require, by ordinance, the trimming of vegetation that blocks solar radiation from solar energy devices; and authorizes the ordinance to include a designation for the cost of trimming.

HSEO notes that because easements affect title to real property, some states such as [California](#), [Florida](#), [Montana](#), and [Massachusetts](#) provide a mechanism for private property owners to enter into solar easements via a voluntary means. Typically, the easements are created in writing and recorded in the same manner as any other instrument affecting title to real property.¹

¹ Solar easements in the municipalities reviewed have included items such as those contained in the [Florida statute](#):

- 1) a description of the affected properties;
- 2) the vertical and horizontal angles expressed in degrees at which the solar easement extends over the real property subject to the solar easement;
- 3) a description of where the easement falls across the burden property in relation to existing boundaries and various setbacks established by the local zoning authority;
- 4) the point on the dominant property from where the angles describing the solar easement are to be measured;
- 5) terms or conditions under which the solar easement is granted or will terminate;
- 6) any provisions for compensation of the owner of the property benefiting from the solar easement or compensation of the owner of the property subject to the solar easement for maintaining the solar easement; and
- 7) any special conditions or "grandfathering" of existing buildings (FL) or trees and shrubs planted prior to the installation of the solar energy system ([California](#)).

Attached is a list of other jurisdictions' regulatory policies having to do with solar access. Although HSEO has not closely reviewed the policies, this information resource may be of interest to the Committee and the counties.

HSEO defers to the counties on matters pertaining to the implementation, designation of cost responsibilities, and enforcement of any proposed ordinance.

HSEO's testimony is guided by its mission to promote energy efficiency, renewable energy, and clean transportation to help achieve a resilient, clean energy, decarbonized economy.

Thank you for the opportunity to testify.

Attachment to testimony

[Database of State Incentives for Renewable Energy](#)

Results from the DSIRE database, accessed 2/12/2022.

61 programs matched these filters:

Category: Regulatory Policy
Technology: Solar Photovoltaics
Program Type: Solar/Wind Access Policy



Ctrl-click on the name to see more.

Name	State	Created
Alaska Solar Easements	AK	1/1/2000
Arizona Solar Rights	AZ	1/1/2000
California Solar Rights Act	CA	1/1/2000
California Solar Easement and the Solar Shade Control Act	CA	1/1/2000
City of Santa Cruz - Solar Access Ordinance	CA	8/11/2004
City of Sebastopol - Solar Access	CA	8/11/2004
City of Sacramento - Solar Access Regulations	CA	1/1/2000
City of San Diego - Development Regulations	CA	1/1/2000
City of Boulder - Solar Access Ordinance	CO	2/2/2001
Colorado Solar/Wind Easements and Rights Law	CO	1/1/2000
Delaware Solar Rights Law	DE	7/10/2009
City of Gainesville - Public Facilities Landscaping Ordinances	FL	1/1/2000
Florida Solar Easement and Access Laws	FL	1/1/2000
Georgia Solar Easement Laws	GA	1/1/2000
Hawaii Solar Installation Rights	HI	1/1/2000
Iowa Solar Easement and Access Laws	IA	1/1/2000
Idaho Solar Easements & Access Laws	ID	1/1/2000
Illinois Solar and Wind Rights	IL	8/18/2010
Indiana Solar Easements & Rights Laws	IN	1/1/2000
Kansas Solar Easement Laws	KS	1/1/2000
Kentucky Solar Easements Laws	KY	1/1/2000
Louisiana Solar Rights	LA	6/30/2010
Massachusetts Solar Easements & Rights Laws	MA	1/1/2000
Maryland Solar Easements & Rights Laws	MD	1/1/2000
Maine Solar Easement Rights and Laws	ME	6/16/2009
City of Minneapolis - Solar Access and Easement Laws	MN	10/11/2016
Minnesota Solar/Wind Easement Law & Local Law Options	MN	1/1/2000
City of Kansas City - Solar Easements and Geothermal Access	MO	11/4/2014
Missouri Solar Easements & Rights Laws	MO	1/1/2000
Montana Solar and Wind Easements	MT	1/1/2000
Town of Chapel Hill - Land-Use Management Ordinances	NC	8/11/2004

North Carolina Solar Rights	NC	7/31/2007
North Dakota Solar/Wind Easements and Laws	ND	1/1/2000
Nebraska Solar and Wind Easements	NE	1/1/2000
New Hampshire - Solar Access Laws	NH	3/4/2011
New Jersey Solar Easement and Access Laws	NJ	9/20/2007
City of Albuquerque - Solar Easements and Rights Laws	NM	11/13/2014
New Mexico Solar Easements & Rights Laws	NM	1/1/2000
Nevada Solar and Wind Easement Laws	NV	1/1/2000
New York Solar Easements & Solar Rights Laws	NY	1/1/2000
Ohio Solar Easement Laws	OH	1/1/2000
Oklahoma Solar and Wind Access Law	OK	8/12/2014
City of Eugene - Solar Standards	OR	2/2/2001
City of Ashland - Solar Rights Ordinance	OR	7/11/2001
Oregon Solar and Wind Easements/Rights Laws	OR	1/1/2000
Portland - Solar Access Developer Guidelines	OR	2/2/2001
Rhode Island Solar Easement Laws	RI	1/1/2000
South Dakota Solar and Wind Easement Law	SD	2/15/2010
Tennessee Solar Easement and Access Laws	TN	1/1/2000
Texas Solar Rights	TX	6/24/2011
City of Austin - Zoning Code	TX	6/10/2011
Utah Solar Easement and Access Laws	UT	1/1/2000
Solar Easements	VA	5/15/2006
Solar Rights	VA	5/28/2008
U.S. Virgin Islands - Solar and Wind Easements & Rights Laws	VI	5/1/2005
Vermont Solar Rights Laws	VT	6/8/2009
Solar Easements & Rights Laws	WA	1/1/2000
City of Madison - Solar and Wind Access and Planning Laws	WI	1/1/2000
Wisconsin Solar and Wind Rights	WI	1/1/2000
West Virginia Solar Rights	WV	4/19/2012
Wyoming Solar Rights	WY	6/4/2020

HB-2042-HD-1

Submitted on: 2/20/2022 2:16:53 PM

Testimony for JHA on 2/23/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Scott Smart	Individual	Oppose	No

Comments:

Testimony on HB2042 HD1 heard by JHA 02/23/2022 testifier Scott Smart

I OPPOSE HB2042 HD1, specifically unnumbered section 2 which gives counties broad authority to take rights of enjoyment of private property with respect to growing and maintaining vegetation.

Providing shade in the form of vegetation such as trees is an important element in reducing costs for building air conditioning as well as enhancing the livability of outdoor space. While there is a provision for keeping pre-existing vegetation, there is no allowance for replacing existing vegetation which is a reasonable expectation.

If a landowner or tenant wants to install a solar collection facility they should purchase an easement as contemplated in section 1 from adjacent owners rather than allowing the counties to effectively take an easement.