

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

Senate Committee on Judiciary

February 27, 2024

10:00 a.m.

State Capitol, Conference Room 016 and Videoconference

With Comments

Senate Bill No. 2997, SD1, Relating to Public Utilities

Chair Rhoads, Vice Chair Gabbard, and Members of the Senate Committee on Judiciary:

The Office of the Governor offers the following comments on S.B. No. 2997, SD1, Relating to Public Utilities.

The Maui wildfire resulted in unbearable loss of lives, homes, infrastructure, and businesses. This tragic event is a wake-up call that due to climate changes, the risk of catastrophic wildfires, along with other natural disasters in Hawaii has increased.

S.B. No. 2997, SD1 would require each electric utility to have a risk-based wildfire protection plan, which shall be filed and approved by the Public Utilities Commission (PUC). While the Office of the Governor supports the intent of this measure, we would respectfully ask that the Legislature considers the wildfire risk mitigation model as outlined in S.B. No. 3096, SD1, Relating to Wildfire Risk Mitigation.

We need to ensure wildfire mitigation and prevention policies and plans are adopted by the State, but we need to also find reasonable ways to finance these improvements and investments. Through the securitization model that is proposed in S.B. No. 3096, SD1, resources will be available to address wildfire risk mitigation in a manner that should have a minimal impact on utility customers' electricity bills.

The Governor is keenly aware of our state's high electrical rates and the impact that it has on all of our residents. But, the wildfires were a stark and harsh signal to our state that we need to do more to protect against disasters like wildfires. The Office of the Governor supports S.B. No. 3096, SD1, to create a process for wildfire plan protection and mitigation that must be approved by the PUC. Once approved, the PUC would also then have the ability to review a request for securitization financing. Utility rate securitization transactions have an extensive track record of success. Bonds securitized by rates receive AAA credit ratings from credit

Testimony of Office of the Governor
S.B. No. 2997, SD1
February 27, 2024
Page 2

rating agencies and thus provide a means of securing capital at a lower interest rate than those currently available to utilities, in particular utilities without an investment grade credit rating.

Thank you very much for the opportunity to provide testimony on this measure.

TESTIMONY OF
LEODOLOFF R. ASUNCION, JR.
CHAIR, PUBLIC UTILITIES COMMISSION
STATE OF HAWAII

TO THE
SENATE COMMITTEE ON JUDICIARY

February 27, 2024
10:00 a.m.

Chair Rhoads, Vice Chair Gabbard, and Members of the Committee:

MEASURE: S.B. No. 2997 SD1

TITLE: RELATING TO PUBLIC UTILITIES.

DESCRIPTION: Requires each electric utility to have a risk-based wildfire protection plan, which shall be filed with and approved by the Public Utilities Commission. (SD1)

POSITION:

The Public Utilities Commission (“Commission”) offers the following comments for consideration.

COMMENTS:

The Commission appreciates the intent of this measure to require that electric utilities operate in accordance with a wildfire protection plan and to enable community participation in the development of the plan. The Commission understands the importance of reducing the likelihood and impact of wildfires across the State and is committed to supporting such efforts.

The Commission observes that the SD1 of this measure appears to delete many components of the original bill, including a description of wildfire protection plan contents, cost recovery for development, implementation, administration of the plan, and the section that would protect electric utilities from liability.

The Commission further notes that it has testified in support of S.B. 3096 and companion measure H.B. 2407, which also require electric utilities to develop and submit wildfire protection plans to the Commission for approval. The Commission continues to support the approach provided in these measures, which would allow for effective development of plans and appropriate cost recovery mechanisms for electric utilities.

Thank you for the opportunity to testify on this measure.



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JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Judiciary
Tuesday, February 27, 2024
10:00 a.m.
Conference Room 016

On the following measure:
S.B. 2997, S.D. 1, RELATING TO PUBLIC UTILITIES

WRITTEN TESTIMONY ONLY

Chair Rhoads and Members of the Committee:

My name is Michael Angelo, and I am the Executive Director of the Department of Commerce and Consumer Affairs (Department) Division of Consumer Advocacy. The Department offer comments on this bill.

The purpose of this bill is to require each electric utility to have a risk-based wildfire protection plan, which shall be filed with and approved by the Public Utilities Commission (Commission).

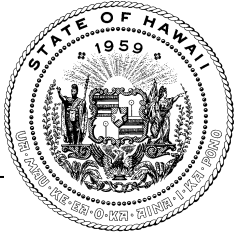
The tragedy and devastation of the wildfires that arose on Maui during the August 8, 2023 windstorm must be prevented from reoccurring. The Department strongly supports encouraging electric utilities to proactively manage their wildfire risk by requiring them to develop and regularly update their wildfire protection plans.

