

**TESTIMONY OF CARLITO P. CALIBOSO
CHAIRMAN, PUBLIC UTILITIES COMMISSION
DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE
HOUSE COMMITTEE ON
FINANCE
APRIL 2, 2008**

MEASURE: S.B. No. 3001 S.D. 2 H.D.1
TITLE: Relating to Energy Efficiency.

Chair Oshiro and Members of the Committee:

DESCRIPTION:

This bill proposes to clarify provisions in chapter 269, Hawaii Revised Statutes, ("HRS") relating to administration and use of moneys supporting energy-efficiency and demand-side management ("DSM") programs and services. Among other things, the bill makes consistent the wording of chapter 269, part VII, HRS, with the processes and procedures applicable to third-party administration of energy-efficiency and DSM programs and services.

POSITION:

The Public Utilities Commission ("Commission") strongly supports this Administration bill.

COMMENTS:

- **This bill aligns the language of the law with the regulatory process and procedures that the Commission will establish through a pending docket that will apply under a third-party administrator structure for energy-efficiency and DSM programs and services in Hawaii.**
- **For example, the bill changes "public benefits fund" to "public benefits fee," and makes other related amendments within chapter 269, part VII, HRS, to clarify that the moneys collected for purposes of funding energy-efficiency and DSM programs and services will not actually be deposited into a state fund for expenditure by the Commission.**
 - As presently worded, chapter 269, part VII, HRS, can be inaccurately interpreted to mean that upon the establishment of a public benefits fund, moneys collected by the public utilities through current DSM surcharges will be transferred to the Commission, and the Commission will then deposit them into the state treasury and expend those moneys subject to legislative appropriation.

- In actuality, under a third-party administrator structure, the Commission will require an initial transfer of DSM surcharge moneys from public utilities to the third-party administrator, which will receive the public benefits fees and expend them consistent with Commission-approved programs and services. In effect, the third-party administrator will act as public utilities currently do.
 - For this reason, the bill makes explicitly clear that public benefits fees shall not be considered state or public moneys subject to legislative appropriation and shall not be required to be deposited into the state treasury.
- **Also under the bill, the State has express authority to participate in any energy-efficiency and DSM programs and services offered by the third-party administrator.**
 - This clarification removes possible misinterpretation that the law prohibits state agencies from participating in these programs and services or deriving any benefit from them.
- **In addition, the bill clarifies language contained in § 269-122(b), HRS, relating to regulation of the public benefits fee administrator.**
 - The current language is not clear as to whether the public benefits fee administrator is a public utility under Commission regulation.
 - Under the clarifying language, the public benefits fee administrator will be regulated under certain sections of chapter 269 that are also applicable to public utilities, but would not itself be a public utility.
- **The House Committee on Energy & Environmental Protection, reported in its Standing Committee Report No. 1123-08 that concerns were raised regarding the possible applicability of the Hawaii Public Procurement Code to the energy efficiency and DSM program.**
 - Under HRS § 103D-102, chapter 103D applies to “all procurement contracts made by governmental bodies.” The Commission and the Consumer Advocate have agreed upon an amendment to the bill’s proposed HRS § 269-122(a) that would confirm that the public benefits fee administrator is not covered under chapter 103D, because it is not a governmental body. We propose the addition of the language below in bold/italics:

[+]§269-122[+] **Public benefits [fund] fee administrator; establishment.** (a) [~~if the~~] The public utilities commission [~~establishes a public benefits fund, the public utilities commission shall appoint~~] may contract with a [fund] third-party administrator, to be known as the public benefits fee administrator, on such terms and conditions that it deems necessary to manage the public benefits fee moneys collected pursuant to section 269-121. The public benefits fee administrator, **which shall not be deemed to be a "governmental body" as defined in section 103D-104,** shall operate and [~~manage~~] administer any programs established under section 269-121. The [fund] administrator shall not expend more than ten per cent of the [fund] public benefits fee moneys in any fiscal year, or other reasonable percentage determined by the public utilities commission, for administration of the programs established under section 269-121.

