

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

House Committees on Energy & Environmental Protection and Water & Land

Thursday, March 14, 2024

8:30 a.m.

State Capitol, Conference Room 325 and Videoconference

With Comments

Senate Bill No. 2997, SD2, Relating to Public Utilities

Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and Members of the House Committees on Energy & Environmental Protection and Water & Land:

The Office of the Governor offers the following comments on S.B. No. 2997, SD2, 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, SD2 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 H.B. No. 2407, HD2, 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 H.B. No. 2407, HD2, 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 H.B. No. 2407, HD2, 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, SD2
March 13, 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.



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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
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA

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DIRECTOR | KA LUNA HO'OKELE

DEAN I HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Energy & Environmental Protection
And
House Committee on Water & Land
Thursday, March 14, 2024
8:30 a.m.
Conference Room 325

On the following measure:
S.B. 2997, S.D. 2, RELATING TO PUBLIC UTILITIES

Chair Lowen, Chair Ichiyama, and Members of the Committees:

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 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 bill 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 expected to be filed in a few months. 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.

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

TO THE
HOUSE COMMITTEES ON
ENERGY AND ENVIRONMENTAL PROTECTION
and
WATER AND LAND

March 14, 2024
8:30 a.m.

Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and Members of the Committees:

MEASURE: S.B. No. 2997 SD2

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. Takes effect 4/14/2112. (SD2)

POSITION:

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

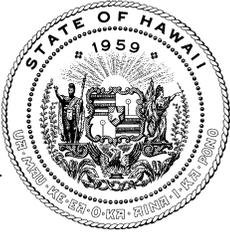
COMMENTS:

The Commission appreciates the intent of this measure to require electric utilities to design a risk-based wildfire protection plan approved by the Commission. 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 and SD2 versions of this measure no longer include many components of the original bill, including a description of wildfire protection plan contents, cost recovery for development, implementation, and administration of the plan, and the section that would protect electric utilities from liability.

The Commission continues to support the approach provided in H.B. 2407, HD2, which would allow for effective development of wildfire protection plans and appropriate cost recovery mechanisms for electric utilities. The Commission recommends incorporating the language from H.B. 2407, HD2 into this measure.

Thank you for the opportunity to testify on this measure.



HAWAII STATE ENERGY OFFICE STATE OF HAWAII

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GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

MARK B. GLICK
CHIEF ENERGY OFFICER

(808) 451-6648
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Testimony of
MARK B. GLICK, Chief Energy Officer

before the
**HOUSE COMMITTEES ON ENERGY & ENVIRONMENTAL PROTECTION
AND
WATER & LAND**

Thursday, March 14, 2024
8:30 AM
State Capitol, Conference Room 325 and Videoconference

Providing Comments on
SB 2997, SD2

RELATING TO PUBLIC UTILITIES.

Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and members of the Committees, the Hawai'i State Energy Office (HSEO) offers comments on SB 2997, SD2, 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 developed mitigation measures. A second Advance Assistance project 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 requests adding language from HB 2407, HD2, with specifications and minimum requirements on acceptable wildfire mitigation plans and methodology for securitization as a cost recovery mechanism for these activities.

Thank you for the opportunity to testify.



Email: communications@ulupono.com

HOUSE COMMITTEES ON ENERGY AND ENVIRONMENTAL PROTECTION & WATER AND LAND
Thursday, March 14, 2024 — 8:30 a.m.

Ulupono Initiative supports the intent of SB 2997 SD2, Relating to Public Utilities.

Dear Chair Lowen, Chair Ichiyama, and Members of the Committees:

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 SD2 and offers comments. This bill requires each 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

**TESTIMONY OF EVAN OUE ON BEHALF OF THE HAWAII
ASSOCIATION FOR JUSTICE (HAJ) WITH COMMENTS ON
SB 2997 SD2**

Date: Thursday, March 14, 2024

Time: 8:30 a.m.