This Senate Draft 1 (SD1) version of the bill replaced the previous proposed processes and structures with a succinct requirement for each electric utility to file a

risk-based wildfire protection plan for Commission approval. Therefore, the Department appreciates how this SD1, provides a succinct requirement, without potential liability shields and fire protection fees and does not create the same financial hazards for utility ratepayers that the Department was concerned with in the original version.

The Department also highlights the importance of developing and actions to prevent wildfires along with mitigating the risks from other hazards like high winds and flooding, and public utilities other than electric utilities could also benefit from risk-based natural hazards protection plans. On November 21, 2023, the Commission issued Order No. 40396, opening a non-docketed proceeding Case No. 2023-04661, "Directing Public Utilities to Develop and File Reports Related to their Ongoing Efforts and Future Mitigation Plans to Address Natural Hazards". These reports are due May 21, 2024. The Department offers that this non-docketed proceeding provides an opportunity to develop actions needed to protect ratepayers on a statewide basis, which could include the electric utilities' wildfire mitigation plans. The reports required in Case No. 2023-04661 may cover the risk-based wildfire protection plans contemplated in this bill, but the Department appreciates this bill as a vehicle to publicly discuss risk-based natural hazards mitigations.

Thank you for the opportunity to testify on this bill.



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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
SENATE COMMITTEE ON JUDICIARY

Tuesday, February 27, 2024
10:00 AM
State Capitol, Conference Room 016 and Videoconference

Providing Comments on
SB 2997, SD1

RELATING TO PUBLIC UTILITIES.

Chair Rhoads, Vice Chair Gabbard, and members of the Committee, the Hawai'i State Energy Office (HSEO) offers comments on SB 2997, SD1, that requires each electric utility to have a risk-based wildfire protection plan, which shall be filed with and approved by the Public Utilities Commission.

HSEO appreciates the need for utilities to maintain a risk-based wildfire protection plan, however HSEO prefers planning and mitigating against all-hazards. HSEO recently completed a FEMA Advance Assistance project that conducted a risk assessment for critical energy infrastructure on O'ahu for all-hazards and has been selected for a FEMA Building Resilient Infrastructure and Communities (BRIC) planning grant to complete the same analysis for the rest of the state. HSEO also prefers a measure that considers a cost recovery mechanism for these activities such as securitization as it can offer better overall outcomes for ratepayers such as found in HB 2407, HD2, and SB 3096, SD1.

Thank you for the opportunity to testify.



Email: communications@ulupono.com

SENATE COMMITTEE ON JUDICIARY
Tuesday, February 27, 2024 — 10:00 a.m.

Ulupono Initiative supports the intent of SB 2997 SD1, Relating to Public Utilities.

Dear Chair Rhoads and Members of the Committee:

My name is Micah Munekata, and I am the Director of Government Affairs at Ulupono Initiative. We are a Hawai'i-focused impact investment firm that strives to improve the quality of life throughout the islands by helping our communities become more resilient and self-sufficient through locally produced food, renewable energy, clean transportation choices, and better management of freshwater resources.

Ulupono supports the intent of SB 2997 SD1, which requires the electric utility to have a risk-based wildfire protection plan, which shall be filed with and approved by the Public Utilities Commission (PUC).

Hawai'i's unique communities and ecosystems are increasingly threatened by the devastating impacts of wildfires. In recent years, we have witnessed a rise in the frequency and intensity of wildfires, exacerbated by climate change, land and water management practices, and urban encroachment into fire-prone areas. The culmination of these forces resulted in the devastating and heartbreaking destruction seen on Maui last year.

Ulupono supports the explicit requirement that the utility wildfire protection planning process be open to community and stakeholder engagement. We consider community engagement a crucial component of the decision-making process, particularly when it comes to investments that support community health and safety. To further enhance the decision-making process, Ulupono recommends that greater visibility and optionality be presented by developing a set of investment and price-based scenarios for the PUC to consider. Ulupono also recommends that the bill require the utility, when developing its wildfire protection plan, to develop a series of sensitivities at a low, base, and high set of investment and cost scenarios. Providing pricing scenarios will enable deeper discussion and improve decision-making discussions between the regulator, consumer advocate, stakeholders, community, and utilities.

Undisputed are the importance and urgency of preparing for increased risks from wildfires and ensuring that loss and damage caused by wildfires are addressed. Developing utility

Investing in a Sustainable Hawai'i



wildfire protection plans is a sound policy to address future wildfire risks across our state. We support the PUC's review and approval of said plans as it creates a transparent public process.

Thank you for the opportunity to testify.

Respectfully,

Micah Munekata
Director of Government Affairs



**Hawaiian
Electric**

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY

**SB 2997, SD1
Relating to Public Utilities**

Decision-Making Only
Tuesday, February 27, 2024
10:00 AM
State Capitol, Conference Room 016

Jimmy D. Alberts
Senior Vice President & Chief Operations Officer
Hawaiian Electric

Dear Chair Rhoads, Vice Chair Gabbard, and Members of the Committee,

My name is Jimmy D. Alberts and I am testifying on behalf of Hawaiian Electric in **strong support with requested amendments to SB 2997, SD1, Relating to Public Utilities**. While we appreciate the previous committee's consideration of this measure, we respectfully request that the original language from the SB 2997 be reinserted into the SD1 because the current draft does not accomplish the bill's original intent.