Thank you for the opportunity to testify.



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
THEODORE E. LIU
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON
FINANCE
Wednesday, April 2, 2008
2:30 p.m.
State Capitol, Conference Room No. 308
in consideration of
SB3001, SD2, HD1

RELATING TO ENERGY EFFICIENCY.

Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the SB3001, SD2, HD1 an Administration bill which clarifies certain sections of Chapter 269, Part VII, relating to the public benefits fund which was established for the implementation and administration of the electric energy efficiency and demand-side management programs.

The bill proposes to amend Sections 269-121 to 269-124 to clarify the language of the law relating to the administration and regulation of the fund and fund administrator. DBEDT supports the bill, and DBEDT defers to the Department of Budget and Finance on the proposed changes with one comment, that the language of the proposed bill explicitly clarify that the public benefit fees will not be subject to the State procurement law

since these fees are not State funds, but rather, ratepayers money collected specifically to fund energy efficiency and demand-side management programs.

Thank you for the opportunity to testify.



COLLEGE OF SOCIAL SCIENCES
HAWAII ENERGY POLICY FORUM
UNIVERSITY OF HAWAII AT MĀNOA

Hawai'i Energy Policy Forum

Mr. Robbie Aim, HECO
Ms. Amy Asselbayer, Ofc of US Rep.
Neil Abercrombie
Ms. Madeleine Austin, World Business
Academy
Ms. Catherine Awakuni, Div. of
Consumer Advocacy
Mr. Warren Bollmeier
Hi Renewable Energy Alliance
Mr. Carlito Caliboso, PUC (Observer)
Mr. Albert Chee, Chevron
Mr. Kyle Datta, U.S. Biofuels
Sen. Kalani English, Hi State Senate
Mr. Mitch Ewan, UH HNEI
Mr. Carl Freedman
Haiku Design and Analysis
Mr. Mark Glick, OHA
Mr. Steve Golden, The Gas Company
Dr. Michael Hammett, RCUH
Ms. Paula Helfrich, EDAH
Mr. William Kaneko, HI Institute for
Public Affairs
Mr. Darren Kimura, Energy Industries
Holdings
Mr. Mike Kitamura, Ofc of US Sen.
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Mr. Kai Kobayashi, Maui County
Mr. Laurence Lau, DOH
Ms. Yvonne Lau, Ofc of US Rep.
Mazie Hirono
Mr. Allyn Lee, C&C of HNL
Mr. Aaron Leong, Ofc of US Senator
Daniel K. Inouye
Jr. Stephen Meder, AIA-Honolulu
Sen. Ron Menor, Hi State Senate
Mr. Jeff Mikulina, Sierra Club
Dr. Bruce Miller, UH Ofc of
Sustainability
Dr. Sharon Miyashiro, Social
Sciences Public Policy Ctr.
Rep. Hermina Morita, Hi State
House of Representatives
Mr. Tim O'Connell, USDA/Rural
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Mr. Richard Paglinawan
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Ms. Melissa Pavlicek, Western States
Petroleum Assn
Mr. Randy Perreira, HI State AFL-CIO
Mr. Rick Reed, Inter-Island
Solar Supply
Dr. Rick Rocheleau, UH HNEI
Mr. Peter Rosegg, HECO
Mr. Steven Rymsha, KIUC
Mr. Riley Saito, PowerLight Corp.
Mr. Glenn Sato, Kauai County OED
Ms. Carilyn Shon, DBEDT
Mr. Bill Short, BIA of Hawaii
Mr. Ray Starling, HI Energy Grp
Mr. Lance Tanaka, Tesoro HI Corp
Dr. Don Thomas, UH Center for the
Study of Active Volcanoes
Mr. Murray Towill, Hawai'i
Hotel Assn
Ms. Joan White, Hon Community
Action Program