My name is Evan Oue and thank you for allowing me to submit testimony on behalf of the Hawaii Association for Justice (HAJ) with **COMMENTS** on SB 2997 SD2 - RELATING TO PUBLIC UTILITIES. The measure seeks to establish a Hawaii Wildfire Fire Relief Fund to provide compensation for property damage resulting from catastrophic wildfires in the State.

HAJ appreciates the previous committee's amendment to remove the proposed Section 269 for liability immunity on Pages 7-8 of the original version of the measure. The previous version of SB 2997 sought to immunizes electric utilities, public utilities other than electric utilities, the State, or private landowners from being *civilly liable for the death of or injury* to persons or property damage.

HAJ has always held the position that broad immunity is bad public policy, and we are not aware of any other state that has provided such broad immunity of this type. In this instance, the previous liability provision would have prevented future claims for catastrophic death or injury if a utility did not adhere to the wildfire protection plan. This immunity would have applied even to disasters that are caused by the sort of negligence that led to the recent destruction of so many lives and livelihoods on Maui.

Accordingly, if this measure proceeds, we respectfully ask that the liability immunity provision remains out of the measure. Thank you very much for allowing me to testify with comments. We look forward to working with other stakeholders on this legislation. Please feel free to contact me should you have any questions or desire additional information.



Testimony Before the House Committees on Energy & Environmental Protection and
Water & Land

By David Bissell
President and Chief Executive Officer
Kaua'i Island Utility Cooperative
4463 Pahe'e Street, Suite 1, Lihu'e, Hawai'i, 96766-2000

Thursday, March 14, 2024; 8:30 am
Conference Room #325 & Videoconference

Senate Bill No. 2997 SD2 - RELATING TO PUBLIC UTILITIES

To the Honorable Nicole E. Lowen and Linda Ichiyama, Chairs, Honorable Elle Cochran and Mahine Poepoe, Vice Chairs, and Members of the Committees:

Kaua'i Island Utility Cooperative (KIUC) is a not-for-profit utility providing electrical service to more than 34,000 commercial and residential members.

KIUC supports this measure.

KIUC agrees that it is important for utilities to develop and implement effective plans for wildfire risk mitigation. We also agree that the wildfire mitigation plans developed by electric utilities should be reviewed and approved by the Public Utilities Commission (PUC).

KIUC agrees with language in other bills being considered that allows for cost recovery of wildfire mitigation plan implementation. We encourage an amendment to this bill that would allow the PUC to authorize cost recovery for utilities, preferably via a discrete tariff rider versus a rate adjustment.

Mahalo for your consideration.



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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Nicole E. Lowen, Chair
Rep. Elle Cochran, Vice Chair

COMMITTEE ON WATER & LAND

Rep. Linda Ichiyama, Chair
Rep. Mahina Poepoe, Vice Chair

NOTICE OF HEARING

DATE: Thursday, March 14, 2024

TIME: 8:30am

PLACE: Conference Room 325

SB 2997 RELATING TO PUBLIC UTILITIES.

Please Hold

Aloha Chairs Lowen and Ichiyama, Vice Chairs Cochran and Poepoe, and Committee Members

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for 54 years. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

The bill requires electric utility to file a wildfire protection plan with the Public Utilities Commission. The minimalist bill would add a mere 25 words to state law that adds no new authority or responsibility to the Public Utilities Commission. The Commission acknowledged in oral questioning that they already have this authority.

There is nothing in the bill that states what should be in the document. The Public Utilities Commission does not have to review the document. No stakeholder input is required.

Mahalo

Henry Curtis

Executive Director



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEES ON
ENERGY & ENVIRONMENTAL PROTECTION
AND
WATER & LAND**

**SB 2997, SD2
Relating to Public Utilities**

Thursday, March 14, 2024
8:30 AM
State Capitol, Conference Room 325

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

Dear Chair Lowen, Chair Ichiyama, Vice Chair Cochran, Vice Chair Poepoe, and
Members of the Committees,

My name is Jimmy D. Alberts and I am testifying on behalf of Hawaiian Electric in
**strong support with requested amendments to SB 2997, SD2, Relating to Public
Utilities.** While we appreciate the previous committee's consideration of this measure,
we respectfully request that the original language from SB 2997 be reinserted into the
SD2. The current draft fails to accomplish the bill's original intent and will fail in
particular to accomplish the goal identified in Section 1 of the current draft's findings:
that "it is imperative ... electric utilities develop and implement effective plans for wildfire
risk mitigation."