Hawaiian Electric understands the importance of having a robust wildfire mitigation strategy while providing safe, reliable power at a reasonable cost for our customers and communities. Nearly six months after the tragic Maui wildfires, Hawaiian Electric continues to press ahead with recovery efforts and identifying utility best practices and new technologies to prevent such a tragedy from ever happening again in our service territory. This bill is forward-looking and is about working to prevent something terrible like this from ever happening again. This bill will give utilities the tools we need to make our grids safe and resilient.

The Maui wildfires have prompted us to revisit the assumptions and determinations of risk shaping our wildfire mitigation efforts. Hawaiian Electric intends to work closely with the community to address key issues such as whether a preemptive power shutoff program is appropriate for Hawai'i. We also have accelerated and intensified the implementation of our own Wildfire Mitigation Plan and have taken other immediate action steps, including implementing fast trip settings on circuits, re-inspecting all lines for vulnerabilities, and initiating the process for replacing poles, conductor and fuses in high-risk areas.

Once the original language of SB 2997 is reinserted it would require electric utilities to design a risk-based wildfire protection plan to be filed with and approved by the Public Utilities Commission ("Commission").

The original version of SB 2997 would require the Commission to approve these plans and have the power to modify plans—for various reasons including whether it determines additional safety measures are warranted, or whether it determines certain measures would be too costly placing unreasonable burden on ratepayers. The bill would also direct the Commission to develop an efficient method for prompt recovery by an electric utility of costs spent developing, implementing, and administering a wildfire protection plan—to ensure that utilities have the necessary funds to implement plans as soon as they are approved. The original version of SB 2997 would also protect the jurisdiction of the Commission to make these important determinations, by preventing juries and courts from second-guessing the Commission's decisions on what wildfire protection measures should and should not be undertaken.

There are two provisions in the original bill, SB 2997, that are not in the SD1 version. First, it creates a specific process for the commission to quickly determine whether wildfire protection plan costs are reasonable and allow utilities to collect those costs in rates. Second, the act creates limitations on the ability of private plaintiffs to sue electric utilities or the Commission based on alleged inadequacies in plans. As part of approving a plan, the commission must decide *both* what measures are necessary for safety *and* what measures would be too costly to be reasonable. For example, the commission might decide that a power shutoff in high wind conditions is needed to protect public safety. Or the commission might decide that undergrounding lines in a particular area was too costly compared to the risk reduction. If a plaintiff could sue the utility for damages resulting from the power outage, or resulting from a fire caused by utility facilities in the area the commission decided shouldn't be undergrounded, the commission's jurisdiction would be undermined.

This bill is an important mechanism to protect Hawaii's future. As the risk of catastrophic wildfires in Hawaii increases, it is important for utilities to develop and implement plans that will mitigate wildfire risks with regulatory oversight and cost recovery. However, the language in the original bill, SB 2997, goes further to effectuate those goals through a rigorous, detailed, and reliable process. It recognizes that the Commission has proper oversight—through a public process—to decide what details should and shouldn't be included in a given plan.

In summary, the original language in SB 2997 achieves three important objectives for the State: it creates a public process for adopting robust, cost-effective wildfire protection plans according to codified standards; it ensures that electric utilities

have the resources necessary to implement those plans; and it prevents civil litigants from undermining the public utilities commission's ability to make decisions vital to preventing wildfires in Hawaii.

Thank you for the opportunity to strongly support the restoration of SB 2997's original language and kindly request the committee's consideration.

Please pass SB 2997, SD1 with amendments.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE SENATE COMMITTEE ON JUDICIARY
HAWAII STATE CAPITOL, SENATE CONFERENCE ROOM 016
Tuesday, February 27, 2024 AT 10:00 A.M.**

To The Honorable Senator Karl Rhoads, Chair
The Honorable Senator Mike Gabbard, Vice Chair
Members of the committee on Judiciary

COMMENTS ON SB2997 RELATING TO PUBLIC UTILITIES

The Maui Chamber of Commerce would like to **COMMENT on SB2997**.

The Chamber agrees it is essential that the electric utilities develop, monitor, and update their wildfire protection plans and activities, as we encourage businesses to do in their disaster/emergency planning. Electric utilities should develop these plans, and the public utilities commission, through a public process, should review and approve these plans.

We are concerned about the potential cost to consumers during this challenging time and when all costs are already increasing. Each of these incremental costs are what creates the widening gap between minimum wage and a true living wage.

Mahalo for the opportunity to **COMMENT on SB2997**.

Sincerely,

Pamela Tumpap
President

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.