Testimony of
Carl Freedman

Chair – Regulatory Reform Working Group
Hawai'i Energy Policy Forum

House Committee on Finance
Wednesday, April 2, 2008
2:30 pm
Conference Room 308

IN SUPPORT OF S.B. 3001, H.D. 1 – Energy Efficiency; Public Benefits

I am Carl Freedman, Chair of the Regulatory Reform Working Group of the Hawaii Energy Policy Forum ("Forum"). The Forum is comprised of 46 representatives from the electric utilities, oil and natural gas suppliers, environmental and community groups, renewable energy industry, and federal, state and local government, including representatives from the neighbor islands. We have been meeting since 2002 and have adopted a common vision and mission, and a comprehensive "10 Point Action Plan," which serves as a framework and guide for meeting our preferred energy vision and goals. The Forum supports the passage of SB 3001, HD 1 as it helps achieve several points of the Forum's Action Plan.

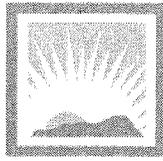
The purpose of SB 3001, HD 1 is to ensure that statutory language regarding the Public Benefits Fee is consistent with existing legislative intent and the regulatory practices of the Public Utilities Commission (PUC). In particular, SB 3001, HD 1 clarifies that (1) the public benefits fee administrator is not a public utility but will be subject to regulation by the PUC under provisions applicable to public utilities, and (2) public benefit fee moneys collected from utility bills to fund the administration and implementation of energy efficiency services are not state funds.

The clarifications provided by SB 3001, HD 1 will ensure that energy efficiency programs will be administered efficiently in a manner consistent with practices applied to existing public utilities, with oversight and regulation by the PUC. SB 3001, HD 1 clarifies that, identical to the way procedures are now applied to existing public utilities, the state's procurement laws and state budget appropriation procedures do not apply to moneys collected from utility tariffs for utility programs.

SB 3001 HD 1 will therefore further the efficient implementation and accountable regulation of Hawai'i's energy efficiency programs.

Thank you for this opportunity to testify.

This testimony reflects the position of the Forum as a whole and not necessarily of the individual Forum members or their companies or organization



Hawaii Solar Energy Association
Serving Hawaii Since 1977

TESTIMONY OF THE HAWAII SOLAR ENERGY ASSOCIATION
IN REGARD TO S.B. 3001, S.D. 2, H.D. 1
RELATING TO ENERGY EFFICIENCY
BEFORE THE
SENATE COMMITTEE ON ENERGY & ENVIRONMENT
ON
WEDNESDAY, APRIL 2, 2008

Chair Oshiro, Vice-Chair Lee and members of the committee, my name is Rick Reed and I represent the Hawaii Solar Energy Assn (HSEA). The HSEA is a professional trade association established in 1977, and affiliated with the Solar Energy Industries Association (SEIA) in Washington, D.C. HSEA represents manufacturers, distributors, contractors, financiers, and utility companies active in the solar energy industry in Hawaii. **We strongly support the passage of S.B. 3001, S.D. 2, H.D. 1.**

This measure clarifies that the public benefits fees collected by Hawaii's electric utility companies and then transferred to a new third-party DSM administrator appointed by the PUC shall not be considered state or public funds subject to appropriation by the legislature or for deposit into the state general fund.

State raids on dedicated funds are common. In a paper for the Regulatory Assistance Project, or RAP, entitled "Who Should Deliver Ratepayer Funded Energy Efficiency?", Cheryl Harrington discusses raids on public benefit funds in Maine, Wisconsin, Ohio and Connecticut. A raid has been threatened in Oregon. In the Connecticut example, the legislature appropriated \$12 million from a *utility-held* public benefit account to the general fund.

S.B. 300, S.D. 2, H.D. 1 makes clear that the sole purpose of a public benefits fund in Hawaii is to provide demand-side management and energy-efficiency services to Hawaii's residential and commercial ratepayers. The bill also makes explicit that the State of Hawaii may participate in any of the DSM programs on the same basis as any other ratepayer.

The transition of DSM and energy-efficiency programs from our electric utility companies to a third party administrator is already underway. This bill provides additional clarity to the law and guidance to the PUC.

Thank you for the opportunity to testify.