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, in its original form, is forward-looking and is about working to prevent something terrible like this from ever happening again. If restored to its original text, 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.

The current version of SB 2997 requires that electric utilities "have a risk-based wildfire protection plan, which shall be filed with and approved by the public utilities commission." SB 2997, SD2, however, deletes all of the original provisions of SB 2997 that clarified how such a plan would be submitted and approved; created timelines for that process; created requirements for that plan; and, crucially, allowed the Public Utilities Commission ("Commission") to create a process for reliable and swift cost recovery for the plan's administration and implementation. Without these details, we are greatly concerned that this bill will not accomplish the vital goal it is clearly intended to accomplish: protecting Hawaii by ensuring electric utilities operate in accordance with

approved wildfire mitigation plans, and providing them a mechanism to pay for those plans.

Once the original language of SB 2997 is reinserted, this bill would require electric utilities to design a risk-based wildfire protection plan to be filed with and approved by the Commission. It 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.

Finally, 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. As part of approving a plan in the original bill, 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.

We strongly urge the committee to restore the original text of SB 2997 into the SD2 version. 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 committees' consideration.

Please pass SB 2997, SD2 with amendments.



MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**HEARING BEFORE THE HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
and COMMITTEE ON WATER & LAND
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
Thursday, March 14, 2024 AT 8:30 A.M.**

To The Honorable Nicole E. Lowen, Chair
The Honorable Elle Cochran, Vice Chair
Members of the Committee on Energy & Environmental Protection
To The Honorable Linda Ichiyama, Chair
The Honorable Mahina Poepoe, Vice Chair
Members of the Committee on Water & Land

COMMENTS ON SB2997 SD2 RELATING TO PUBLIC UTILITIES

The Maui Chamber of Commerce would like to **COMMENT on SB2997 SD2.**

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 SD2.**

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.



JOINT HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION and
COMMITTEE ON WATER & LAND

HEARING DATE: Thursday, March 14, 2024
TIME: 8:30 a.m.
PLACE: State Capitol
Conference Room 325

RE: **In Support** of Senate Bill 2997 SD2 with Amendments

Aloha Honorable Chair(s) Lowen/ Ichiyama, Vice Chair(s) Cochran/Poepoe, and Members of the Committee;

The International Brotherhood of Electrical Workers Local 1260 (IBEW 1260) would like to respectfully offer the following testimony in support of Senate Bill 2997 SD1 with amendments.

IBEW 1260 is comprised of approximately 3,000 members representing Hawaii's electric utility companies as well as government service contracts and media personnel throughout Hawaii, Guam, and Wake Island. Our members include a diverse local workforce of dedicated, highly skilled, and trained individuals working 24 hours a day, 7 days a week, to generate, transmit, and distribute electricity throughout Hawai'i and to ensure the reliability and resiliency of this precious resource.

IBEW 1260 **supports** Senate Bill 2997 SD2 which allows the public utilities commission to convene community outreach workshops to aid electric utilities in the development and implementation of best practices regarding wildfires, *but respectfully requests the provisions found in the original SB2997 be re-inserted.*

The economic strength and viability of Hawai'i's electric utilities have a direct impact on our members and their families. Recent reports indicate that over 40% of Hawai'i's residents are ALICE and living paycheck to paycheck. IBEW1260 has enjoyed decades of partnering with the utilities to provide its members with rewarding careers and quality of life.

Electric utilities and the infrastructure they provide are vital to our community. Having the tools necessary to effectively manage risk and implement policy with clear direction, expected outcomes, and reasonably recover associated costs is imperative to the utilities continued viability.

Mahalo for the opportunity to testify on this important matter.