

Honolulu, Hawaii

FEB 08

, 2024

RE: H.B. No. 2700
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committees on Water & Land and Consumer Protection & Commerce, to which was referred H.B. No. 2700 entitled:

"A BILL FOR AN ACT RELATING TO WILDFIRES,"

beg leave to report as follows:

The purpose of this measure is to establish the Hawaii Wildfire Relief Fund and Corporation to provide compensation for property damage resulting from a wildfire, regardless of cause.

Your Committees received testimony in support of this measure from Hawaiian Electric; Chamber of Commerce Hawaii; Democratic Party of Hawai'i; Maui Chamber of Commerce; Kapolei Chamber of Commerce; International Brotherhood of Electrical Workers Local 1260; Operating Engineers Local Union No. 3; and numerous individuals. Your Committees received testimony in opposition to this measure from the National Association of Mutual Insurance Companies; State Farm Mutual Automobile Insurance Company; and one individual. Your Committees received comments on this measure from the Office of the Governor; Department of Commerce and Consumer Affairs; Department of Budget and Finance; Public Utilities Commission; Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs; Insurance Division of the Department of Commerce and Consumer Affairs; Office of Administrative Hearings of the Department of Commerce and Consumer



Affairs; Kaua'i Chamber; Kaua'i Island Utility Cooperative; Ulupono Initiative; and Tax Foundation of Hawaii.

Your Committees find that when the cause of a wildfire is uncertain or contested, costly and protracted litigation ensues. Litigation regarding wildfire damages can impose massive costs on the State, counties, utilities, landowners, and other defendants that may be alleged to have contributed to catastrophic wildfires. Such costs can overwhelm these major institutions of the community, undermining their ability to make investments needed by Hawaii. Indeed, even the possibility of litigation regarding a future catastrophic wildfire can create a cloud of uncertainty that threatens to impair the ability of these entities to attract capital on reasonable terms--capital that is vital to make investments in wildfire prevention, among other priorities. Such an outcome harms everyone.

Your Committees further find that it is in the public interest to ensure that the threat of wildfires does not make investment in Hawaii's public utilities so financially risky that it becomes too costly or impossible for them to raise capital to implement vital plans, including plans to mitigate wildfire risk, and to provide safe, reliable, and affordable service to the people of the State. Your Committees also find that it serves the public good to avoid the costs of litigation arising out of catastrophic wildfires in order to protect Hawaii's economy and encourage investment in the State.

Your Committees also note strong concerns raised in testimony that this measure could transfer the burden of financial risk for property damage to a public utility's customers through rate increases. The "opt-out" process may create consumer confusion that could limit a consumer's ability to protect their legal rights. Your Committees also recognize that this measure could negatively impact an insurer's claims to be made whole in the event of loss from wildfires. This could have the unintended consequence of reducing the number of property insurers willing to participate in the Hawaii market. At the same time, your Committees note the request from many testifiers to move this measure forward to continue to work to address these concerns through future amendments.

Your Committees have amended this measure by:



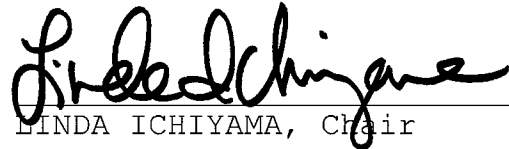
- (1) Making unspecified the minimum number of acres of land in Hawaii that private landowners, or whose affiliated persons or entities in the aggregate, must own in order to be eligible to participate in the Wildfire Relief Fund as a contributor;
- (2) Removing the distinction between investor-owned utilities and cooperative utilities with respect to whether their contributions may be recovered from their customers in rates and in the evaluation of the prudence of their conduct in the event a catastrophic wildfire may have been ignited by public-utility facilities;
- (3) Clarifying that the Wildfire Relief Fund is not subject to chapter 431, Hawaii Revised Statutes;
- (4) Prohibiting a public utility from recovering its contributions from its customers in rates;
- (5) Clarifying the factors to be considered in determining the prudence of a public utility's conduct in the event a catastrophic wildfire may have been ignited by the public utility's facilities;
- (6) Modifying the procedures for hearings and appeals of determinations with respect to:
 - (A) The Wildfire Relief Fund Administrator's determination of the amount of payment due from the Wildfire Relief Fund to a property owner, property insurer, the State, or other governmental entity; or
 - (B) The Wildfire Relief Fund Board of Directors' determination of a contributor's allocation for any contribution;
- (7) Changing its effective date to July 1, 3000, to encourage further discussion; and
- (8) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.



As affirmed by the records of votes of the members of your Committees on Water & Land and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2700, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2700, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committees on Water & Land and
Consumer Protection & Commerce,

for 
MARK M. NAKASHIMA, Chair


LINDA ICHIYAMA, Chair



